

ORDINANCE No. 2022-20

AN ORDINANCE OF THE CITY OF LEON VALLEY, TX, CITY COUNCIL AMENDING ORDINANCE NO.18-005 GRAFFITI ADOPTED FEBRUARY 6, 2018 AND THE CITY OF LEON VALLEY CODE OF ORDINANCES, CHAPTER 8 OFFENSES AND NUISANCES, ARTICLE 8.03 GRAFFITI, 8.03.074 REMOVAL REQUIRED.8.03.075 NOTICE TO REMOVE, 8.03.077 ABATEMENT BY CITY COLLECTION OF CITY'S EXPENSES; PROVIDING FOR A PENALTY; REPEALER; SEVERABILITY; AN EFFECTIVE DATE AND PROPER NOTICE AND MEETING.

WHEREAS, on February 6, 2018, the City Council of the City of Leon Valley passed and approved City Ordinance 18-005 amending Graffiti Ordinance No. 04-007 and

WHEREAS, the city finds it necessary to amend Ordinance 18-005 to include requirements outlined in the Texas Local Government Code Section 250.006

NOW, THEREFORE IT BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEON VALLEY, TEXAS, THAT:

SECTION 1. The City of Leon Valley Code of Ordinances and Ordinance No. 18-005 Graffiti, Chapter 8 Offenses and Nuisances, Article 8.03 Graffiti, Sec. 803.74 Removal Required is hereby amended as follows:

- (a) It shall be unlawful for any property owner to fail to abate or cause the abatement of graffiti from his or her property after receiving notice of the nuisance and being given an opportunity to allow the City to remove the graffiti free of charge and effect the abatement within the time allowed by this division.
- (b) The time period in which an owner shall abate or cause to be abated a graffiti nuisance shall be fifteen (15) calendar days if the property owner refuses to allow to abate the graffiti free of charge, but may be extended at the sole discretion of the City.
- (c) This section shall not apply to:
 - (1) Graffiti located on transportation infrastructure; or
 - (2) the removal of the graffiti would create a hazard for the person performing the removal.

SECTION 2. The City of Leon Valley Code of Ordinances and Ordinance No. 18-005 Graffiti, Chapter 8 Offenses and Nuisances, Article 8.03 Graffiti, Sec. 8.03.75 Notice to remove is hereby amended as follows:

- (a) Whenever the City has probable cause to believe graffiti has been placed upon any private property, the City shall notify the owner of the presence of the nuisance and offer to remove the graffiti free of charge and if the property owner refuses shall then

provide a fifteen (15) calendar-day time period for the owner to abate the nuisance.

(b) Notice shall be given:

- (1) Personally, to the owner in writing;
- (2) By letter sent by certified mail, addressed to the property owner at the property owner's address as contained in the records of the appraisal district in which the property is located; or
- (3) If service cannot be obtained under subdivision (1) or (2):
 - (A) By publication at least once in a newspaper of general circulation in the county or municipality;
 - (B) By posting notice on or near the front door of each building on the property to which the notice relates; or
 - (C) By posting the notice on a placard attached to a stake driven into the ground on the property to which the notice relates.

SECTION 3. The City of Leon Valley Code of Ordinances and Ordinance No. 18-005 Graffiti, Chapter 8 Offenses and Nuisances, Article 8.03.077 Abatement by City; Collection of City's Expenses is hereby amended as follows:

- (a) If an owner fails to abate a graffiti nuisance during the time allowed for abatement and/or fails to respond to the notice of the nuisance, the city may order abatement of the nuisance to be done at the owner's expense. This remedy shall be in addition to any other remedy available to the city.
- (b) Persons authorized by the city to abate the nuisance may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.
- (c) Whenever the city shall abate a graffiti nuisance, the city shall have the option of selecting a private contractor to abate the nuisance.
- (d) The city shall assess to the owner a charge for all work done to abate the graffiti nuisance, including an administrative expense as provided in appendix A of this code as amended or revised by ordinance from time to time, and cause the expense thereof to be assessed on the property upon which such expense is incurred.
- (e) To obtain a lien against the property for expenses incurred to abate the graffiti nuisance, the city must file a statement of expenses with the county clerk. The statement of expenses must contain:

- (1) the name of the property owner, if known;
 - (2) the legal description of the property; and
 - (3) the amount of expenses incurred.
- (f) A lien as described in subsection (e) attaches to the property on the date on which the statement of expenses is filed in the real property records of the county in which the property is located and is subordinate to:
- (1) any previously recorded lien; and
 - (2) the rights of the purchaser or lender for value who acquires an interest in the property subject to the lien before the statement of expenses is filed as described by Subsection (e).

SECTION 4. ENFORCEMENT AND PENALTIES. Any violation of this Ordinance shall be subject to enforcement through a fine or other penalties as set out in Chapter 1, General Provisions, Section 1.01.009, General penalty for violation of code; continuing violations, City of Leon Valley Code of Ordinances.

SECTION 5. REPEALER. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

SECTION 6. PROVIDING FOR SEVERABILITY. If any provision, section, sentence, clauses or phrase of this Ordinance or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this Ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Leon Valley in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

SECTION 7. EFFECTIVE DATE. This ordinance shall be in full force and effect from its date of approval and publication as required by law.

SECTION 8. PROPER NOTICE AND MEETING. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local

Government Code.

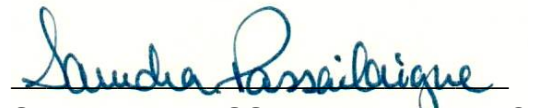
PASSED, ADOPTED AND APPROVED by the City Council of the City of Leon Valley
this the 17th day of May 2022.

APPROVED



CHRIS RILEY
MAYOR


Attest :



SAUNDRA PASSAILAIGUE, TRMC
City Secretary



Approved as to Form:



NICOLE WARREN
City Attorney