

Before the Board of Supervisors County of Placer, State of California

In the matter of:

AN ORDINANCE AMENDING PLACER
COUNTY CODE CHAPTER 9, PUBLIC
PEACE SAFETY AND WELFARE, BY
ADDING ARTICLE 9.14 SPRAY PAINT
AND GRAFFITI.

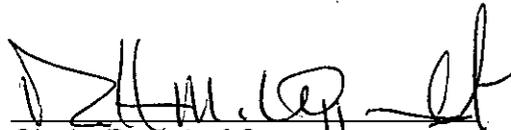
Ordinance No.: 5807-B

First Reading: January 5, 2016

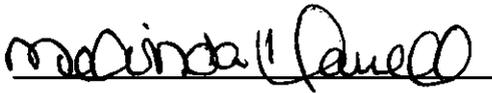
The following **ORDINANCE** was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held January 26, 2016, by the following vote on roll call:

Ayes:	DURAN, HOLMES, UHLER, MONTGOMERY, WEYGANDT
Noes:	NONE
Absent:	NONE

Signed and approved by me after its passage.


Chair, Board of Supervisors

Attest:
Clerk of said Board



THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA
HEREBY FINDS AND DECLARES THE FOLLOWING:

WHEREAS, the County of Placer ("County"), finds and determines that graffiti, as defined below, is a public nuisance and destructive of the rights and values of property owners as well as the entire community; that graffiti promotes blight in the neighborhoods in which it occurs and encourages similar acts of vandalism; that without

prompt removal of graffiti, other properties become the target of graffiti and entire neighborhoods are affected and become less desirable places in which to live and work; and

WHEREAS, the County, in the interest of public health, safety and welfare, further finds and declares that to be truly effective in the deterrence, eradication and removal of graffiti, it is necessary to implement a comprehensive anti-graffiti ordinance; and

NOW THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER ORDAINS AS FOLLOWS:

Section 1: Chapter 9 Public Peace, Safety and Welfare is hereby amended to add Article 9.14, which shall read as follows:

**Article 9.14
SPRAY PAINT AND GRAFFITI**

SEC. 9.14.010 Purpose.

Aerosol spray paint cans are currently being used as a means of defacing public and private property, resulting in the creation of unsightly graffiti. Graffiti reduces property values, encourages blight and frequently becomes a forum for gang-related, potentially criminal activities. In order to assist law enforcement personnel in dealing with this growing problem, the Board of Supervisors deems it necessary and appropriate to regulate the use and possession of aerosol spray paint cans and the application of graffiti, and to provide for the abatement of graffiti.

SEC. 9.14.020 Definitions.

Graffiti means the intentional spraying of paint or marking of paint, ink, chalk, dye or other similar substances upon private or public property without permission of the owner of the property. For purposes of this Chapter, "Graffiti" shall mean any inscription, word, figure or design that is marked, etched, scratched, drawn or painted on any surface of public or private property without the property owner's authorization.

"Graffiti coordinator" means a person appointed by the Sheriff to assist in the implementation and enforcement of this article.

SEC. 9.14.030 Graffiti prohibited.

It is unlawful for any person to intentionally place graffiti upon any private or public property. A mistake as to the private property owner's identity shall not be a defense to a violation of this section.

SEC. 9.14.040 Possession of aerosol spray paint cans by minors prohibited.

It is unlawful for any minor person under the age of 18 to have in their possession any aerosol spray can containing any substance commonly known as paint, while upon any public

highway, street, alleyway, park, playground, swimming pool or other public place, whether such minor is or is not in any automobile, vehicle or other conveyance.

This section shall not apply if such minor is in possession of an aerosol spray can in order to perform a task as directed by the minor's parent, guardian, instructor or employer, and if that task would not be a violation of this chapter if conducted by an adult.

SEC. 9.14.050 Sale of aerosol spray paint cans to minors prohibited.

It is unlawful for any person to sell to a minor any aerosol spray can containing any substance commonly known as paint. This section shall not apply to the furnishing of six ounces or less of an aerosol container of paint for the minor's use or possession under the supervision of the minor's parent, guardian, instructor or employer.

SEC. 9.14.060 Signs to be placed in retail establishments.

A sign not smaller than 8½ inches by 11 inches shall be prominently displayed in the proximity of the merchandise in all retail establishments which offer for sale to the public paint in aerosol spray cans. These signs shall read as follows:

"Possession by or sale to a minor of an aerosol spray can containing paint is unlawful. California Penal Codes § 594.1, Placer County Code sections 9.14.040 and 9.14.050."

SEC. 9.14.070 Penalties.

Violation of this chapter may be charged as either an infraction or a misdemeanor in the discretion of the District Attorney.

SEC. 9.14.080 Declared nuisance.

The Board of Supervisors of the County of Placer makes the following findings and declarations:

Graffiti on private or public property creates a condition tending to reduce the value of private and public property, to promote blight and deterioration, to reflect badly on the community and to be injurious to the health, safety and general welfare. Furthermore, graffiti has been used as a forum for gang-related activities and can lead to an increase in crime in the county. Therefore, the presence of graffiti on private or public property is declared to constitute a public nuisance which may be abated as such in accordance with provisions of this chapter, or any other applicable provision of law.

