



**ORDINANCE 2015-006**

**AMENDING TITLE 9 OF THE MUNICIPAL CODE RELATING TO PUBLIC PEACE, MORALS AND WELFARE BY  
ADDING A NEW CHAPTER 9.62 RELATING TO GRAFFITI**

**WHEREAS**, city staff have noticed an increase in the appearance of graffiti and delays in getting graffiti removed from private property; and

**WHEREAS**, it is well known that graffiti attracts more graffiti and it is very important that graffiti be reported to police and photographed by police and them immediately removed or painted over; and

**WHEREAS**, Council believes that having specific language in the Municipal Code that addresses graffiti and related aspects will provide valuable tools for the police and Municipal Court to address graffiti.

**NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:**

**Section 1. Findings.** After full and due consideration of the information presented, the Council finds that the text of the Sherwood Municipal Code shall be amended to add specific language to address graffiti, and the proposed amendments shall be added as chapter 9.62 in the Public Peace, Morals and Welfare title of the Municipal Code.

**Section 2. Approval.** The proposed amendment for the Municipal Code identified in the attached Exhibit 1, is hereby **APPROVED**.

**Section 3 - Manager Authorized.** The City Manager is hereby directed and authorized to take such action as may be necessary to document this amendment, including necessary updates to Title 9 of the Municipal Code in accordance with applicable City ordinances and regulations.

**Section 4 - Effective Date.** This ordinance shall become effective the 30th day after its enactment by the City Council and approval by the Mayor.

**Duly passed by the City Council this 15<sup>th</sup> day of September 2015.**

  
Krisanna Clark, Mayor Date 9/15/15

Attest:  
  
Sylvia Murphy, MMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Brouse	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kuiper	<input checked="" type="checkbox"/>	<input type="checkbox"/>
King	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robinson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## 9.62 Graffiti

### 9.62.010 Definitions

As used in this chapter, unless the context requires otherwise:

- (1) "Abate" means to remove graffiti from the public view.
- (2) "Aerosol paint container" means any aerosol container adapted or made for spraying paint.
- (3) "Etching device" means a glass cutter, awl, or any device capable of scratching or etching the surface of any property.
- (4) "Felt tip marker" means an indelible marker or similar implement with a tip which, at its broadest width, is greater than one-fourth inch.
- (5) "Graffiti" means any inscription, word, figure, or design that is marked, etched, scratched, drawn, painted, or otherwise applied to any surface, regardless of content, which is visible from premises open to the public, such as public rights of way or other publicly-owned property, and that has been placed upon any real or personal property, such as buildings, fences, and structures, without prior authorization from the owner.
- (6) "Graffiti implement" means an aerosol paint container, a felt tip marker, an etching device, or a graffiti stick.
- (7) "Graffiti nuisance property" means a property upon which graffiti has been placed if such graffiti has been permitted to remain for more than four (4) calendar days after the owner has been issued written notification pursuant to section 9.62.060(2-3) of this Code.
- (8) "Graffiti stick" means 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 of an inch wide.
- (9) "Manager" means the Sherwood City Manager or the manager's designee who is responsible for the administration of the graffiti nuisance property program under this chapter.

(10) "Occupant" means any tenant, sub-lessee, successor or assignee, or other person that exercises control over property.

(11) "Owner" means any person, agent, firm or corporation having a legal or equitable or management interest in a property and includes but is not limited to a mortgagee in possession; a person, agent, firm or corporation that owns or exercises control over a property; and a person, agent, firm or corporation acting as an agent for an owner by agreement that has authority over the property or is responsible for the property's maintenance or management.

(12) "Permit" means to knowingly allow, suffer, and acquiesce by a failure, refusal or neglect to abate.

(13) "Premises open to the public" means all public spaces, including but not limited to streets, alleys, sidewalks, parks, rights of way and public open space, and private property onto which the public is regularly invited or permitted to enter for any purpose.

(14) "Property" means any real or personal property, whether permanent or not, including but not limited to items affixed or appurtenant to real property or premises, houses, buildings, fences, or structures, items of machinery, drop boxes, waste containers, utility poles and vaults, post office collection boxes , and natural surfaces such as rocks and trees.

(15) "Unauthorized" means without consent of the owner.

#### **9.62.020 Graffiti**

(1) It is unlawful and a violation of this chapter for any person to apply graffiti.

