

PLANNING AND DEVELOPMENT MEMORANDUM
#12-8

April 23rd, 2012

TO: Honorable Mayor Joyce Downing and City Council members

FROM: William Simmons, City Manager *WAS*
Brook Svoboda, Director of Planning and Development *BS*

SUBJECT: CB 1765 – Graffiti Ordinance

SUMMARY OF ISSUE:

At the February 16th, 2012 Council Worksession, Council discussed issues and concerns with the Graffiti Ordinance. The stated goals and objectives were:

- Address removal vs covering (painting over) of graffiti.
- Update definition of what constitutes graffiti.
- Establish minimum standards for removal of graffiti.

Staff presented Planning & Development Memorandum 12-4 at the February 16th Council Worksession addressing the stated goals and objectives. Concerns were raised that the addition of more prescriptive language would limit the discretion in administering the nuisance code. An additional concern was made after the Council Worksession (via email) that the current provisions already provide the necessary enforcement language to achieve the same outcome suggesting that an amendment would not be necessary. Staff has reviewed the code based on these comments and has provided the additional analysis.

ANALYSIS:

Existing Code: The current compliance provisions of the code provide staff the discretion to deem “alternate-color” covering of the graffiti as inappropriate abatement for graffiti. Under the current provisions, Staff would determine the covering of graffiti with alternate colors as non-compliance and issue a notice of violation (Administrative Citation) for abatement to the owner. The process includes the following steps:

1. Violation Occurs
 - a. Notice of Violation issued – 24 hr notice to comply
2. Owner covers graffiti with alternate color – deemed to not be in compliance
 - a. Abatement Notice issued, 24 hours to comply
3. Failure to comply to Abatement Notice
 - a. City can abate nuisance and lien property for work performed, or
 - b. Owner may file a protest and extend period by 10 days
4. Owner protest
 - a. Owner files protest with the City Clerk’s office
 - b. City Manager appointed Hearing Officer shall schedule hearing and conduct hearing in accordance with Section 3-7-1
 - c. The determination of whether or not covering graffiti with off-color is then made

- by the hearing officer.
- d. Hearing officer issues ruling – to determine whether covering of graffiti with alternate color meets the intent of the code.

Proposed Amendments: The same procedural process outlined above would also apply under the proposed amendments; however, the inclusion of the proposed amendment language would provide the following:

- Prescribe a clear definition for compliance
- Eliminate painting over graffiti with non-matching color(s)
- Clarify compliance time frame
- Reduce the potential for *Owner Protest* to an Administrative Citation
- Reduce incidence of Administration Citation Process
- Provide clear policy guidance to Hearing Officer

CONCLUSIONS:

The current policy provisions do provide the discretion for determining that alternate color coverage of graffiti is non-compliant with the code. The proposed amendment language would improve Staff’s ability to achieve voluntary compliance either by owner or through the City’s program and reduce the potential of issuing administrative citations to the hearing officer.

RECOMMENDATION:

Staff recommends Council approve CB-1765 as presented

BUDGET/TIME IMPLICATIONS:

There is no specific budget or time implications for this item.

STAFF REFERENCE:

If Council members have any questions they may contact Brook Svoboda, Director of Planning and Development at 303-450-8937 or by e-mail at bsvoboda@northglenn.org.

ATTACHMENTS

ATTACHMENT 1

CB 1765

ATTACHMENT 2

Planning & Development Memorandum 12-4

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1765
Series of 2012

Series of 2012

A BILL FOR AN ORDINANCE REPEALING AND REENACTING SECTION 9-11-29.5 REGARDING GRAFFITI

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 9-11-29.5 of the Northglenn Municipal Code is repealed and reenacted to read as follows:

Section 9-11-29.5. Graffiti

(a) Graffiti, meaning the defacement of public or private property by means of painting, drawing, writing, etching or carving with paint, spray paint, ink, knife or any similar method without written permission of the owner/property owner, constitutes a threat to the public health, safety, morals and general welfare of people and property, and is hereby declared a nuisance.

(b) UPON WRITTEN NOTIFICATION, ~~If any graffiti is not~~ SHALL BE removed ~~from any property in the City~~ within twenty-four (24) hours FOLLOWING RECEIPT OF SUCH NOTICE ~~following the placement of graffiti, the City may, but shall not be required to, cause the graffiti to be removed or corrected.~~

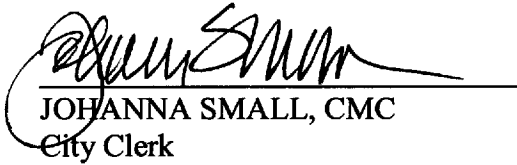
(c) FOR PURPOSES OF THIS SECTION 9-11-29.5, REMOVAL OF GRAFFITI SHALL BE THE ACTUAL REMOVAL OF SAID GRAFFITI OR THE PAINTING OVER OF SUCH GRAFFITI WITH A COLOR MATCHING THE EXISTING SURFACE.

