

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David A. Bobardt, Community Development Director 

DATE: September 10, 2013 (CC Meeting of 10/2/2013)

SUBJECT: Consider 1) An Ordinance Amending Section 8.14.140 (Prohibition Against Maintaining Graffiti on Private Property) of Chapter 8.14 (Graffiti), of Title 8 (Health and Safety), of the Moorpark Municipal Code and Making a Determination of Exemption under CEQA in Connection Therewith; and 2) A Council Policy Related to Enforcement of This Section

BACKGROUND/DISCUSSION

Moorpark's graffiti regulations were comprehensively updated on March 2, 2010 as Chapter 8.14 of the Municipal Code. This chapter addresses liabilities and remedies from those who apply graffiti, as well as responsibilities of property owners who have had graffiti applied to their property. Under this chapter, graffiti must be removed from private property within 72 hours of City notice when visible from any public right-of-way. This short timeframe was established to prevent private property from becoming an inviting palette for additional graffiti. In recognition of the time needed for mail to be delivered, staff is recommending that this timeframe be changed to 5 days from the date of mailing the notice. This short timeframe is appropriate in areas that are highly visible from the public. Public alleys, less visible to the general public, have also been a popular target for graffiti, with properties adjacent to the alleys being hit repeatedly with graffiti, creating an ongoing maintenance burden for these property owners.

The attached draft ordinance would, in addition to allowing 5 days from the date of mailing for graffiti abatement, extend the timeframe for removal of graffiti from single-household and two-household (duplex) residential property to 30 days when it is only visible from public alleys or other public or private properties that are not accessible to

the general public. The attached draft ordinance has been reviewed and approved by the City Attorney.

Along with this ordinance, a Council policy is proposed to address the enforcement of this provision of the code on residential properties, recognizing that the property owners, while having a responsibility to remove graffiti, are also victims of this vandalism. The policy resolution provides additional code compliance steps for working with residential property owners to remove the graffiti. First a letter would be sent informing the property owner of the need to remove the graffiti. If the graffiti is not removed in the 10 days after receipt of the letter, attempts will be made to personally contact the property owner either in person (if the property is owner-occupied), or by telephone. City staff will also identify and work with local volunteer organizations that are interested in helping residents with graffiti abatement by furnishing their contact information to the property owners. If arrangements are made to remove the graffiti by either professional painters or volunteers, further compliance efforts will be suspended for an additional 7 days to allow this work to take place.

FISCAL IMPACT

None.

STAFF RECOMMENDATION

1. Introduce Ordinance No. _____ for first reading, waive full reading, and schedule second reading and adoption for October 16, 2013.
2. Adopt Policy 4.5, Enforcement of Section 8.14.140 of the Moorpark Municipal Code on Residential Properties, to be incorporated into the next update of the City Council Policies Resolution.

Attachment:

1. Draft Ordinance
2. Draft Policy

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, AMENDING SECTION 8.14.140 (PROHIBITION AGAINST MAINTAINING GRAFFITI ON PRIVATE PROPERTY), OF CHAPTER 8.14 (GRAFFITI), OF TITLE 8 (HEALTH AND SAFETY), OF THE MOORPARK MUNICIPAL CODE AND MAKING A DETERMINATION OF EXEMPTION UNDER CEQA IN CONNECTION THEREWITH

WHEREAS, Chapter 8.14 of the Moorpark Municipal Code identifies the need to quickly remove graffiti from public and private property; and

WHEREAS, under Section 8.14.140, private property owners are required to abate graffiti quickly, even in areas that are not highly visible to the general public, including public alleys; and

WHEREAS, the City Council desires to allow more time for single-household and two-household (duplex) residential property owners to remove graffiti when it is only visible from public alleys, or public or private property not accessible by the general public; and

