

ORDINANCE NO. 226**AN ORDINANCE MAKING IT UNLAWFUL TO POSSESS GRAFFITI IMPLEMENTS, TO DEFACE PROPERTY WITH GRAFFITI IMPLEMENTS, TO MAINTAIN PROPERTY IN A CONDITION OF BEING DEFACED BY GRAFFITI, AND PROVIDING FOR PENALTIES THEREFOR.**

The City of Coos Bay Ordains as Follows:

Section 1. Definitions.

Graffiti. Any inscription, word, figure, design or mark which is painted, drawn, scratched, etched, or otherwise affixed or attached to the surface of property without the prior authorization of the owner of the property.

Graffiti Implement. Any paint, ink, chalk, dye, marker, aerosol spray paint container or any other substance or instrument or article designed or adapted for spraying, marking, etching, or carving a surface.

Owner. A person who has lawful care, custody, control or possession of any property by legal title, equitable interest, lease, or by any other method or manner giving the person lawful care, custody, control or possession of any property, including, but not limited to, bailments and other custodial arrangements.

Person. An individual; a partnership, corporation, association, or other form of legal entity; any entity in fact.

Property. All real property, including the land itself, as well as all buildings, structures, improvements, trees and any other permanent fixtures or features of the real property; all tangible personal property, including all chattels and movables such as vehicles, vessels, movable equipment, movable machinery, furniture, and movable tools or devices.

Section 2. Unlawful Application of Graffiti.

No person shall apply graffiti to any property, or solicit, command or conspire with another person to apply graffiti to any property. No person shall aid or abet, or agree to aid or abet another person in applying, planning or conspiring to apply graffiti.

Section 3. Unlawful Possession of Graffiti Implement.

No person may possess any graffiti implement with intent to apply graffiti.

Section 4. Unlawful Failure to Supervise Minor.

No parent, guardian or other person having lawful custody of any minor child shall knowingly or negligently permit or allow such minor child to violate Sections 2 and 3 of this ordinance.

Section 5. Penalties.

(1) Impoundment. At the time any person is stopped and a citation is issued for a violation of this ordinance, any graffiti implements in possession of such person may be immediately seized and impounded by the officer issuing the citation. Upon determination of guilt, all such impounded graffiti implements shall be forfeited.

(2) Fines. Violations of Sections 2 and 3 of this ordinance shall be punishable by a fine not to exceed \$500.00; a mandatory minimum fine of \$100.00 shall be imposed upon conviction. Violation of Section 4 of this ordinance shall be punishable by a fine not to exceed \$750.00; a mandatory minimum fine of \$250.00 shall be imposed upon conviction.

(3) Restitution. Any person found guilty of a violation of Sections 2, 3 and 4 of this ordinance shall be ordered to pay restitution to the injured property owner.

(4) Community Service. In lieu of, or in addition to, any fine imposed pursuant to subsection A of this section, a person convicted of a violation of Sections 2 or 3 of this ordinance may be ordered to perform community service for an amount of time, which shall be not less than 40 hours. The period of community service shall be performed under the supervision of a community service provider approved by the Court. Reasonable effort shall be made to assign the person to community service which will have the greatest rehabilitative effect, including, but not limited to community service which contributes to the removal of graffiti.

(6) Parental Civil Liability. In addition to any other remedy provided by law, the parent, parents or other persons with legal custody of a minor child shall be liable for actual damages to persons or property resulting from the minor child's violation of Section 2 or 3 of this ordinance.

Section 6. Property Defaced by Graffiti as Nuisance.

Any graffiti which the owner allows to remain on his/her property or which the owner fails to promptly remove may be declared a nuisance, and subject to abatement proceedings as provided in Coos Bay Ordinance 99.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay this 19th day of March, 1996.