

ORDINANCE NO. 1421

CITY OF LACEY

AN ORDINANCE RELATING TO THE CLEAN UP OF GRAFFITI, AMENDING SECTIONS 9.28.020, 9.52.010, 9.52.020 AND 14.40.020 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY,

WASHINGTON, as follows:

Section 1. Section 9.28.020 of the Lacey Municipal Code is hereby amended to read as follows:

9.28.020 Malicious mischief.

A. A person is guilty of malicious mischief if:

1. He knowingly and maliciously causes physical damage to the property of another in an amount not exceeding \$750.00; or
2. Affixes "graffiti," as defined in LMC 14.40.020, to any surface of public or private property.

~~Writes, paints, or draws any inscription, figure, or mark of any type on any public or private building or other structure or any real personal property owned by any other person unless the person has obtained the express permission of the owner or operator of the property, causing physical damage in an amount not exceeding \$750.00.~~

B. For the purposes of this section, "physical damage," in addition to its ordinary meaning, shall include:

1. Alteration, damage or erasure of records, information, data or computer programs which are electronically recorded for use in computers; and
2. Removal, alteration or defacing of any street sign, legal notice, official bulletin, poster or advertisement without lawful authority or consent of the owner; and
3. Cutting, altering, changing, removing, disconnecting or connecting with any wire, main, pipe, stopcock, meter, hydrant, valve, pump, conduit or cable without lawful authority; and
4. Posting or attaching any bills, handbills, posters or placards upon any post, fence, tree, building or other structure without lawful authority or consent of the owner.

C. Restitution—Community service.

1. The court may order any violator under this chapter to make restitution to the victim for damages or loss caused by the violator's offense in the amount or manner determined by

the court. For purposes of this section, if the city uses its funds and/or other resources to remove graffiti from city-owned property or, in agreement with the owner, from non-city owned property, the city shall be considered a victim for purposes of restitution.

2. In lieu of, or as part of, the penalties specified in this chapter, a violator may be required to perform community service as described by the court. Reasonable effort shall be made to assign the violator to a type of community service that is reasonably expected to have the most rehabilitative effect on the violator, such as community service that involves graffiti removal.

D. Use of public funds for graffiti removal.

Whenever the city becomes aware of or is notified and determines that graffiti is located on publicly or privately owned property visible from premises open to the public, the city is authorized to use public funds for the removal of graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive area than that where the graffiti is located, unless it is determined in writing 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 unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area. All aspects of graffiti removal are at the discretion of the city including, but not limited to, the method of and material used for repair.

E. Possession of Spray Paint in a Public Area

1. It shall be unlawful for any person under 21 years of age to possess spray paint while in or upon any public facility, park, playground, swimming area, recreation facility, or other public building or structure owned or operated by the City of Lacey without prior authorization from a representative of the City of Lacey.
2. Possession of spray paint in a public area is a misdemeanor.

FC. Malicious mischief is a gross misdemeanor.

Section 2. Section 9.52.010 of the Lacey Municipal Code is hereby amended to read

as follows:

9.52.010 Nuisances declared.

The following conditions, acts, omissions and activities are declared to be harmful to the health, safety, peace, comfort or welfare of the citizens of the city and to constitute public nuisances:

A. The operation of a motorcycle or motor-driven cycle or other vehicle in such a manner or in such location either as a single unit or in conjunction with the operation of other motorcycles or motor-driven cycles and/or other vehicles so as to create a safety hazard for young children or an unreasonable disruption of the peace and comfort of the occupants of residential dwellings;

B. All unoccupied buildings which have not been securely closed against entry by those having no interest in the property and all buildings or structures which by reason of abandonment, decay, dilapidation or damage by fire, the elements or any other cause have become harmful to

the health, safety, peace, comfort or welfare of the public, or unsafe for the purpose or purposes for which the buildings or structures are being used.

C. The accumulation of garbage and refuse not disposed of in accordance with Chapter 8.04 of the Lacey Municipal Code, or the accumulation of a motor vehicle or motor vehicles incapable of being operated or unlicensed for the current year, parts, glass, old appliances or parts thereof, old iron or other metal, paper, cardboard, old lumber or wood, old mattresses or other furniture, and all other waste or discarded material or other junk which is not completely fenced off or enclosed from public view and public access;

D. The existence of hazardous vegetation, such as poison oak, poison ivy, deadly nightshade, tansy, ragwort or any similar noxious or toxic weed or plant which is allowed to grow on any property;

E. Loud noise emanating from any source on residentially zoned property which causes disruption of the peace and comfort of the occupants of residential dwellings;

F. The existence of dry grass, weeds, shrubs, trees or other vegetation on property which because of its height or density constitutes a fire hazard or which overhangs any sidewalk, street, or abutting property in such a manner to obstruct or impair the free and full passage along said sidewalk or street or the use of said abutting property.

