

Chapter 51A

GRAFFITI

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[HISTORY: Adopted by the Mayor and Common Council of the City of Gloucester City 5-28-2009 as Ord. No. O16-2009. Amendments noted where applicable.]

Be it ordained by the Mayor and Common Council of the City of Gloucester City as follows:

§ 51A-1. Findings; purpose.

The City Council of the City of Gloucester, New Jersey, hereby finds and declares that graffiti is detrimental to the health, safety and welfare of the community and that there is a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase of crime, is detrimental to the property values of the community, degrades the community and leads to urban blight

and is inconsistent with the City of Gloucester's property maintenance goals and aesthetic standards.

- A. Graffiti results in visual pollution and is hereby deemed a public nuisance.
- B. It is the purpose of this chapter to provide a mechanism in which individuals may be prosecuted for defacing public and private property.

51A-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CITY — The City of Gloucester, New Jersey.

DEFACE — To cover, mark, write on, paint, color or otherwise mar, disfigure or draw whatsoever on any private or public property of any nature, without the express consent of the owner.

GRAFFITI — Any form of inscription, word, figure, marking or design that is marked, etched, scratched, drawn down or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including, by way of example only and without limitation, fencing surrounding construction sites, whether public or private, without the consent of the owner of the property, or the owner's authorized agent, which is visible from the private right-of-way.

INDELIBLE MARKER — Any felt tip marker, China marker or similar device that is not water soluble and which has a flat or angled writing surface one-half (1/2) inch or greater.

KNOWINGLY — Includes knowledge or information which a parent should reasonably be expected to have pertaining to the marking of graffiti. It is intended to include and require neglectful or careless parents to maintain a reasonable community standard of parental

respectability through an objective test. There shall be no defense of a parent who is indifferent to the activities or conducts of a minor in their custody, when they have knowledge of individual's actions that are not in compliance of this chapter.

MINOR or JUVENILE — Used interchangeably and shall mean any person under the age of eighteen (18), any person less than eighteen (18) years of age or any person who has not celebrated his or her eighteenth (18th) birthday.

OWNER — The owner of record of the property as set forth in the records of the Tax Assessor for the City of Gloucester.

PARENT — Any person to whom legal custody of a juvenile has been given by court order or is acting in the place of the parent or is responsible for the care and welfare of the juvenile and shall include:

- A. Natural or adoptive parents.
- B. Legal guardians.
- C. A person who stands in loco parentis.
- D. A person to whom legal custody has been given by court order.

PUBLIC PLACE — Any place to which the public has access, including but not limited to a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, recreation or shopping area, public transportation facility, vehicle use for public transportation, parking lot or any other parking, public building, structure or any municipal parking signs, etc., or area.

§ 51A-3. Prohibited acts.

The following acts are prohibited.

- A. No person shall willfully or maliciously damage, deface or vandalize any public or private property by painting, writing, drawing or otherwise inscribing in any fashion graffiti thereon without the express permission or consent of the owner. However, this prohibition shall not apply to easily removable (which are water soluble) chalk markings on public sidewalks or streets, written or drawn in connection with traditional children's games, or in any lawful business or public purpose or activity.
- B. It shall be unlawful to aid anyone in defacing public or private property.
- C. No person shall possess a spray container or indelible marker in any public place or on any public facility or private property with the intent to use the same to deface said public building, property or private property, absent express permission to the contrary.

§ 51A-4. Parental responsibility.

It should be unlawful for a parent as defined in this chapter having legal custody over a minor to knowingly permit or by inefficient or lack of control to allow such minor in their control to place graffiti on any private or public property as defined in this chapter.

§ 51A-5. Enforcement.

- A. Any minor under the age of eighteen (18) years found by a police officer to be in violation of this chapter shall be brought to the nearest police station, where the minor shall be released to his or her parent or guardian. The parent, as defined, shall be immediately notified and required to report to police headquarters to procure the juvenile.

- B. When a parent immediately called has come to take charge of the juvenile and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If a parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to the juvenile authorities except to the extent that, in accordance with police regulations promulgated by the Chief of Police, approved in advance for juvenile authorities, the juvenile may temporarily be entrusted to an adult, relative, neighbor or other person who will, on behalf of the parent, assume responsibility for caring for the juvenile pending availability of the parent or guardian.

§ 51A-6. Violations and penalties.

