

ORDINANCE NO. 3601

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING CHAPTER 10-17 TO THE SANTA ROSA CITY CODE RELATING TO GRAFFITI

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Purpose and Intent.

(A) The Council finds and declares that:

(1) Graffiti is detrimental to the health, safety and welfare of the community in that it leads to urban blight; encourages gang activity; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property.

(2) Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and its residents, and to prevent the further spread of graffiti.

(B) It is the purpose of this ordinance to provide (i) a program to restrict the possession and sale of graffiti implements and (ii) to encourage the prompt removal of graffiti from walls, pavement, structures and other improvements on both public and private property.

Section 2. Chapter 10-17 is added to the Santa Rosa City Code to read as follows:

"Chapter 10-17

GRAFFITI ABATEMENT PROGRAM

Sections:

10-17.010	Definitions.
10-17.020	Nuisance.
10-17.030	Accessibility to graffiti implements restricted.
10-17.040	Violation after notice.
10-17.050	Penalty for violation.
10-17.060	Community education.
10-17.070	Provisions not exclusive.

10-17.010 Definitions.

(A) "Aerosol container" means any aerosol based container which is capable of spraying indelible paint, ink, dye or similar substance.

(B) "Etching material" means any etching tool, chemical, paste or similar material which is capable of being used to etch glass.

(C) "Felt tip marker" means any indelible marker or similar device with a tip containing ink, dye or similar substance, which, when used or applied to a surface, is capable of resulting in a mark at least 3/8" of an inch wide at its widest point.

(D) "Graffiti" means any inscription, word, figure, mark, or design that is written, marked,

etched, scratched, drawn, or painted on any real or personal property in the city without the permission of the owner and which is visible from a public right of way or any neighboring property.

(E) "Graffiti implement" means any felt tip marker, etching material, or aerosol container which contains paint, ink, dye or any similar substance and which is capable of resulting in the placement of graffiti upon any surface or substance, including but not limited to glass, metal, concrete, wood, and plastic.

(F) "Owner" means the owner of record of the property as set forth in the records of the Tax Assessor.

10-17.020 Nuisance.

Graffiti on public or private property, either real or personal, constitutes a public nuisance.

10-17.030 Accessibility to graffiti implements restricted.

(A) Display Requirements. No person or business engaged in a commercial enterprise shall display for sale, trade or exchange, any graffiti implement except in an area from which access by the public is securely precluded without employee assistance. Acceptable methods for displaying graffiti implements for sale shall be by containment in: (1) a completely enclosed cabinet or other storage device which shall, at all times except during access by authorized representatives, remain securely locked; or (2) an enclosed area behind a sales or service counter from which the public is precluded from entry; or (3) a completely enclosed cabinet or similar enclosed storage device which is within thirty (30) feet and in plain view of a permanently staffed counter or station. Nothing in this chapter shall relieve such person or business entity from complying at all times with the requirements of California Penal Code section 594.1(c) by posting signs as described therein.

(B) Storage Requirements. No person or business engaged in the business of selling, providing or trading graffiti implements shall store any graffiti implement except in an area inaccessible to the public.

10-17.040 Violation after notice.

It is unlawful for any owner of real property located in the City of Santa Rosa, and for any tenant, occupant, or user of any property therein, to maintain, permit, or allow graffiti to exist thereon, after reasonable notice in writing to abate the graffiti; and the existence of such graffiti for each and every day after the service of such notice shall be deemed a separate and distinct offense, punishable pursuant to Chapter 1-28. Notice to an owner of real property shall be satisfied by sending by first class mail to the address of the owner as listed on the county tax assessor's roll. Notice to a tenant, occupant, or user of the property shall be satisfied by sending by first class mail to the address of the tenant or, occupant, or user at the location where the graffiti is located.

10-17.050 Penalty for violation.

A violation of any provision of this chapter shall be punished in accordance with City Code section 1-28.010.

10.17.060 Community education.

The City Manager, or his or her designee, may conduct regular programs to provide community education regarding the prevention of graffiti in coordination with local businesses.

10-17.070

Provisions not exclusive.

This chapter is not the exclusive regulation of graffiti as a nuisance within the City. It supplements and is in addition to any other applicable law."

Section 3. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or word of this chapter is for any reason held to be invalid and/or unconstitutional by a final decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

Section 5. Effective date. This ordinance shall take effect on the 31st day following its adoption.

IN COUNCIL DULY PASSED AND ADOPTED this 29th day of April, 2003.

AYES: (7) Mayor Wright; Councilmember Bender, Blanchard, Condron, Evans, Martini, Rabinowitch

NOES: (0)

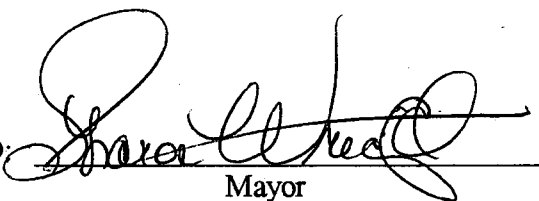
ABSENT: (0)

ABSTAIN: (0)

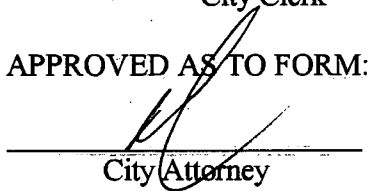
ATTEST:


City Clerk

APPROVED:


Mayor

APPROVED AS TO FORM:


City Attorney