

**ARTICLE 536
Graffiti**

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| 536.01 | Declaration of graffiti as a public nuisance. | 536.04 | Notice to owner or possessor of property. |
| 536.02 | Definitions. | 536.05 | Removal. |
| 536.03 | Graffiti prohibited. | 536.99 | Penalty. |

CROSS REFERENCES

Property destruction - see GEN.OFF. 533.05

536.01 DECLARATION OF GRAFFITI AS A PUBLIC NUISANCE.

The City of Huntington hereby finds and declares that maintenance of graffiti on public and private properties within public view is obnoxious and constitutes a public nuisance, the abatement of which shall be provided as set forth herein.
(Ord. 1-26-04.)

536.02 DEFINITIONS.

For the purpose of this section, unless otherwise apparent from the context, certain words and phrases used in this section are defined as follows:

- (a) "Defacement" means the intentional altering of the physical shape or physical appearance of property.
- (b) "Graffiti" means any painting, marling, symbol, design, inscription or other defacement which is written, sprayed, pointed scratched, etched, engraved, placed with an indelible marker or otherwise applied to the real or personal property of another without prior consent of person in possession thereof.
- (c) "Indelible marker" means any marker, pen or similar implement which contains a fluid which is not soluble in water and has a flat, pointed or angled writing surface of a width of one-half inch or greater.
(Ord. 1-26-04.)

536.03 GRAFFITI PROHIBITED.

(a) No person shall permit any graffiti which is within public view to remain on any building, structure, tree, shrub, sidewalk or curb owned or possessed by such person.

(b) No person shall cause any graffiti to be placed upon any public or private property, including, but not limited to, buildings, structures, trees, shrubs, sidewalks, curbs, streets, signs, mailboxes, lamp posts, fences, viaducts and train trestles.

(c) No person shall cause the defacement of public or private property, including, but not limited to, buildings, structures, trees, shrubs, sidewalks, curbs, streets, signs, mailboxes, lamp posts, fences, viaducts and train trestles.
(Ord. 1-26-04.)

536.04 NOTICE TO OWNER OR POSSESSOR OF PROPERTY.

Whenever the Mayor, or his designee, determines that graffiti is being maintained upon any building or structure within the City of Huntington which has been unoccupied for a period of more than thirty (30) days in violation of this ordinance, the Mayor or his designee shall send written notice and order to the owner or possessor of the premises of such condition and shall require that the graffiti be removed. The notice and order shall state that the owner must remove the graffiti or consent to its removal by the City within thirty (30) days from the date the notice was mailed; provided, the owner or possessor of premises may within ten (10) days of being served with such notice and order, apply to the Mayor for a public hearing on the matter, in which case the terms of such notice and order shall be stayed pending the resolution of the public hearing. (Ord. 3-8-04.)

536.05 REMOVAL.

If the property owner and possessor fail to remove the graffiti as ordered by the Mayor, he or she or his/her designee shall have the following authority to cause its removal.

- (a) Property Owners' Consent to Remove. Whenever the Mayor or his designee determines that graffiti on property which is within public view the Mayor or his designee is authorized to provide for and use public funds, if necessary, to remove graffiti upon the following conditions:
- (1) Public property. Whenever the Mayor or his designee determines that graffiti exists upon property owned by the City, it shall be removed as soon as possible. When the property is owned by a public entity other than the City, the removal of graffiti is authorized after securing written consent of the public agency having jurisdiction over the property.
 - (2) Private property. Where the subject property is privately owned, the removal of graffiti is authorized after the Mayor or his designee secures the written consent of the owner of the property and the owner executes a release and waiver approved as to form by the City Attorney. The City will assess the cost of abatement of the property owner, which if ignored will become a lien against the property.
 - (3) The graffiti shall be removed as authorized herein, but the removal shall not involve the painting or repair of a more extensive area than is necessary for such removal.

- (b) Removal by City without Consent of Property Owner. The Mayor may abate any graffiti without the consent of the property owner, maintained contrary to the provisions of this section only after the following has occurred:
- (1) The Mayor has determined that graffiti within public view exists on particular premises within the City.
 - (2) A notice of such condition has been sent to the property owner.
 - (3) The property owner has failed to either remove the graffiti, request a public hearing, request a review of order pursuant to West Virginia Code §17-9-1 or consent to its removal by the City within the time period specified in the notice.
- (c) Remedies. The remedies provided in this section and chapter are in addition to other remedies and penalties available under the laws of the City, the State of West Virginia, and the United States.
(Ord. 1-26-04.)

536.99 PENALTY.

Any person who is found guilty of violating any section of Article 536 of the Codified Ordinances of the City of Huntington may be fined up to five hundred dollars (\$500.00) per day of occurrence. (Ord. 1-25-04.)