

ORDINANCE NO. 533

AN ORDINANCE of the City Council of the City of Lakewood, Washington, repealing Lakewood Municipal Code (LMC) Chapter 8.20 “Graffiti Removal” and adopting Chapter 8.22 “Graffiti.”

WHEREAS, graffiti causes blight, disorder, invites crime and lowers property values; and

WHEREAS, prompt removal of graffiti is in the public interest; and

WHEREAS, LMC Chapter 8.22 provides broader enforcement tools and makes the administrative process more efficient by using the nuisance code abatement procedures;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. LMC Chapter 8.20 “Graffiti Removal” is hereby repealed.

Section 2. LMC Chapter 8.22 “Graffiti” is hereby adopted to read as follows:

08.22.000 - Graffiti

Chapter 8.22
Graffiti

Sections:

8.22.010 Declaration of Policy - Findings

8.22.020 Definitions

8.22.030 Graffiti Deemed Nuisance

8.22.040 Writing Graffiti Prohibited – Penalties

8.22.050 Possession of Graffiti Implements Prohibited – Penalties

8.22.060 Allowing Graffiti to Remain Prohibited – Penalties

8.22.070 Graffiti – Removal

8.22.080 Graffiti Removal by City

8.22.090 Summary Abatement of Graffiti by City Authorized – Procedure

8.22.100 Use of Public Funds for Graffiti Removal

8.22.110 City Costs Enforceable – Debt – Lien

8.22.120 Action against Parent for Graffiti Violation by Minor

8.22.130 Rewards

08.22.010 Declaration of Policy – Findings

City Council finds that graffiti on public and private buildings, structures and personal property creates a condition of blight within the City that can result in the deterioration of property values, business opportunities and enjoyment of life for persons using that property, surrounding property and the community.

The presence of graffiti is inconsistent with the City's goals of maintaining property, preventing crime and preserving aesthetic standards. The continued presence of graffiti is a visual symbol of disorder that demoralizes and erodes feelings of safety in our neighborhoods. It contributes to neighborhood decline by inviting crime and leading to a climate of intimidation; and reduces commerce, tax revenues and community pride.

While it is appropriate to request that courts require offenders convicted of graffiti crimes to restore the property they defaced, obtaining convictions is difficult because graffiti offenses can be committed quickly and secretly without any witnesses.

Therefore, prompt removal of graffiti from public and private property is in the public interest. The purpose of graffiti enforcement under this Chapter is to promote the health, safety and welfare of the general public.

08.22.020 – Definitions

For the purposes of this Chapter, the following words shall have the following meanings:

- A. "Graffiti" means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement. Any graffiti authorized by a person responsible for a property is prohibited if it is otherwise recognized and deemed a public nuisance by law.
- B. "Graffiti implement" means any aerosol paint container, felt tip marker, graffiti stick or paint stick, gum label, brush, roller, or etching tool or any other device or substance capable of scarring or marking any natural or manmade surface, including but not limited to glass, metal, concrete, or wood; and any piece, design, or scrapbook or drawings illustrating graffiti marks or signs.
- C. "Graffiti nuisance property" means property upon which graffiti exists and where, after the City issues a notice to abate the nuisance pursuant to the procedures in LMC Chapter 8.16 for "Public Nuisances", the graffiti has not been abated by the deadline set by the City.
- D. "Private contractor" means any person or entity the City contracts with to remove graffiti.
- E. "Property" means real or personal property, whether public or private, including but not limited to buildings, structures, walls, signs, poles, bridges, roads, sidewalks, fences, gates, motor vehicles, rocks, trees and other natural features.

08.22.030 - Graffiti Deemed Nuisance

Graffiti is determined to adversely impact public health, safety and welfare and is deemed a public nuisance.

08.22.040 – Writing Graffiti Prohibited – Penalties

It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any public property or private property. Any person who violates this section is guilty of a gross misdemeanor pursuant to LMC 9A.3.020, which incorporates RCW 9A.48.090 and RCW 9A.48.105 by reference.

08.22.050 – Possession of Graffiti Implements Prohibited – Penalties

It shall be unlawful for any person to have in his or her possession any graffiti implement, in a manner or under circumstances demonstrating his or her intent to paint, spray, chalk, etch, or otherwise apply graffiti. Any person who violates this section is guilty of a gross misdemeanor.

08.22.060 – Allowing Graffiti to Remain Prohibited – Penalties

It shall be unlawful for any person with responsibility for a property to allow a graffiti nuisance property to exist **for more than seven days** after the City issues a notice to abate the nuisance pursuant to the procedures in LMC Chapter 8.16 for “Public Nuisances.” Any person who violates this section has committed a civil infraction punishable by a fine in the amount of \$500 per violation. Each day a graffiti nuisance property is allowed to exist shall constitute a separate violation.

08.22.070 - Graffiti Removal

In addition to and as an alternative to the authority of the City to prosecute violations as gross misdemeanors, misdemeanors or infractions, whenever the City determines that graffiti exists that is visible to any person utilizing any public road, parkway, alley, sidewalk or other right-of-way within the City, the City may issue a notice to abate the nuisance pursuant to the procedures in LMC Chapter 8.16 for “Public Nuisances.”

08.22.080 – Graffiti Removal – by City

Upon failure of persons to comply with the notice by the designated date, the City is authorized to cause the graffiti to be abated by City forces or by private contractor, and the City or its private contractor is authorized to enter upon the premises for such purposes using any lawful means. All reasonable efforts to minimize damage from such entry shall be taken by the City, and any paint used to obliterate or cover graffiti shall be as close as practicable to background color(s). If the City provides for the removal of the graffiti, the City shall not authorize nor undertake to provide for the painting or repair of

any more extensive area than the area where the graffiti is located, unless the City determines that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community. All aspects of graffiti removal are at the discretion of the City including, but not limited to, the method of and material used for repair.

Property owners may consent in advance to City entry onto private property for graffiti removal purposes.

08.22.090 – Summary Abatement of Graffiti by City Authorized – Procedure

A. Public Property: Graffiti found upon a right-of-way, public easement or other public property may be abated summarily by the City without prior notice by removal, disposal or destruction at the City's discretion.

B. Threat to Public: Graffiti found to constitute an immediate threat to the public health, safety or welfare or to the environment may be abated summarily by the City without prior notice by removal, disposal or destruction at the City's discretion.

08.22.100 – Use of Public Funds for Graffiti Removal

Whenever the City becomes aware of or is notified and determines that graffiti is located on publicly or privately owned property visible from premises open to the public, the City is authorized, in its discretion, to use public funds for the removal of graffiti in a manner consistent with this Chapter.

08.22.110 – City Costs Enforceable – Debt – Lien

Any and all costs incurred by the City in the abatement of the graffiti nuisance as provided in this Chapter shall constitute a debt owed to the City by the property owner or person in charge or control of the property, and shall, at the City's discretion, be enforceable as a lien against the property upon which such nuisance existed. This remedy is in addition to all other legal remedies including legal remedies available for the enforcement of debts.

08.22.120 – Action against Parent for Graffiti Violation by Minor

The parent(s) or guardian(s) legally responsible for any minor child under the age of eighteen (18) years who commits a graffiti offense in violation of this Chapter shall be liable to the owner of such property for restitution in criminal offenses and/or in a civil action at law for damages. This section shall in no way limit the amount of recovery against the parent(s) or guardian(s) for their own common law negligence.

08.22.130 – Rewards for Graffiti Information

The City may offer a reward not to exceed three hundred dollars (\$300.00) for information leading to the identification and apprehension of any person who willfully

damages or destroys any public or private property by the use of graffiti. The actual amount awarded (not to exceed \$300.00) shall be determined in the discretion of the Chief of Police. In the event of damage to public property, the offender or the parents of any unemancipated minor must reimburse the City for any reward paid. In the event of multiple contributors of information, the reward amount shall be divided by the City in the manner it deems appropriate. Claims for rewards under this section shall be filed with the Chief of Police in the manner specified by the City. No claim for a reward shall be allowed unless the City investigates and verifies the accuracy of the claim and determines that the requirements of this section have been satisfied.

Section 2. Severability. If any one or more chapters, sections, subsections or sentences of this ordinance or held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 3. Effective date. This Ordinance shall be in full force and effect thirty (30) days after publication of the Ordinance Summary.

ADOPTED by the City Council this ____ day of _____, 2011

CITY OF LAKEWOOD

Douglas G. Richardson, Mayor

Attest:

Alice M. Bush, MMC, City Clerk

Approved as to Form:

Heidi Ann Wachter, City Attorney