

At the last Public Safety Committee Meeting, the City Attorney's Office was asked to review ordinances from other communities to see what provisions they have in place to deal with graffiti issues. Below are some examples.

Miami Beach, Florida

Sec. 70-125. - Responsibility of property owner(s) to remove graffiti; graffiti removal and notice; enforcement.

- (a) Maintenance or allowance of graffiti to exist for more than seven business days on a commercial property, or ten business days on a residential property, is prohibited.
- (b) Whenever the city becomes aware of the existence of graffiti on any property, a code compliance officer is authorized upon such discovery to give, or cause to be given, notice to take corrective action to the property owner or the property owner's agent or manager.
 - (1) **Commercial property. For commercial property, the property owner or the property owner's agent or manager shall take corrective action within seven business days from the receipt or delivery of the notice referenced within this section.**
 - (2) Noncommercial property. For noncommercial property, the property owner, or property owner's agent shall take corrective action within ten business days from the receipt or delivery of the notice referenced within this section.
- (c) Such notice shall be given by certified mail, return receipt requested; or by hand delivery by code compliance officer to the owner of record of the property described as recorded in the current county tax rolls. Mailed notice shall be deemed complete and sufficient notice when so deposited in the United States mail with proper postage prepaid.
- (d) The city shall waive painting permit requirements for abating graffiti, subject to the use of the same, or substantially same, colored exterior paint, provided that the existing paint complies with all city requirements.
- (e) Graffiti abatement shall consist of:
 - (1) Painting of the entire area defaced by graffiti with paint matching, or substantially matching, the permitted paint color on the surface, regardless of whether the city has temporarily abated the graffiti with a different paint color.
 - (2) Pressure-cleaning or cleaning by any other method that will successfully remove graffiti from the area defaced by the graffiti without causing damage.
- (f) The property owner is responsible for ensuring compliance with sections 142-1191 through 142-1193 of the City Code and a violation of this section shall be enforced pursuant to sections 114-7 through 114-8.

(Ord. No. 2009-3640, § 1, 5-13-09)

Sec. 70-126. - Appeal.

- (a) A property owner who has been served with the notice set forth in section 70-125 shall elect either to:
- (1) Remove or cause to remove the graffiti within the time specified on the notice; or
 - (2) Request an administrative hearing before the special master to appeal the determination of the inspector which resulted in the issuance of the notice.
- (b) An appeal for an administrative hearing shall be held before the special master and shall be accomplished by filing a request in writing to set the hearing for review and mailed to the code compliance officer or designee, not later than two business days after the service of the notice. The remainder of the appeal procedures, and penalty and lien provisions, will be in accordance with sections 30-72 through 30-79 of the Code.
- (Ord. No. 2009-3640, § 1, 5-13-09)*

Sec. 70-127. - Cost of graffiti removal as lien on property; collection foreclosure and sale.

- (a) **Upon failure of the owner of the property to remedy the conditions existing in violation of section 70-123, the code compliance officer shall proceed to have such condition remedied by the city and/or city agent in an effort to abate the nuisance.**
- (b) City employees and/or the city's agents may enter upon private property to abate the nuisance pursuant to the provisions of this article. No person shall obstruct, impede, or interfere with any city employee and/or city's agent whenever said person is engaged in the work of graffiti abatement pursuant to this article, or in performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant to this article.
- (c) **Following corrective action taken by the city or city's agent, the code compliance officer shall proceed to have all cost incurred thereof to be and become a lien against such property 30 days after notice of completion of work by the city if such costs remain unpaid. Said lien shall be of equal dignity with a lien for special assessments, and with the same penalties and with the same rights of collection, foreclosure, sale and forfeiture provided for special assessment liens.**

Miami Dade County

- (e) *Graffiti removal by the County.*
- (1) Whenever the County becomes aware of the existence of graffiti on any property, including **any structure or improvement, that abuts the public right-of-way within any unincorporated area of the County, County personnel are authorized to immediately remove or obscure such graffiti.**
 - (2) For purposes of this subsection (e) only, "property that abuts the public right-of-way" means property that can be accessed by County personnel without substantially

encroaching onto private property, such as subdivision walls and other structures and improvements lying at or near the public right-of-way.

