

**ORDINANCE NO. \_\_\_\_\_**

**CITY OF NORTHFIELD  
RICE COUNTY, MINNESOTA**

**AN ORDINANCE REGULATING GRAFFITI,  
AND PROVIDING A PENALTY FOR VIOLATIONS**

THE CITY COUNCIL OF THE CITY OF NORTHFIELD ORDAINS:

**SECTION 1.** Chapter 46 of the Northfield City Code is amended by adding Article 1, to provide:

**Article 1. IN GENERAL.** Consisting of existing Chapters 46-1 through 46-5, and reserving Chapters 46-6 to 46-24.

**SECTION 2.** Chapter 46 of the Northfield City Code is amended by adding Article 2, entitled Graffiti Control, to provide:

**Sec. 46-25. PURPOSE AND INTENT:**

- A. The Council is enacting this Article to help prevent the spread of graffiti vandalism and to establish a program for the efficient removal of graffiti from public and private property. The Council finds that graffiti is an increasing problem in the City. The Council finds that quick removal of graffiti may assist in preventing encouragement of the defacement of property. The Council is authorized to enact this Article pursuant to its police powers.
- B. The Council further finds that graffiti creates a condition of blight which can result in the deterioration of property values and is inconsistent with the City's property maintenance goals and aesthetic standards. Unless the City acts to remove graffiti, the graffiti tends to remain and other properties soon become the targets of graffiti, to the detriment of the City.
- C. The Council hereby declares its intention to minimize and to quickly remove graffiti to limit its adverse impact on City youth and neighborhoods. The Council does not intend for this Article to conflict with any existing anti-graffiti state laws. Graffiti is hereby declared to be a public nuisance and a public health and safety hazard for purposes of Minnesota Statutes, Section 429.101, subdivision 1(c) and Section 429.021, subdivision 1(8) (2010).

**Sec. 46-26. DEFINITIONS:**

For purposes of this Article, the terms defined in this Section shall have the following meanings ascribed to them:

**GRAFFITI:** Any writing, printing, marks, signs, symbols, figures, designs, inscriptions, or other drawings which are scratched, scrawled, painted, drawn, or otherwise placed on any surface or objects such as buildings, walls, fences, sidewalks, curbs, trees, rocks, or other permanent structures or objects on public or private property or the interior surfaces of those parts of buildings accessible to the general public and which have the effect of defacing the property.

**Sec. 46-27. UNLAWFUL CONDUCT REGARDING CREATION OF GRAFFITI:**

It shall be unlawful for any person to intentionally place graffiti on any surface or the interior surfaces of those parts of buildings accessible to the general public located on public or private property except with the permission of the person in lawful ownership or possession of such property and in accordance with the requirements of the City's sign ordinance. A person who violates this Section shall be guilty of a misdemeanor.

**Sec. 46-28. REMOVAL OF GRAFFITI:**

- A. A property owner may ask the City to remove graffiti from the owner's property before being ordered to do so following the abatement procedure set forth in Sections 46-29 through 46-32 of this Article. If the City agrees to remove the graffiti, the City shall have the property owner or its designated agent sign a release of liability form and a consent form authorizing the City or its agents to enter onto the property. To remove the graffiti, the City may use its employees, hire a private contractor, or provide labor at no cost through use of a volunteer assistance or other diversion program such as Sentence to Service ("STS"). The property owner shall be liable for any costs which the City incurs in removing the graffiti. The City may collect the costs as a special assessment pursuant to Minnesota Statutes, Section 429.101, subdivision 1(c) if the property owner fails to reimburse the City within thirty (30) days after request.
- B. If an owner does not remove graffiti and does not ask the City to remove graffiti from the owner's property before being ordered to do so, the City may remove the graffiti by following the abatement procedure set forth in Sections 46-29 through 46-32 herein.

**Sec. 46-29. CITY POLICE TO INVESTIGATE AND IDENTIFY GRAFFITI:**

- A. Based upon information received from the public or upon police observation, the City police shall investigate and identify graffiti. After the Police Department has verified the existence of graffiti, the Department shall send a letter to the property owner, by certified and regular mail, informing the property owner about the graffiti and requesting the property owner to remove the graffiti within a reasonable period of time, which shall not exceed thirty (30) days, based upon consideration of weather conditions and other relevant factors. The Police Department shall verify whether the graffiti has been removed.
- B. If the Police Department finds that the graffiti has not been removed within the time allotted, the Department shall contact the City Clerk, who shall schedule a public hearing. The City Clerk shall give the affected property owner ten (10) days advance written notice, by certified and regular mail, of the hearing date, the preliminary findings that graffiti exists on the owner's property and that the Council may after the hearing order the removal of the graffiti by the property owner or the City, and if the City has to remove the graffiti, the costs will be assessed against the owner's property.

