

08/11/14
08/18/14

ORDINANCE NO. M-4085

AN ORDINANCE relating to the prevention of the spread of graffiti vandalism and to establish a procedure for the prompt removal of graffiti from property; amending Vancouver Municipal Code (“VMC”) 17.14.030 and 17.14.060; and providing for savings, severability and an effective date.

WHEREAS, staff (SR-098-14) recommends amending the VMC to allow for the prompt removal of graffiti from property; and

WHEREAS, graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community; and

WHEREAS, unless graffiti is removed from property, other properties tend to become the target for additional graffiti; and

WHEREAS, this ordinance is an exercise of the City of Vancouver’s police and legislative authority derived from Wash. Const. art. XI, § 11 and is consistent with RCW 35.22.280, and is to protect the public’s health, safety and welfare.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. That portion of section 1 of ordinance M-3637, as amended by that portion of section 19 of ordinance M-4079, codified as VMC 17.14.030, is hereby amended to read as follows:

Section 17.14.030 Definitions.

For the purposes of this Title, certain terms, phrases, words and their derivatives shall be construed as specified in this section. Where terms are not defined, they shall have their ordinarily accepted meanings within the context with which they are used. Words used in the singular include the plural, and the plural the singular.

“Apartment house” means any building or portion thereof that contains three or more dwelling units and, for the purpose of this code, includes residential condominiums.

“Basement” means that portion of a building which is partly or completely below grade.

“Bathroom” means a room containing plumbing fixtures including a bathtub, toilet or shower.

“Bedroom” means any room or space used or intended to be used for sleeping purposes.

“Building” means a structure which is built or constructed or a portion thereof.

“Camper” means a structure designed to be mounted upon or attached to a motor vehicle which provides facilities for human habitation or for temporary outdoor or recreational lodging and which is five feet or more in overall length and five feet or more in height from its floor to its ceiling when fully extended.

“Common hall or stairway” means a hall or stairway that connects separate dwelling units.

“Congregate residence” is any building or portion thereof that contains facilities for living, sleeping and sanitation, as required by this code, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels or lodging houses.

“Dwelling unit” means any building or portion thereof which contains living facilities including provisions for sleeping, eating, cooking and sanitation, including not more than one kitchen for not more than one family.

“Dwelling, single-family” means a building, or any part thereof, designed or used for residence purposes by not more than one family and containing one dwelling unit only.

“Dwelling, two-family, or duplex” means a building, or any part thereof, designed or used for residence purposes by not more than two families and containing two dwelling units.

“Dwelling, multiple-family” means a building, or any portion thereof, designed or used as a residence by three or more families and containing three or more dwelling units.

“Efficiency unit” means any room, or portion thereof, having cooking facilities, and used for combination living, dining, and sleeping purposes with a floor area of not more than 320 square feet. An efficiency unit is designed as a separate apartment, not merely as a rooming accommodation. Efficiency units shall be provided with a separate bathroom, meeting the requirements of the building code.

“Equipment” means household appliances, included but not limited to, dishwashers, refrigerators, kitchen stoves, washers and dryers, furnaces, boilers, fireplaces, fuel burning stoves, air-conditioners and hot-water heaters.

“Family” means an individual or two or more persons related by blood or marriage, or two or more persons with functional disabilities, or a group of not more than six persons (excluding servants or resident staff) who need not be related by blood or marriage, living together in a dwelling unit.

“Facility” means something that is built, installed, or established to serve a particular purpose.

“Fixture” means something that is attached, as to a building or part thereof, as a permanent appendage or as a structural part.

“Fully enclosed building” means a structure containing a complete roof and full height side wall assemblies with approved doors or window assemblies constructed to building code requirements.

“Graffiti” means any unauthorized writing, painting, drawing, inscription, figure, design, label, mark, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, engraved, adhered to, or otherwise affixed to any surface of a building, building appurtenance, or landscaping, including but not limited to exterior walls, windows, doors, fences, awnings, parapets, exposed structures, and other building surfaces, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property.

“Group R occupancy” means dwelling units, hotels, congregate residences, and lodging houses.

