



ROCHESTER PARK AND RECREATION DEPARTMENT

POLICY ON GRAFFITI IN CITY PARKS ON TRAILS AND ON SIDEWALKS

PURPOSE

To establish a policy and clarify existing ordinance on Graffiti as it relates to parks and structures including trails and sidewalks.

HISTORY

The City has an existing ordinance on the use of Parks, Park Trails, and Parkways 9-16 of the muni code and said code prohibits writing on buildings, structures, statues, fences, bench rock or stone within parks. The City also has an ordinance on the Abatement of Graffiti 8-6 of the muni code.

While 8-6 specifically includes a definition of graffiti:

Graffiti shall mean any writing, printing, marks, signs, symbols, figures, designs, inscriptions or other drawings which are scratched, scrawled, painted, drawn or otherwise placed on any exterior surface of a building, wall, fence, sidewalk, curb or other permanent structure on public or private property and which have the effect of defacing the property.

The Graffiti ordinance implies that the materials for graffiti are generally more permanent in nature like the use of paint, inscribing/scratching, indelible inks, etc, whereas the Parks Use ordinance really does not allow any writing on park infrastructure regardless of the permanent nature or the method utilized.

Marking on trails/sidewalk has general been prohibited with the exception of a few types of uses: Event marking, authorized painting for park improvements, and general childhood activities. The City also has other programs to allow painting of sidewalk and other infrastructure that may be specifically allowed by a revocable permit. But for events, we am not aware of any instance where an allowance for business or organizational promotion (ie web addresses, or directional markings, or other items) has been authorized as an ongoing use.

Over the last year we have found specific messages and website promotions being written on sidewalks and trails throughout Rochester, mostly in the downtown core area. The person performing this chalking has been asked to stop the activity previously and has been talked to again more recently. The question posed by her actions has been is this a violation of the city ordinances? The City Attorney has indicated that they will not prosecute for the use of chalk however he has acknowledged that the continued use may prompt a trespass of the individual from the property....in this case the parks and trails.

Staff believes that ongoing, unfettered use of the public trails, sidewalks etc for business organization, written messages, or other items associated with graffiti, regardless of the perceived positive nature of the writings or organization has the potential to create an increasing and unwieldy use of the public space for everything from business advertising to claims of 1st Amendment protections for more negative language. Staff therefore would recommend the following policy clarification for graffiti.

POLICY ADMINISTRATION

1. The definition of graffiti as applied to parks and infrastructure under the Park and Recreation Department and Park Board's authority shall be the following:

 Graffiti shall mean any unauthorized temporary or permanent writing, printing, marks, signs, symbols, figures, designs, inscriptions or other drawings which are scratched, scrawled, painted, drawn or otherwise placed on any exterior surface of a building, wall, fence, sidewalk, trail, tree, curb, pole or other Park assets or infrastructure or placement of signage or other objects.

2. Persons responsible for graffiti shall remove or restore the park to a condition that existed prior to the graffiti. If the graffiti is not mitigated by the individual(s) City may pursue actions to recover costs to mitigate said graffiti.
3. Since this policy does not create the ability to issue citations by the Police Department this policy will be utilized as a tool to educate individuals regarding proper park use. This policy may be utilized to trespass individuals from park property or property under the Park Board or Park and Recreation's jurisdiction should that be required for repeated infractions.
4. Board authorizes staff to issue event based temporary markings at their professional discretion.
5. Board may grant limited authorization, on a case by case basis, for individual, business or organizational use of the public space under a revocable permit when there is distinctive public benefit for the community good and where it does not specifically benefit a business or organization.

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