

## ORDINANCE 936

AN ORDINANCE TO ADD ARTICLE VIII – GRAFFITI TO CHAPTER II OF THE CENTRAL CITY MUNICIPAL CODE; TO REPEAL ALL OTHER CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CENTRAL CITY, NEBRASKA:

Section 1. That Chapter 2, Article 8, of the Central City Municipal Code be added to read as follows:

### Article VIII – Graffiti

#### SECTION 2-801: INTENT

Graffiti on public and private property is a blighting factor which not only depreciates the value of the property which has been the target of such malicious vandalism, but also depreciates the value of the adjacent and surrounding properties, and in so doing, negatively impacts upon the entire community. The City Council finds and determines that graffiti is a nuisance and unless it and other inscribed material is removed from public and private properties, it tends to remain.

#### SECTION 2-802: DEFINITIONS

Whenever the following terms are used in this division, they shall have the meanings established by this section:

*Graffiti* means the defacing, damaging or destroying by the spraying of paint or marking of ink, chalk, dye or other similar substances on public and private buildings, structures and places.

*Graffiti abatement procedure* means an abatement procedure which identifies graffiti, issues notice to the landowner to abate the graffiti, and cures in absence of response.

*Private contractor* means any person with whom the city shall have duly contracted to remove graffiti.

#### SECTION 2-803: GRAFFITI – PROHIBITED

It shall be unlawful for any person to write, paint or draw upon any wall, rock,

bridge, building, fence, gate, other structure, tree, or other real or personal property, either publicly or privately owned, any drawing, inscription, figure or mark of the type which is commonly known and referred to as "graffiti" within the city.

#### SECTION 2-804: GRAFFITI – VIOLATION; PENALTY

Any person who is convicted of violating 2-803 shall be punished by a fine pursuant to 2-601. In addition to such punishment, the court may, in imposing sentence, order the defendant to restore the property so defaced, damaged or destroyed.

#### SECTION 2-805: GRAFFITI – NOTICE OF REMOVAL

Whenever the City Administrator, or his/her designee determines that graffiti exists on any public and private buildings, structures and places which are visible to any person utilizing any public right-of-way in this city, be this road, parkway, alley, or otherwise, and that seasonal temperatures permit the painting of exterior surfaces, the City Administrator, or his/her designee shall cause a notice to be issued to abate such nuisance. The property owner shall have ten (10) days after the date of the notice to remove or paint over the graffiti, or the conditions will be subject to abatement by the city. If the property owner elects to paint over the graffiti, the paint used to obliterate the graffiti shall be as close as practicable to background color(s).

The notice to abate graffiti pursuant to this section shall consist of a written notice to be served upon the owner(s) of the affected premises, as such owner's name and address appears on the last property tax assessment rolls of the county. If there is no known address for the owner, the notice shall be sent in care of the property address. The notice required by this section may be served in any one of the following manners:

- (1) By personal service on the owner, occupant or person in charge or control of the property.
- (2) By registered or certified mail addressed to the owner at the owner's last known address. If this address is unknown, the notice will be sent to the property address.

The notice shall be substantially in the following form:

##### NOTICE OF INTENT TO REMOVE GRAFFITI

Date:

NOTICE IS HEREBY GIVEN that you are required by law at your expense to remove or paint over the graffiti located on the property commonly known as:

\_\_\_\_\_, Central City, Nebraska, which is visible to public view, within ten (10) days after the date of this notice; or, if you fail to do so, City employees or private contractors employed by the City will enter upon your property and abate the public nuisance by removal or painting over the graffiti. The cost of the abatement by the City employees or its private contractors will be assessed upon your property and such costs will constitute a lien upon the land until paid.

All persons having any objection to, or interest in said matters are hereby notified to submit any objections or comments to the City Administrator of the City of Central City, Nebraska, or his/her designee within forty-eight (48) hours from the date of this notice. At the conclusion of this ten (10) day period, the City may proceed with the abatement of the graffiti inscribed on your property at your expense without further notice.

City of Central City, Nebraska

By: \_\_\_\_\_

Title: \_\_\_\_\_

#### SECTION 2-806: CITY'S COSTS DECLARED LIEN

Any and all costs incurred by the city in the abatement of the graffiti nuisance under the provisions of this division may constitute a lien against the property upon which such nuisance existed.

#### SECTION 2-807: REMOVAL BY CITY

Upon failure of persons to comply with the notice by the designated date, or such continued date thereafter as the City Administrator, or his/her designee approves, then the City Administrator, or his/her designee, with the consent of the Mayor, is authorized and directed to cause the graffiti to be abated by city forces or private contract, and the city or its private contractor is expressly authorized to enter upon the premises for such purposes. All reasonable efforts to minimize damage from such entry shall be taken by the city, and any paint used to obliterate graffiti shall be as close as practicable to background color(s). If the City Administrator provides for the removal of the graffiti or other inscribed material, he shall not authorize nor undertake to provide for the painting or repair of any more extensive area than that where the graffiti or other inscribed material is located.

SECTION 2-808: PRIVATE PROPERTY CONSENT FORMS

Property owners in the city may consent in advance to city entry onto private property for graffiti removal purposes. The city will make forms for such consent available.

Section 2. Any other ordinance or section passed and approved prior to passage, approval, and publication of this ordinance and in conflict with its provisions is repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this \_\_ day of \_\_\_\_ 2010.

Attest:

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Clayton Erickson, Mayor

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Linda Jensen, City Clerk