

REQUESTED BY:  
BROWN

LAW DEPARTMENT  
DRAFT NO. 3479A1

TITLE

AN ORDINANCE FOR THE PURPOSE OF ENACTING A SECTION 541.041 ("GRAFFITI PREVENTION AND ABATEMENT" TO CHAPTER 541 ("PROPERTY OFFENSE") OF THE CODIFIED ORDINANCES OF THE CITY OF WARREN FOR THE PURPOSE OF PREVENTING THE PLACEMENT OF GRAFFITI ON ANY STRUCTURE(S) AND ABATING GRAFFITI ONCE PLACED ON ANY STRUCTURE(S) WITHIN THE CITY OF WARREN, AND DECLARING AN EMERGENCY.

ORDINANCE NO. 12578/15

WHEREAS, this Council deems it to be in the best interests of the City of Warren to update a section of Chapter 541("Property Offense") of the Codified Ordinances of the City of Warren; and

WHEREAS, Chapter 541 of the Codified Ordinances of the City of Warren fails to address the specific issues of the placement and abatement of graffiti within the City of Warren and this Council deems it necessary to enact an Ordinance for the preventing and abating graffiti within the City of Warren; and

WHEREAS, this Council finds that graffiti constitutes a blight on the City created by unauthorized an unapproved persons which has a negative aesthetic that is contrary to the public welfare due to the nature of the graffiti and are often profane, pornographic in content and depict criminal activities; and

WHEREAS, this Council finds the need to protect both public and private property from the blight created from the placement of graffiti on any structure; and

WHEREAS, the City of Warren is empowered to promote and protect public and private property of the residents within the City of Warren; and

WHEREAS, this Ordinance is necessary to protect public and private property within the City of Warren; NOW THEREFORE

BE IT ORDAINED by the Council of the City of Warren, State of Ohio:

Section 1: That Section 541.041 be, and the same hereby is, enacted to and within Chapter 541 ("Property Offenses") of the Codified Ordinances of the City of Warren as follows:

"541.041 GRAFFITI PREVENTION AND ABATEMENT"

(A) Definitions. For the purpose of this section the words and phrases defined hereunder shall have the meaning therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

(1) PUBLIC NUISANCE. Graffiti, whether located upon public or private property within the City, is hereby declared a public nuisance. Every owner, occupant, or person in control of any property within the City shall cause the property to be kept clear and free of such graffiti, and otherwise comply with the requirements of this Chapter.



(2) GRAFFITI. Any inscription, drawing, work, figure marking or design that is etched, scratched, drawn, painted or attached on any property, including buildings, structures, fixtures, landscapes or other improvements, whether permanent or temporary, whether public or private, by any means on the property of another without the consent of the owner of the property or the owner's authorized agent, and which is visible from any public right-of-way or other quasi-public location within the City.

(3) PLAN OF ACTION. An outline of the owner's intended actions and method(s) employed by the owner or those persons hired by the owner to abate the graffiti. All plans must include a timetable for the completion of the removal of the graffiti from the property and must be submitted to the City Health Department. All plans of action must adhere to the zoning and health regulations of the City and must be approved by a City inspector.

(B) Prohibited Conduct

(1) No person may write, paint, draw, attach to, mark or otherwise alter the property of any public or private property, owned, operated, maintained by a government entity or any agency or instrumentality thereof or owned by any private person, firm, or corporation, with graffiti unless by the written permission of the owner or operator of the property has been obtained.

(2) A person or entity convicted of violating any division of this section is guilty of Criminal Mischief under Section 541.04 of the Warren Codified Ordinances and subject to the penalties as listed in Section 541.04(c).

(C) Graffiti Abatement. It shall be the responsibility of all property owners to abate or provide a plan of action to the City with a timetable for the abatement of the graffiti from their property. The plan must substantially reduce or nullify any effect or intended purpose of the graffiti. All sidewalks, walls, buildings, fences, signs, rocks, trees, bridges, gates and any other structures or surfaces shall be kept free from graffiti when the graffiti is visible from a street or other public or private property.

(D) Notice of violation.

(1) If it is determined by the City that graffiti exists on property in violation of this section, the City shall, in writing, notify the owner of the property or responsible party through the issuance of a Notice of Violation providing a maximum of five days to abate the graffiti, unless it is City property in which case the City shall cause its removal within forth-eight hours. Any Notice of Violation may e served by certified mail, as listed in the County Auditor's Tax lists at the mailing addresses as shown on such tax lists; ordinary mail if the certified mail is refused or unclaimed; personal service, by posting at the subject property; or by publication in a newspaper of general circulation in the City.

(2) The Notice of Violation shall be sent immediately upon notification or determination that such a violation exists. The City shall give no more than a total of two notices before enacting the penalty section contained herein. The second notice of Violation shall be issued after the first Notice of Violation has been sent and the removal period has expired.

(3) Failure to abate the nuisance or providing a plan of action within the period(s) provided shall constitute a violation of this section and Chapter 1367 of the Warren Codified Ordinances and subject the owner to all sanctions or penalties contained therein.

(E) Removal of graffiti from City Property.

(1) It shall be the responsibility of the City Administration through its various department heads to develop and implement policies and procedures to cause the removal of graffiti using City resources.

(2) Where property defaced by graffiti is owned by a public entity other than the City, the City Administration may cause removal of the graffiti using City resources only after securing the consent of an authorized representative of the public entity that has jurisdiction over the premises.

Section 2: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, welfare and safety, and for the further reason that the integrity of the environment of the City of Warren may be more fully insured at the earliest possible time and without undue delay. WHEREFORE, this Ordinance shall go into immediate effect.

Passed in Council this 14TH day of

JANUARY, 2014.

SIGNED:

James Becker  
PRESIDENT OF COUNCIL

ATTEST:

Benjamin E. Smith  
CLERK

FILED WITH THE MAYOR:

DATE APPROVED:

W. D. [Signature]  
MAYOR, CITY OF WARREN, OHIO