

5/25/2007

Referred to (name of) Committee

PS4RS

Public Hearing

6/20/2007

2nd Reading and Final Passage

6/29/2007

2007-Or-045

# AN ORDINANCE of the CITY OF MINNEAPOLIS

By Schiff

## Amending Title 11, Chapter 226 of the Minneapolis Code of Ordinances relating to Health and Sanitation: Graffiti Nuisance Property.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 226.40 of the above-entitled ordinance be amended to read as follows:

**226.40. Procedures.** (a) *Required graffiti abatement.* The owner or occupant of any property in the city shall remove, paint over or otherwise effectively abate any graffiti from such property within ~~ten (10)~~ seven (7) days of the graffiti's appearance.

(b) *Procedures, forms and policies.* The graffiti abatement manager shall adopt procedures, forms, and written polices for administering and implementing the provisions of this chapter.

(c) *Notification.*

- (1) Whenever the manager determines that graffiti exists in the city on any commercial structure, industrial structure, utility structure, residential structure or any other structure of any kind, the manager may issue an abatement notice pursuant to the authority of this section.
- (2) The manager shall cause the notice to be served upon any known property owner, and any known occupant. Such owner or occupant shall have ~~ten (10)~~ seven (7) days after the date of service of the notice in which to remove, paint over or otherwise effectively abate the graffiti.
- (3) Service shall be accomplished by addressing the notice to the owner and occupant and sending it by personal service or by U.S. mail to the last known address of such owner or occupant based upon a certified list prepared by the manager. Service on the occupant may also be accomplished by posting the notice in a visible location on the subject property.

(4) If graffiti is not removed, painted over or otherwise effectively abated, the graffiti may be abated by or at the direction of the city as provided by this chapter or other provisions of this Code. The manager shall compute all costs of any abatement by or at the direction of the city. The costs of abatement shall include, but not be limited to, the cost of any inspections, abatement mobilization, and service of notices. The costs shall also include all departmental costs and expenses including overhead and allowance for time of city employees, expense of equipment used, and sums of money paid out for work done. The owner of the property shall be required to pay all costs of abatement as computed by the manager. The manager may bill the property owner for the costs of abatement by adding the charges to the property's utility services bill as set forth in section 509.870 or may assess and levy the charges as a special assessment pursuant to the procedures set forth in section 227.100. A property owner's utility services shall not be disconnected for failure to pay that portion of a utility services bill that represents the costs of graffiti abatement.

(d) *Appeal.*

- (1) Within ~~ten (10)~~ seven (7) days of the receipt of the notice, the property owner or occupant may appeal the notice from the manager.
- (2) Upon receipt of the appeal request, the manager shall set the matter for hearing before a designated hearing officer within twenty (20) business days. The property owner shall be entitled to be heard on all matters relating to graffiti and the process of abatement. If the hearing officer finds the property to be a graffiti nuisance property, and the owner/responsible party has been given notice in accordance with subsections (c) and (d) above, the designated hearing officer shall specify when and under what conditions the graffiti shall be abated.
- (3) The manager shall designate one or more hearing officers. Such hearing officers shall render decisions on matters before them in an impartial manner. Such decisions shall be binding on the department.
- (4) At any hearing under this section:
  - a. The applicant may appear in person or through a representative.
  - b. The parties may present evidence, testimony, and oral and written argument, and they may cross-examine each witness appearing on behalf of the other party.

c. The rules of evidence shall not apply. However, only reasonably relevant evidence shall be received and considered.

d. Burden of proof. The department bears the burden of proving that the property is a graffiti nuisance property and that the owner has been given notice in accordance with this section.

(5) Following the hearing, the hearing officer shall prepare findings of fact, a decision, and reasons therefore. The hearing officer's decision shall be based upon competent evidence in the record.

(e) *Abatement of graffiti in specific cases.*

(1) The manager may without notice summarily abate any graffiti on any utility poles and cabinets including, but not limited to, traffic signs and lights or on any property owned by the city or on any property located in the public right-of-way, but privately owned. The right to summarily abate graffiti on such property shall be a condition of its permission to be in the right-of-way. Reasonable care shall be taken to avoid damage to such property.

(2) The manager may without notice summarily abate any graffiti located anywhere on exterior walls and fences immediately abutting public streets and right-of-way or public property, or within five (5) feet of such street, right-of-way or public property. The manager may summarily abate graffiti located on such walls and fences that is beyond five (5) feet of such street, right-of-way or public property provided that the graffiti is visible from the street, right-of-way or public property. The manager shall ensure (1) that such abatement shall not entirely penetrate the wall of any building nor impair the structural integrity of the structure involved; (2) that reasonable efforts are made to avoid damage to the property; and, (3) that the wall is not in an area of a building that is designed for and used principally as a residence. In the case of a summary abatement without notice on private property or on private structures or equipment located in the right-of-way, the expense of such abatement and restoration shall be borne by the city.

(f) *Abatement of graffiti generally.* Whenever the manager has reasonable cause to believe that there exists upon any structure any graffiti requiring abatement under this chapter, the manager may enter upon the property at all reasonable times to perform any duty imposed on the manager under this chapter, and to enforce the provisions of this Code. The following steps may be taken as to any property that is not being abated pursuant to the foregoing provisions or other provisions of this Code and for which an abatement notice has been issued pursuant to paragraph (c)(1) of this section.

The manager shall leave a notice of the graffiti abatement in a reasonable location on the property and mail notice to the last known address of the owner or occupant that was originally served with the notice to abate. In performing graffiti abatement, the manager shall not intentionally penetrate entirely the wall of any structure or impair the structural integrity thereof.

Certified as an official action of the City Council: *AKK*

RECORD OF COUNCIL VOTE (X INDICATES VOTE)													
COUNCIL MEMBER	AYE	NAY	NOT VOTING	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN	COUNCIL MEMBER	AYE	NAY	NOT VOTING	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN
Ostrow	X						Glidden	X					
Gordon		X					Schiff	X					
Hofstede	X						Remington	X					
Johnson	X						Benson	X					
Samuels	X						Colvin Roy	X					
Lilligren	X						Hodges	X					
Goodman	X												

ADOPTED JUN 29 2007  
DATE

ATTEST *mamelecco*  
CITY CLERK

APPROVED  NOT APPROVED  VETOED

*[Signature]*  
MAYOR RYBAK

JULY 3 2007  
DATE