- A. Adults who are not parents of offenders as defined in this chapter. Any adult who violates any of the provisions of this chapter shall, upon conviction thereof, be punished by one (1) or more of the following penalties:
- (1) A fine of not less than \$500. and not exceeding \$1,000.
 - (2) Imprisonment not to exceed ninety (90) days.
 - (3) A period of community service not to exceed ninety (90) days.
- B. Juveniles and/or parent violators as defined in this chapter.
- (1) When a graffiti violation is adjudged against a minor, the parents of the minor shall be subject to prosecution under this section. Violators of this chapter shall be required to perform community service of a period not to exceed ninety (90) days and may be subject to a fine of not less than \$500. but no more than \$1,000. Additionally, any parent having the care or custody of a minor found to be in violation of this section, if it is adjudged that both

the juvenile and the juvenile's parents violated this Graffiti Chapter, they shall be required to perform community service together.

- (2) If a minor has been found to violate this chapter twice within a six-month period, the minor shall receive a summons and complaint from the police officer who apprehended the minor for the violation of this chapter.
 - (3) If a juvenile is found to be in violation of this chapter on three (3) occasions within six (6) months, then the juvenile as well as the parent having the care and custody of the minor shall receive a summons and complaint for the violation of this chapter.
 - (4) Any juvenile who violates any of the provisions of this Graffiti Chapter more than four (4) times shall be reported by the Chief of Police to the juvenile authorities as a juvenile in need of supervision, and the Chief of Police, Corporation Counsel or their designee may proceed to file such charges with the Superior Court of New Jersey Family Part as he or she may deem appropriate.
 - (a) Parental responsibility. Any act in violation of the provisions of this chapter committed by a minor under the age of eighteen (18) years shall be imputed to that minor's parent or legal guardian. A parent or guardian of a minor who violates any provision shall be liable for payment of any fines, the expense of restoration and for the performance of community service simultaneously with the convicted minor as provided in subsection B. hereof.
- C. Any person committing a violation of any provision of this chapter shall be punished by a fine of not more than \$1,000. or imprisonment not exceeding ninety (90) days, or both. All monetary fines collected by the Township

shall be placed in a fund to be utilized for the removal of graffiti from public structures and for the Reward Program as provided. In lieu of imprisonment, the Judge may impose a sentence of community service not to exceed ninety (90) days with the express requirement that the offender clean graffiti from public property within the Township and if the minor's parent or legal guardian as well as the minor are found guilty of a violation of this chapter, the minor's parents or legal guardian shall perform community service together with the minor.

§ 51A-7. Special account.

All fines collected shall be placed in a special account to be used as assistance to homeowners for removing graffiti not to exceed seventy percent (70%) of the total cost. (It is presumed that thirty percent (30%) of the fees collected are needed to defray court costs). This account will also be used to purchase graffiti cleaning equipment.

§ 51A-8. Removal of graffiti.

- A. Requirement to remove graffiti. The occupant, lessee, agent and/or landlord of any premises which has any form of graffiti on any building or structure shall be required to either restore the defaced surface by removing the graffiti or repaint the defaced surface within fourteen (14) business days after notice to the occupant, lessee, agent and/or landlord by the Chief of Police (or his designee) to remove the same.
- B. Remedy. If said graffiti is not corrected within thirty (30) business days after written notice is issued, then the City of Gloucester shall have the right to issue a summons and to enter the premises to remove the graffiti and/or repaint the premises, and the cost of the removal of the graffiti and/or repainting shall be at the sole cost and expense of the occupant, lessee, agent and/or landlord of

said building or structure. The actual cost of the removal of the graffiti and/or repainting, plus the cost of inspection of said graffiti and/or repainting and other costs incidental to such removal, shall be certified by the Business Administrator to the City Council and therefor shall be entered as a lien upon the real property upon which the graffiti was found to be placed and shall be added to and become a part of the taxes to be assessed against and levied on the real property, and the same shall be collected and reinforced in the same manner as taxes.

§ 51A-9. Payment of reward.

A reward of \$250. shall be paid to any person who provides information or assistance leading to the apprehension and conviction of any person violating this chapter. This reward shall be payable after conviction out of a fund established for this purpose, but no reward shall be paid to any public employee whose duty it is to investigate or enforce this chapter. This Chief of Police is hereby authorized to grant such reward with the consent of the Municipal Council, and said reward shall only be given upon notification by the Municipal Court that the matter has been adjudicated.