WHEREAS, the Community Development Director has found that the proposed Ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the California Code of Regulations (CEQA Guidelines) by the general rule that CEQA only applies to "projects" that may have a significant effect on the environment. This ordinance amends the Municipal Code provisions by increasing to 30 days the time by which graffiti from private property must be removed in certain specified instances only where the graffiti is not highly visible to the general public. This ordinance still requires the graffiti to be abated by the property owner in a timely manner. No significant short-term or long-term aesthetic effect would result from the change in timing for graffiti abatement under the limited circumstances. In this case, it can be seen with certainty that there is no possibility that the proposed Ordinance may have a significant impact on the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. ENVIRONMENTAL DETERMINATION: The City Council has reviewed the Community Development Director's determination that the proposed Ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the California Code of Regulations (CEQA Guidelines) by the general rule that CEQA only applies to "projects" that may have a significant effect on the environment. This ordinance amends the Municipal Code provisions by increasing to 30 days the time by which graffiti from private property must

be removed in certain specified instances only where the graffiti is not highly visible to the general public. This ordinance still requires the graffiti to be abated by the property owner in a timely manner. No significant short-term or long-term aesthetic effect would result from the change in timing for graffiti abatement under the limited circumstances. In this case, it can be seen with certainty that there is no possibility that the proposed Ordinance may have a significant impact on the environment. The City Council, based on its own independent judgment, concurs with staff's determination of exemption.

SECTION 2. Section 8.14.140 (Prohibition against maintaining graffiti on private property), of Chapter 8.14 (Graffiti), of Title 8 (Health and Safety), of the Moorpark Municipal Code is hereby amended as shown in Exhibit A.

SECTION 3. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 4. This Ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 5. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall publish notice of adoption in the manner required by law.

PASSED AND ADOPTED this ____ day of October, 2013.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk

Exhibit A: Amendment to Section 8.14 of the Moorpark Municipal Code

EXHIBIT A

**Title 8 Health and Safety
Chapter 8.14 Graffiti**

8.14.140 Prohibition against maintaining graffiti on privately owned property.

A. It is unlawful for the owners and/or persons in possession of privately owned property to permit graffiti ~~or other inscribed material capable of being viewed from any public right-of-way~~ within the city to remain on such property for more than ~~seventy-two (72) hours~~ five (5) days after written notice from the city is served to remove the same, except as provided in subsection B, below.

B. It is unlawful for the owners and/or persons in possession of property used for a single-household or two-household (duplex) residence to permit graffiti to remain on such property for more than thirty (30) calendar days after written notice from the city is served to remove the same where graffiti thereon can only be seen from a public alley or from public or private property not accessible by the general public.

BC. When paint is used to cover graffiti on private property, paint matching the original surface color of the damaged item shall be utilized.

D. Written notice pursuant to this chapter is served and complete at the time of deposit of a copy of the notice in the U.S. mail or when personal service of the notice is effectuated.

- End -

New Policy 4.5: Enforcement of Section 8.14.140 (Prohibition Against Maintaining Graffiti on Private Property) of the Moorpark Municipal Code on Properties Maintained for Single-Household and Two-Household (Duplex) Residential Use

In recognition that graffiti removal can be an excessive burden on residential property owners, additional steps in code compliance will be taken to assist these property owners in removing the graffiti as follows:

1. A standard code compliance letter will be sent to the owner of property maintained for single-household or two-household (duplex) residential use indicating the timeframe by which the graffiti must be removed consistent with Section 8.14.140 of the Moorpark Municipal Code.
2. If the property owner has not abated the graffiti within the timeframe stated in the letter, code compliance staff will attempt to contact the property owner in person or by telephone to discuss the matter and arrange for a date by which the property will be brought into compliance. If personal contact is unsuccessful, a standard second code compliance letter will be sent to the property owner. Once contact has been made or a letter has been sent, City staff will allow seven (7) days for the graffiti to be abated before taking further action consistent with Policy 4.3.
3. Community Development staff will assemble and maintain a list of volunteer organizations and individuals who are willing to abate graffiti on private property. The list will include a disclaimer prepared to the satisfaction of the City Manager and City Attorney that the City will assume no responsibility for any work performed by the listed volunteers and any agreement between the property owner and the volunteers is a private matter. This list will be provided to the property owners if, in their contact with City staff, there is an indication that assistance is needed in abating the graffiti.