SEC. 9.14.090 Board of Supervisors to Determine Costs.

The Board of Supervisors shall from time to time determine and fix an amount to be assessed as administrative costs excluding the actual cost of removal of the graffiti.

SEC. 9.14.100 Authority to Remove.

Upon discovering the existence of graffiti on private or public property within the County, the graffiti coordinator shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this chapter.

SEC. 9.14.110 Form of Notice to Remove.

A 10-day Notice of Intention to Abate and Remove the Graffiti shall be mailed by registered or certified mail or served upon the owners of the property in the manner required for service of a summons and mailed by registered or certified mail to any individuals who have violated Section 9.14.080 of this article. The Notice shall advise that if the graffiti is not removed within the time frame set forth in the Notice, the county shall remove the graffiti and assess the costs to the property owner and/or the individuals responsible. If a responsible individual is a minor, costs shall be assessed to the parents or guardians of that minor. The Notices shall be in substantially the following forms:

**NOTICE OF INTENTION TO ABATE AND
REMOVE GRAFFITI**

Date:

Re: Graffiti at (address)

As owner shown on the last equalized assessment roll of the land located at _____ you are hereby notified that pursuant to Section 9.14.110 of the Placer County Code the undersigned has determined that there exists upon said land certain Graffiti which constitutes a public nuisance pursuant to the provisions of Section 9.14.080 of the Placer County Code.

You are hereby notified to abate the nuisance by removing the Graffiti within ten (10) days from the date of service of this notice and upon your failure to do so the same will be abated and removed by the County of Placer. The cost of removal, together with administrative costs, will be assessed to you as owner of the land on which the Graffiti is located and the cost of removal may be collected at the same time and in the same manner as general property taxes.

As owner of the land on which the Graffiti is located you are hereby notified that you may, within ten (10) days after the service of this Notice of Intention, request a public hearing and if such request is not received by the Sheriff within such ten (10) day period, the Graffiti Coordinator shall have the authority to abate and remove the Graffiti as a public nuisance and assess the costs as aforesaid without a public hearing.

You may submit a sworn written statement within such ten (10) day period denying responsibility for the presence of said Graffiti with your reasons for denial and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or any other responsible party or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Graffiti Coordinator
County of Placer

NOTICE OF INTENTION TO ABATE AND
REMOVE GRAFFITI

Date:

Re: Graffiti at (address)

As the person responsible for the Graffiti located at _____ you are hereby notified that pursuant to Section 9.14.110 of the Placer County Code the undersigned has determined that said Graffiti constitutes a public nuisance pursuant to the provisions of Section 9.14.080. You are hereby notified to abate the nuisance by removal of the Graffiti within ten (10) days of the date of mailing of this notice, and upon your failure to do so the same will be abated and removed by the County of Placer and the costs thereof, together with administrative costs will be assessed to you as the person responsible for the Graffiti. If you are a minor, costs may be assessed to your parents or guardians.

As the person responsible for the Graffiti, you are hereby notified that you may, within ten (10) days of the mailing of this Notice of Intention, request a public hearing. If such request is not received by the Sheriff within this ten (10) day period, the Graffiti Coordinator shall have the authority to abate and remove said Graffiti without a hearing.

Notice mailed _____

Graffiti Coordinator,
County of Placer

SEC. 9.14.120 Abatement Lien.

a. The cost of abating the graffiti shall constitute a lien and a special assessment against the property where the graffiti is located, and may be collected at the same time and in the same manner as property taxes.

b. If the cost of abating the graffiti is not paid within 30 days of mailing of demand by the county, the cost of abatement along with a penalty assessment of eight percent of the total, will be transmitted to the county auditor for entry upon and collection with the next tax roll and to the county recorder to be recorded as a lien against the property. Thereafter, such amount shall be collected with property taxes and shall be subject to additional interest and penalties in the case of delinquency, along with sale, because the assessment shall constitute a lien upon the property. The cost of recording and removing a lien on property on which this amount has been assessed will be borne by the property owner.

SEC. 9.14.130 Public hearing and appeal.

Upon written request by the owner of the property or any violator of Section 9.14.030 received by the Sheriff within 10 days of mailing or service on an owner or mailing to a violator of the notices of an intention to abate and remove the graffiti, a public hearing shall be held by the Sheriff or designee on the question of the cost of abatement. Those individuals to whom notice has been sent may appear in person at the hearing or present a sworn written statement denying responsibility for the presence of the graffiti. Following the public hearing, the Sheriff

shall make written findings of fact showing whether the graffiti tends to reduce the value of private property to promote blight and deterioration and be injurious to the health, safety and general welfare. Such written findings of fact shall be the basis for the decision of the Sheriff.

Appeal from any decision of the Sheriff may be made in writing to the Board of Supervisors within 10 calendar days from the Sheriff's action. Within the same 10-day period, the appellant shall pay a nonrefundable fee of \$75.00.

SEC. 9.14.140 Treble damages.

Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that any person is responsible for the unlawful application of graffiti, a fine in the amount of three times the cost of abatement shall be paid by the violator(s).

Section 2. This ordinance shall take effect and be in full force thirty (30) days after the date of its passage. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with government code section 25124.