(3)

General notice. Property owners are hereby put on notice of the County's intention to immediately obscure graffiti placed on walls, buildings and other surfaces that abut the public right-of-way. Team Metro shall also publish notice once during each week for four (4) consecutive weeks in the Miami Herald and shall substantially comply with Chapter 50, Florida Statutes. **Any property owner who objects to graffiti being obscured on property abutting the public right-of-way shall file a statement of objection** with the County Manager or his designee within thirty (30) days of the date of the final published notice. Such objection shall be effective for one (1) year. A new objection must be filed each year thereafter to preserve the objection. If an objection is filed, subsection (e) shall not apply to the property owner's property. The County reserves the right, however, to ensure that graffiti is obscured on such property by citation and fine under subsection (g).

(4)

Specific notice to affected property owner. The appearance of graffiti on a wall, building or other surface abutting the public right-of-way shall serve as notice to the property owner that the graffiti is subject to being obscured or removed by the County. **Any property owner who has not filed a statement under subsection (3) and who desires to obscure or remove the graffiti himself shall (i) immediately remove the graffiti; or (ii) notify the County Manager or his designee immediately of his intention to remove the graffiti within forty-eight (48) hours. Graffiti not removed within forty-eight (48) hours is subject to removal by the County.**

(5)

Nothing contained in this subsection (e) shall be construed to supersede or otherwise affect the provisions contained in subsection (g).

(f)

Graffiti removal by the property owner.

(1)

Whenever the County becomes aware of the existence of graffiti visible from the public right-of-way on any property, real or personal, including structures or improvements within the County, a Code Enforcement Officer is authorized, upon such discovery, to give, or cause to be given, notice to take corrective action to the property owner or the property owner's agent or manager.

(2)

For commercial property, the property owner or the property owner's agent or manager shall take corrective action within two (2) business days from receipt or posting of the notice listed in subsection (f)(1). For non-commercial property, the property owner or the property owner's agent or manager shall take corrective action within fourteen (14) calendar days from receipt or posting of the notice listed in subsection (f)(1).

(3)

If the property owner or the property owner's agent or manager fails to take corrective action, he or she shall be cited pursuant to Chapter 8CC of this Code or by any municipal citation system.

(I)

For commercial property, the property owner or the property owner's agent or manager has two (2) business days from receipt or posting of the citation to file for an appeal hearing before an 8CC hearing officer, or municipal hearing officer, or take corrective action. For non-commercial property, the property owner or the property owner's agent or manager has seven (7) calendar days from receipt or posting of the citation to file for an appeal hearing before an 8CC Hearing Officer, or municipal hearing officer, or take corrective action.

(II)

If the owner or the property owner's agent or manager does not appeal the citation, they shall pay the fine in accordance with Section 8CC-10 of the Code, or in accordance with the applicable municipal citation system.

Thereafter, each day the owner, or property owner's agent or manager fails to take corrective action counts as a continuing violation.

- (4) The above listed hearing shall be conducted not sooner than five (5) calendar days, but not later than twenty (20) calendar days after receipt of the appeal.
- (5) Notwithstanding any provision of this Chapter or Chapter 8CC of the Miami-Dade County Code to the contrary, the appeal of a violation of this section shall not extend or otherwise change the time period for corrective action of the violation. Continuing penalties as provided for herein and in Section 8CC-4(c) shall accrue upon the expiration of the time period provided in subsection (3) above.
- (6) The Director, or City Manager of a municipality, shall cause corrective action to take place at the owner's expense after two (2) business days for commercial property, or fourteen (14) calendar days for non-commercial property from the date of citation or date of the rendering of the Hearing Officer's order, which finds the violator guilty.
 - (I) The County or municipality shall have the right to enter upon private property to the extent necessary to take corrective action. Entry into any dwelling or structure is expressly prohibited.
 - (II) After taking corrective action, the Director, or City Manager of a municipality, shall file a lien in the amount of all expenses incurred in correcting the condition, including all fines, continuing penalties and actual administrative costs.
 - (III) Such liens shall be enforceable in the same manner as a tax lien and may be satisfied at any time by payment thereof, including accrued interest. Upon such payment, the Clerk of the Circuit Court shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the record thereof. Notice of such lien may be filed in the Office of the Clerk of the Circuit Court and recorded among the public records of Miami-Dade County, Florida.

Ft. Lauderdale

Fort Lauderdale, Florida, Code of Ordinances >> - CODE OF ORDINANCES >> Chapter 9 - BUILDINGS AND CONSTRUCTION >> ARTICLE VII. - BUILDING MAINTENANCE CODE >

Sec. 9-306. - Minimum standards for exterior building structures and exterior building walls.

