

ORDINANCE NO. 030810

Amending Chapters 48 and 50, Code of Ordinances by enacting new Sections 48-46, Graffiti, 48-47, Maintenance of swimming and architectural pools, and 48-48, Stagnant water, and repealing Section 50-125, Defacing property with aerosol paint and like materials, and enacting in lieu thereof a new section of like number and subject matter.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 48, Code of Ordinances of the City of Kansas City, Missouri, by enacting new Sections 48-46, Graffiti, 48-47, Maintenance of swimming and architectural pools, and 48-48, Stagnant water, to read as follows:

Sec. 48-46. Graffiti.

(a) *Purpose and intent.* The purpose of this section is to prevent the spread of graffiti and to require its removal from public and private property. The spread of graffiti on both public and private buildings, structures, or places causes blight within the City, which results in a deterioration of property and business values for adjacent and surrounding properties, all to the detriment of the City. The City Council finds and determines that graffiti is obnoxious and a public nuisance which must be abated to avoid the detrimental impact of graffiti on the City and to prevent the further spread of graffiti.

(b) *Definitions.*

- (1) Aerosol paint container means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.
- (2) Airbrush means an atomizer used for applying by compressed air a fine spray, as of paint or other liquid color.
- (3) Broad-tipped marker means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4) of an inch, containing ink or other pigmented liquid that is not water soluble.
- (4) Etching equipment means any tool, device, or substance that can be used to make permanent marks on any natural or man-made surface.
- (5) 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 any graffiti implement, to the extent that the display was not lawfully authorized in advance by the owner or occupant of the property, thus rendering any advance authorization invalid.

- (6) Graffiti implement means an aerosol paint container, 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 man-made surface.
- (7) Paint stick or graffiti stick means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth (1/8) of an inch in width.

(c) *Graffiti as a nuisance.* The existence of graffiti on public or private property is expressly declared to be a public nuisance, and, therefore, is subject to the removal and abatement provisions specified in this section.

(d) *Duty of property owner and occupant.*

- (1) It is the duty of both the owner of the property to which graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all time keep the property clear of graffiti.
- (2) It is the duty of the property owner to abate, or cause to be abated, graffiti upon notice from the City, pursuant to Section 48-63.

(e) *Removal of graffiti by city.* If, after notice to the property owner or other responsible party, that person fails to remove the offending graffiti within fifteen (15) days, the city may commence abatement and the property owner shall be billed for the costs, pursuant to Section 48-66.

Sec. 48-47. Maintenance of swimming and architectural pools.

All swimming and architectural pools and spas shall be properly maintained so as not to create a safety hazard or harbor insect infestation, or create a visible deteriorated or blighted appearance. Water shall not be allowed to stagnate, or to become stale or foul through lack of circulation. Fencing or other barriers required for swimming pool and spa enclosures shall be properly maintained. The premises shall be free from safety hazards inclusive of, but not limited to, lack of security, water stagnation, or abandoned pools, regardless of whether or not there is water in the pools. All pools will also be free from visible deterioration or blighted appearance.

Sec. 48-48. Stagnant water.

Any water accumulating and remaining, continuing or stagnating upon, in or about

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any lot, tract or piece of ground, or any barrels, buckets, kegs, tubs, cans or vessels of any kind whatsoever caused or permitted to be thrown, to be placed or to remain upon any lot, property or grounds in the City that might, could or would catch, hold, contain or retain water with mosquitoes or insects, bugs worms or living creatures might be bred, hatched, raised or allowed to remain or accumulate.

Section 2. That Chapter 50, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 50-125, Defacing property with aerosol paint and like materials, and enacting in lieu thereof a new section of like number and subject matter, to read as follows:

Sec. 50-125. Defacing property with aerosol paint and like materials.

(a) No person shall willfully injure, deface or otherwise damage a public or privately owned building, fence, wall, dumpster, trash receptacle, vehicle, embankment, house, sign, shelter, enclosure, any paved surface including sidewalks, streets, and parking lots, or other real or personal property of another through application of aerosol paint. Provided, however, this provision shall not prohibit the owner from undertaking such act or authorizing such act, unless otherwise prohibited by law.

(b) No minor shall purchase or possess without adult supervision aerosol paint.

(c) Every parent, guardian or other person (including wholesale and retail establishments selling aerosol paint) having lawful physical custody, right to control or ability to prevent a minor person as hereinafter defined, and having a present reasonable ability to restrain, control or thwart a minor from purchasing aerosol paint shall be guilty of violation of this section. Any such parent, guardian or other person having reasonable opportunity to require a person or minor convicted of violation of this section and paroled by the court for the performance of parole conditions, and wrongfully fails or neglects to take such available reasonable measures to ensure such compliance in obedience with the terms of such parole shall be guilty of violation of this section.

(d) Every parent, guardian or other person having lawful physical custody or right to control a minor person as hereinafter defined, and having a present reasonable ability to restrain, control or thwart a minor from committing such prohibited defacement of a building as herein prohibited, shall be guilty of violation of this section. Any such parent, guardian or other person having reasonable opportunity to require a person or minor convicted of violation of this section and paroled by the court for the performance of parole conditions, and wrongfully fails or neglects to take such available reasonable measures to ensure such compliance in obedience with the terms of such parole shall be guilty of violation of this section.

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(e) As used herein the term "minor" shall have the same meaning as is defined in relation to the criminal laws of the state.

(f) Upon conviction of violation of this section, punishment shall be imposed by a fine of not less than \$500.00 nor more than \$1,000.00, or imprisonment for not more than 120 days, or by both such fine and imprisonment; provided further, the sentencing court may suspend imposition of judgment or sentence upon parole for the successful performance of supervised community public service of not less than 90 hours.

Approved as to form and legality:

Assistant City Attorney