



CITY OF LYNN
In City Council

October 14, 2008

**AN ORDINANCE AMENDING THE ORDINANCE RELATIVE
TO GRAFFITI IN THE CITY OF LYNN**

Be it ordained by the City Council of the City of Lynn, and by the authority of the same, as follows, to wit:-

SECTION 1. The purpose of this Ordinance is to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property. The City of Lynn considers graffiti a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless graffiti is removed from public and private property, the graffiti tends to remain. Neighboring properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City of Lynn.

SECTION 2.

- a. The existence of graffiti on public and private property in violation of this Ordinance is expressly declared to be a public nuisance and, therefore, is subject to removal and abatement provisions specified in this Ordinance.
- b. It is the duty of the owner of the property in which the graffiti has been applied and any person who may be in possession or who has the right to possess such property at all times to keep the property free and clear of graffiti.

SECTION 3.

- a. "Graffiti" means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of public or private property by a graffiti implement, to the extent that the graffiti was not authorized in advance by the owner of the property.
- b. "Graffiti Implement" means an aerosol paint contained, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

SECTION 4.

- a. It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any City owned property or, without permission of the owner, on any privately owned property.
- b. It shall be unlawful for any person, with the intent to deface public property, to possess any graffiti implement while upon school property, any public facility, park, playground, swimming pool, recreational facility, or other public building or within fifty (50) feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure unless authorized by the City. The provisions of this section shall not apply to the possession of broad tipped markers by a minor attending or traveling to or from school at which the minor is enrolled.



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- c. It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, or paint stick to any person under the age of eighteen (18) years without the express written consent of the parent or legal guardian of the person.

SECTION 5

- a. Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the Department of Inspectional Service. Such removal shall be done in a manner prescribed by the Department of Inspectional Services. Any person applying graffiti shall be responsible for the removal or for the payment for the removal. Where graffiti is applied by an un-emancipated minor, the parents or legal guardian shall also be responsible for such removal or payment for the removal.
- b. If graffiti is not removed by the perpetrator according to the previous paragraph, graffiti shall be removed pursuant to the following provisions:
 1. It is unlawful for any person who is the owner or who has primary responsibility for the control of property or for repair and maintenance of property in the city, to permit property that is defaced with graffiti to remain defaced for a period often (10) days after service by first class mail of notice of the defacement. This notice shall contain the following information:
 - i. The street address or legal description of the property sufficient for identification of the property.
 - ii. A statement that the property constitutes a graffiti nuisance
 - iii. A statement that the graffiti must be removed within ten (10) days after receipt of the notice and that if the graffiti is not abated within that time, the City, as prescribed by law, will declare the property to be a public nuisance.
 - iv. An information sheet identifying any graffiti assistance programs available through the City and private graffiti removal contractors.

SECTION 6.

- a. Whenever the City becomes aware or is notified and determines that the graffiti is located on publicly or privately owned property viewable from a public or quasi public place, the City shall be authorized to use public funds for the removal of the graffiti, but shall not authorize or undertake to provide for the repainting or repair of any more extensive area than that where the graffiti is located, unless the property owner or responsible party agrees to pay the costs of repainting or repairing.
- b. Prior to entering upon private property, the City for the purpose of graffiti removal, the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party



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fails to remove the offending graffiti within the time specified in this Ordinance, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this section, the property owner or responsible party shall be fined according to the provisions specified below.

SECTION 7. A property owner may appeal a determination by the City of Lynn that graffiti located on his/her property constitutes a public nuisance. Said appeal shall be governed in accordance with Massachusetts General Laws Chapter 40, §21D. Following the hearing pursuant to Massachusetts General Laws Chapter 40, § 21D, the City of Lynn may immediately cause the graffiti to be removed should the hearing officer determine that said graffiti constitutes a public nuisance.

SECTION 8. The City of Lynn shall place a lien on the property for all costs incurred by the City of Lynn in removing, repainting and repairing graffiti found in violation of this Ordinance. Said lien shall be filed with the Essex County Registry of Deeds.

If the owner of said property fails to remove such graffiti in violation of Section 5:00 of this Ordinance or fails to provide his written consent for the graffiti to be removed pursuant to Section 6:00 of this Ordinance, after receiving written notice, such owner shall be subject to a fine of Two Hundred (\$200.00) Dollars per day for so long as such graffiti remains on said property. No such fine shall be due should the owner of the property remove said graffiti within thirty (30) days or should the owner sign an indemnity agreement allowing the City of Lynn to enter upon said property to remove the graffiti within thirty (30) days.

SECTION 10. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 11. This ordinance shall take effect thirty-one (31) days after its final approval as adopted and advertised.



CITY OF LYNN
In City Council

May 4, 1993

**IN THE YEAR ONE THOUSAND NINE HUNDRED NINETY-THREE AN ORDINANCE
ESTABLISHING AN ORDINANCE PROHIBITING THE DEFACING OR PROPERTY IN THE CITY
OF LYNN**

Be it Ordained by the City Council of the City of Lynn and by the authority of the same as follows, to wit:-

SECTION 1. An Ordinance Prohibiting the Defacing of Property in the City of Lynn is hereby established and said ordinance shall provide as follows:

No person shall, within the City of Lynn, willfully, intentionally and without right, deface, mar, mark, destroy, interfere with, or otherwise injure any building or signboard or structure of any kind, nor motor vehicle of any kind, whether said building, signboard, structure or motor vehicle is publicly or privately owned property.

SECTION 2. The School Department, Public Works Department, Building Department and Police Department or a designee of such department shall act as enforcement officers of the within ordinance. The designees of such departments shall report complaints or violations coming to their attention to the Lynn Police Chief

SECTION 3. Any violation of the provisions of this ordinance shall be punishable by a fine of Two Hundred (\$200.00) Dollars for each offense. Any person violating this ordinance may be given the option of accepting community service, including personally removing any defacement, whenever removal is possible, rather than imposition of criminal fines or penalties as allowed by law. The time and type of community service shall be reasonably determined by the city enforcement department or by any court of competent jurisdiction.

SECTION 4. Any violation(s) of any of the above sections committed in the presence of any police officer would give said officer the right to arrest the person(s) committing the violations.

SECTION 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 6. This ordinance shall take effect thirty-one (31) days after its final approval as adopted and advertised.