“Guard” means a building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

“Habitable space” means space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

“Hazard tree” or “Hazardous tree” means any tree, or part thereof, that the City Forester determines is subject to a high probability of failure, due to structural defect or disease, and which poses a potential threat to persons or property in the event of failure. Hazard trees are not in danger of imminent failure.

“Health Officer” means the Clark County Health Officer, his successor, or his authorized representatives or agents.

“Heavy commercial equipment” means any free-standing piece of equipment with a gross vehicle weight of 15,000 pounds (as defined by the manufacturer) or greater that is used typically for the purpose of earth moving or construction related activities and that is typically transported to a job site by a vehicle. The terms shall include, but is not limited to, earth movers, front loaders, excavators, graders, dump trucks, pavers, or cement trucks. The term shall include equipment that is motorized, non-motorized or self-propelled. The term shall exclude heavy commercial equipment that is participating in an ongoing, permitted land development activity.

“Hotel” means any building containing six or more guest rooms intended or designed to be used, or that are used, rented or hired out to be occupied, or that are occupied for sleeping purposes by guests.

“Improved all weather surface” means asphalt, concrete, pavers or other surface approved by the planning official.

“Infestation” means the presence, within or contiguous to a building or premises, of insects, rats, vermin or other pests.

“Inoperable vehicle” means a vehicle that is missing a component such as a wheel(s), engine, battery, transmission, fuel tank, or a vehicle that is not able to move 100 feet in forward and reverse gear under its own power.

“Junk vehicle” means any vehicle certified by a fully or limited commissioned law enforcement officer and meeting at least three of the following criteria:

1. Is three years old or older;
2. Is extensively damaged, such damage including, but not limited to, any of the following: a broken window or windshield or missing wheels, tires, motor or transmission;
3. Is apparently inoperable;
4. Has an approximate fair market value equal only to the approximate value of the scrap in it.

“Labeled” means a written sign, symbol or message attached to a piece of equipment that proves the equipment has been properly maintained and is capable of safe operation according to government regulations and industry standards.

“Living” means one or more of the following activities, including, but not limited to, eating, sleeping, washing, bathing, or other hygienic activities of any individual who occupies, uses or inhabits any indoor or outdoor space.

“Lodging House” means any building or portion thereof containing not more than five guest rooms where rent is paid in money, goods, labor or otherwise.

“Motor home” means motor vehicles originally designed, reconstructed, or permanently altered to provide facilities for human habitation, which include lodging and cooking or sewage disposal, and is enclosed within a solid body shell with the vehicle.

“Occupancy” means the purpose for which a building or portion that is utilized or inhabited.

“Occupant” means any individual living, or sleeping in a building, or having possession of a building or space therein. Unless otherwise stated, and “occupant” is synonymous with tenant.

“Open storage” means storage of property outside of a fully enclosed building.

“Openable area” means that part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

“Operator” means any person who has charge, care or control of a structure or premise which is let or offered for occupancy.

“Owner” means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including tenants, the guardian of the estate of any

such person, and the executor or administrator of the estate of such person if ordered to take possession or real property by a court, as well as a bankruptcy trustee.

“Person” means an individual, corporation, partnership or any other group acting as a unit.

“Premise” means a lot, plot or parcel of land including any buildings thereon.

“Property” means both personal and real property.

“Recreational vehicle” means a travel trailer, motor home, camper, camping trailer, tent trailer, or horse trailer that can be used and/or is used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, and is not permanently affixed to a manufactured/mobile home lot.

“Rooming house” means a building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one or two-family dwelling unit.

“Rooming unit” means a room or group of rooms in a dormitory, fraternity, sorority, shelter, convent or other similar congregate residence, forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

“Substandard building” means a building that violates any provision of this chapter or other chapters in VMC title 17 to the extent that the building constitutes an imminent threat to the health, safety or welfare of the building’s occupants or neighboring community. A substandard building is unfit for human habitation.

“System” means equipment forming a network, including but not limited to, heating, electrical, sewage and water systems.

“Tenant” means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

“Toilet room” means a room containing a water closet or urinal but not a bathtub or shower.

“Ventilation” means the natural or mechanical process of supplying conditioned or unconditioned air to or removing such air from any space.

“Weeds” means those plants designated as class A, B, and C noxious weeds by the state noxious weed control board.

