

Legistar ID No.: 2022- 1051

AGENDA REQUEST FORM

FOR: Council Meeting of December 6, 2022

FROM: Council Member Teresa Turk

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO AMEND §130.39 **GRAFFITI** IN THE *FAYETTEVILLE CODE* TO
CREATE A GRAFFITI ABATEMENT PROGRAM

APPROVED FOR AGENDA:



City Council Member
Teresa Turk

11/10/22

Date



Asst. City Attorney Blake Pennington
Approved as to form

11/14/22

Date

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §130.39 **GRAFFITI IN THE *FAYETTEVILLE CODE* TO
CREATE A GRAFFITI ABATEMENT PROGRAM**

WHEREAS, the existence of graffiti on buildings, structures, such as fences or walls, or utility poles or boxes, located upon public or privately owned property viewable from a public or quasi-public place within the city is detrimental to property values, degrades the community, causes an increase in crime, is inconsistent with the city's property maintenance and aesthetic standards, and is a nuisance; and

WHEREAS, establishing a graffiti abatement program will enable the City to remove graffiti from public and privately owned property in addition to other remedies available to the City and to property owners.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals §130.39 **Graffiti** of the *Fayetteville Code* in its entirety and enacts a new §130.39 **Graffiti** as shown in Exhibit A attached hereto and made a part hereof.

PASSED and APPROVED this 6th day of December, 2022.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
KARA PAXTON, City Clerk/Treasurer

EXHIBIT A

130.39 - Graffiti

(A) *Definitions.*

(1) Graffiti: For purposes of this section, the term "graffiti" shall mean any inscription, word, figure, design, symbol or insignia which is marked, etched, scratched, drawn, painted or otherwise affixed to or placed upon any public right-of-way or public or private property located within the City to the extent that the same is not approved by the owner, owner's agent, or leasehold tenant.

(2) Quasi-public place: Any place, privately owned, but to which the public is invited, which shall include, but is not limited to, the following: commercial, industrial and business properties, stores, restaurants, bars, retail business establishments, multi-family housing complexes containing 24 units or more, and their adjoining or related parking areas.

(B) *Unlawful to apply graffiti.* It shall be unlawful for any person to apply graffiti upon any right-of-way or upon any public or privately owned structure located on public right-of-way or public or privately owned real property within the City. Nothing contained herein shall prevent the city from pursuing any other remedy available for redress of any damage or injury caused by the action of any such person.

(C) *Declaration of graffiti as unsightly and a nuisance.* The existence of graffiti on buildings, structures, such as fences or walls, or utility poles or boxes, located upon public right-of-way or public or privately owned property viewable from a public right-of-way or public or quasi-public place within the City is detrimental to property values, degrades the community, causes an increase in crime, is inconsistent with the City's property maintenance and aesthetic standards, and is declared to be a nuisance.

(D) *Right of city to remove graffiti.*

(1) Whenever the city becomes aware or is notified and determines that graffiti is located on the exterior of a building or structure (including fences and walls), or utility box or pole, on public right-of-way or on public or privately owned property viewable from a public, quasi-public place, or public right-of-way within the City, the City shall be authorized to use public funds for the removal of graffiti from the entire exterior of the building or structure affected, or for the painting over of graffiti from the entire exterior of the building affected.

(2) All incidents of graffiti should be reported to the Police Department, who may investigate the crime and notify the owner of the property or the property owner's agent and/or any leasehold tenant or utility company, concerning the City's graffiti removal program. The Police Department may also provide information on how to contact the appropriate division or

department for the removal of the graffiti. The Police Department may also notify the appropriate division or department of the exact location of the graffiti and the name of the person to be contacted.

- (3) Upon notification by the Police Department concerning the necessity to remove the graffiti, the City should contact the owner of the property or the property owner's agent, and/or any leasehold tenant and request that they sign a graffiti abatement identification and permission form allowing the City to enter on the property and remove the graffiti.
- (4) In the event the City verifies that the owner of the property or the property owner's agent, and/or any leasehold tenant has not approved the graffiti but refuses to sign the document which authorizes the City to remove the graffiti, the City should give or cause to be given notice to the owner of the property or the property owner's agent, and/or any leasehold tenant to take corrective action and remove the graffiti from the property within two (2) business days from the date the notice is served. If the graffiti is not removed within two (2) business days after service of notice, and the owner, tenant or their agent has not filed a written objection to the removal of the graffiti with the City Clerk within two business days after notice, then the City shall have the right to enter upon private property to the extent necessary to take corrective action to abate the nuisance.
- (5) If the owner, tenant, or their agent has filed a written objection to the City's removal of the graffiti including accurate contact information within two (2) business days with the City Clerk, the Chief of Staff or designee shall hold a due process hearing within a week after attempted notice to the appellant using the provided accurate contact information. The Chief of Staff or designee shall inform the appellant of the reasons for the planned graffiti removal during the due process hearing and give the appellant an opportunity to respond and justify the non-removal of the suspected graffiti.

(E) *Other remedies available to the City.* This section does not preclude the city from seeking the removal of graffiti through other available remedies, including those under the Arkansas criminal mischief statutes and the *International Property Maintenance Code*.