

ORDAINING new Chapter 751, “Graffiti Abatement,” of the Cincinnati Municipal Code, and **REPEALING** existing Chapter 751, “Graffiti Abatement,” to update the City’s updated Graffiti abatement program to align with existing abatement programs, including by providing for significant prior notice to a property owner in advance of City-led abatement efforts and identifying cost recovery mechanisms.

WHEREAS, graffiti on private property lessens the value of adjacent properties and is inconsistent with the City of Cincinnati’s property maintenance goals; and

WHEREAS, graffiti on one property often results in additional graffiti on others unless it is quickly removed; and

WHEREAS, graffiti on vacant buildings is a hazardous condition that acts as a magnet for trespassing, littering, and other criminal activities; and

WHEREAS, unmanaged vacant buildings with graffiti negatively impact the quality of life of all residents; and

WHEREAS, state law authorizes the City to perform abatement of hazardous conditions and nuisances; and

WHEREAS, it is necessary for the City to take action when owners of vacant buildings fail to take appropriate steps to remove graffiti from their properties; and

WHEREAS, Council finds the modifications to the Cincinnati Municipal Code and the additional authorizations contained herein are in the interest of the general public’s health, safety, morals, and welfare; now, therefore,

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

Section 1. That new Chapter 751, “Graffiti Abatement,” of the Cincinnati Municipal Code is hereby ordained to read as follows:

CHAPTER 751 GRAFFITI ABATEMENT

Sec. 751-1. - Definitions.

For the purpose of this chapter the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and

words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

Sec. 751-1-A. - Abatement.

“Abatement” shall mean the removal of any conditions, in accordance with Section 751-4, that are the subject of a notice of violation pursuant to Section 751-3.1.

Sec. 751-1-G. - Graffiti.

“Graffiti” shall mean any inscription, word, figure, marking, or design that is marked, etched, scratched, drawn, or painted on any premises, including buildings, structures, fixtures, or other improvements, whether permanent or temporary, whether public or private, without the consent of the owner of the property, a person in control, or the property owner’s authorized agent, and that is visible from the public right-of-way or other public or quasi-public location within the city.

Sec. 751-1-N. - Nuisance Property.

“Nuisance property” shall mean property that is not being maintained consistent with the requirements of Chapter 751 and that the property owner or person in control has failed to bring into compliance with Section 751-2 within thirty days of receiving a notice of violation pursuant to 751-3.1.

Sec. 751-1-P. - Person in Control.

“Person in control” shall mean the owner of the freehold estate of the premises; a mortgagee or vendee in possession; a receiver; an executor; a trustee; and any person, public or private entity, lessee or holder of a lesser estate in the premises, and/or its duly authorized agent(s), with the authority to bring a building or premises into compliance with the provisions of this code, including, but not limited to, any mortgagee that has filed an action in foreclosure on the particular premises at issue, based on breach or default of a mortgage agreement, until title to the premises is transferred to a third party.

Sec. 751-1-P2. - Premises.

“Premises” shall mean the lot and structures situated thereon.

Sec. 751-2. - Duty to keep Premises free of Graffiti.

Every owner or person in control of any premises shall at all times maintain the premises free of graffiti.

Sec. 751-3.1. - Notice of Violation.

Whenever the city manager or the city manager’s designee determines that graffiti exists on a premises in violation of Section 751-2, the city manager or the city manager’s designee shall issue a notice to the owner or person in control of the premises that states the following:

- a. Graffiti is present on the premises in violation of Section 751-2;
- b. Within thirty days of receipt of the notice, the owner of person in control of the premises must either abate the graffiti or petition the city manager or city manager's designee for a written determination pursuant to Section 751-3.4;
- c. If the owner or person in control fails to abate the graffiti or petition the city manager or city manager's designee for a written determination within the above timeframe, the premises shall thereafter be deemed a nuisance property and subject to abatement by the city; and
- d. The cost of abatement of the graffiti by the city will be assessed in accordance with Section 751-5.

Sec. 751-3.2. - Service of Notice.

When the city manager or city manager's designee issues a notice pursuant to Section 751-3.1, service shall be made by both posting the notice in a conspicuous place on the premises and in one of the following ways:

- a. By personal delivery to the owner or person in control involved;
- b. By delivery at the residence or place of business of the owner or person in control involved; or
- c. By mail addressed to the owner or person in control at their place of residence or place of business.

Sec. 751-3.3. - Receipt of Notice.

For the purposes of this section, receipt of the notice shall mean any of the following:

- a. The date on which the issuing officer posted a copy of the notice on the premises;
- b. The date on which the issuing officer personally served the person being charged;
- c. The date on which the issuing officer delivered the notice at the residence or place of business of the owner or person in control involved; or
- d. Three days after the date on which the issuing officer mailed a copy of the notice.

Sec. 751-3.4. - Petition for Written Determination.

Any person who has a bona fide controversy with the interpretation, application, or enforcement of this chapter may petition the city manager or the city manager's designee for a written decision, order, or adjudication as follows:

- a. The petition shall be on forms prescribed by the city manager or the city manager's designee.
- b. The petition may not relate to a decision, order, or adjudication that is the subject of a past or pending administrative appeal or legal action.
- c. The city manager or the city manager's designee shall dispose of the petition based upon the petitioner's written submissions, applicable laws, publicly available materials, and an inspection of the subject property if necessary; provided, however, that the petitioner may be heard in person prior to final disposition of the petition by making the request in writing upon submission of the petition.
- d. If the city manager or the city manager's designee requests to inspect the subject property, the petitioner may refuse the request, but the refusal may serve as a basis for the denial of the petition.
- e. The city manager or the city manager's designee shall issue a final written determination on the petition within thirty days from the date of its submission, which determination shall constitute a final, appealable adjudication of the controversy described in the petition.

Sec. 751-4. - Abatement by Public Officers.

(1) If the owner or person in control of a premises in violation of Section 751-2 fails to comply with a notice of violation issued pursuant to Sec. 751-3.1, the premises shall be deemed a nuisance property, and the city manager or the city manager's designee may cause any graffiti on the premises to be abated, and may employ the necessary labor to perform the task.

(2) If the city manager or the city manager's designee abates graffiti pursuant to this section, they shall completely abate the graffiti in a manner that renders it inconspicuous.

(3) The city manager or the city manager's designee shall report all expenses involved in the abatement of such graffiti to council.

Sec. 751-5. - Cost as Lien on the Land and Personal Judgment Against Owners and Persons in Control.

When graffiti has been abated in accordance with Section 751-4, the cost thereof shall be a lien on such premises from the date such expenses are reported to council in accordance with Section 751-5. The clerk of council shall certify such cost to the county auditor to be placed upon the tax list and collected as other taxes are collected and returned to the city of Cincinnati in accordance with R.C. Section 715.26, 715.261, or 731.54. The cost of removal may also be recovered by means of a judgment against the owner or person in control of the property.

Sec. 751-6. - Rules and Regulations.

The city manager or the city manager's designee is authorized to promulgate rules and regulations to effectuate the provisions and purposes of this chapter, including without limitation,

the following: the implementation of a program enabling abatement by an authorized designee of the city, including determining the cost of authorized designee time and of abatement; and guidelines for color matching paint used in graffiti abatement with existing surfaces.

Section 2. That existing Chapter 751, "Graffiti Abatement," of the Cincinnati Municipal Code is hereby repealed.

Section 3. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Sections 1 and 2.

Section 4. That this ordinance shall take effect and be enforced from and after the earliest period allowed by law.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk