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**Title:** Ordinance amending and supplementing the Pittsburgh Code, Title Six, Conduct, Article I, Regulated Rights and Actions, Chapter 620 Graffiti Abatement, by adopting restrictions on possession of graffiti implements, providing enforcement tools, and increasing penalties for violators.

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Date	Ver.	Action By	Action	Result
6/6/2008	2	Mayor	Signed by the Mayor	
5/27/2008	2	City Council	Passed Finally, As Amended	Pass
5/27/2008	2	City Council	AMENDED	Pass
5/21/2008	1	Committee on Public Safety Services	AFFIRMATIVELY RECOMMENDED	Pass
5/13/2008	1	City Council	Read and referred	

Ordinance amending and supplementing the Pittsburgh Code, Title Six, Conduct, Article I, Regulated Rights and Actions, Chapter 620 Graffiti Abatement, by adopting restrictions on possession of graffiti implements, providing enforcement tools, and increasing penalties for violators.

**Be it resolved that the Council of the City of Pittsburgh hereby enacts as follows:**

**Section 1.** That the Pittsburgh Code, Title Six, Conduct, Article I, Regulated Rights and Actions, Chapter 620 Graffiti Abatement, is hereby amended and supplement to adopting strict guidelines on possession of graffiti implements, providing enforcement tools, and increasing penalties for violators, as follows.

**CHAPTER 620 GRAFFIT**

- 620.01 Findings and Purpose
- 620.02 Definitions
- 620.03 Prohibited Acts
- 620.04 Penalties
- 620.05 Graffiti as Nuisance
- 620.06 Removal of Graffiti by Perpetrator, Private Property Owner, or City
- 620.07 Trust Fund and Reward Authority
- 620.08 Mural program

620.09	Severability
620.10	No Enforcement Areas

**§ 620.01 FINDINGS AND PURPOSE.**

- (a) Graffiti is criminal vandalism defacing public and private property without the permission of the owner, costing citizens, businesses and the City hundreds of thousands of dollars annually to repair.
  - (b) Graffiti is a powerful visual symbol of disorder, eroding public safety, reducing the attractive physical qualities of neighborhoods, and contributing to the downward spiral of blight and decay, lessening property values, business vitality and neighborhood stability.
  - (c) Eliminating graffiti requires a comprehensive strategy that includes increased efforts to apprehend and hold responsible those individuals responsible for graffiti vandalism, the prompt removal of all graffiti as soon as reasonably possible, support for residents, businesses, and community groups and residents who help to remove graffiti from public and private property in their neighborhoods, and public education about the negative aspects of graffiti.
  - (d) The City Council intends, through the adoption of this Ordinance, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement.
- (Ord. 18-1997, eff. 5-16-97)

**§ 620.02 DEFINITIONS.**

The following words and terms shall have the meaning indicated:

- (a) **GRAFFITI.** 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 or public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the City Council.
  - (b) **PERSON.** Any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignor, or any other legal entity.
  - (c) **GRAFFITI IMPLEMENT.** An aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or other device capable of scarring or leaving a visible mark on any natural or man-made surface.
  - (d) **COMMUNITY GRAFFITI ABATEMENT PROJECT.** Any graffiti abatement project organized by a recognized community group and supported by the Department of Public Works through cash vouchers and/or the distribution of paint or other anti-graffiti supplies.
- (Ord. 18-1997, eff. 5-16-97)

**§ 620.03 PROHIBITED ACTS.**

- (a) *Defacement.* It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any city-owned property or, without the permission of the owner or occupant, on any non-city owned property.
- (Ord. 18-1997, eff. 5-16-97)
- (b) *Possession of Graffiti Implements*
    - 1) **By Minors at or Near School Facilities.** It shall be unlawful for any person under the age of eighteen (18) years to possess any graffiti implement within 500 feet of any school property, grounds, facilities, buildings, or structures, or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or occupant of such private property. The provisions of this Section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers.

The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need to possess a broad-tipped marker.

2) **In Designated Public Places.** It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the City or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure unless otherwise authorized by the City.

#### **§ 620.04 PENALTIES.**

(a) *Fines.* Any person committing a graffiti offense under this ordinance shall be punished by a fine, as follows:

- 1) Fine of up to \$250 for any graffiti related conviction whose total damage amount exceeds \$300 (Summary Offense violation) but is less than \$1000.
- 2) Fine of up to \$800 for any graffiti related conviction whose total damage amount exceeds \$1000 (Misdemeanor 2 violation) but is less than \$5000.
- 3) Fine of up to \$1400 for any graffiti related conviction whose total damage amount exceeds \$5000 (Felony 3 violation), and an additional fine of up to \$1400 for every \$5000 graffiti damage thereafter.

(b) *Restitution.* In addition to any punishment specified in this section, the City Solicitor shall seek restitution from the offender to the City for reimbursement of the costs incurred by the City in removing the graffiti. In the case of a minor, the City Solicitor shall seek restitution from the parents or legal guardian, subject to the amounts specified in 23 Pa. C.S.A. § 5505 as may be amended.

(c) *Forfeiture of Personal Property.* All personal property, including, but not limited to, automobiles, motorcycles and bicycles, used or intended to be used in violating this Ordinance, shall be forfeitable to the City in accordance with applicable provisions of the Pittsburgh City Code.

(c) *Community service.* In addition to the penalties specified in this section, a minor or adult offender may be ordered by the Court to perform community service. The City shall provide the following supervision:

- (1) Community service shall be performed under the supervision of the Director of the Department of Public Works or a recognized community group. The community service work shall be devoted to graffiti abatement.

(Ord. 18-1997, eff. 5-16-97)

#### **§ 620.05 GRAFFITI AS NUISANCE.**

(a) The existence of graffiti on public or private property in violation of this Chapter is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Chapter.

(b) It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

(Ord. 18-1997, eff. 5-16-97)

#### **§ 620.06 REMOVAL OF GRAFFITI ON PRIVATE PROPERTY BY PRIVATE PROPERTY OWNER OR CITY.**

(a) *Property owner.* It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the City to permit property that is defaced with

graffiti to remain defaced for a period of ten (10) days after service by first class mail of notice of the defacement. The notice shall contain the following information:

- (1) The street address and legal description of the property sufficient for identification of the property;
  - (2) A statement that the property is deemed to be a graffiti nuisance property with a concise description of the conditions leading to the finding;
  - (3) A statement that the graffiti must be removed within ten (10) days after receipt of the notice and that if the graffiti is not abated within that time the City will declare the property to be a public nuisance, subject to the abatement procedures set forth in this section.
  - (4) An information sheet identifying any graffiti removal assistance programs available through the City, community organizations, and/or private graffiti removal contractors.
  - (5) Such notices shall be prepared and sent by the Bureau of Building Inspection.
- (b) *Penalty for violation.* Any property owner who does not adhere to the provisions of § 620.06 shall be fined up to two hundred fifty dollars (\$250.00) plus costs. Each day the condition continues beyond ninety (90) days shall constitute a separate offense.
- (c) *Financial hardship.* The requirements of subsections (a) and (b) above shall not apply if the property owner or responsible party can demonstrate financial hardship in accordance with the Court of Common Pleas, Rules of Civil Procedure, Rule 205, Section E.

(d) *Right of City to remove.*

- (1) *Use of public funds.* Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, and may authorize or undertake to provide for the painting or repair of a more extensive area than that where the graffiti is located, when the Director of Public Works determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.
- (2) *Right of entry on private property.* Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal the City shall attempt to secure the consent of the property owner or responsible party, in accordance with section 620.06(a) above, and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Chapter, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has ignored the request for consent, or refused consent, for entry on terms acceptable to the City and consistent with the terms of this Section, the City shall nevertheless commence abatement and cost recovery proceedings for the graffiti removal.
- (3) *Restitution.* Except for a finding of financial hardship, the City may seek restitution from the property owner in the form of reimbursement of the costs incurred by the City in removing the graffiti.

(Ord. 18-1997, eff. 5-16-97)

### § 620.07 TRUST FUND AND REWARD AUTHORITY.

(a) The City Controller is hereby authorized and directed to establish a special trust fund known as the Graffiti Trust Fund for the receipt and deposit of private sector contributions and the fines resulting from violations of this Chapter. The funds shall be used specifically for graffiti abatement, rewards, public awareness, vouchers to community organizations in support of their graffiti removal programs, and for such other purposes as may be

approved by the Director of Public Safety.

(b) The Director of Public Safety shall grant rewards of up to the sum of five hundred dollars (\$500.00) to individuals, organizations, or other entities who provide information leading to the arrest and conviction of any individual for violating Chapter 620.03.

(c) Rewards shall be granted from the Department of Public Safety Community Crime Prevention Trust Fund, the Graffiti Trust Fund or such other Trust Fund or Code Account within the Department of Public Safety, as the Director of Public Safety shall deem appropriate.

(Ord. 18-1997, eff. 5-16-97)

#### **§ 620.08 MURAL PROGRAM.**

(a) The Director of Parks and Recreation is hereby directed to develop a mural program in conjunction with other agencies.

(Ord. 18-1997, eff. 5-16-97)

#### **§ 620.09 SEVERABILITY.**

(a) Severability is intended throughout and within the provisions of the chapter. If any section, subsection, sentence, clause, phrase or portion of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter.

(Ord. 18-1997, eff. 5-16-97)

#### **§ 620.10 NO ENFORCEMENT AREAS.**

This Chapter shall be enforced throughout the City of Pittsburgh, and any "No Enforcement Areas" either implicitly or explicitly heretofore created are hereby invalidated. (Ord. 17-2003, § 1, eff. 5-19-03)