



**TOPPENISH CITY COUNCIL  
STUDY SESSION AGENDA  
AUGUST 1, 2022 – 5:00 P.M.**

---

1. Call To Order/Roll Call
2. New Employee Introduction
3. Swearing in Police Officer
  - Officer Zackary Williams
4. Approve Agenda

5. Public Comment

The City Council welcomes public attendance at Council meetings. This meeting is for the conduct of regular City business. At this time, citizen comments and inquiries about agenda business or general City matters are encouraged. If you wish to address the City Council, please stand or raise a hand so you can be called upon. After you are recognized, please come forward to the lectern, state your name, and address for the public record. Your remarks must be limited to three minutes or less. Please use the microphone.

6. Presentation from Yakima Valley Conference of Governments regarding the Regional Crime Center.
7. AB 22-062: Ordinance 2022-13, Adopting New Section for Graffiti Abatement
8. Executive Session: [RCW 42.30.110(1)(i)]  
Purpose: Litigation  
Time: 30 minutes  
Action: Potential action
9. Adjournment

Next Regular Council Meeting will be on August 8, 2022



# YAKIMA VALLEY REGIONAL CRIMINAL INTELLIGENCE CENTER

## FACT SHEET

5 [ YbXU'4Ya  
6

### **Why do we need a Regional Criminal Intelligence Center?**

The Yakima Valley is experiencing a rise in violent and property crime. The state of Washington has long recognized the Valley as a concern and impact on crime rates for the entire state. Federal agencies have named our valley as a focus and support a regional effort to battle crime. At the same time, state crime labs are backlogged and forced to prioritize work based on severity. At this time, there are rules that exclude some crimes from being processed.

This project will assist in the battle to fight crime by assuming local control. It will enable local jurisdictions to determine our own priorities. In addition, there is a national movement toward reform and independence of evidence processing. This REGIONAL program will provide an independent safeguard for processing evidence. This project will provide a much-needed autonomous, transparent, fair, and equitable service. Every participant will have an equal voice – so the smallest cities will receive just as much priority as the large agencies.

Crime and criminals have no boundaries. A regional effort to fight crime is needed now.

### **What is the Yakima Valley Regional Criminal Intelligence Center?**

This project will bring shared data using crime mapping software, rapid DNA processing, NIBIN, IBIS and VisionX equipment to provide ballistic firearms examination, and software to assist officers in unlocking cellphone data and computers. The program includes crime lab services that assist law enforcement in processing evidence and ties together crime scenes in different cities. These services will be provided across jurisdictional boundaries and enable law enforcement to see crime patterns and get analysis and intelligence planning for the first time. No single agency will have control over program staff providing independence and transparency in processing evidence.

### **Who supports this?**

Yakima Valley Conference of Governments (YVCOG) in collaboration with

- Sheriff Robert Udell
- Yakima County Prosecutor Joe Brusic
- Yakima County Coroner Jim Curtice
- Yakima County Commissioners LaDon Linde & Ron Anderson
- State Representative Gina Mosbrucker
- Law Enforcement agencies across the region

This effort is also supported by the Greater Yakima Chamber of Commerce, YWCA, Comprehensive Healthcare, ESD 105 and other partners.



# YAKIMA VALLEY REGIONAL CRIMINAL INTELLIGENCE CENTER

## FAQs: Frequently Asked Questions

### **Why YVCOG and not the Sheriff's Office?**

YVCOG was formed in 1966 with its mission to provide programs that address regional concerns. It was created to assist with cost-sharing and improve the level of service for small cities and towns, who cannot afford to hire staff. YVCOG can employ and provide ongoing, cutting-edge training for its staff, so this service is always of high quality. Because YVCOG is not tied to any jurisdiction's pay plan, this program can recruit and retain staff of the same level as the federal agencies.

In addition, the Sheriff and Commissioners are elected officials. If the program is administered by the Sheriff's Office, it could be defunded or shuttered by a new Sheriff or County Commissioners. To ensure the program is not threatened by turnover in elected officials, the service will be independent and provided as a service. The funding will be subsidized by federal and state grants as much as possible, and permanent state funding is being pursued this session. YVCOG is working to limit impact on local budgets.

### **Why not just create Memorandums of Understanding to share the costs?**

This approach would require a lead agency and that agency's ability to provide transparency in administration, as well as grant management. The jurisdictions would not have authority over the lead agency and decision-making. In the recent past, this approach has created problems such as failure to staff cost-shared positions, and regional projects such as dispatch services have failed to be truly regional. Without the structure required to ensure collaboration instead of competition, dispatch has become competitive rather than collaborative with price wars and employee poaching. The region still has 7 dispatch centers because it was not structured regionally.

### **What if one agency doesn't participate?**

The participating agencies will determine the rules on how or when agencies could be added to the program at a later date. Law Enforcement has signaled a concern that non-participating agencies cannot receive free services. This detail is still being worked out by the jurisdictions who are participating.

### **Why is it important that the program be independent?**

There is a national movement for independence and transparency in all lab programs. State legislators have indicated that this is a priority for those requesting reforms in the law and justice system. The program independence will also ensure the quality of evidence for both acquittal and conviction.

### **Why was this specific equipment selected for the program?**

The [Rapid DNA](#), [NIBIN](#) and computer forensic equipment were identified by law enforcement and Prosecutor Joe Brusica. [ESRI](#) is a GIS mapping software that is currently utilized by the City of Yakima, Yakima County and YVCOG in land use planning. The City of Yakima currently uses an additional ESRI model for crime mapping that is highly effective. This program will provide ESRI crime mapping for the entire region for the first time.



