

**STAFF REPORT**  
**City of Lancaster**

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12/09/14
MVB

Date: December 9, 2014

To: Mayor Parris and City Council Members

From: Britt Avrit, CMC, City Clerk

Subject: **Consideration of adoption of Ordinance No. 1000**

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**Recommendation:**

Adopt **Ordinance No. 1000**, amending Title 9 of the Lancaster Municipal Code by amending Chapter 9.24 (Graffiti), relating to the abatement of graffiti and recovery of the City’s costs of graffiti abatement, and adopting a “Graffiti Abatement Costs and Expenses” cost model.

**Fiscal Impact:**

The Ordinance will allow the City to recover its costs regularly incurred in graffiti abatement.

**Background:**

In June 2014, the California Supreme Court held that, because the City of Lancaster had not adopted an ordinance that authorized the probation department to recover the City’s costs of graffiti abatement as restitution in a juvenile proceeding, as required pursuant to the state’s “Graffiti Removal and Damage Recovery Program” (Cal. Welfare & Institutions Code Section 742.10 et seq.), the juvenile court had abused its discretion in ordering restitution to the City based on a cost averaging model which is authorized under that program (*Luis M. v. Superior Court of Los Angeles County* (2014) 59 Cal. 4<sup>th</sup> 300).

In order to comport with the procedural requirements of the Welfare & Institutions Code, it is necessary to amend Chapter 9.24 of the Lancaster Municipal Code to expressly authorize graffiti abatement cost recovery through the juvenile courts. Additionally, the state’s graffiti program allows a city to use the average costs, per unit of measure, rather than an individualized accounting for each incident of graffiti abatement for which the city seeks restitution. This cost model must be reviewed every three years and updated (if needed); updated cost models must be adopted by City Council by Resolution. The “City of Lancaster Graffiti Removal Costs” cost model, attached to the Ordinance as Exhibit A, includes labor, equipment and materials costs associated with graffiti abatement, and establishes average costs for a range of sizes, from graffiti less than ten (10) square feet up to 500 square feet. This is in keeping with the language of the Welfare & Institutions Code as well as the *Luis M.* decision.

The Ordinance also provides that a property owner may be held accountable for graffiti if he or she fails to abate the graffiti and fails to grant consent for the city to enter the premises in order to undertake the abatement. This is particularly important with respect to absentee property owners, who often ignore city requests for compliance.

Additionally, the Ordinance amends the existing graffiti regulations to include levying a special assessment as a method of graffiti abatement cost recovery. It also incorporates civil and other penalties authorized under state law, including: (1) recovery of treble the cost of graffiti abatement when a second or subsequent civil or criminal judgment has been entered against a person responsible for the graffiti; (2) civil penalties of up to \$39,300.00 assessed against the parent or guardian of a minor offender; and (3) requesting that a minor offender and/or the parent or guardian be ordered to keep a specified property in the city graffiti-free for at least sixty (60) days.

At the November 12, 2014 meeting, the City Council approved the introduction of Ordinance No. 1000 by the following vote:

AYES: Council Members: Johnson, Mann, Vice Mayor Crist, Mayor Parris  
NOES: Council Member Smith  
ABSTAIN: None  
ABSENT: None

**Attachment:**  
Ordinance No. 1000