**Sec. 46-30. HEARING:**

- A. At a hearing before the Council, the Council shall receive evidence from the Police Department and from any other persons with knowledge as to the existence of graffiti. The property owner shall be entitled to be heard on all matters relating to graffiti and the process of removal. The existence of graffiti must be proven by a preponderance of the evidence.
- B. If the Council finds that graffiti exists, the Council shall direct its removal in accordance with Sections 46-31 and 46-32 herein.

**Sec. 46-31. NOTICE TO OWNER:**

- A. In the event the Council finds that graffiti exists, the City Attorney shall serve a written order on the owner of the subject real property. The written order shall:
  - 1. Contain a description of the real estate sufficient for identification.
  - 2. Inform the owner that the Council has found graffiti exists on the owner's property.
  - 3. Request that the owner remove or obliterate the graffiti within a reasonable time as determined by the Council.
  - 4. Inform the owner that a motion for summary enforcement of the order will be made to the District Court for Rice County unless

corrective action is taken within the time allotted, or unless an answer is filed within twenty (20) days from the date of service of the order. An answer to the order must be served in the manner of an answer in a civil action and must specifically deny such facts in the order as are in dispute.

- B. Service of the Order: The written order shall be served upon the owner of record of the owner's agent if an agent is in charge of the building or property, and upon the occupying tenant, if there is one, and upon all lienholders of record, in the manner provided for service of a summons in a civil action. If the owner cannot be found, the order shall be served upon the owner by posting it at the main entrance to the building or upon the structure, and by two (2) weeks published notice in the official newspaper of the City.
- C. Filing of Order: A copy of the order with proof of service shall be filed with the Court Administrator of the District Court for Rice County not less than five (5) days prior to the filing of a motion for enforcement of the order.
- D. Default: If no answer is served, the City may move the Court for the enforcement of the order. If a motion is made, the Court may, upon the presentation of such evidence as it may require, affirm or modify the order and enter judgment accordingly, fixing a time after which the City may proceed with the enforcement of the order and specifically authorizing the City to enter the property to remove or abate the graffiti.
- E. Contested Cases: If an answer is filed and served, further proceedings in the action shall be governed by the Rules of Civil Procedure for the District Courts. If the order is sustained following the trial, the Court shall enter judgment and shall fix a time after which the graffiti must be removed in compliance with the original order as filed or modified by the Court. If the order is not sustained, it shall be annulled and set aside. The Court Administrator shall cause a copy of the judgment to be mailed forthwith to persons upon whom the original order was served.
- F. Enforcement of Judgment: If the owner of record fails to comply with the judgment by failing to remove the graffiti within the time prescribed, the City may enter the property and remove the graffiti as set forth in the judgment.

**Sec. 46-32. COSTS TO BE ASSESSED:**

A. In the event the City removes the graffiti, the costs of the removal may be a lien against the real estate on which the building or structure is located, or recovered by obtaining a judgment against the owner of the real estate on which the building or structure is located. A lien may be levied and collected as a special assessment in the manner provided by Minnesota Statutes, Sections 429.061 to 429.081, but the assessment is payable in a single installment.

B. The City shall keep an accurate account of the expenses incurred in carrying out the order and of all other expenses incurred in connection with its enforcement, including filing fees, service fees, publication fees, attorneys' fees, witness fees, and traveling expenses incurred by the City from the time the order was originally made. The City shall report its action under the order with a statement of expenses incurred to the Court for approval and allowance. The Court shall by its judgment certify the deficiency in the amount so allowed to the City Clerk for collection.

**Sec. 46-33. GRAFFITI ABATEMENT CIVIL IN NATURE:**

Sections 46-31 or 46-32 herein relating to the abatement of graffiti shall not be treated as misdemeanors nor shall they be criminal in nature.

**Sec. 46-34. PENALTY:**

Any person who violates any provision of Section 46-27 herein is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment for a period not exceeding ninety (90) days, or both, plus in either case, the costs of prosecution, including attorneys' fees.

**Sec. 46-35 – Sec. 46-49. RESERVED.**

**SECTION 3.** This ordinance is effective thirty (30) days following its enactment and publication.

Passed by the City Council of the City of Northfield this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Mary Rossing, Mayor

ATTEST:

\_\_\_\_\_  
Deborah Little, City Clerk

First Reading: \_\_\_\_\_ Second Reading: \_\_\_\_\_ Published: \_\_\_\_\_