

**BOROUGH OF WASHINGTON
COUNTY OF WARREN**

ORDINANCE NO. 5-2009

**ORDINANCE PROHIBITING GRAFFITI ON BUILDINGS,
STRUCTURES AND OTHER EXPOSED SURFACES LOCATED
WITHIN THE BOROUGH OF WASHINGTON AND REQUIRING
THE OWNER OF THE BUILDING, STRUCTURE OR OTHER
EXPOSED SURFACE TO REMOVE THE GRAFFITI**

WHEREAS, the Municipal Beautification Act, *N.J.S.A.* 40:48-2.59 enables municipalities to enforce ordinances prohibiting acts of graffiti and requiring the owners of buildings, structures or other exposed surfaces located in the municipality with graffiti to remove the graffiti;

WHEREAS, the Municipal Beautification Act specifies that the owner of record of the property shall be entitled to written notice of the Order to remove graffiti and that the notice shall be delivered to the owner by certified and regular mail; and

WHEREAS, an owner who has been ordered to remove graffiti shall provide the following to the municipality by personal delivery or certified mail in response to the Order:

- A. Any objection to the Order, within 30 days of the date of the Order; or
- B. Notice that the graffiti has been removed, within 90 days of the date of the Order, or in the case of the Department of Transportation, within 120 days of the date of the Order.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey:

Section 1. A new Chapter 48 shall be added to the Code of the Borough of Washington entitled "Graffiti" to read as follows

§ 48-1. Definitions

- A. As used in this Chapter, the following terms shall have the meanings indicated:

GRAFFITI - Any drawing, painting or making of any mark or inscription on public or private real or personal property without the prior written permission of the owner of the property.

MUNICIPALITY - Borough of Washington, Warren County, New Jersey.

OWNER - Owner of record of property.

§48-2 General regulations.

- A. No person shall commit any act of graffiti on buildings, structures and other exposed surfaces located within the municipality.
- B. The owner of a building, structure or other exposed surface located in the municipality may be required by order to remove graffiti from such building, structure or other exposed surface under the conditions provided herein.
 - (1) The owner of record of the property shall be entitled to written notice of the order to remove graffiti and that notice shall be delivered to the owner by certified and regular mail.
 - (2) The order shall afford the owner the opportunity to remove the graffiti within 90 days from the date of the order, except that the Department of Transportation shall be afforded 120 days from the date of the order to remove graffiti from property owned by the department.
 - (3) The notice to remove graffiti shall contain a form to be utilized by a property owner to inform the municipality that the graffiti has been removed.
 - (4) The form shall contain a provision stating that by affixing a signature to the form, indicating that graffiti has been removed, the owner is certifying that the facts set forth therein are true and that the certification shall be considered as if made under oath and subject to the same penalties as provided by law for perjury.
 - (5) An owner who has been ordered to remove graffiti shall respond to the municipality by personal delivery or by certified mail: (a) of any objection to the order, within 30 days of the date of the order, or (b) of notice that the graffiti has been removed, within 90 days of the date of the order, or in the case of the Department of Transportation, within 120 days of the date of the order.
 - (6) An owner who objects to an order to remove graffiti, pursuant to paragraph (5) above, may institute an action challenging the order before a court of competent jurisdiction within 60 days of the date of the order.
 - (7) If a property owner does not undertake the removal of graffiti within 90 days of the date of the order, or in the case of the Department of Transportation, within 120 days of the date of the order, unless an action challenging the order to remove graffiti is still pending pursuant to paragraph (6) above, the municipality may remove the graffiti from that property and present the property owner with a detailed itemization of the costs incurred by the

municipality, by certified and regular mail, for reimbursement from the property owner.

- (8) Whenever the municipality undertakes the removal of graffiti from any building, structure or other exposed surface, the governing body, in addition to assessing the cost of removal as a municipal lien against the premises, may enforce the payment of such assessment, together with interest, as a debt of the owner of the property and may authorize the institution of an action at law for the collection thereof.

§ 48-3 VIOLATIONS AND PENALTIES

Any person committing any act of graffiti on buildings, structures and other exposed surfaces located within the municipality shall, upon conviction thereof, be subject to a minimum fine of \$500.

Section 2. All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.

Section 3. If any article, section, subsection, term or condition of this Ordinance is declared invalid or illegal for any reason, the balance of the Ordinance shall be deemed severable and shall remain in full force and effect.

Section 4. In accordance with Chapter 3, Article II, Section 15, Subsection E of the Code of the Borough of Washington, this Ordinance shall become effective 20 days after final passage unless the Council, by an affirmative vote of five (5) Council Members, shall adopt a resolution declaring the Ordinance to be an emergency upon which said Ordinance will take effect upon final passage.

SCOTT MCDONALD, Mayor

KRISTINE BLANCHARD, Clerk