

COUNCIL PENDING ORDINANCE 2025-18
ORDINANCE NO. _____
AS AMENDED November 17, 2025
CERTIFICATION DATE _____
CERTIFIED BY _____
FAVORABLY _____
UNFAVORABLY _____

AN ORDINANCE OF THE CITY OF GARY, INDIANA
PROHIBITING GRAFFITI WITHIN THE CITY OF GARY

WHEREAS, the Mayor and the Gary Common Council find that graffiti, graffiti related vandalism and defacement of property within the City of Gary is a public nuisance which poses a threat to the health, safety and welfare of the citizens of the City; and

WHEREAS, the Common Council finds that the presence of graffiti impairs the value of property within the City and impinges on the City's economic development efforts; and

WHEREAS, the Common Council finds that graffiti tends to remain on public and private property including residential and commercial property for an excessive length of time, and;

WHEREAS, the Common Council is authorized to enact this ordinance pursuant to Indiana Code 36-1-3 et seq., as well as the City's police powers, which include the ability to authorize the issuance of citations, the imposition of fines for violations, and to provide for the removal of graffiti from public and private property and to impose costs for the removal upon private property owners; and

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Gary, Indiana, as follows:

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A. Purpose and Intent

1. **Graffiti, graffiti related vandalism and defacement** are hereby declared a public nuisance which poses a threat to the health, safety and welfare of the citizens of the City the presence of graffiti impairs the value of property within the City and impinges on the City's economic development efforts.
2. The City of Gary is enacting this Ordinance to help prevent the spread of vandalism in the form of graffiti and defacement of property within the city, and to establish a program for the removal of graffiti for public and private property.
3. It shall be the duty of all owners of property within the City to which graffiti has been applied, graffiti related vandalism and/or defacement has occurred to have such graffiti, vandalism or defacement abated in conformance with the requirements of this Ordinance. The existence of any graffiti on public or private property within the City in violation of this Ordinance is expressly declared a public nuisance.

B. Definitions

- 1) **Defacement** means the action or process of spoiling the surface or appearance of something.
- 2) **Graffiti** means any unauthorized inscription, word, figure, mark, painting, design or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property, including but not limited to any building, fence, sign post, awning, billboard, rail car, public transit vehicle not limited to rail cars, buses or transit vans, or other surface, by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or no permit was granted for the sign or advertisement. Graffiti is deemed a public nuisance by the City of Gary. Graffiti includes snipe signs as defined herein.
- 3) **Graffiti Implement** means an aerosol paint container, airbrush, a broad-tipped marker, permanent marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.
- 4) **Graffiti-Related Vandalism** means recklessly, knowingly, or intentionally damaging or defacing public or private property without the consent of the owner.
- 5) **Owner-Occupied Property** for purposes of this ordinance, owner-occupied residential property which is eligible for graffiti abatement by the City is defined as residential

property consisting of four units or fewer residential units, with at least one unit being occupied by the owner of legal title to the property as that owner's current primary residence. Also see the definition of *property owner* below.

- 6) **Person** means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or any other legal entity.
- 7) **Property Owner** means a person, group, company, or entity who holds legal title to a property and has the rights associated with ownership, such as using, possessing, or transferring the property. For purposes of this Ordinance, this shall include a Trustee and/or beneficiary under a Trust, and/or person who has primary responsibility for control of property or primary responsibility for repair and maintenance of property.
- 8) **Snipe Sign** means a sign, made of any material, that is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects, and/or placed on public property including the public right of way and/or road side by means including but not limited to a stake, sign post or other sign holder, or which is placed on private property without authorization of the owner or legal tenant of said property, or which has not been properly permitted in accordance with the law, including but not limited to Gary Municipal Code Section 4-7 Unauthorized Advertising.
- 9) **Tag or Tagging of Property** means to write, paint, etch or otherwise cause one's name, initials, symbol, logo, meme, mark or any other graffiti, vandalism or defacement to any property without prior authorization of the owner, or to do so in violation of the law.
- 10) **Waiver of Liability / Permission to Remove Graffiti Form** means a form for forms or similar document(s) developed or employed by the City of Gary for purposes of seeking the permission of property owners to allow the City, its employees, agents or assigns to enter onto public or private properties for the purpose of abatement and to indemnify the City, its employees, agents and assigns from any liability related to any abatement performed pursuant to this Ordinance.

C. Prohibited Acts

1) Graffiti, Graffiti Related Vandalism and Defacement.

