

ORDINANCE NO. (O)11-09

AN ORDINANCE OF THE TOWN OF ORO VALLEY ARIZONA, AMENDING THE ORO VALLEY TOWN CODE CHAPTER 10, OFFENSES, ARTICLE 10-6, ANTI-GRAFFITI; REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER

WHEREAS, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

WHEREAS, on October 20, 2010, the Mayor and Council approved Ordinance No. (O)10-12, which adopted that certain document entitled Chapter 10, Offenses, Article 10-6, Anti-Graffiti with the condition that Staff examine Sections 10-6-3, Prohibited Acts, 10-6-4, Accessibility to Graffiti Implements and 10-6-8, Prevention Provisions for possible revisions; and

WHEREAS, Staff reexamined Sections 10-6-3 and 10-6-4 and found these sections to be in compliance with A.R.S. § 13-3403 and recommends no changes; and

WHEREAS, Staff reexamined Section 10-6-5, Penalties and made a minor amendment to this section; and

WHEREAS, Staff reexamined Section 10-6-8, Prevention Provisions and recommends changes to this section; and

WHEREAS, the Mayor and Council desire to adopt the proposed amendments to Chapter 10, Offenses, 10-6, Anti-Graffiti, Section 10-6-5, Penalties, and Section 10-6-8, Prevention Provisions that will allow the Town to respond without delay for swift abatement and eradication of graffiti within the Town.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Oro Valley, Arizona that Chapter 10, Offenses, Article 10-6, Anti-Graffiti, Sections 10-6-5 and 10-6-8 is hereby amended as follows:

SECTION 1. Oro Valley Town Code, Section 10-6-5, Penalties shall be amended to read as follows, with additions in all CAPS and **BOLD** and deletions in ~~strikethrough text~~.

Chapter 10, Offenses

Article 10-6, Anti-Graffiti

Section 10-6-5, Penalties

...

D. Community Service. In lieu of, or as part of, the penalties specified in this Section, a minor or adult may be required to perform community service as described by the court based on the following minimum requirements:

1. The minor or adult shall perform as least thirty (30) hours of community service within the Town boundaries of Oro Valley.
2. At least one parent or guardian of the minor **OR RESPONSIBLE ADULT** may be in attendance a minimum of fifty percent (50%) of the period of assigned community service.

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SECTION 2. Oro Valley Town Code, Section 10-6-8, Prevention Provisions shall be amended to read as follows, with additions in all CAPS and **BOLD** and deletions in ~~strikethrough text~~.

10-6-8 Prevention Provisions

A. **Design of Potential Graffiti-Attracting Surfaces.** Any applicant for design review approval, conditional use permit, special use permit, unclassified use permit, development agreement, or other form of development or building permit shall, to the extent feasible, **CONSIDER AND EMPLOY SITE AND ARCHITECTURAL MEASURES TO DISCOURAGE GRAFFITI. THE SPECIFIC DESIGN CRITERIA AND STANDARDS ARE IDENTIFIED IN THE ADOPTED DESIGN CRITERIA AND STANDARDS OF THE ORO VALLEY ZONING CODE REVISED. THE SITE AND ARCHITECTURAL MEASURES TO BE ADDRESSED WHERE APPROPRIATE INCLUDE, BUT ARE NOT LIMITED TO THE FOLLOWING:** ~~have designed any building structures visible from any public or quasi-public place in such a manner to consider prevention of graffiti, including, but not limited to the following:~~

1. Use of protective coating **OR OTHER PAINT PRODUCT SPECIFICALLY MANUFACTURED** to provide for the effective and expeditious removal of graffiti;
2. Use of additional lighting;
3. Use of non-solid fencing;
4. Use of landscaping **TO DISCOURAGE ACCESS** to ~~cover~~ large expansive **BUILDING AND SITE** walls ~~such as ivy or similar clinging vegetation;~~ or
5. Use of architectural design to break up long continuous walls or solid areas.

B. Design of Existing Graffiti-Attracting Surfaces;

1. **At Owner's Expense.** Any surface of a structure on a parcel of land that has been defaced with graffiti equal to or more than five (5) times in twelve (12) months shall be declared a public nuisance and required to be retrofitted, at the cost of the property owner, with features or qualities as may be established by the Town as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti. **THE TOWN WILL PROVIDE SUPPORT IN THE RETROFIT BY PROVIDING INFORMATION SOURCES.** In exercising the authority hereunder, the Town may not impose a cost on the property owner of greater than two thousand five hundred dollars (\$2,500.00).

2. **At Town's Cost.** The owner of property containing a surface that has been defaced with graffiti equal to or more than five (5) times in twelve (12) months shall permit the Town at the Town's discretion, to enter the property and, at the Town's cost, make modifications as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti if the Town chooses to do so. **THE TOWN OF ORO VALLEY POLICE DEPARTMENT SHALL PROVIDE INCREASED SURVEILLANCE IN HIGH ACTIVITY AREAS.**


SECTION 3. All Oro Valley ordinances, resolutions, or motions and parts of ordinances, resolutions or motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.


SECTION 5. An emergency is declared to exist and this Ordinance shall be effective immediately upon adoption by the Council.

PASSED AND ADOPTED by the Mayor and Council of the Town of Oro Valley, Arizona this 16th day of March, 2011.

TOWN OF ORO VALLEY



Dr. Satish I. Hiremath, Mayor

ATTEST:


Julie K. Bower, Town Clerk

Date: 3/17/11

APPROVED AS TO FORM:


Tobin Rosen, Town Attorney

Date: 3/16/11

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