G. The existence of "graffiti," as defined in LMC 14.40.020, on any surface which is visible from a public or quasi-public place.

Section 3. Section 9.52.020 of the Lacey Municipal Code is hereby amended to read

as follows:

9.52.020 Nuisance maintenance prohibited.

It is unlawful for any person to participate in, cause or maintain, or allow to exist on property owned or occupied by said person, any of those conditions or activities listed in Section 9.52.010. A violation of this chapter as it relates to those activities set forth in 9.52.010(A) and (E) shall constitute a misdemeanor. Allowing those conditions described in 9.52.010(B), (C), (D), ~~and (F)~~ and (G) to exist after the date set for correction by a city enforcement officer pursuant to Chapter 14.40 of this code shall likewise constitute a misdemeanor.

Section 4. Section 14.40.020 of the Lacey Municipal Code is hereby amended to read

as follows:

14.40.020 Definitions.

As used in this chapter, unless a different meaning is plainly required:

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a civil violation by such means, in such a manner and to such an extent as the applicable department director determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Act" means doing or performing something.

C. "Applicable department director" means the director of the department or any designated alternate empowered by ordinance or by the city manager to enforce a city of Lacey ordinance or regulation.

D. "Civil violation" means a violation for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs is a separate violation. Traffic infractions pursuant to Chapter 46.90 RCW except RCW 46.90.500 through 46.90.565 are specifically excluded from the application of this chapter.

E. "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts authorized by a city of Lacey regulation.

F. "Emergency" means a situation which the applicable department director determines requires immediate action to prevent or eliminate a threat to the health or safety of persons or property.

G. "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 which is visible from a public or quasi-public place.

GH. "Hearings examiner" means the Lacey hearings examiner and the office thereof established pursuant to LMC 2.30.010.

HI. "Omission" means a failure to act.

IJ. "Person" means any individual, firm, association, partnership, corporation or any entity, public or private.

JK. "Person responsible for the violation" means any person who is required by the applicable regulation to comply therewith, or who commits any act or omission which is a civil violation or causes or permits a civil violation to occur or remain upon property in the city, and includes but is not limited to the owner(s), lessor(s), tenant(s), or other person(s) entitled to control, use and/or occupy property where a civil violation occurs.

KL. "Regulation" means and includes the following as now or hereafter amended:

1. Chapters 16.75 and 16.78 (Sign Code), 8.04 (Garbage and Refuse Storage and Disposal), 9.52 (Nuisances), and 14.38 LMC (Noise Control); LMC Titles 12 (Streets and Sidewalks Codes), 13 (Water and Sewage Codes), 14 (Buildings and Construction Codes), 15 (Subdivision Code), and 16 (City Zoning Code);

2. City of Lacey development guidelines and public works standards, as adopted by Ordinance No. 893², as now or hereafter amended;

3. All standards, regulations and procedures adopted pursuant to the above; and

4. The terms and conditions of any permit or approval issued by the city, or any concomitant agreement with the city.

LM. "Repeat violation" means a violation of the same regulation in any location by the same person for which voluntary compliance previously has been sought within two years or a Notice of Civil Violation has been issued within two years.

MN. "Violation" means an act or omission contrary to a city of Lacey regulation including an act or omission at the same or different location by the same person, and including a condition resulting from such act or omission.

Section 5. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,

WASHINGTON, at a regularly-called meeting thereof, held this 7th day of November,

2013.


CITY COUNCIL

By 
Mayor

Approved as to form:


City Attorney

Attest:


City Clerk

SUMMARY FOR PUBLICATION

ORDINANCE NO. 1421

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on November 7, 2013, Ordinance No. 1421, entitled "AN ORDINANCE RELATING TO THE CLEAN UP OF GRAFFITI, AMENDING SECTIONS 9.28.020, 9.52.010, 9.52.020 AND 14.40.020 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are as follows:

- 1. The Ordinance amends the criminal malicious mischief section as it relates to graffiti.**
- 2. The Ordinance modifies the City definition of nuisance to include the existence of graffiti which is visible to the public.**
- 2. The Ordinance approves this Summary for publication.**

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: November 11, 2013.