

Sec. 9-61. - Graffiti.**(a) Graffiti prohibition.**

- (1) An owner of any tangible property in the city commits an offense if the owner fails to remove all graffiti from the owner's property after the director notifies the owner that graffiti is present on the property and must be removed.
- (2) Before issuing a citation for a violation under this section, the director shall serve the owner with written notice to remove the graffiti from the property within 15 calendar days from the date the notice is served.
 - a. The notice shall state the following:
 1. The director has determined that the property has graffiti in violation of this chapter;
 2. The director has offered to remove the graffiti at no cost to the owner and the owner has refused the offer;
 3. If, within 15 calendar days from the date the notice is served, the owner has not removed the graffiti, the owner may be issued citations for failure to abate graffiti; and
 4. The owner may, within 15 calendar days from the date the notice is served, request a variance from the city manager in accordance with subsection (c) which acts as an appeal to the initial city enforcement process.
 - b. The notice may be served by handing it to the owner in person or by United States certified mail, return receipt requested, addressed to the owner at the owner's post office address as shown on the tax rolls of the Denton County Appraisal District. If the owner cannot be found and the notice is returned by the United States Postal Service, then the owner may be notified by:
 1. Publication one time in the official newspaper of the city; and
 2. Posting the notice on or near the front door of each building on the premises to which the violation relates; or
 3. Posting the notice on a placard attached to a stake driven into the ground on the premises to which the violation relates.
 - c. The 15 calendar days will be counted from the date the notice is personally served on the owner or from the 15th day after the notice is placed in the United States certified mail; or from the date the notice is published or posted in compliance with this chapter.
- (3) If the owner fails to take abatement action within the time prescribed hereinabove or fails to receive approval to leave the graffiti in place by a variance, the property shall be subject to abatement of the graffiti by the city without further notice. The cost of the graffiti removal shall be recovered from the owner or by placing a lien against the property in accordance with the procedures set forth in state law.
- (4) It is a defense to prosecution under this section if no notice was served on the owner.
- (5) This section does not apply if the graffiti is located on transportation infrastructure and the removal of the graffiti would create a hazard for the person performing the removal.

(b) Graffiti abatement procedures.

- (1) The city may remove, at no cost to the owner, any graffiti the city determines to be in violation of this chapter upon receiving written consent and a waiver of liability from the owner of the property. The city may prepare and distribute forms for this purpose.
 - (2) The owner may, if the owner desires, give advance consent to the director to remove graffiti from the property in the future without the need for the director to obtain the owner's consent prior to each removal. Such prior authorization shall be in writing to the director and shall be signed by the owner. The prior authorization may be revoked by the owner at any time by notifying the director in writing.
 - (3) Whenever the city is authorized by this chapter to remove graffiti and uses public funds for the removal and for the repainting and repair of the property from which the graffiti is removed, the city shall not authorize or undertake to provide for the painting or repair of any more extensive area than that where the graffiti is located, except in the following circumstances:
 - a. The director determines in a written notice to the owner 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
 - b. The owner agrees to pay for the costs of repainting or repairing the more extensive area.
 - (4) Where property defaced by graffiti is owned by a public entity other than the city, the city shall cause removal of the graffiti only after securing the consent of an authorized representative of that public entity.
- (c) *Graffiti abatement hearing.*
- (1) If a variance is sought, the owner must submit a variance request to the city manager within 15 calendar days from the date the notice is served.
 - (2) If the request is made within the time prescribed hereinabove, the owner shall be entitled to present evidence and arguments to the city manager that the owner's property does not contain graffiti. The determination of the city manager may be appealed to the city council within seven calendar days from the date the city manager's decision is served. If the city manager determines that the property contains graffiti and his decision is not timely appealed, the city manager may order that the graffiti be abated with no further notice.
 - (3) If an appeal of the city manager's determination is sought, the owner must submit an appeal to the city secretary within seven calendar days from the date the city manager's decision is served. If the appeal is made within the time prescribed hereinabove, the owner shall be entitled to present evidence and arguments to the city council that the owner's property does not contain graffiti. The determination of the city council shall be final. If the city council determines that the property contains graffiti, the city council may order that the graffiti be abated with no further notice.
 - (4) If a variance request is not made within the time prescribed hereinabove, the director may immediately order that the graffiti be abated. Before ordering such abatement, the director shall give written notice ("abatement order") served in accordance with this chapter that, unless the graffiti is removed within 15 calendar days from the date the abatement order is served, the city shall enter upon the property and cause the removal, painting over or such other eradication of the graffiti.
 - (5) The following procedures shall apply to actions by the city to abate and recover costs for abatement of graffiti on private property which was done pursuant to an abatement order issued by the city council, the city manager, or the director:
 - a.

Abatement action. Not sooner than the time specified in the abatement order, the director shall implement the abatement order. The director should provide an accounting to the owner of the costs of the abatement action ("abatement accounting") on a full cost recovery basis not later than seven business days from the date the abatement action is completed. The abatement accounting shall include all administrative costs incurred by the city in abating graffiti on the property.

- b. *Lien.* If all or any portion of the amount set forth in the abatement accounting remains unpaid after 30 calendar days from the date of the abatement accounting, the city may obtain a lien on the property which was the subject matter of the abatement action in accordance with the procedures set forth in state law.

(Ord. No. 3360-07-2006, § 2, 7-17-06; Ord. No. 3709-09-2009, § 1, 9-21-09)