

ORDINANCE NO. 2024- 923
AN ORDINANCE OF THE CITY OF MILL CREEK, WASHINGTON
DECLARING GRAFFITI TO BE A PUBLIC NUISANCE;
AND SETTING AN EFFECTIVE DATE

WHEREAS, on May 28, 2024, the Mill Creek City Council adopted Resolution 2024-724, which contains the 2040 Strategic Vision for the City ; and

WHEREAS, a fundamental pillar of the Strategic Vision is that Mill Creek is one of the safest and cleanest cities in Washington and that the City’s focus on public safety is an integral part of delivering a safe and clean community; and

WHEREAS, the failure to maintain property directly impacts property values and can lead to attracting criminal activity and neighborhood deterioration; and

WHEREAS, graffiti and other defacement of public and private property including walls, rocks, bridges, fences, gates and other structures when not removed is a blight on the community.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILL CREEK, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Graffiti Regulations Adopted. The Mill Creek Municipal Code (“MCMC”) is amended by adding a new Chapter to read:

Chapter 8.10
GRAFFITI

Sections:

- 8.10.010 Purpose**
- 8.10.020 Graffiti Declared a Nuisance**
- 8.10.030 Definitions**
- 8.10.040 Defacement with Graffiti Prohibited**
- 8.10.050 Continued Presence of Graffiti an Infraction**
- 8.10.060 Abatement of Nuisance Graffiti Required**
- 8.10.070 Appeal**
- 8.10.080 Removal by the City**
- 8.10.090 Costs Recoverable—Debt—Lien**
- 8.10.100 Additional Relief Authorized**

8.10.010 Purpose.

The purpose of this chapter is to promote public health, safety and welfare of the city by maintaining a clean appearance on public and private property, protecting property values, preventing crime and deterioration of neighborhoods by preventing graffiti and defacement of public and private property.

8.10.020 Graffiti Declared a Nuisance.

Graffiti and other defacement of public and private property, including walls, rocks, bridges, fences, gates and other structures, trees, and other real and personal property within the city constitutes a public nuisance and a potential hazard to public health and safety. Graffiti contributes to neighborhood decline by inviting crime, lower property value, and can lead to a climate of intimidation.

Although it is appropriate, where possible, to request that the courts require people who are convicted of acts of malicious mischief and vandalism involving the application of graffiti to public or private property to restore the property so defaced, damaged or destroyed, oftentimes it is difficult to identify or to identify and convict the wrongdoer.

The continued presence of graffiti is a blight on the community. While voluntary graffiti removal should be encouraged, where graffiti has not been promptly removed, graffiti should be removed in accordance with the provisions of this chapter.

8.10.030 Definitions.

For the purposes of this Chapter, the following words shall have the following meanings:

- (1) "Abate" means the removal, painting over, or other obscuring of graffiti from view.
- (2) "City Manager and his/her designee" means the city manager and any code enforcement officer, police officer, or other designated staff employed by the city of Mill Creek.
- (3) "Graffiti" means the defacing, damaging, or destroying by spraying of paint or marking of ink, dye, or other similar substances, excluding chalk, on public or private buildings, structures, facilities, natural features, and places,
- (4) "Nuisance Graffiti" means Graffiti that was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise recognized and deemed a public nuisance pursuant to RCW 7.48.120 and 7.48.130.
- (5) "Graffiti Nuisance Property" means property upon which graffiti exists and where, after notice as provided by this chapter, the graffiti has not been abated by the deadline set in the notice established by this chapter.
- (6) "Named Party" means any person or entity identified as a Responsible Party in any Graffiti Notice or Notice of Graffiti Nuisance Property and Removal.

(7) "Responsible Party" means an owner, and also an entity or person acting as an agent for an owner, or an entity or a person who has dominion and control over a property. There may be more than one Responsible Party for a particular property.

8.10.040 Defacement with Graffiti Prohibited.

It shall be unlawful for any person to apply Graffiti to any natural or man-made surface on any city-owned property or non-city-owned property without the permission of a Responsible Party. Anyone who does so is guilty of malicious mischief in the third degree which is a gross misdemeanor pursuant to RCW 9A.48.090.

8.10.050 Continued Presence of Nuisance Graffiti an Infraction.

It shall be a civil infraction for a Responsible Party to allow Graffiti Nuisance Property to exist. Each day that a Graffiti Nuisance Property shall exist shall be a separate infraction. A civil infraction under this chapter shall be punishable by a penalty of twenty-five dollars (\$25.00) for each violation.

8.10.060 Abatement of Nuisance Graffiti Required.

A. The Responsible Party shall Abate any Nuisance Graffiti that is visible to any person of normal eyesight utilizing any public roadway, right of way, parkway, alley, sidewalk or other facility open to the public within thirty (30) days from the date that the Responsible Party receives written notice that Nuisance Graffiti exists on the property.

B. The City Manager or his/her designated representative may exercise discretion to extend the deadline for removal of the Nuisance Graffiti if requested by the Responsible Party due to weather, seasonal conditions or other reasonably extenuating circumstances.

