

ORDINANCE NO. 645

AN ORDINANCE OF THE CITY OF WILSONVILLE DECLARING GRAFFITI PROPERTY TO BE A PUBLIC NUISANCE SUBJECT TO ABATEMENT, PROVIDING PENALTIES FOR MAINTENANCE OF SUCH NUISANCE AND MAKING PARENTS RESPONSIBLE FOR THE ACTUAL COSTS OF GRAFFITI APPLIED BY A MINOR CHILD.

WHEREAS, the council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community; and,

WHEREAS, unless the city or property owners act to remove graffiti from public and private property, the graffiti tends to remain, making other properties the target of graffiti, and rendering affected neighborhoods less desirable places in which to live; and,

WHEREAS, it is the purpose and intent of this ordinance to facilitate the removal of graffiti from buildings, walls and other structures in the city in order to reduce social deterioration, maintain quality of life in our neighborhoods and to promote public safety and health;

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1. Wilsonville Code section 6.200 is amended to read as follows:

6.200 Definitions

As used in Sections 6.202 to 6.260, unless the context requires otherwise, the following terms shall mean:

- (1) **Authorized Officer.** The Sheriff, any Sheriffs Deputy, or any other person expressly authorized by the City manager or Clackamas County Sheriff to issue Noise Ordinance citations, or make determinations of the existence of a Noise Ordinance violation for the purpose of enforcement procedures set forth in chapter 6. *(Added by Ordinance No. 631 on 8/6/07)*
- (2) **Business** includes any sole proprietorship, partnership, corporation, business trust, unincorporated association, and any legal entity created for the purposes of engaging in commercial activity. *(Added by Ordinance #370 – June 4, 1990)*

(3) Business premises includes all real property on which the business is located and any buildings erected on such property. *(Added by Ordinance #370 – June 4, 1990)*

(4) Commercial Area. Areas zoned Planned Development Commercial (PDC), including PDC-TC (Town Center) in accordance with the terms and maps of the City's zoning ordinance.

(5) Customer includes any person who patronizes a business. The term "customer" also includes those persons who are going to the business premises to patronize the business or coming from the business premises. *Added by Ordinance #370 – June 4, 1990)*

(6) Disruptive activity means any act or acts that constitute a violation of one of the following statutes or ordinances:

(a) ORS 163.160, ORS 163.165, ORS 163.175, ORS 163.185, or ORS 163.190, relating to assault or menacing;

(b) ORS 163.415, ORS 163.425, ORS 163.435, or ORS 163.445, relating to sexual abuse, contributing to the delinquency of a minor, and sexual misconduct;

(c) ORS 163.465, relating to public indecency;

(d) ORS 166.025, relating to disorderly conduct;

(e) ORS 166.065, relating to harassment;

(f) ORS 164.345, ORS 164.354, or ORS 164.365, relating to criminal mischief;

(g) ORS 164.425 or 164.255, relating to criminal trespass;

(h) ORS 164.805, relating to littering;

(i) ORS 467.020, relating to noise limits; and

(j) ORS 471.405, ORS 471.410, and ORS 471.412, relating to alcoholic liquor violations. *(Added by Ordinance #370 – June 4, 1990)*

(7) Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

(8) Employee includes any officer, director, agent, or employee of a business. The term "employee" also includes independent contractors who work on the business premises. *(Added by Ordinance #370 – June 4, 1990)*

(9) Farm Area. Any real property which contains a farm, provided that the structure or building is properly zoned, or is legally nonconforming, for farm use in accordance with the terms and maps of the City's zoning ordinance.

(10) Graffiti. Any inscription, word, figure or design that is marked, etched, scratched, drawn or painted on any real or personal property that is not authorized by persons responsible for the property.

(11) Graffiti Nuisance Property. Property upon which graffiti has been applied, if the graffiti is visible from any public right-of-way or premises open to the public, and if the graffiti has not been removed within 72-hours of its appearance.

(12) Industrial Area. Areas zoned Planned Development Industrial (PDI) in accordance with the terms and maps of the City's zoning ordinance.

(13) Loud or Raucous Noise.

(i) any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the City; or

(ii) any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

(14) Pattern of disruptive activity means three or more incidents of disruptive activity within a period of a year. No relationship or similarity among the incidents need be shown to establish a pattern. *(Added by Ordinance #370 – June 4, 1990)*

(15) Person. Any individual, firm, association, partnership, joint venture, or corporation.

(16) Person in charge of property. An agent, occupant, lessee, contract purchaser, tenant, or person other than an owner, having possession or control of the property.

(17) Person responsible. The person responsible for abating a nuisance shall include:

(a) The owner.

(b) The person in charge of property, as defined in this section.

(c) The person who causes to come into or continue in existence of nuisance, as defined in Sections 6.202 to 6.226 or in any other applicable Section.

(18) Plainly Audible. Any sound that can be detected by a reasonable person of ordinary sensitivities using unaided hearing faculties.

(19) Public Place. A building, place, or accommodation, whether publicly or privately owned, open and available to the general public. *(Amended by Ordinance #257 – May 7, 1984)*

(20) Public Space. Any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

(21) Residential Area. Areas zoned Residential in accordance with the terms and maps of the City's zoning ordinance or any real property which contains a structure or building in which one or more persons reside, that is legally nonconforming.

Section 2. That Wilsonville Code Chapter 6 is amended by adding the following section:

6.215. Graffiti Nuisance Property

(1) Any property, building or structure within the city which becomes a graffiti nuisance property is in violation of this Chapter and is subject to nuisance abatement procedures under W.C. 6.230 - 6.250.

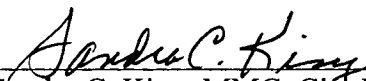
(2) Any persons responsible for property who permit property under their control to become a graffiti nuisance shall be in violation of this Chapter and subject to its remedies. As used herein "permit" means to knowingly suffer, allow or acquiesce by any failure, refusal or neglect.

(3) Where graffiti is applied by an unemancipated minor, the parent, guardian or other person having the legal custody of the minor shall be liable for actual damages to person or property in connection with the removal of graffiti or the costs and assessments for city abatement of the nuisance.

(4) Persons subject to subsections (1) and (2) above may, at any time, show good cause why the city should not pursue remedies there under such as serious illness or disability, extremely inclement weather that temporarily prevents removal of graffiti, or other extraordinary circumstances.

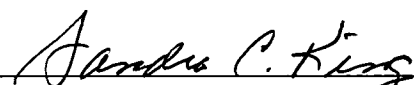
Section 3. Severability. In the event any provisions of this Ordinance shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 17th day of March, 2008, at the hour of 7:00 p.m. at the Wilsonville City Hall 29799 SW Town Center Loop East, Wilsonville, Oregon, and scheduled for second reading on the 7th day of April, 2008, commencing at the hour of 7:00 p.m. at the Wilsonville City Hall.

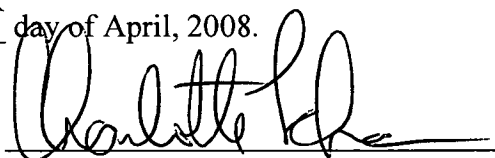

Sandra C. King, MMC, City Recorder

ENACTED by the City Council on the 7th day of April, 2008, by the following votes:

YEAS: -5- NAYS: -0-


Sandra C. King, MMC, City Recorder

DATED and signed by the Mayor this 8th day of April, 2008.


Charlotte Lehan, Mayor

SUMMARY OF VOTES:

Mayor Lehan	Yes
Councilor Kirk	Yes
Councilor Núñez	Yes
Councilor Knapp	Yes
Councilor Ripple	Yes