All exterior building walls shall be maintained in a secure and attractive manner. All defective structural and decorative elements of such building facade(s) shall be repaired or replaced in a workmanlike manner, to match as closely as possible the original materials and construction of the building. All exterior building walls and structural parts including fascia, soffits and balconies **shall have all graffiti**, and loose material **removed** and patching or resurfacing shall be accomplished to match the existing or adjacent surfaces as to materials, color, bond and joining, and shall be impervious to the elements. All cornices, trim, windows and window frames that are damaged, sagging or otherwise deteriorated shall be repaired or replaced to be made structurally sound and all exposed materials painted, stained or otherwise treated in a consistent manner; provided, however, broken or damaged windows may be repaired by placement of painted plywood or other consistent materials rather than replacement of the windows as provided in section 9-307 hereof.

Sec. 1-6. - Penalty for violations.

- (a) **In this section "violation of this Code" means:**
- (1) Doing an act that is prohibited or made or declared unlawful or an offense by ordinance or by rule or regulation authorized by ordinance;
- (2) **Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or**
- (3) Failure to perform an act if the failure is declared an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.
- (b) In this section "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is provided that failure to perform the duty is to be punished as provided in this section.
- (c) **Except as otherwise provided herein, a person convicted of a violation of this Code, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment for a term not to exceed sixty (60) days or by both such fine and imprisonment.** The trial court in its discretion may in any case (including cases when adjudication is withheld), also assess court costs, place a defendant on probation in accordance with Chapter 948 of the Florida Statutes, order a defendant to pay restitution in accordance with Section 775.089 of the Florida Statutes, or order defendant to complete community service hours in an amount not to exceed two hundred and fifty (250) hours per violation, or both, or impose any other lawful condition, term, or order. In lieu of such participation, the court may permit a defendant to pay ten dollars (\$10.00) to the city for each hour of community service work otherwise required. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense.
- (d) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise or the imposition of civil fines, civil penalties or administrative sanctions.
- (e) **Violations of this Code that are continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief.**
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City of Tampa - Sec. 19-57. - Graffiti declared a public nuisance.

- (a) *Prohibition of graffiti.* It shall be unlawful for any person to write, paint, inscribe, scratch, scrawl, spray, place or draw graffiti of any type on any public or private building, structure or any other real or personal property.
- **(b) Abatement. It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti upon any public or private building, structure or any other real or personal property.**
- **(c) Enforcement. Whenever the city becomes aware of any graffiti, the city shall have the right to enter onto any private property or non-city owned governmental property and remove or obscure it.**
- (d) *Exception.* This section shall not be construed to prohibit temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with:
- (d) Exception (continued)

- (1) Traditional children's activities such as drawing, creating bases or a playing field for games such as stickball, kickball or handball, hopscotch and similar activities, and
- (2) Any lawful business or public purpose or activity.
- (e) *Prosecution for violation of subsection (a)*. The city shall take all reasonable steps to apprehend and prosecute through the courts all violators of section (a) above.
- (1) *Fine*. Any person convicted of violating subsection (a) above shall be punished by a fine of not less than two hundred and fifty dollars (\$250.00) for a first offense and five hundred dollars (\$500.00) for second and subsequent offenses and in no event shall the violator be allowed to substitute community service hours for payment of the monetary fine. Where a minor is the convicted violator, the fine for the second and all subsequent convictions shall be assessed against both the minor and his parent or legal guardian.
- (2) *Restitution*. In addition to the fine imposed in sub-subsection (f)(1), the court shall order the convicted violator to make restitution to the victim or city, as appropriate, for the damage or loss caused directly or indirectly by that offense in a reasonable amount to be determined by the court, but in any event, no less than the actual cost incurred to abate the graffiti and in no event shall the convicted violator be allowed to substitute community service hours for monetary restitution. Where the convicted violator is a minor, the court may also order his parent or legal guardian to make such restitution.

Sec. 1-6. - General penalty.

(a)

Code violations—Fine and/or imprisonment and/or probation. It is unlawful for any person to violate or fail to comply with any provision of this Code and, where no specific penalty is provided therefor, the violation of any provision of this Code shall be punished by a fine not exceeding five hundred dollars (\$500.00) and/or imprisonment for a term not exceeding sixty (60) days and/or a term of probation not to exceed six (6) months, as set forth in section 1-6.1 or by both such fine and imprisonment. Each day any violation of any provision of this Code shall continue shall constitute a separate offense.

