

ORDINANCE NO. 932

AN ORDINANCE AMENDING TITLE 9 OF THE CANBY MUNICIPAL CODE BY ADDING A NEW CHAPTER RELATING TO DEFACEMENT OF PROPERTY, IMPOSING PARENTAL CIVIL LIABILITY, CREATING PENALTIES FOR VIOLATION THEREOF; AND DECLARING AN EMERGENCY

WHEREAS, defacing the property of others by means of painting, drawing, writing, etching, or carving, with paint, spray paint, ink, knife, or other similar method, commonly referred to as "graffiti," is an act of vandalism and is illegal; and

WHEREAS, the increasing incidents of the defacement of public and private property through the applications of graffiti constitutes a blight on communities, public lands, and highways, and in the interest of the health, safety, and general welfare of the citizens of the State, immediate steps must be taken to remove the blight; and

WHEREAS, graffiti causes depreciation of the value of defaced property and the surrounding property and contributes to the deterioration of the community in general; and

WHEREAS, graffiti includes markings which are often the first indication of gang activities in an area, and its removal is crucial to efforts by law enforcement to control the spread of gang activity because the removal of graffiti indicates a community will not tolerate it; and

WHEREAS, it is difficult to apprehend persons in the act of applying graffiti.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Title 9 of the Canby Municipal Code is amended by adding the following new chapter, 9.44 entitled "Graffiti Abatement:"

Section 2. Definitions

AEROSOL PAINT CONTAINER. Any aerosol container adapted or made for spraying paint.

FELT TIP MARKER. Any indelible marker or similar implement with a tip which, at its broadest width is greater than one-fourth (1/4) inch.

GRAFFITI. Any inscription, word, figure, or design that is marked, etched, scratched, drawn, or painted on any surface that is not authorized by the owner or person in charge of the property.

GRAFFITI IMPLEMENT. An aerosol paint container, a felt tip marker, or a graffiti stick.

GRAFFITI STICK. A device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-fourth (1/4) of an inch in width.

Section 3. Offenses. Unlawfully applying graffiti, unlawfully possessing graffiti implement, seizure, community service, parental civil liability.

A. Unlawfully Applying Graffiti.

1. No person may apply graffiti on any real or personal property of another, whether located on public or privately owned property.
2. Unlawfully applying graffiti is a civil infraction punishable by a maximum fine not to exceed Five Hundred Dollars (\$500).

B. Unlawfully Possessing Graffiti Implement.

1. No person may possess, with the intent to use in violation of subsection A(1) above of this section, any graffiti implement.
2. Unlawfully possessing a graffiti implement is a civil infraction punishable by a maximum fine not to exceed Two Hundred Fifty Dollars (\$250).

C. In addition to any citation issued, a Graffiti Implement used or possessed in violation of this section may be immediately seized and impounded by the police department. The court, upon disposition of the issued citation, shall determine whether the instrument shall be returned to the defendant or deemed contraband subject to forfeiture under Oregon Law.

Section 4. Minimum Fine.

A. Upon conviction for unlawfully applying graffiti, the court shall impose a minimum fine of at least one hundred dollars (\$100.00).

B. Upon conviction for unlawfully possessing graffiti implement, the court shall impose a minimum fine of at least fifty dollars (\$50.00).

Section 5. Community Service. In lieu of any fine that may be imposed for violation of this section, the court may order community service as follows:

A. Upon conviction for unlawfully applying graffiti, the person shall perform at least twenty (20) hours of community service;

B. Upon conviction for unlawfully possessing a graffiti implement, the person shall perform at least ten (10) hours of community service.

C. The entire period of community service shall be performed under the supervision of a community service provider approved by the court; and

D. Reasonable effort shall be made to assign the subject person to a type of community service that is reasonably expected to have the most rehabilitative effect on the person. To the extent that the offense giving rise to the offer of community service constitutes a violation of this section, reasonable effort shall be made by the court to assign the person to community service which constitutes in significant part the removal of the graffiti.

Section 6. Parental Responsibility.

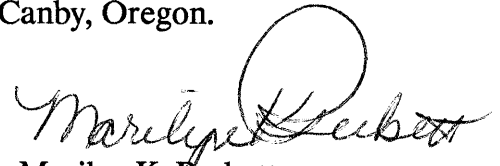
A. No parent, guardian, or other person having the legal custody of an unemancipated minor person under the age of eighteen years (18) may allow or permit the minor to be in violation of Section 3(A) or 3(B), of this Chapter.

B. Upon a subsequent violation by an unemancipated minor person, the parent, guardian or person having legal custody shall be served with a subpoena to appear before the court with the minor and show cause why Section 3(A) or 3(B) of this Chapter has been violated a second time.

C. Violating parental responsibility under this section is a civil infraction punishable by a maximum fine not to exceed Five Hundred Dollars (\$500.00).

Section 7. Emergency Declared. Inasmuch as it is necessary to proceed as quickly to solve the City graffiti problem and for the general welfare of the residents, an emergency is hereby declared to exist and this ordinance shall take effect immediately after final reading and enactment by the Canby City Council.


SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, March 1, 1995, ordered posted as provided by the Canby City Charter and scheduled for second reading and action of the Canby City Council at a regular meeting thereof on Wednesday, March 15, 1995, commencing after the hour of 7:30 p.m., in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.


Marilyn K. Perkett
City Recorder

ENACTED by the Canby City council at a regular meeting thereof on March 15, 1995, by the follow vote: YEAS NAY


Scott Taylor, Mayor

ATTEST:


Marilyn K. Perkett
City Recorder