

ORDINANCE NO. 793

AN ORDINANCE CREATING CHAPTER 8.34 OF THE TROUTDALE MUNICIPAL CODE PERTAINING TO GRAFFITI.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. That it is in the best interest for the community that a Graffiti Ordinance is established to help prevent vandalism on private and public property.
2. By restricting the possession of graffiti implements will decrease the amount of graffiti applied to private and public property.
3. This ordinance will restrict all persons who are in possession of graffiti implements, not just minors.
4. The purpose of the Graffiti ordinance will promote public safety within the community.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE

Chapter 8.34 of the Troutdale Municipal Code shall read as follows:

8.34.010 Short Title.

This Chapter shall be known as "The City of Troutdale Graffiti Ordinance".

8.34.020 Declaration of Purpose.

A. It is the purpose and intent of this Chapter to establish procedures for the prompt removal of graffiti from buildings, walls, structures and items of personal property in order to reduce social deterioration within the City, enhance its appearance and promote public safety and health.

B. The Chief of Police may adopt procedures, forms, and written policies for administering and implementing the provisions of this Chapter.

8.34.030 Definitions.

As Used in this chapter:

"**Chief of Police**" means the Troutdale chief of police, or the chief's designee.

Etching Device. A glass cutter, awl or any device capable of scratching or etching the surface of any structure or personal property.

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, design or mark which is painted, drawn, scratched, etched, or otherwise affixed or attached to the surface of property without the prior authorization of the owner of the property.

Graffiti Implement. Any paint, ink, chalk, dye, marker, aerosol spray paint container or any other substance or instrument or article designed or adapted for spraying, marking, etching, or carving a surface.

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.

Occupant. Any person, tenant, sublessee, successor or assignee who has possession of or control over property.

Owner. "Owner" means any person having a legal interest in real or personal property or any person in possession or control of real or personal property, and excludes any person whose interest is for security only.

Person. An individual; a partnership, corporation, association, or other form of legal entity; any entity in fact.

Property. All real property, including the land itself, as well as all buildings, structures, improvements, trees and any other permanent fixtures or features of the real property; all tangible personal property, including all chattels and movables such as vehicles, vessels, movable equipment, movable machinery, furniture, and movable tools or devices.

8.34.040 Unlawful Application of Graffiti

No person shall apply graffiti to any property, or solicit, command or conspire with another person to apply graffiti to any property. No person shall aid or abet, or agree to aid or abet another person in applying, planning or conspiring to apply graffiti.

8.34.050 Unlawful Possession of Graffiti Implement.

No person may possess, with intent to apply graffiti, any graffiti implement, felt tip marker, etching device, or graffiti stick.

8.34.060 Unlawful Failure to Supervise Minor.

No parent, guardian or other person having lawful custody of any minor child shall knowingly or negligently permit or allow such minor child to violate sections 8.34.040 and 8.34.050 of this ordinance.

8.34.070 Penalties.

A. Violations. Any person who violates TMC 8.34.040, TMC 8.34.050, or TMC 8.34.060 has committed a Class A violation.

B. Impoundment. At the time any person is stopped and a citation is issued for a violation of this ordinance, any graffiti implements in possession of such person may be immediately seized and impounded by the officer issuing the citation. Upon determination of guilt, all such impounded graffiti implements shall be forfeited.

C. Fines. Violations of sections 8.34.040 and 8.34.50 of this ordinance shall be punishable by a fine not to exceed \$500.00; a mandatory minimum fine of \$100.00 shall be imposed upon conviction. Violation of section 8.34.060 of this ordinance shall be punishable by a fine not to exceed \$720.00; a mandatory minimum fine of \$250.00 shall be imposed upon conviction.

D. Restitution. Any person found guilty of a violation of 8.34.040, 8.34.050 and 8.34.060 of this ordinance shall be ordered to pay restitution to the injured property owner.

E. Community Service. In lieu of, or in addition to, any fine imposed pursuant to subsection C of this section, a person convicted of a violation of 8.34.040 or 8.34.050 of this ordinance may be ordered to perform community service. The period of community service shall be performed under the supervision of a community service provider approved by the Court. Reasonable effort shall be made to assign the person to community service which will have the greatest rehabilitative effect, including, but not limited to community service which contributes to the removal of graffiti.


F. Parental Civil Liability. In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for actual damages to person or property in connection with the removal of graffiti caused by said child in accordance with the provisions of ORS 30.765. In any case in which the Chief of Police has elected to enter onto graffiti nuisance property to perform abatement activities, the actual costs incurred in connection with the removal of graffiti caused by an unemancipated child shall be recoverable by the City against the parent or parents of said child.

8.34.090 Property Defaced by Graffiti as Nuisance.

Abatement Procedures. The Chief of Police may immediately cause to be removed any graffiti on any utility poles and cabinets, on exterior walls and fences immediately abutting public streets or property, or on any public property, including but not limited to

traffic signs and lights, and on any property for which written consent to enter onto property and remove graffiti has been given by the property owner or responsible party.

YEAS: 6
NAYS: 0
ABSTAINED: 0



Paul Thalhofer, Mayor
October 15, 2008

Date



Debbie Stickney, City Recorder

Adopted: October 14, 2008