(b)

Principal in the first degree. Whoever commits a violation of the City Code, or aids, abets, counsels, hires, or otherwise procures such violation to be committed, and such violation is committed or is attempted to be committed, is a principal in the first degree and may be charged, convicted, and punished as such, whether he or she is or is not actually or constructively present at the commission of such violation.

(c)

The penalty prescribed in subsection (a) of this section shall be in addition to the abatement of the violating condition, any injunctive relief, or revocation of any permit or license.

(d)

This section shall not apply to the failure of officers and employees of the city to perform municipal duties required by this Code.

Orange County. Sec. 26-76.

- (b) *prohibited*. No person shall write, paint, mar, deface, draw or etch any inscription, figure, or mark of any type on any public or private building or structure or other property owned, operated or maintained by any person, firm or corporation or by a governmental entity or any

agency or instrumentality thereof, unless the express prior written permission of the owner, owner's agent, manager or operator of the property has been obtained.

- (c)
 - *Possession of spray paint and markers.* Possession of spray paint and/or indelible markers with intent to make or allow the same to be used to make is prohibited. No person shall carry an aerosol spray paint can or indelible marker with the intent to violate the provisions of subsection (b).
 - (d)
 - **Penalties. Any person violating section (b) or (c) shall be punished by a fine of two hundred fifty dollars (\$250.00) for the first offense; five hundred dollars (\$500.00) for the second offense and one thousand dollars (\$1,000.00) for each subsequent offense or by imprisonment in the county jail for a term not to exceed sixty (60) days or by both fine and imprisonment at the discretion of the court**
 - **Purpose of Graffiti Abatement (City of Tallahassee)**
 - Graffiti is a serious crime that impacts all citizens in the City of Tallahassee. Removing graffiti and repairing the damages it causes cost taxpayers' dollars. Properties can be devalued and business owners can lose customers from the negative image that graffiti generates. Moreover, the presence of graffiti can send the messages that a neighborhood is in decline or over-ridden with crime (broken window theory).
 - The City of Tallahassee has established a Graffiti Abatement Program to rid our City of unsightly graffiti. City departments are partnering together and with neighborhood leaders and business owners to immediately remove graffiti from our City. Our message is simple, "***Graffiti is not welcome in the City of Tallahassee!***"
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City of Coconut Creek

Sec. 6-36. Maintenance standards.

(a) *Exterior building condition.* The exterior of buildings and structures shall be maintained by the owner, operator, or occupant in a state of good repair and shall be structurally sound, in order to facilitate public safety and so the appearance will not constitute a blighting factor leading to the deterioration of the adjacent neighborhood and the city.

(1) *Wall surfaces.* Exterior wall surfaces shall be maintained in a state of good repair to prevent deterioration and shall be cleaned, repainted or recovered when twenty-five (25) percent or more of any single sight view becomes discolored or is peeling, molding, or mildewing. All parts of the structure that show dry rot or other deterioration shall be repaired, replaced or refinished.

The exterior faces shall be kept free from materials, objects, graffiti, dirt, grime, stains, wall murals and all other adverse conditions.

Sec. 6-37. Notice and penalties.

(a) In enforcing the provisions of this section, the city may utilize those procedures set forth in Code Sections 2-230 through 2-238 and as herein listed below:

(1) [*Notification to owner.*] When the code enforcement division determines, upon the complaint of any person, that any property or structure constitutes a public nuisance as hereinabove defined, the code enforcement division shall notify the owner of the property or structure of the violations and the repairs or other actions which are necessary to bring the property or structure into compliance with the City Code. The notice shall be sent by certified, return receipt requested mail to the property owner at the address shown on the most recent ad

valorem tax roll or shall be hand delivered. Said notice shall direct the property owner to abate the nuisance within ten (10) days. The city shall take those actions necessary to abate said nuisance and assess the actual costs of the city, including expenses, as a lien against the property. The notice shall inform the property owner of his right to appeal the decision of the code enforcement officer to the Broward County Circuit Court as hereinafter provided.

(2) Cost to owner. If the city abates any nuisance pursuant to this section, the actual cost thereof shall be billed to the owner by registered mail at the address shown on the most recent ad valorem tax roll or such other address indicated by the owner in responding to the notice herein authorized or said notice shall be hand delivered. The bill shall state that the amount due must be paid within thirty (30) days of the billing date, which date shall be reflected on said bill.

