

Frank Nuzzo, Jr.
Director
617-394-2227



Everett City Hall
484 Broadway
Everett, MA 02149

City of Everett
Code Enforcement

Sec. 13-2.5 Graffiti.

(e) REMOVAL OF GRAFFITI

(1) **Removal by the Perpetrator.** 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 Code Enforcement Task Force of the City of Everett. Such removal shall be done in a manner prescribed by the Code Enforcement Task Force. Any person applying graffiti shall be responsible for the removal or for the payment of 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.

(2) **Property Owner Responsibility.** If Graffiti is not removed by the perpetrator according to the previous paragraph, graffiti shall be removed pursuant to the following provisions:

- a. It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the City, to permit property that is defaced with graffiti to remain defaced for a period of ten (10) days after service by first class mail of notice of the defacement. The notice shall contain the following information:
 1. The street address and legal description of the property sufficient for identification of the property.
 2. A statement that the property constitutes a potential graffiti nuisance property with a concise description leading to the finding.
 3. 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.
 4. An information sheet identifying any graffiti assistance programs available through the City and private graffiti removal contractors.

(3) **Exceptions to Property Owner Responsibility.** The removal requirements above shall not apply if the property owner or responsible party can demonstrate that:

- a. The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or
- b. The property owner or responsible party has an active program for the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of fifteen (15) days after service by first class mail of notice of the defacement.

(4) Right of City to Remove.

- a. **Use of Public Funds.** 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 painting or repair of any more extensive an 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. **Right of Entry on Private Property.** Prior to entering upon private property owned by a public entity other than 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 fails to remove the offending graffiti within the time specified by 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.

(5) Abatement and Cost Recovery Proceedings.

- a. **Notice of Due Process Hearing.** The Chairman of the Code Enforcement Task Force, serving as the Hearing Officer, shall provide the property owner of record and the party responsible for the maintenance of the property, if a person different from the owner, not less than forty-eight (48) hours notice of the City's intention to hold a due process hearing at which the property owner or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance. Notice shall be served in the same manner as a summons in a civil action. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in newspaper of general circulation published in the area in which the property is located.
- b. **Determination of Hearing Officer.** The determination of the Hearing Officer after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of attendance of the owner or the responsible party or their respective agents, the Hearing Officer determines that the property contains graffiti viewable from public or quasi-public place, the Hearing Officer shall give written notice in an

eradication order that, unless the graffiti is removed within ten (10) days, the City shall enter upon the property, cause the removal, painting over, or such other eradication thereof as the Hearing Officer determines appropriate, and shall provide the Owner and the responsible party thereafter with an accounting of the costs of the eradication effort on a full cost recovery basis.

- c. **Eradication Effort.** Not sooner than the time specified in the order of the Hearing Officer, the Director of City Services, shall implement the eradication order and shall provide an accounting to the Hearing Officer.
- d. **Cost Hearing.** The Owner or responsible party may request a cost hearing before the Hearing Officer on the eradication accounting, and appropriate due process must be extended to the Owner or responsible party. If following the cost hearing or, if no hearing is requested, after the implementation of the eradication order, the Hearing Officer determines that all or a portion of the costs are appropriately chargeable to the eradication effort, the total amount thereof determined as appropriate by the Hearing Officer, shall be due and payable within thirty (30) days. Any amount of eradication charges assessed by the Hearing Officer that are less than the total amount set forth in the eradication accounting shall be explained by written letter from the Hearing Officer to the Mayor.
- e. **Lien.** As to such property where the responsible party is the property owner, if all or any portion of the assessed eradication charges remain unpaid after thirty (30) days, the portion thereof that remains unpaid shall constitute a lien on the property that was subject of the eradication effort.

(f) PENALTIES

Any person violating this ordinance shall be fined according to Section 1-8 of the Revised Ordinances of the City of Everett and/or punished in accordance with Massachusetts General Law, Chapter 266; Section 126A

PART IV REVISED ORDINANCES

Chapter 1 GENERAL PROVISIONS

Sec. 1-8. General penalty.

(a) Whoever violates a provision of this Revision or any other ordinance or by-law of the city, whereby an act or thing is enjoined or prohibited, shall, unless other provisions are expressly made, be liable to a penalty for the first offense a twenty-five dollar (\$25.00) fine, second offense a fifty dollar (\$50.00) fine, third offense a one hundred dollar (\$100.00) fine, and fourth and subsequent offenses a three hundred dollar (\$300.00) fine.

(b) If any violation be continuing, each day's violations shall be deemed a separate violation.

(c) Such violation shall be noticed in the form of a ticket written by an enforcement agent under the authority of the Non Criminal Disposition Ordinance under Article II of these Revised Ordinances. (Rev. Ords. 1976, Pt. 2, Ch. 1, § 8; Ord. of 03-18-2004)