- a. It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any city-owned property or without the permission of the owner or occupant, on any non-city owned property.
- b. It shall be unlawful for any person to place or erect a snipe sign on public or private property without the permission of the owner.
- c. It shall be unlawful for a person to permit the placement of graffiti on any public or private property under their control, or to allow graffiti to remain on

any private property after such person has been notified of the requirement to remove graffiti.

- d. It shall be unlawful for a person who is a property owner or who has primary responsibility for control of property or for repair and maintenance of property in the City of Gary to permit property that is defaced with graffiti to remain defaced for a period of five (5) days after service by first class mail of notice of the defacement. Such notice shall be provided to the property owner listed in the records of the Lake County Assessor. It shall be unlawful to fail to either abate the graffiti within five (5) days of being notified by the City of the presence of said graffiti on the property or defacement of the person's property.
- e. Compliance as a Defense: Timely compliance with the requirements of this ordinance may serve as a defense for an eligible property owner who returns an executed *Waiver of Liability* to the City within five (5) days of receipt of the above referenced notice from the City granting permission to the City, by its employees, agents or assigns to remove said graffiti from the owner's property, or who abates the graffiti or defacement themselves.

2) Possession of Graffiti Implements

- a. Possession of Graffiti Implements by Minors at or Near School Facilities
 - i. It shall be unlawful for any person under the age of eighteen (18) years to possess any graffiti implement while on any school property, ground facilities, buildings, or structure or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or lawful occupant of such private property. The provisions of this Section shall not apply to the possession of broad-tipped or permanent markers, paint, brushes or other art-supplies by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession or use of such markers, paint, brushes or art supplies. The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need for such markers, paint, brushes or art supplies.
- b. **Possession of Graffiti Implements in Designated Public Places or Vacant Buildings**
 - i. It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility or any public building or structure owned or

operated by the City of Gary, any Local, State or Federal government agency or division thereof, or while in or within fifty (50) feet of a underpass, bridge abutment, storm drain or similar type of infrastructure unless otherwise authorized in writing by the City.

- ii. It shall be unlawful for any person to possess any graffiti implement while in or upon any unoccupied or vacant building without the express prior permission of the owner of said property.

3) Accessibility to Graffiti Implements

a. Furnishing to Minors Prohibited.

It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan or otherwise furnish or cause or permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, broad tipped marker, or paint stick to any person under the age of eighteen (18) without the written consent of the parents or guardian of the person. An exception to this Section occurs when an educational institution or educational program attended by a person under age eighteen (18) provides such implements to its current student or students for educational purposes.

b. Display and Storage.

- i. Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol paint containers, paint sticks or broad tipped markers shall store the containers, sticks or markers in an area continuously observable, through direct visual observation or surveillance, by employees of the retail establishment during the regular course of business.
- ii. In the even that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks or broad tipped markers in an area as provided above, the establishment shall store the containers, sticks and markers in an area not accessible to the public in the regular course of business without employee assistance.
- iii. Signage Required. Every person who operates a retail establishment selling graffiti implements shall:
 - 1. Place a sign in clear public view at or near the display of such products stating: "Graffiti is against the law. Any person who defaces real or personal property with paint or other liquid or device is guilty of a crime punishable by up to a year in jail and a fine of up to \$5,000 pursuant to Gary Municipal Code and Indiana Code 35-43-1-2."

D. Duties of City and Its Departments

1) Reports of Graffiti within the City of Gary

- a.** All suspected or apparent graffiti, graffiti related vandalism or defacement of property received by the City shall be reported to the City of Gary Police Department.

2) Duties of Gary Police Department and Code Enforcement

- a.** Upon receiving a report of graffiti, graffiti related vandalism or defacement of property, the Police Department shall take pictures as necessary, make a written report and issue a formal police report.
- b.** The Police Department shall forward copies of such police reports, notices, citations or criminal charges to the Department of Public Works.
- c.** The Gary Police Department may enlist the Gary Code Enforcement Department and Department of Public Works to accomplish its goals and duties under this Ordinance, in which case the Police Department shall timely provide all necessary reports, photographs, records and other relevant documents to Code Enforcement and / or the Department of Public Works.
- d.** The Police Department and/or Code Enforcement shall issue such Notices of Violation, citations and/or criminal charges, or take other action necessary for the enforcement of this Ordinance to the following parties:
 - i.** **Violators** who deface, vandalize, create or cause graffiti or graffiti related vandalism or criminal mischief, and/or to
 - ii.** **Property owners** who have failed to immediately abate graffiti, vandalism or defacement of the owner's property in violation of this ordinance.
- e.** **Notice(s) of Violation** to property owners may be perfected by the following methods:
 - i.** First Class Mail;
 - ii.** By personal service accompanied by an affidavit of service or by an official proved by certificate of service or return of service in accordance with Indiana Code Indiana Code § 29-1-1-16; or
 - iii.** Other service as provided by Indiana law including Notice by Publication.
- f.** **Notice(s) of Violation** sent to owners of **residential properties which are owner occupied** shall be accompanied by the City's Waiver of Liability / Permission to Remove Graffiti Form, or similar form developed by the city as defined herein. The