“Yard” means open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed by any structure from the ground upward to the sky.

Section 2. That portion of section 1 of ordinance M-3637, as amended by that portion of section 22 of ordinance M-4079, codified as VMC 17.14.060, is hereby amended to read as follows:

Section 17.14.060 Minimum maintenance standards for building exteriors.

A. Address identification. Street address numbers shall be placed on all buildings or in a location that clearly references a building to assist emergency personnel. The street address numbers must be in a position to be plainly visible and legible from the street or road fronting the premise.

B. Basement openings. Basement openings, including but not limited to, hatchways, doors and windows, shall be maintained to prevent the entrance of rodents, rain, surface drainage water, and debris.

C. Chimneys and towers. Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe, and in good repair.

D. Decorative features and exterior extensions. Decorative features and exterior extensions, including but not limited to, belt courses, corbels, cornices, terra cotta trim, wall facings, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and properly anchored so as to be kept in a safe condition.

E. Doors. Exterior doors, door assemblies and hardware shall be maintained in good condition. Locks to building entrances shall tightly secure the door.

F. Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface-coated where required to prevent deterioration. Exterior walls, windows, doors, fences, awnings, parapets, exposed structures, building surfaces, and landscaping shall be maintained free of graffiti.

G. Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

H. Metal surfaces. Metal surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

I. Openable windows. Windows, other than fixed windows, shall be easily openable and capable of being held in position by window hardware.

J. Oxidation stains. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

K. Protective treatment. Exterior surfaces, other than decay-resistant woods or other materials designed to withstand weather damage, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted.

L. Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and down spouts shall be maintained in good repair and free from obstructions. Roof water shall be maintained on the site except where approved to be discharged to an off-site storm water retention/detention facility. Water shall not be discharged onto a public sidewalk, public street, private street or an adjoining property.

M. Siding and masonry joints. Siding and masonry joints as well as those between the building envelope and perimeter of windows, doors, and skylights shall be maintained weather resistant and watertight.

N. Stairways, decks, porches and balconies. Exterior stairways, decks, porches and balconies, and attachments thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed dead and live loads.

O. Structural members. Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

P. Windows, skylights, and door frames. Windows, skylights, and door frames shall be kept in sound condition, good repair and weather tight. Glazing materials shall be maintained free from cracks and holes.

Section 3. Savings. Those ordinances or parts of ordinances, which are amended or repealed by this ordinance shall remain in full force and effect until the effective date of this ordinance.

Section 4. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not effect or invalidate the remainder of any parts thereof to any person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 5. Effective date. This ordinance shall become effective thirty (30) days following the date of final adoption.

Read first time: August 11, 2014

Ayes: Councilmembers Topper, McEnemy-Ogle, Turley, Hansen, Smith,
Mayor Leavitt

Nays: Councilmembers

Absent: Councilmembers Burkman

Read second time: August 18, 2014

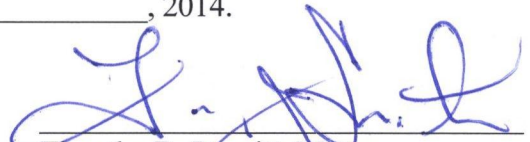
PASSED by the following vote: 6-0

Ayes: Councilmembers Topper, McEnemy-Ogle, Turley, Hansen, Burenman, Smith

Nays: Councilmembers

Absent: Councilmembers Mayor Leavitt

SIGNED this 18th day of August, 2014.

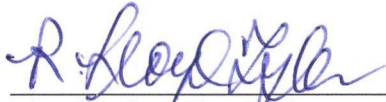


Timothy D. Leavitt, Mayor

By: Lamy J. Smith, Mayor Pro Tem

Attest:

Approved as to form:



Lloyd Tyler, City Clerk

~~By: Carrie Lewellen, Deputy City Clerk~~



E. Bronson Potter, City Attorney

SUMMARY

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AN ORDINANCE relating to the prevention of the spread of graffiti vandalism and to establish a procedure for the prompt removal of graffiti from property; amending Vancouver Municipal Code ("VMC") 17.14.030 and 17.14.060; and providing for savings, severability and an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).