

**CITY OF ROYSE CITY, TEXAS
ORDINANCE NO. 03-04-333**

AN ORDINANCE OF THE CITY OF ROYSE CITY, TEXAS, DECLARING GRAFFITI TO BE A NUISANCE; MAKING IT AN OFFENSE TO CAUSE, MAINTAIN OR ALLOW GRAFFITI TO REMAIN ON PROPERTY; REQUIRING THE OWNER OF PROPERTY TO ABATE THE NUISANCE; PROVIDING FOR NOTICE TO THE OWNER OR OCCUPANT TO ABATE THE NUISANCE; PROVIDING FOR HEARING; PROVIDING FOR MUNICIPAL ABATEMENT AFTER NOTICE; PROVIDING FOR LIENS IN THE EVENT OF MUNICIPAL ABATEMENT AFTER THE NOTICE; PROVIDING FOR ABATEMENT ON PUBLIC PROPERTY AND PUBLIC RIGHT-OF-WAY; PROVIDING A PENALTY NOT TO EXCEED \$500.00 PER DAY; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, graffiti has appeared on many buildings in Royse City; and,

WHEREAS, graffiti is a means of defining territory by members of youth gangs and gaining notoriety thereby encouraging the creation and growth of gangs; and,

WHEREAS, prompt removal of graffiti discourages its spread and replacement, thereby discouraging the organization, growth and increase of youth gangs, and reducing any youth gang activity in the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROYSE CITY, TEXAS:

SECTION 1. The recitals set forth above are hereby found by the Council to be true and correct, and are incorporated by reference herein and expressly made a part of hereof as if copied verbatim.

SECTION 2. GRAFFITI AS A NUISANCE.

A. Prohibited Conditions; Declaration of Nuisance.

The presence of graffiti on any private property that can be viewed or seen from any public property, public right-of-way, or any other private property; on any public property; or any public right-of-way within the City shall be deemed a public nuisance, and it shall be unlawful for any person to cause or maintain any

such public nuisance. Proof of requirement of a culpable mental state is not required in the prosecution of an offense under this section.

B. Abatement; Notice of Violation – Private Property.

Whenever any such public nuisance exists on private property within the City in violation of this section, the Chief of Police, or the Chief's designee, shall notify the owner and the occupant of the private premises whereupon such public nuisance exists to remove or abate the same. Such notice shall be in writing, shall state the nature of the public nuisance and shall state that it must be removed or abated within ten (10) days, and shall further state that a request for hearing must be made before the expiration and said ten (10) day period. Such notice may be delivered by personal delivery to the owner or occupant or by certified mail return receipt requested, with a five (5) day return requested. If the notice cannot be personally delivered or is returned undeliverable by the United States Post Office, said notice may be delivered by posting on the property on which the nuisances exists.

C. Performance by City; Collection of Costs.

If after such notice, either in person, by letter, or by posting, such owner fails and refuses to abate such condition within ten (10) days after such notice is complete, then the City may do such work or may cause the same to be done and may pay therefor and charge the expense incurred in doing or having such work done or improvements made to the owner of the property the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred. In such event the Mayor or City Secretary shall immediately file with the County Clerk a statement in writing showing the expenditure made, the owner of the property, and the legal description of the property upon which such expenditure was made and the City shall thereafter have a privileged lien thereon, second only to tax liens and liens for street improvements to secure the expenditure so made and ten percent (10%) interest on the amount from the date of such payment. For any such expenditures and interest, as aforesaid, suit may be instituted and foreclosure had in the name of the City, and the statement so made, as aforesaid, or certified copy thereof, shall be prima facie proof of the amount expended in any such work or improvement.

D. Request for Hearing.

Within the ten (10) day period after receipt of such notice from the Chief of Police or the Chief's designee to abate any such nuisance, such owner or occupant may request of the Clerk of the Municipal Court, either in person or in writing, that a date and time be set when such owner may appear before the Judge of the Municipal Court for a public hearing to determine whether or not such owner or occupant is in violation of any of the provisions of this section. Upon receiving such a request for public hearing, the Clerk of the Municipal Court shall call said

request to the attention of the Municipal Judge, who shall set a date and time for such public hearing on the docket of said court, and shall cause such owner or occupant to be notified of such setting.

E. Hearing; Order of Abatement

The Judge of the Municipal Court shall conduct such public hearing as set out herein, and shall determine whether such owner or occupant is, in fact, in violation of any provisions of this section. Upon a finding that such owner or occupant is in violation of any provision of this section, the Judge shall order such owner or occupant to abate said nuisance within ten (10) days from the date of such order.

If any such owner or occupant shall fail or refuse to abate said nuisance with said ten (10) day period, the Judge may issue an order directing the director of Public Works to have the same abated, and the Director of Public Works or the Director's designee shall abate the nuisance. Upon abatement by the City, the appropriate official shall take action to recover the costs of such abatement as set forth in above.

F. Filing of Complaint; Finding of Guilt; Punishment; Order of Removal.

If the owner or occupant of the private property upon which the nuisance is located does not request a public hearing within ten (10) days of receipt of notice to remove or abate such public nuisance, the City Attorney shall cause to be prepared, filed in the Municipal Court and served upon the defendant named therein, a written complaint charging such owner or occupant of any such premises, as the case may be, with the violation of maintaining a public nuisance contrary to the provisions of this section. Upon a finding that any such defendant is guilty of maintaining a public nuisance as set forth in this section, such person shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.00 and each day and every day that such public nuisance is maintained shall constitute a separate and distinct offense. Subsequent to determination of guilt, the Judge of the Municipal Court shall order removal and abatement of such public nuisance consistent with provisions of Sec. 2 hereof.

SECTION 3. Affirmative Defense.

It is an affirmative defense to prosecution under this section that the graffiti was placed on the property by the owner or occupant of the property or by a person with consent from the owner or occupant.

SECTION 4. Abatement; Public Property.

Whenever any such public nuisance exists on public property or a public right-of-way, the Chief of Police or the Chief's designee shall notify the Director of Public

Works of the existence of the public nuisance. The Director of Public Works or the Director's designee shall take prompt action to abate the public nuisance."

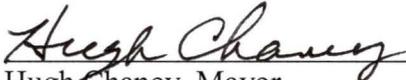
SECTION 5. That if any section, provision, subsection, paragraph, sentence, clause, phrase, or word in this Ordinance or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such holdings shall not affect the validity of the remaining portions of this Ordinance, and the City Council of the City of Royse City, Texas hereby declares it would have enacted such remaining portions, despite such invalidity.

SECTION 6. All Ordinances or parts of Ordinances in conflict herewith are repealed to the extent of conflict only.

SECTION 7. The City Secretary shall publish the title of this Ordinance, including the penalty, as required by law.

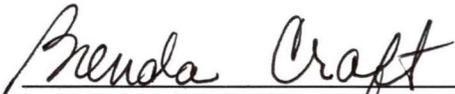
SECTION 8. This Ordinance shall be in full force and take effect upon its passage and publication.

PASSED AND APPROVED, this the 8th day of April, 2003.



Hugh Chaney, Mayor

ATTEST:



Brenda Craft, City Secretary

DATE OF PUBLICATION:

4-16-2003