(1) The notice required in this section shall be provided to the Responsible Party in any of the following ways:

- (a) By personal service on the Responsible Party;
- (b) By registered or certified mail, postage prepaid, properly addressed and mailed to the last known address of the Responsible Party.

(2) The notice to the Responsible Party shall include a list of resources available to assist in the removal of the Nuisance Graffiti and suggestions for preventing future instances of Nuisance Graffiti.

8.10.070 Appeal.

A. The Mill Creek Hearing Examiner shall hear any appeals of any Notice of Graffiti or Notice of Graffiti Nuisance Property and Removal.

B. An appeal shall be commenced by the Responsible Party filing a notice of appeal with the city clerk within seven (7) days of receipt of the Notice of Graffiti or Graffiti Nuisance Property and Removal. If no appeal is filed within seven days, the notice shall become final, conclusive and not subject to appeal or review in any forum.

C. The appeal shall be conducted by the Hearing Examiner pursuant to the procedures set forth herein and in MCMC Chapter 4.34.

(1) The city shall have the burden to prove by a preponderance of the evidence that the property contains Nuisance Graffiti, the Named Party is the Responsible Party, the deadline for abatement is reasonable and should not be adjusted for weather, seasonal conditions or other reasonably extenuating circumstances, and the manner of abatement is reasonable.

(2) If the Hearing Examiner finds that the property contains Nuisance Graffiti and the Named Party is a Responsible Party, but that either the manner of abatement is unreasonable or that the deadline should be extended for weather, seasonal conditions or other reasonably extenuating circumstances, then the Hearing Examiner shall modify the manner of abatement to make the same reasonable or to extend the deadline for removal of the Nuisance Graffiti.

(3) The Hearing Examiner shall issue a written decision containing the following information:

(a) findings of fact (which shall include the common address and legal description for the property) and conclusions of law;

(b) the manner of any required abatement action and the deadline by which abatement must be completed;

(c) a description of the civil penalty for an infraction which may accrue if the Responsible Party fails to Abate the Nuisance Graffiti by the deadline established in the decision and order;

(d) a statement that the decision of the hearing examiner becomes final 21-days after the date of the decision unless the decision of the hearing examiner is appealed to the Snohomish County Superior Court; and

(e) a statement that if the Nuisance Graffiti is not abated by the deadline established in the decision and order that the city or its contractor may Abate the Nuisance Graffiti and the cost of abatement will be a personal obligation of the Responsible Party and a lien against the Graffiti Nuisance Property.

(4) The Hearing Examiner shall mail his/her decision to the Named Party by regular and certified mail, and a copy of the decision also shall be posted on the property in a conspicuous location.

(5) Any review of the decision of the hearing examiner must be by land use petition filed within 21-days of issuance of the decision and order in the Snohomish County Superior Court in accordance with the Land Use Petition Act, RCW Chapter 36.70C.

8.10.080 Removal by the City.

A. When the deadline established under this chapter has passed, and the property is deemed Graffiti Nuisance Property, the city may Abate the Graffiti Nuisance Property. Either city resources or contractors may be used in abating the Graffiti Nuisance Property.

B. Using any lawful means, the city and its representatives may enter upon the Graffiti Nuisance Property and Abate the Graffiti. The city may seek such judicial process or writ as is deemed necessary to carry out the abatement.

8.10.090 Costs Recoverable—Debt—Lien.

A. If the city is required to remove Graffiti and Abate a Graffiti Nuisance Property, the city shall bill the cost of removal and abatement to the Responsible Party. The costs billed shall be due and payable to the city within 10 calendar days of billing. The costs billed shall include the value of the use of city staff and resources (at the current established hourly rate) and all payments made to third parties.

B. If the costs billed are not paid when due, they shall be a personal debt of the Responsible Party and automatically the costs shall be a lien upon the Graffiti Nuisance Property. The city may take all lawful action to collect the debt of the Responsible Party or to foreclose its lien upon the Graffiti Nuisance Property.

8.10.100 Additional Relief Authorized.

The city may seek other legal or equitable relief to enjoin any acts or practices or to Abate any conditions that violate this chapter. All costs and expenses incurred by the city during abatement of such violations shall be assessed to the Responsible Party.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this Ordinance or its application to any other person, property, or circumstance.

Section 3. Corrections. Upon approval by the city attorney, the city clerk and/or code reviser are authorized to make necessary corrections to this ordinance, including scrivener's errors or clerical mistakes; references to other local, state or federal laws, rules or regulations, or numbering or referencing of ordinances or their sections or subsections.

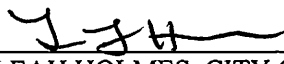
Section 4. Publication and Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED by the City Council this 15th day of October 2024 by a vote of 5 yeas, 0 nays and 1 abstaining.

APPROVED:


STEPHANIE SIGNAL, MAYOR PRO TEM

ATTEST:


LEAH HOLMES, CITY CLERK

APPROVED AS TO FORM:


GRANT DEGGINGER, CITY ATTORNEY

PASSED BY THE CITY COUNCIL: 10/1/24
PUBLISHED: 10/4/24
EFFECTIVE DATE: 10/11/24
ORDINANCE NO. 2024-923