(3) Recording and foreclosure of lien. In the event the owner shall fail or refuse to pay the full amount due for the abatement of the nuisance, the city may, following thirty (30) days from the date of the bill, cause a notice of lien in favor of the City of Coconut Creek to be recorded in the official records of Broward County, Florida. The notice of lien shall contain a sworn statement showing the actual cost for the abatement of the nuisance, the date of abatement and the legal description of the property against which the lien is assessed. The recordation of the notice of lien shall constitute a lien upon the property and shall remain in full force until paid.

(b) The provisions of this section shall be in addition to such other remedies as may be provided by law or ordinance. The violation of, or failure to comply with any provisions of this section, shall subject the offender, upon conviction, to a fine not to exceed five hundred dollars (\$500.00) or by imprisonment for a term not to exceed sixty (60) days or by both such fine and imprisonment.

(c) Under the provisions of this section, each day a violation of this section exists shall constitute a separate offense and shall be subject to a separate penalty.

Royal Palm Beach, FL

Sec. 17-12. - Removal of graffiti from property.

(a)

Prohibition. It shall be unlawful for any person, firm, public agency or utility owning or acting as manager or agent for the owner of property, whether privately or publicly owned, to permit the application of, or fail to remove any graffiti from, the property within thirty (30) days of receipt of notice from the village to remove such graffiti. **If a person, firm, public agency or utility owning or acting as manager or agent for the owner of such property fails to remove the graffiti as set forth above, the village shall cause the graffiti to be removed and assess the property owner for the cost(s) of removal.** If necessary, the village may sue in a court of competent jurisdiction to recover such expenses.

(b)

[Enforcement.] The village code enforcement officers are hereby authorized to enforce the provisions of this section.

City of Wilton Manors, FL

Sec. 13-30. Graffiti.

(a) It shall be unlawful for any person to paint or mark any public or private property without the consent of the respective owner of said property.

(b) **It shall be unlawful for the owner of any private real or personal property, including structures or improvements, to permit graffiti or other inscribed material to remain on their property within the city, providing the city has given the property owner or the owner's agent, manager, or operator written notice to take corrective action** within three (3) calendar days from receipt or posting of the notice. Notice shall be provided in compliance with section 13-27 of the Wilton Manors Code of Ordinances.

(c) Anyone who fails to comply with this section shall be penalties pursuant to section 13-27 and section 13-28 herein. If the matter is brought before the code enforcement board or a city hearing officer, a violator may be assessed a penalty of up to two hundred fifty dollars (\$250.00) for a first offense and no more than five hundred dollars (\$500.00) for a second offense, in addition to any actual cost the city has incurred for abatement. In determining the penalty to be imposed, the city shall consider the efforts taken by the violator to remove the graffiti in a timely manner as well as how often the violator has been victimized by graffiti during the preceding calendar year.

Sarasota, FL

Sec. 21-45. - Removal of graffiti.

(a)

For purposes of this section, graffiti means a mark of any type, including but not limited to writing, painting or the drawing of any inscription or figure on any public or private building or other real or personal property, owned, operated or maintained by any person, firm, corporation or other legal entity or by any governmental entity unless the express permission of the owner or operator of the property has been obtained.

(b)

It shall be **unlawful for any person or entity owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti from such property within ten (10) days from receipt of the notice** described in subsection 21-45(c). **If the person or entity owning such property, or in possession or control of such property, fails to remove or effectively obscure the graffiti within the time period specified above, the city shall remove or obscure the graffiti and may charge the property owner, or property owner's manager or agent, for the expenses incurred by the city. The city may sue in a court of competent jurisdiction to recover such expenses, together with attorney's fees and costs.**

(c)

City code compliance inspectors are hereby authorized to issue a code compliance order when, based upon personal investigation, the inspector has reasonable cause to believe that a violation of this section has occurred. Prior to issuing a code compliance order, the code compliance inspector shall provide notice of an alleged violation of this section to the alleged violator. The alleged violator shall have ten (10) days from the date of said notice within which to correct the violation. If, upon personal investigation, the issuing inspector finds that the violation has not been timely corrected, the inspector may issue a code compliance order. An issuing inspector is not required to allow ten (10) days to correct the violation prior to issuance of a code compliance order if the chief of police or the director of code compliance certifies in writing that the violation presents a serious threat to the public health, safety, or welfare. Violations of this section shall be enforced under the provisions of chapter 2, article V, division 5, entitled "code compliance