

RESOLUTION NO. 94-45

A RESOLUTION OF THE LODI CITY COUNCIL
URGING LOCAL LEGISLATORS TO SUPPORT AN AMENDMENT TO STATE
LAW ALLOWING CITIES AND OTHER PUBLIC AGENCIES TO ADOPT ORDINANCES
IMPOSING FINANCIAL RESPONSIBILITY ON BOTH THE PERPETRATOR AND THE
PARENTS OF MINOR CHILDREN WHO COMMIT ACTS OF GRAFFITI VANDALISM

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WHEREAS, the City Council desires to develop a new ordinance which would deal effectively with the rampant graffiti problem and which would make parents of minors who commit acts of graffiti vandalism financially responsible for both restitution and a fine; and

WHEREAS, it is possible that without a change in State law, such an ordinance could be subject to challenge, and

WHEREAS, graffiti victims do have recourse against a minor offender and the minor's parents pursuant to Civil Code Section 1714.1, as that section gives a victim the right to file a civil action in court to recover damages of up to \$10,000; and

WHEREAS, although victims do have recourse as stated above, the City Council prefers to adopt its suggested legislation as a preferable alternative because it provides for an administrative procedure that is outside the overburdened court system, a copy of the proposed legislation is attached hereto entitled "New Government Code §53069.4", and

WHEREAS, existing law permits cities to clean up graffiti with City funds, however, the City's proposed legislation would go further to allow the City to recover the clean-up costs plus an administrative fine of up to \$1,000 from the minor and the minor's parents in a administrative proceeding, and

WHEREAS, in most cases if an administrative proceeding is held, no court action would be required, as the administrative order would have the same effect as a money judgment and could be collected through a lien procedure on any real property owned by the parent or parents.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi that it hereby urges local legislators to support an amendment to state law allowing cities and other public agencies to adopt ordinances imposing financial responsibility on both the perpetrator and the parents of minor children who commit acts of graffiti vandalism, a copy of said proposed legislation is attached hereto entitled "New Government Code §53069.4.

Dated: May 4, 1994

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I hereby certify that Resolution No. 94-45 was passed and adopted by the Lodi City Council in a regular meeting held May 4, 1994 by the following vote:

Ayes: Council Members - Davenport, Mann, Pennino, Snider
and Sieglock (Mayor)

Noes: Council Members - None

Absent: Council Members - None


Jennifer M. Perrin
City Clerk

94-45

NEW GOVERNMENT CODE §53069.4

A. "Notwithstanding anything to the contrary contained in Government Code Section 53069.3, or Civil Code Section 1714.1, or Penal Code Sections 594(a)(1), 640.5(a), or 640.6, a city, county, or city and county, (hereinafter "local public entity") may provide by ordinance for payment of an administrative fine and for restitution by both the minor, and the parent or parents having custody and control of such minor, administratively found to have created or caused graffiti as that term is defined in Government Code Section 53069.3. Such fines may include or separately state all costs reasonably incurred by the local public entity in removing, cleaning up or covering over the minor's graffiti. The administrative proceeding may be held upon ten (10) days notice as provided in subdivision (c) to such minor and/or parent as the case may be, providing an opportunity to be heard before the legislative body of such entity or hearing officer appointed by it.

B. Any fine or restitution ordered pursuant to this section shall be irrespective of and cumulative to any criminal conviction for an act of graffiti, or any final adjudication by a juvenile court, or placement on a supervised program by a probation officer under the provisions of the Welfare and Institutions Code for such act. Provided further, that in no event may the combined sum of restitution and any fine ordered to be paid pursuant to an ordinance passed in accordance with this section exceed the amount of the actual costs as determined by the local public entity to remove, cover or repair the graffiti by more than \$1,000.00.

Any administrative order made pursuant to an ordinance adopted pursuant to this section shall have the same force and effect for enforcement and collection purposes as an order or judgment of the Superior Court of the State of California. In addition, the ordinance may provide for the collection of such sum by the creation of a lien on any parcel of property owned by the minor or the parents or parent having custody and control of the minor as set forth in subdivision (c).

C. An ordinance creating the lien authorized by subdivision (b) shall require at least ten (10) days notice prior to the recordation of the lien to the owner of record of the parcel of land. The notice shall be served in the same manner as summons in a civil action in accordance with Article 3 (commencing with section 415.10) of Chapter 4 of Title V of Part 2 of the Code of Civil Procedure. If the owner of

record, after a diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in the county in which the property is located pursuant to Section 6062.

- (1) A lien authorized by this section shall be recorded in the county recorder's office in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien. The lien authorized by this section shall specify the amount of the lien, the name of the agency on whose behalf the lien is imposed, the date of the administrative order referred to in subdivision (b), the street address, legal description and assessor's parcel no. of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.
- (2) In the event that the lien is discharged, released, or satisfied, either through payment or through foreclosure, notice of the discharge containing the information specified in subdivision (c) shall be recorded by the governmental agency. The lien authorized by this section and the release of the lien shall be indexed in the grantor-grantee index.
- (3) The lien authorized by this section may be collected in the manner provided by Sections 39581 and 39583 of the Government Code.