

ORDINANCE NO. 4106-25

An ORDINANCE relating to a new civil cause of action against graffiti taggers for illegal graffiti on public and private property and requiring restitution, amending and adding a new section to chapter 10.62 EMC.

WHEREAS,

- A. Illegal graffiti on public and private property is a significant public nuisance.
- B. Proliferation of illegal graffiti across Everett causes substantial public blight.
- C. In 2024, illegal graffiti was reported at many City-owned properties, including traffic signs, traffic control stations, parking pay stations, libraries, parks, and public utility facilities.
- D. In 2024, the City spent approximately \$73,987.77 on the abatement of illegal graffiti from public property, after spending approximately \$76,518.86 in 2023.
- E. In 2024, there were a total of sixty-five reports of illegal graffiti provided to the City.
- F. Washington law has long recognized the authority of municipalities to abate public nuisances through civil actions.
- G. Establishing an appropriate civil cause of action in the Everett Municipal Code will allow the City Attorney to bring these civil actions in the Everett Municipal Court.
- H. The intent of authorizing these civil actions is to discourage future illegal graffiti and remunerate the City for the substantial costs of abatement.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. EMC 10.62.010 is amended as follows, with underlined text add and strikeout text deleted.

10.62.010 Definitions

The definitions set forth in this section apply throughout this chapter.

- A. “Abate” means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent

as the applicable City department director or designee determines is necessary in the interest of the general health, safety, and welfare of the community.

- B. "Aerosol paint container" means any aerosol container, regardless of the material from which it is made, which is adapted or made for the purpose of spraying paint, dye, or other substances.
- C. "Felt tip marker" means any indelible marker or similar implement, with a tip at its broadest width greater than one-eighth inch, containing anything other than a solution which can be removed with water after it dries.
- D. "Graffiti" means any unauthorized inscription, word, figure, painting, design, label, or other defacement that is marked, etched, scratched, engraved, drawn, painted, sprayed, or otherwise affixed on any surface of public or private property, either natural or manmade; to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance.
- E. "Graffiti stick" or "paint stick" means any device containing a solid form of paint, chalk, wax, epoxy, or other substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-sixteenth of an inch in width.
- F. "Graffiti tagger" means any person or entity who applies illegal graffiti to public or private property, or who assists or encourages another person or entity to do the same.
- G. "Graffiti violation" means a single piece of graffiti, including but not limited to a graffiti tagger name or design, in a single location.
- H. "Gum label" means any sheet of paper, fabric, plastic, or other substance with an adhesive backing which, when placed on a surface, is not immediately removable.
- I. "Graffiti implement or paraphernalia" means any aerosol paint container, felt tip marker, graffiti stick or paint stick, gum label, brush, roller, or etching tool or any other device capable of scarring or marking any surface, including but not limited to glass, metal, concrete, or wood; and any piece, design, or scrapbook or drawings illustrating graffiti marks or signs.
- J. "Owner" means any entity or entities having a legal or equitable interest in real or personal property, including, but not limited to, the interest of a tenant or lessee.
- K. "Premises open to the public" means all public spaces, including, but not limited to, streets, alleys, sidewalks, parks, and public open space, as well as private property onto which the public is regularly invited or permitted to enter for any purpose, the doorways and entrances to those buildings or dwellings, and the grounds enclosing them.

- L. "Property" means any real or personal property which is affixed, incidental or appurtenant to real property, including, but not limited to, any structure, fence, wall, sign, or any separate part thereof, whether permanent or not.
- M. "Responsible public agency" means a public owner, the United States of America, the state of Washington, or any other state, and all political subdivisions thereof, a federal, state, or local department or agency, or the director or administrator of a federal, state, or local department or agency who has authority over the public property's maintenance or management. There may be more than one responsible public agency for a particular public property.
- N. "Responsible private party" means a private owner, an entity, a person acting as an agent for a private owner by agreement, a person or entity who has authority over the private property, or a person or entity responsible for the private property's maintenance or management. Irrespective of any arrangement to the contrary with any other party, each private owner shall always be a responsible private party for the purposes of this chapter. There may be more than one responsible private party for a particular private property.
- O. "Unauthorized" means without the prior express permission or consent of a responsible public agency or a responsible private party .

Section 2. A new section 10.62.055 .is added to the Everett Municipal Code as follows:

10.62.055 Civil Infraction against graffiti taggers

A. In addition to any other civil or criminal penalties or other remedies authorized by law or equity, a graffiti tagger shall be subject to a civil infraction punishable by a fine of \$250 per illegal graffiti violation, and may further be ordered to make restitution to the responsible public agency or responsible private party of costs incurred by the responsible public agency or responsible private party, including but not limited to all labor and materials costs of abating the illegal graffiti.

B. It is a complete defense that the graffiti tagger obtained the express permission of the responsible public agency or responsible private party prior to applying the graffiti. The graffiti tagger has the burden of establishing this defense by a preponderance of evidence.

C. Restitution imposed pursuant to this Section 10.62.055 is payable immediately. On motion of the graffiti tagger supported by a showing of financial hardship or other extenuating circumstances, the court may convert some or all of the monetary penalty to community restitution pursuant to the procedure established in RCW 7.80.130(2), provided that the community restitution is performed for the purposes of graffiti abatement. Any penalties, restitution, and other costs ordered pursuant to this Section 10.62.055 that go unpaid may be referred to a collection agency, or the City Attorney may pursue collection in any other manner allowed by law.

D. Responsibility for Juveniles. Any parent or legal guardian of a juvenile age sixteen or seventeen who is found to have committed a violation of paragraph (A) of this section is liable for any restitution imposed under paragraph (C) of this section, except community restitution.

Section 3. The following is provided for reference and may not be complete:

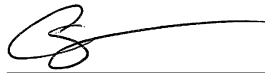
EMC Amended by this Ordinance	Ordinance History of EMC Amended by this Ordinance
10.62.010	(Ord. 3074-08 § 1, 2008.)

Section 4. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 5. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 6. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 7. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.



CASSIE FRANKLIN, MAYOR

ATTEST:



MARISTA JORVE, CITY CLERK

Passed: 08/20/2025

Valid: 08/21/2025

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CB 2507-41 Graffiti Tagging Ordinance - final version

Final Audit Report

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