form may be provided in a hard copy, through a hyperlink or other reasonable method of delivery.

- g. Such notice to property owners shall inform the owner of the violation, the address of the violation, reasonably describe or depict the violation and include the following:
 - i) Demand that the property owner abate the graffiti, vandalism or defacement within five (5) days of the date of such notice at the property owner's sole expense, or
 - ii) Provide that an owner of owner-occupied residential property execute (sign) and return a Waiver of Liability Form and Permission to Remove Graffiti Form to the Department of Public Works within five (5) days of receipt notice permitting the Department of Public Works, its employees, agents or assigns to abate the graffiti vandalism or defacement at no cost to the property owner.
 - iii) Notify the owner of owner-occupied residential property that failure to timely abate the graffiti, vandalism or defacement within five (5) days, or provide the executed Waiver and Permission Form(s) within five (5) days allowing the City to abate the property at the City's expense may result in the property owner being charged with an infraction under this Ordinance and being subject to the penalties outlined herein including but not limited to fines, court costs, restitution of the costs of abatement and liens against the owner's property.
- h. Nothing in this ordinance shall prevent the Gary Police Department from performing investigations and taking other action to enforce and this Ordinance or any other applicable laws in the normal course of performing its duties.

3) Duties of City Departments

a) Abatement of Graffiti, Vandalism and Defacement, and Snipe Sign Removal

- i) **Public Property.** Upon receiving a report of graffiti, graffiti related vandalism or defacement on public property, the Department of Public Works shall cause such graffiti, graffiti related vandalism or defacement to be abated as soon as practicable by any necessary means. The Department shall maintain records tracking its cost of abatement.
- ii) **Snipe Sign.** The Department of Public Works shall timely remove any *snipe sign* of which it becomes aware, including through any report received by the Department or through the Department's own efforts, which is on public property, including but not limited to any public building, the public right of way, public easement, by the roadside, attached to trees, poles, stakes, fences, or to other object.

b) **Private Property; Notices.**

- i) Upon receiving a report of graffiti, graffiti related vandalism or defacement on private property from the Gary Police Department or Code Enforcement, the Department of Public Works shall ensure that written notice is provided to the property owner of record as reflected in the current records of the Office of the Lake County Assessor as soon as practicable. This may include assuring that Notice has been previously provided by the Gary Police Department or Code Enforcement Department in accordance with Section E above; or providing written notice to the property owner in keeping with the methods provided in Section E above.
- ii) If the property owner, or the property owner's current address or location cannot be reasonably ascertained from the records of the Office of the Lake County Assessor, then Notice may be provided by Publication, or by posting Notice on the subject property in keeping with Indiana law.
- iii) **Content of Notices.** Such notice shall inform the property owner of the violation, the address of the violation, reasonably describe or depict the violation and demand the following:
 - (1) That the property owner abate the graffiti within five (5) days of the date of such notice at the property owner's sole expense; or
 - (2) That in the case of owner-occupied residential property of four units or less, that the property owner may execute (sign) and return a Waiver of Liability Form and Permission to Remove Graffiti Form to the Department of Public Works within five (5) days of receipt or publication of such notice permitting the Department of Public Works, its employees, agents or assigns to abate the graffiti at no cost to the property owner.
 - (3) That in the case of commercial, industrial, mixed use or multi-unit residential properties which are not owner-occupied properties of four units or less, the property owner may execute (sign) and return a Waiver of Liability Form and Permission to Remove Graffiti Form to the Department of Public Works within five (5) days of receipt or publication of such notice permitting the Department of Public Works, its employees, agents or assigns to abate the graffiti. In such case, the cost of abatement may be shared between the property owner and the City if the City has adequate resources available at the time of the notice to cover such costs.
 - (4) If any property owner shall fail to execute and provide such written Waiver to the City within five (5) days of receipt or publication of such notice, then the property owner shall be responsible for the entire cost of abatement. If a property owner has three violations within any three

hundred sixty-five-day period, including simultaneous violations at various properties, or has been cited for three or more violations within the previous three years shall not be eligible for abatement at the city's expense.

