

ORDINANCE NO. 806**AN ORDINANCE PROVIDING A PROCEDURE FOR REMOVAL OF GRAFFITI FROM BUILDINGS, WALLS, AND OTHER STRUCTURES, AND DECLARING AN EMERGENCY.**

WHEREAS, one of the primary goals of the City Council of the City of Madras is to beautify the city by cleaning up and eliminating nuisances within the city limits of Madras; and

WHEREAS, graffiti is an unsightly nuisance that is becoming more and more prevalent within the City of Madras; and

WHEREAS, a draft ordinance providing a procedure for removal of graffiti was presented to the Madras City Council for review on April 24, 2007; and

WHEREAS, the City Council meeting agenda for April 24, 2007 was placed on the City's website, posted in three (3) public places, and mailed to the news media to provide notification to the public of the Council's review.

NOW, THEREFORE, the City of Madras ordains as follows:

ARTICLE 1: INTRODUCTORY PROVISIONS**SECTION 1.1: TITLE**

This ordinance shall be known as the City of Madras Graffiti Nuisance Ordinance.

SECTION 1.2: PURPOSE AND POLICIES

- A. It is the purpose and intent of this ordinance to provide for a procedure for removal of graffiti from buildings, walls, and other structures in order to reduce social deterioration within the City of Madras and to promote public safety and health.

- B. Any property, building, or structure within the City of Madras which becomes a graffiti nuisance property is in violation of this Ordinance and will be subject to its remedies.
- C. Any person who permits property under their control to become a graffiti nuisance property is in violation of this Ordinance, and shall be subject to its remedies.
- D. The City Administrator may adopt procedures, forms, and written policies for administering and implementing the provisions of this ordinance.

SECTION 1.3: DEFINITIONS

For the purposes of this ordinance, the following definitions shall apply:

- A. Graffiti - Any unauthorized markings of paint, ink, chalk, dye or other similar substance which is visible from premises open to the public, and that have been placed upon any real or personal property such as buildings, fences, structures, or the unauthorized etching or scratching of such described surfaces where the markings are visible from premises open to the public, such as public rights-of-way or other publicly owned property.
- B. Graffiti Nuisance Property - Property upon which graffiti has been placed and such graffiti has been permitted to remain for more than thirty (30) days after the date of service of written notice to the property owner or occupant pursuant to this Ordinance.
- C. Occupant - Any person or sublessee, successor or assignee who has control over property.
- D. Owner - Any person, agent, firm or corporation having a legal or equitable interest in a property and includes but is not limited to:
 - 1) A mortgagor in possession in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises; or
 - 2) An occupant who has control over the property/premises.

- E. Permit - Knowingly to suffer, allow, or acquiesce by any failure, refusal or neglect to abate.
- F. Property - Any real or personal property and that which is affixed incidental or appurtenant to real property but not limited to any premises, house, building, fence, structure or any separate part thereof, whether permanent or not.
- G. Unauthorized - Without the consent of the owner or the occupant.

**ARTICLE 2: ENFORCEMENT, NOTIFICATION OF NON-COMPLIANCE,
APPEAL**

SECTION 2.1: PROCEDURES

- A. Required Graffiti Removal. The owner or occupant of any property in the City of Madras shall remove any graffiti from such property within thirty (30) days after the date of service of the written notice pursuant to this Ordinance. Removal means to erase, paint over or otherwise eradicate and make not visible graffiti.

- B. Notification
 - 1. Whenever the City of Madras Police Department or its designee determines that graffiti exists on any structure in the City of Madras, the City of Madras Police Department or its designee may issue an abatement notice.
 - 2. The City of Madras Police Department or its designee shall cause the notice to be served upon the property owner and any occupant. The owner or occupant shall have thirty (30) days after the date of service of the written notice in which to remove the graffiti. The City of Madras Police Department or its designee shall have the sole discretion to grant the property owner the option of giving the City of Madras written permission to enter on the property and remove the graffiti. The City of Madras Police Department or its designee may exercise discretion and grant an additional period of time for the removal of the graffiti.

3. Service shall be accomplished by addressing the notice to the owner and occupant and sending it by personal service, registered mail or certified mail. Service on the occupant may also be accomplished by posting the notice in a clearly visible location on the subject property.
4. If graffiti is not removed or written permission is not given to the City of Madras to remove the graffiti, the costs of removal may be assessed to the owner and will become a lien on the affected property. For each instance of graffiti abatement, the City of Madras Police Department or its designee shall keep an accurate account of all expenses incurred, including an overhead charge of 25 percent (25%) for program administration and a civil penalty of \$250 for each abatement. In the event that the measures taken are deemed by the City of Madras Administrator to be appropriate, the cost for the same may be made as an assessment lien upon the property.

C. Appeal

1. Within ten (10) days of the receipt of the notice, the property owner or occupant may appeal the notice from the City of Madras Police Department or its designee to the City of Madras Administrator by filing a written notice of appeal.

D. Removal of Graffiti

1. The City of Madras Police Department or its designee may summarily abate any graffiti on any utility poles and cabinets, on exterior walls and fences immediately abutting public streets or property, or on any public property, including but not limited to traffic signs and lights.

E. Graffiti Abatement Consent Forms

1. The City of Madras Police Department or its designee shall develop consent forms allowing the City of Madras Police Department or its designee to enter onto property to abate the graffiti without prior notice from the City of Madras Police Department or its designee. The City of Madras Police Department or its designee shall make these consent forms available to the public.

2. Property owners and occupants may request and sign consent forms for allowing graffiti abatement. The City of Madras Police Department or its designee shall renew the consent forms at least biannually.

ARTICLE 3: GENERAL PROVISIONS

SECTION 3.1: ADMINISTRATION OF ORDINANCE

It shall be the duty of the City of Madras Police Department or its designee to administer and enforce the provisions of this ordinance in such a way as to carry out its intent and purpose.

SECTION 3.2: SEVERABILITY CLAUSE

If any provision of this ordinance shall be held invalid, its invalidity shall not affect any other provision of this ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this ordinance are hereby declared to be severable.

SECTION 3.3: CORRECTIONS

This ordinance may be corrected by order of the City Council to cure editorial and clerical errors.

SECTION 3.4: EMERGENCY CLAUSE

It is hereby determined and declared that existing conditions are such that it is necessary for the immediate preservation of the peace, health, general welfare, and safety of the City of Madras that an emergency be declared to exist and this ordinance shall be in full force and effect immediately upon and after its passage by the Council and signing by the Mayor of the City of Madras, Oregon.

PASSED by the Council and signed by the Mayor July 22, 2008.