(2) It is unlawful and a violation of this chapter for any person to solicit or command another person to apply graffiti or aid or abet, or agree to aid or abet, another person in applying graffiti.

(3) A violation of subsection (1) or (2) of this section is a class C violation. Each wall or object upon which graffiti is placed constitutes a separate violation. Each day on which a violation occurs or continues is a separate violation.

#### **9.62.030 Possession of Graffiti Implement**

(1) No person may possess, with the intent to apply graffiti, any graffiti implement.

(2) Unlawful possession of a graffiti implement is an unclassified violation of this chapter punishable by a maximum fine not to exceed one hundred dollars (\$100.00). Each day on which a violation occurs is a separate violation.

(3) In addition to issuing a citation, 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 to be contraband subject to destruction under Oregon law.

#### **9.62.040 Community Service and Restitution**

(1) In lieu of a portion of any fine that may be imposed under section 9.62.020 or 9.62.030 of this Code, the court may order the violator to perform community service. Reasonable effort shall be made to require the violator to perform a type of community service that is reasonably expected to have the most rehabilitative effect on the person, preferably community service that constitutes in significant part the removal of graffiti.

(2) In addition to any fine that may be imposed under section 9.62.020 or 9.62.030 of this Code, the court may also order the violator to pay restitution.

#### **9.62.050 Graffiti Nuisance Property**

(1) Any property located in the City of Sherwood that becomes a graffiti nuisance property is in violation of this chapter and is subject to its remedies.

(2) Every owner who permits a property to become a graffiti nuisance property is in violation of this chapter and subject to its remedies.

#### **9.62.060 Graffiti Removal; Notice and Procedures**

(1) An owner of any property within the City of Sherwood shall report any graffiti applied to that property to the police department within forty-eight (48) hours of the graffiti's appearance, and remove any graffiti from that property within four (4) calendar days of the graffiti's appearance.

(2) Whenever the Manager determines that graffiti exists on any property in the City, the Manager may issue an abatement notice. The owner shall have four (4) calendar days

after the date of service of the notice to remove the graffiti. The notice shall contain the following information:

(a) The street address or description sufficient for identification of the property.

(b) That the Manager has found the property to be potential graffiti nuisance property with a concise description of the conditions leading to his/her findings.

(c) A direction to abate the graffiti, or show good cause to the Manager why the owner cannot abate the graffiti, within four (4) calendar days from the date of service of the notice.

(d) That permitting graffiti nuisance property is a violation of this Code.

(e) That if the graffiti is not abated and good cause for failure to abate is not shown, the Manager may cause a citation to be issued.

(f) That the above remedies are in addition to those otherwise provided by law.

(3) The notice shall be served by addressing the notice to the owner and delivering it by personal service or by mailing it as certified mail. Service may also be accomplished by posting the notice in a clearly visible location on the subject property. Service by personal service or posting is effective upon the date of personal service or posting. Service by certified mail is effective three (3) business days after the date deposited with the U.S. Postal Service. Service by mail shall be addressed to the owner at the address of the property believed to be a potential graffiti nuisance property, and to such other address as shown on the tax rolls of the county in which the property is located or such other place which is believed by the Manager to give the owner actual notice. If service is by mail or personal service, a copy of the notice shall also be served on occupants of the property, if different from the owner. Such service may be completed by mailing the notice addressed to "occupant" of each unit of the property believed to be a potential graffiti nuisance property. The failure of any person to receive actual notice shall not invalidate or otherwise affect the proceedings under this chapter.

(4) If the owner is unable to remove, or cause to be removed, the graffiti within the four-day period due to a hardship, he or she may apply to the Manager for an extension of time in which to remove the graffiti. For purposes of this subsection, "hardship" includes but is not limited to serious illness or disability, extremely inclement weather that

temporarily prevents removal of the graffiti, or other extraordinary circumstance.

(5) If graffiti is not removed within four (4) calendar days after service of notice on the owner, the Manager may cause a citation to be issued to the owner requiring the person to appear in Sherwood Municipal Court.

(6) Failure to remove graffiti as required by this section is an unclassified violation punishable by a fine of up to one hundred dollars (\$100.00). Each day the graffiti remains after the four day period after notice is served constitutes a separate offense.

(7) The City Manager may adopt rules and procedures to implement this chapter.