

ORDINANCE NO. 7.8

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY AMENDING TITLE 8 OF THE SCOTTS VALLEY MUNICIPAL CODE BY REPEALING CHAPTER 8.04 IN ITS ENTIRETY AND BY ADDING A NEW CHAPTER 8.05, GRAFFITI ABATEMENT- PUBLIC NUISANCE

WHEREAS, the City of Scotts Valley (the “City”) values and strives to maintain a positive community aesthetic and quality of life for its community; and

WHEREAS, the presence of graffiti creates community blight, erodes community aesthetics, and reduces property values, thereby degrading the overall quality of life in the community; and

WHEREAS, graffiti suspects oftentimes seek notoriety for their designs to boost their profile within the graffiti community and the prolonged presence of graffiti encourages the proliferation of additional graffiti and other acts of vandalism; and

WHEREAS, prompt removal of graffiti improves the overall community aesthetic and discourages additional acts of graffiti and other crime; and

WHEREAS, addressing graffiti requires the use of City services including law enforcement reporting and investigations, and maintenance crews removal and cleanup; and

WHEREAS, through prompt reporting and removal of graffiti, property owners play a vital role in helping to curb its presence and proliferation; and

WHEREAS, pursuant to California Government Code sections 38772 and 53069.3, the City may enact an ordinance to provide for the summary abatement of graffiti at the expense of the person causing the graffiti or the property owner or for the use of City funds to remove graffiti from publicly or privately owned real or personal property located within the City; and

WHEREAS, the City Council of the City desires to adopt an ordinance to declare graffiti a nuisance and provide for the summary abatement of the nuisance.

NOW, THEREFORE, the City Council of the City of Scotts Valley does hereby ordain as follows:

Section 1. Title 8 of the Scotts Valley Municipal Code is hereby amended by repealing Chapter 8.04, Nuisance Abatement, in its entirety.

Section 2. Title 8 of the Scotts Valley Municipal Code is hereby amended by adding Chapter 8.05, Graffiti Abatement- Public Nuisance, to read as follows:

“8.05 – GRAFFITI ABATEMENT – PUBLIC NUISANCE

8.05.010 - Graffiti Defined

8.05.020 - Graffiti Declared A Nuisance

8.05.030 - Placement Of Graffiti Prohibited

8.05.040 - Graffiti Prohibited

8.05.050 - Graffiti – Removal

8.05.060 - Graffiti – Violations

8.05.010 - GRAFFITI DEFINED.

As used in this chapter, “graffiti” means any unauthorized form of painting, scratching, writing, or inscription, regardless of the content or nature of the material used, which is placed upon any private structure, fixture, sign, or sidewalk in any location where it can be viewed from any public street, walkway, building, park, or facility, or upon any public structure, fixture, sign or sidewalk, and which is without the authorization of the owner or the other person in control of the property.

8.05.020 - GRAFFITI DECLARED A NUISANCE.

Graffiti is hereby determined to be a nuisance because its continued existence constitutes a visual blight upon the area in which it is located.

8.05.030 - PLACEMENT OF GRAFFITI PROHIBITED.

It shall be unlawful to place any graffiti within the City of Scotts Valley.

8.05.040 - GRAFFITI PROHIBITED.

It shall be unlawful for any person owning or otherwise in control of any real property within the City of Scotts Valley to permit or allow any graffiti to remain on such property.

8.05.050 GRAFFITI – REMOVAL

A. Removal by Responsible Party. A person who is the owner or who has primary responsibility for control of property or primary responsibility for the repair or maintenance of property that is defaced with graffiti shall remove or cause the removal of such graffiti within ten (10) days after notice of same, or shall make arrangements with the City for the City to cause such removal in accordance with the requirements of this section. If the property owner does not promptly eradicate the graffiti or make arrangements satisfactory to the City for eradication of the graffiti within ten (10) days of actual notice or within fourteen (14) days of mailed notice, City agents may do so in accordance with Section 8.05.050C.

B. Right of City to Remove with Owner's Consent. Whenever the City Manager or his/her designee determines that graffiti is so located on public or private property within the City so as to be capable of being viewed by persons utilizing any public right-of-way

or public place in the City, the City Manager or his/her designee is authorized to provide for the removal of the graffiti upon the following conditions:

1. In removing the graffiti, the painting or repair shall be limited to the minimum necessary to properly restore the defaced area.

2. Where a structure is owned by a public entity other than the City, the removal of the graffiti may be authorized only after securing the written consent of the public entity having jurisdiction over the structure.

3. Where a structure is privately owned, the removal of the graffiti by City personnel or by volunteers or a private contractor under the direction of the City may be authorized only after securing the written consent of the owner, agreement to reimburse the City for the costs of removal, and a release of the City from liability, on a form approved by the City Attorney. The City will use paint that is readily available and may not match the original color.

