

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 9-4 (PROHIBITED ACTIVITIES) TO REPEAL AND REPLACE SECTION 9-4-43 (GRAFFITI PROHIBITED); ADD SECTIONS 9-4-44 (GRAFFITI; NOTICE) AND 9-4-45 (REMOVAL OF GRAFFITI); AND CREATE OFFENSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 9-4-43 (*Graffiti Prohibited*) is repealed and replaced to read:

(A) Definitions. In Sections 9-4-43 through 9-4-45:

- (1) DIRECTOR means the head of the department designated by the city manager to enforce and administer this section.
- (2) GRAFFITI means any unauthorized inscription, word, letter, slogan, drawing, painting, tagging, signature, symbol, logo, name, character, figure, design, or other marking which is etched, written, painted, drawn, or made in any other manner, whether temporary or permanent, on any building, structure, fixture, or other improvement whether public or private, without the consent of the owner, and which is visible from public property, public right-of-way, or other private property, excluding commercial advertising or a mark placed in compliance with an ordinance, regulation or state or federal law.
- (3) MINOR means a person under 17 years of age.
- (4) OWNER means the owner of record or the owner's authorized agent.
- (5) PARENT means a person who is the natural or adoptive parent of a minor, including a court-appointed guardian, conservator, or other person 21 years of age or older, authorized by a parent, court order, or court-appointed guardian to have the care and custody of a minor.
- (6) TRANSPORTATION INFRASTRUCTURE refers to the physical systems, facilities, and structures that support the movement of people and goods from one location to another. It includes both public and private assets designed to facilitate various modes of transportation, such as: roadways, rail systems, airports and aviation facilities, maritime and waterways, and public transit systems.

31 (B) An owner commits an offense if the owner, after receiving notice from the director in
32 accordance with Section 9-4-44, fails to cover or remove graffiti on the owner's
33 property when the graffiti is visible from public property, public right-of-way, or other
34 private property within the time allowed by this article unless otherwise exempted. A
35 culpable mental state is not required, and need not be proved, for an offense under this
36 subsection.

37 (C) A parent commits an offense if the parent knowingly permits their minor to create
38 graffiti on public or private property.

39 (D) It is a defense to prosecution under this section that:

40 (1) the director failed to serve notice on the owner in compliance with Section 9-4-
41 44;

42 (2) during the 12 months before a citation under this section, the property owner
43 received notice and removed graffiti from the property not less than three times;

44 (3) the owner has made a good faith effort to remove the graffiti, including obtaining
45 an insurance policy;

46 (4) the owner approved the creation and placement of the graffiti; or

47 (5) the graffiti is located on transportation infrastructure and removal of the graffiti
48 would create a hazard for the person performing the removal.

49 (E) An offense under this section is a Class C misdemeanor punishable as provided in
50 Section 1-1-99 (Offenses; General Penalty).

51 (F) The director may delegate authority for administering and enforcing this section.

52 **PART 2.** City Code Chapter 9-4 (*Prohibited Activities*) is amended to add Section 9-4-44
53 (*Graffiti; Notice*) to read:

54 Notice to remove graffiti may be served by personal delivery or certified mail, return receipt
55 requested, addressed to the owner at the owner's address as contained in the records of the
56 appraisal district in which the property is located. If personal delivery cannot be obtained,
57 the owner's address is unavailable, or the notice is returned as undeliverable, the director
58 may issue notice by:

- 60 (1) publication at least once in a newspaper of general circulation in the city;
- 61 (2) posting the notice on or near the front door of each building on the property; or
- 62 (3) posting the notice on a sign staked to the ground on the property if there is no
- 63 building on the property.

64 **PART 3.** City Code Chapter 9-4 (*Prohibited Activities*) is amended to add Section 9-4-45
65 (*Removal of Graffiti*) to read:

- 66 (A) Before prosecuting an offense for a violation under Section 9-4-43(B) or taking action
67 to abate the graffiti under this section, the director must offer to remove the graffiti
68 from the owner's property free of charge, and the owner must refuse the offer. An
69 owner refuses the offer to remove graffiti by either:
- 70 (1) providing a written refusal of the offer to the director; or
- 71 (2) failing to respond to the offer within five business days after the date on which
72 the owner is deemed to have received notice of the offer.
- 73 (B) An owner must remove graffiti from the owner's property on or before the 15th day
74 after the date the owner receives notice under Section 9-4-44. If the owner fails to
75 remove the graffiti on or before the 15th day after the date of receipt of the notice, the
76 City may remove the graffiti.
- 77 (C) If the owner fails to remove the graffiti, the City may assess its expenses against the
78 owner or against the property in accordance with state law.
- 79 (D) An owner may avoid expenses or a lien assessment by establishing a defense listed
80 under Section 9-4-43(D).
- 81 (E) When the City removes graffiti from private property free of charge, the director may
82 use latex paint materials that are environmentally friendly that may not match the
83 existing background surface color. These paint materials will be used to paint over the
84 graffiti and no other part of the property. The director will not power wash the
85 property marked by graffiti.
- 86

87 **PART 4.** This ordinance takes effect on _____, 2025.

88 **PASSED AND APPROVED**

89 §
90 §
91 _____, 2025 § _____

92 Kirk Watson
93 Mayor

94 **APPROVED:** _____ **ATTEST:** _____

95 Deborah Thomas
96 City Attorney

97 Erika Brady
City Clerk

DRAFT