- c) **Failure of Property Owner to Return Executed Form.** If the property owner fails to execute and timely return the Form(s) described above to the City by its Department of Public Works, the Department of Public Works shall notify the Gary Police Department or Code Enforcement of said property owner's ongoing violation of this ordinance so that said may be charged by the Gary Police Department with an infraction and thus be subject to the penalties for violation described herein.
- d) **Judgement.** If the Department receives a notice or order from a Court, notice from the City Law Department or other notice or order that a case has been adjudicated and a person has been found by the Court to be in violation of this Ordinance, and that as a result, the Department should cause a property to be abated, then the Department shall cause such graffiti, graffiti related vandalism or defacement to be abated as soon as practicable and keep record of the cost of such abatement, and provide record of the same to the Court and/or to the City Law Department such that restitution may be ordered by the Court, and/or the City by its Law Department may cause a lien to be recorded to recover the cost of abatement as appropriate.
- e) **Tracking of Costs.** The Public Works Department shall cause the cost of abatement performed under this ordinance, and any restitution received by the Department to be tracked and reported in writing to the Board of Public Works and Safety on a quarterly basis, or more frequently if requested by the Board.

E. Penalties for Violation

Any person who violates this Ordinance shall be guilty of an infraction punishable by:

1) Fines, Imprisonment and Restitution for Graffiti and Graffiti Related Vandalism:

- a. **Fines.** Any person violating this ordinance by creating graffiti or committing graffiti-related vandalism shall be punished by a fine of up to three hundred dollars (\$300) per violation and shall be ordered to make restitution for damages and/or costs of abatement.
- b. **Placement of Snipe Signs:** When snipe signs have been placed in violation of this Ordinance, and such signs can be reasonably traced back to a person or persons placing such signs or benefiting from the placement of such unauthorized signs as advertisement for commercial gain or other benefit,

such person or persons shall be charged with an infraction and punished by a fine of up to three hundred dollars (\$300) per violation and shall be ordered to make restitution for damages and/or costs of the removal or abatement of snipe signs.

- c. **Minors.** In the case of a violation of this ordinance committed by a minor, the parents or legal guardian shall be jointly and severally liable with the minor for payment of all fines.
- d. **Imprisonment.** Notwithstanding the imposition of fines and costs under the penalty provisions of this Ordinance, the City of Gary reserves the right to refer the violation to the Office of the Lake County Prosecutor and, at its discretion, recommend prosecution for Criminal Mischief under Indiana Code 35-43-1-2, or other crime under applicable law.
- e. **Restitution.**
 - i. In addition to any punishment specified under this Ordinance, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offence in the amount or manner determined by the court.
 - ii. **Minors.** In the case of a violation of this ordinance committed by a minor, the parents or legal guardian shall be jointly and severally liable with the minor to make restitution.

2) Penalty for Failure to Abate Graffiti

- a. It shall be a violation of this Ordinance for a property owner to fail to abate graffiti within five (5) days of being notified in writing by the City.
- b. **Compliance as a Defense:** Timely compliance with the requirements of this ordinance may serve as a defense for a who property owner who:
 - i. Abates graffiti within five (5) days of the property owner's receipt of such Notice; or
 - ii. Returns an executed Waiver of Liability and Permission to Remove Graffiti to the City of Gary within five (5) day of the property owner's receipt of such Notice of Violation of this ordinance.
- c. **Fines for Failure to Abate Graffiti after Notice:**
 - i. **First Violation:** A fine not exceeding \$150.00 for the violation in addition to any applicable court costs.