(d) THE CITY MAY UPON REQUEST OF THE PROPERTY OWNER REMOVE ANY GRAFFITI ON PRIVATE PROPERTY AT NO COST TO THE PROPERTY OWNER IN EXCHANGE FOR THE PROPERTY OWNER GRANTING ACCESS AND A WAIVER OF LIABILITY TO THE CITY AS PART OF THE CITY GRAFFITI REMOVAL PROGRAM. SUCH A REQUEST BY A PROPERTY OWNER TO THE CITY SHALL INCLUDE, AT THE PROPERTY OWNER'S REQUEST, ONGOING ABATEMENT SERVICES BY THE CITY FOR GRAFFITI IN THE EVENT OF A RECURRENCE OF SUCH GRAFFITI.

INTRODUCED, READ AND ORDERED POSTED this 23rd day of April,
2012.


JOYCE DOWNING
Mayor

ATTEST:


JOHANNA SMALL, CMC
City Clerk

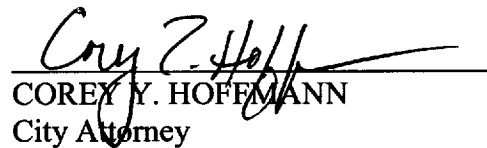
PASSED ON SECOND AND FINAL READING this ____ day of _____,
2012.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:


COREY Y. HOFFMANN
City Attorney

ATTACHMENT 2

PLANNING AND DEVELOPMENT MEMORANDUM #12-4

February 16th, 2012

TO: Honorable Mayor Joyce Downing and City Council members

FROM: William Simmons, City Manager
Brook Svoboda, Director of Planning and Development

SUBJECT: Graffiti Policy

SUMMARY OF ISSUE:

Council has requested discussion regarding issues and concerns with the Graffiti Ordinance. The stated goals and objectives are:

- Address removal vs covering (painting over) of graffiti.
- Update definition of what constitutes graffiti.
- Establish minimum standards for removal of graffiti.

Below is Section 9-11-29.5, Graffiti; this section represents the City's current policy for the defining and administering enforcement for Graffiti.

Section 9-11-29.5. Graffiti.

(a) Graffiti, meaning the defacement of public or private property by means of painting, drawing, writing, etching or carving with paint, spray paint, ink, knife or any similar method without written permission of the owner/property owner, constitutes a threat to the public health, safety, morals and general welfare of people and property, and is hereby declared a nuisance.

(b) If any graffiti is not removed from any property in the City within twenty-four (24) hours following the placement of graffiti, the City may, but shall not be required to, cause the graffiti to be removed or corrected.

Graffiti, whether on public or private property, can be reported on the **Graffiti Hotline at 303-252-3849** as soon as it's discovered. If the graffiti is on public property, city crews will remove it. However, if graffiti is found on private property, the owner/occupant is responsible for removing it. The City of Northglenn will make contact with the owner/occupant to request a plan for removal of the graffiti from their property. The owner can have City Staff remove the graffiti at no cost to the owner by signing a wavier, granting permission for City Staff to enter the property to remove the graffiti. The wavier also allows City Staff to address future incidents if and when they occur. If the property owner chooses not to have City Staff remove the graffiti, the owner shall be responsible for the removal.

ATTACHMENT 2

ANALYSIS:

Upon review of the policy provisions, Staff would recommend the following to address the stated goals and objectives expressed by Council:

- No change to the definition of Graffiti – definition is satisfactory for enforcement purposes.
- Add language defining what constitutes compliance:
 - Removal of graffiti, or
 - Painting over graffiti with matching color (only)
- Amend 9-11-29.5, part (b); adding language “*Upon written notification, graffiti shall be removed within 24 hrs ...* Current language presumes notice has been given, proposed language would clarify when the 24 hrs time period begins.
- Add provision referencing City Graffiti Removal Program
 - City would remove graffiti
 - No cost to property owner
 - Based on grant of access/wavier to perform work
 - Grant of access would allow City to provide ongoing abatement services for future graffiti.

Pros

- Would eliminate painting over graffiti with non-matching color(s)
- Prescribe a clear understanding for what constitutes compliance
- Clarify when enforcement time frame begins

Cons

- Property owner may not desire to use matching color to cover up graffiti
- Property owner may not be able to afford cost to remove graffiti – stained fences would most likely require removal as certain types of stain may not cover graffiti

CONCLUSIONS:

If the City Council believes this proposal warrants further consideration, the following is a summary of potential next steps in the process:

1. Amendment to the Municipal Code: to be presented to the City Council for consideration at a public hearing.

BUDGET/TIME IMPLICATIONS:

There are no specific budget or time implications for this item.

STAFF REFERENCE:

If Council members have any questions they may contact Brook Svoboda, Director of Planning and Development at 303-450-8937 or by e-mail at bsvoboda@northglenn.org.