C. Abatement and Cost Recovery Proceedings Following Failure to Obtain Owner's Consent. If a responsible party fails to remove or cause the removal of the offending graffiti within the time herein specified, or if the City shall have requested consent to remove or paint over the offending graffiti and the responsible party shall have refused consent or failed to respond to request for entry on the terms of this section, the City shall commence abatement and cost recovery proceedings for the removal of the graffiti in accordance with Title 4.

1. Because prompt removal minimizes the blight created by graffiti and has been shown to be one of the greatest disincentives to graffiti proliferation, the City Manager is authorized to develop procedures and/or volunteer programs whereby City personnel or other persons under the direction of the City may enter onto private property for the purpose of removing and/or painting over the graffiti. Such a program shall include provisions requiring the City to first attempt notification of the affected property owners, and upon notification, provide them with an opportunity to promptly eradicate the graffiti.

2. Prior to the City removing graffiti as outlined under this Section 8.05.050C, the City shall first attempt to notify the affected property owners, and upon notification, providing them with an opportunity to promptly eradicate the graffiti. The City shall contact property owners requesting that the owners either eradicate the graffiti or make satisfactory arrangements for the eradication of the graffiti within ten (10) days of actual notice or fourteen (14) days of mailed notice. If property owners do not eradicate the graffiti or make arrangements satisfactory to the City for the eradication of the graffiti within this time period, a second notice shall be provided stating that, if the owners do not either eradicate the graffiti or make satisfactory arrangements for the eradication of the graffiti within five (5) days of actual notice or within seven (7) days of mailed notice,

City agents may enter the property and eradicate the graffiti at the property owner's expense. Making satisfactory arrangements would include granting permission to the City to eradicate the graffiti at the property owner's expense.

3. If the property owner(s) cannot be promptly contacted personally or by mail within ten (10) days of the first attempted notification, City agents may proceed to eradicate the graffiti. The City will attempt to closely match the color of paint used to cover the graffiti; however, the City Council recognizes that the paint used in such eradication efforts may not closely match the existing paint; however, the City Council finds that the eradication will not damage private property more than the damage that has already resulted from the existence of the graffiti. The eradication authorized by this section shall not, without property owner permission, extend to areas not readily visible to the general public.

4. In any situation where the City is compelled to remove the graffiti as provided in this Chapter, the City may proceed with abatement cost recovery from the property owner as outlined in Chapter 4.24- Recovery of Civil Penalties and Abatement Costs and as outlined and allowed under California Government Code Sections 38772 and 53069.3. In the event the graffiti is placed by a minor in violation of this Chapter, the parents of such minor shall be financially responsible for any fees or costs imposed in accordance with this Chapter.

8.05.060 - GRAFFITI – VIOLATIONS.

A. Any person knowingly and willfully violating the provisions of this chapter shall be deemed guilty of an infraction.

B. Except as provided in subsection (a), any person violating, or causing or permitting the violation of, this chapter shall be deemed guilty of a misdemeanor if a defendant has been convicted of three or more violations of this chapter within the twelve-month period preceding the commission of the offense alleged in the accusatory pleading. For this purpose, a bail forfeiture shall be deemed to be a conviction of the offense charged.

C. If a minor is personally unable to pay any fine levied for violating this chapter, the parent or legal guardian of the minor shall be liable for payment of the fine. A court may waive payment of the fine by the parent or legal guardian upon a finding of good cause.

D. Any individual found guilty of a violation of this section shall reimburse the City of Scotts Valley for any and all costs the City may incur in removing the graffiti. Such reimbursement shall be in addition to any other penalties imposed by the court pursuant to this section. If the violator is a minor, the parent or guardian shall also be responsible for such reimbursement.

E. In addition to the violations noted above, any violation of the provision of this Chapter may be cited in accordance with Chapter 4.14.

1. The administrative fine for an administrative citation issued for violation of Section 8.05.030 of this Chapter shall be as follows:

- a. An administrative fine of one thousand dollars (\$1,000.00) for the first violation in any one (1) year period;
- b. An administrative fine of one thousand five hundred dollars (\$1,500.00) for the second violation in any one (1) year period; and
- c. An administrative fine of two thousand dollars (\$2,000.00) for the third and each subsequent violation.

2. The administrative fine for an administrative citation issued for violation of Section 8.05.040 of this Chapter shall be as follows:

- a. An administrative fine of two hundred fifty dollars (\$250.00) for the first violation in any one (1) year period;
- b. An administrative fine of five hundred dollars (\$500.00) for the second violation in any one (1) year period; and
- c. An administrative fine of one thousand dollars (\$1,000.00) for the third and each subsequent violation in any one (1) year period."

Section 3. CEQA COMPLIANCE. The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment. The Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b)(3) of Title 14 of the California .

Section 4. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 5. To the extent the provisions of the Scotts Valley Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 6. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

Section 7. PUBLICATION. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of adoption and shall post a certified copy of this Ordinance, including the vote for and against same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

This Ordinance was introduced on the 7th day of May, 2025, and passed and adopted on the 21st day of May, 2025, at a duly held meeting of the City Council of the City of Scotts Valley by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Derek Timm, Mayor

ATTEST:

Cathie Simonovich, City Clerk