- ii. **Second Violation within one year:** A fine not exceeding \$250.00 for a second violation within any 365-day period in addition to any applicable court costs.
- iii. **Third Violation within one year:** A fine not exceeding \$300.00 for a third violation within any 365-day period in addition to any applicable court costs.
- iv. **Subsequent Violations within one year:** After the Third Violation within any 365-day period a fine not exceeding \$300 *per day* per for each subsequent violation on each property. Each day that the property owner fails to abate the property after Notice may be treated as a *separate* violation by the Court punishable by a fine not exceeding \$300 per day, per property.

d. Violations involving owners of multiple properties:

- i. For purposes of calculating First, Second, Third and Subsequent Violations as provided above against any person(s) owning property within the City of Gary, each violation at each property address shall constitute a separate violation under this Ordinance. For determining the identity of owners of multiple properties, the following criteria may be used alone or in combination: the owner of record as reflected in the records of the Lake County Assessor, the Lake County Treasurer; for corporate entities including partnerships, any incorporator, beneficial owner, registered agent for service, shareholder, officer, member of any corporate entity including a partnership shall be considered an owner of real property of the entity.

F. Abatement of Graffiti by City

- 1) **Payment of Costs for Abatement.** In addition to any fine or penalty which may be imposed under the sections above, if a property owner fails to abate the graffiti, vandalism, or removed snipe signs in conformance with the requirements above, or timely provide the Waiver of Liability and Permission to Remove Graffiti within five (5) days of receipt of Notice from the City as provided above, then the City, by and through its Department of Public Works, or other Department as assigned by the Mayor, may enter upon the property and abate the graffiti, vandalism or defacement by any means necessary. The cost of such removal and abatement shall be the responsibility of the property owner and the costs thereof may be entered as a Judgement against the property owner; may be recorded as a lien against the offending property and/or owner; may be placed in collections, and/or placed upon the tax records of the property for collection by Lake County.

- 2) **Payment of Costs for Removal of Snipe Signs** In addition to any fine or penalty which may be imposed under the sections above, if a person is found to have violated this Ordinance by the placement of snipe signs, and has failed to abate or remove such snipe signs which are reasonably attributed or traced back to such person, and/or has failed to comply with Gary Municipal Code Section 4-7 Unauthorized Advertising, then the City, by and through its Department of Public Works, or other Department as assigned by the Mayor, may remove or abate the snipe signs by any reasonable means. The cost of such removal and abatement shall be the responsibility of the person and the City make take necessary action to recover said costs from said person.
- 3) **Payment by Vandals of Costs for Abatement** In addition to any fine or penalty which may be imposed under the sections above, if a person has been found guilty of creating graffiti, committing graffiti-related vandalism, placing snipe signs; criminal mischief related to vandalism and/or the creation of graffiti or other offense related to this ordinance and such person has not been ordered by the Court to make restitution for damages, and the City of Gary has abated the graffiti, vandalism or removed the snipe signs, the City's costs of the abatement may be entered as a judgement against the offender; may be placed in collections against the offender and/or recorded as a lien against the offender's property.

G. Severability And Repeal Of Prior Law

- 1) If any section, subsection, clause, provision, or phrase of this ordinance is held to be unconstitutional, illegal, or otherwise unenforceable by a court of competent jurisdiction, then such holding or ruling shall not affect any other portion or provisions of this ordinance, and those unaffected sections and provisions shall continue to in full force and effect.
- 2) If any ordinance or part of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. It is provided however, that such repeal shall be only to the extent of such inconsistency.

BE IT FURTHER ORDAINED by the Gary Common Council that this ordinance shall have full and effect upon passage and approval hereof by the Common Council, signing by the President thereof, and approval and signing by the Mayor of the City of Gary.

This ordinance shall be effective after its passage by the City of Gary Common Council in compliance with I.C. 36-4-6-16.

PASSED and **ADOPTED**, by the Common Council of the City of Gary, Indiana, this _____ day of _____, 2025.

Lori Latham, President
Gary Common Council

ATTEST:

Suzette Raggs, City Clerk

PRESENTED BY ME to the Mayor for his approval and signature this ____ day of _____, 2025.

Suzette Raggs, City Clerk

APPROVED and **SIGNED** by me this _____ day of _____, 2025.

Mayor Eddie D. Melton, City of Gary, Indiana

PREPARED BY: Marco Molina, Law Department

SPONSORED BY: Eddie D. Melton, Mayor

COMMITTEE ASSIGNMENT _____ Reported-out/ Date _____
1st Reading/Date _____ Committee Hearing/Date _____
2nd Reading/Date _____ Public Hearing/Date _____
3rd Reading/Date _____ Final Reading/Date _____
Passed/Date _____ Defeated/Date _____ Deferred/Date _____
Tabled/Date _____ Override/Date _____ Adopted/Date _____
Publication/Date _____ Community Hearing/Date _____
Veto _____ Pocket Veto _____ Adopted _____