**CITY OF TOPPENISH  
REQUEST FOR COUNCIL ACTION  
Agenda Bill No.: 22-062**

**Agenda Item  
7**

---

**Meeting Date:** August 1, 2022

**Subject:** Graffiti Abatement Program

**Attachments:** Proposed Ordinance 2022-13

**Prepared by:** Victor Shaul, Code Enforcement Officer, and Debbie Zabell City Manager

**Presented by:** Victor Shaul, Code Enforcement Officer

**Approved For Agenda By:** Debbie Zabell, City Manager

---

**Discussion:**

At the July 5, 2022, Study Session, staff presented a proposed Graffiti Abatement program that would be funded from Special Projects Fund (050), this includes staff salary and graffiti abatement supplies. The fund accounts for the receipts of loan payments of housing rehabilitation loans made available through Community Development Block Grant (CDBG) before 1992 and is available to use for community enhancement. The City currently utilizes this fund to pay for abatement of dangerous properties.

The proposed graffiti abatement program would provide for an alternative method of graffiti removal from properties, through the option of the city painting out graffiti on private property.

---

**Fiscal Impact:** 2022 fiscal impact will be approximately \$21,500 which consists of \$5,000 in program supplies, and \$16,500 in staff salary. Staff salary will increase annually due to step increases, cost of living allowances, and insurance increases.

**Recommendation:** Motion to Adopt Ordinance 2022-13, enacting new chapter 9.85 Graffiti Abatement

**Alternatives:** 1) Do not adopt. 2) Forward to Study Session for further review.

ORDINANCE 2022-13

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOPPENISH,  
WASHINGTON, ENACTING NEW CHAPTER 9.85 OF THE TOPPENISH  
MUNICIPAL CODE ENTITLED “GRAFFITI ABATEMENT,” TO PROVIDE  
FOR SEVERABILITY, AND ESTABLISH AN EFFECTIVE DATE**

WHEREAS, graffiti is criminal vandalism defacing public and private property without permission of the owner, costing citizens, businesses, and the City thousands of dollars annually to repair; and

WHEREAS, graffiti can be a powerful visual symbol of disorder which erodes public safety, reduces the attractive physical qualities of neighborhoods, and can contribute to a downward spiral of blight and decay, lessening property values, business viability and ultimately tax revenues; and

WHEREAS, reducing graffiti requires a comprehensive strategy that includes increased efforts to apprehend and hold accountable those responsible for such vandalism, the prompt removal of graffiti as soon as reasonably possible; and

WHEREAS, there is substantial evidence that the prompt removal of graffiti is an effective prevention strategy which discourages its return while the failure to promptly remove graffiti increases the likelihood that more graffiti will occur on the same site and on other nearby property; and

WHEREAS, the City and many property owners commit resources and energy to diligently removing graffiti and the City supports the efforts of the community, business, and school volunteers who work to remove graffiti in their neighborhoods and business districts; and

WHEREAS, these combined public and private efforts to reduce graffiti are undermined by those few property owners who fail to cooperate in cleaning graffiti from their property despite requests from their neighbors and the City; and

WHEREAS, the failure to maintain one's property by removing graffiti to a reasonable degree and within a reasonable period of time constitutes a public nuisance for the reasons set forth above; and

WHEREAS the Council considered this Ordinance during its regular City Council meeting of August 1, 2022,

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF TOPPENISH,  
WASHINGTON DO ORDAIN AS FOLLOWS:

**Section 1:** There is hereby added to the Toppenish Municipal Code a new Chapter 9.85, Graffiti Abatement, to read as follows:

## **Chapter 9.85 GRAFFITI ABATEMENT**

**Sections:**

- 9.85.010 Purpose and legislative intent—Declaration of public nuisance.
- 9.85.020 Definitions.
- 9.85.030 Graffiti—Notice to abate.
- 9.85.035 City abatement program—Priorities.
- 9.85.040 City abatement program—Request for assistance.
- 9.85.050 Appeal of notice and order to abate—Stay of proceedings.
- 9.85.060 Penalty.
- 9.85.070 Enforcement.

**9.85.010 Purpose and legislative intent—Declaration of public nuisance.**

It is the purpose and intent of this chapter to prevent graffiti and promote its eradication and prevent related vandalism. Graffiti and related vandalism damage and destroy public and private property and have a detrimental effect on the community at large. The City Council finds that the elimination of graffiti is in the City's best interest and is crucial in promoting and protecting the health, safety, and welfare of its citizens.

The further intent of this chapter is to fight against urban blight, preserve the value of all public and private property, and promote the security of the community, all of which are threatened and damaged by graffiti and graffiti-related vandalism. The existence of graffiti within the City of Toppenish is expressly found and declared to be a public nuisance.

- A. Graffiti and other defacements of public and private property within the city constitute a nuisance. The City Council finds that graffiti is also associated with criminal street gang activity pursuant to RCW 9A.48.105 and Chapter 9.100 TMC and the proliferation of graffiti promotes criminal street gangs and criminal street gang activity. Such activity constitutes an immediate threat to the life, health, safety, and property of residents of the city. Procedures herein requiring abatement, following notice and opportunity to appeal, are necessary and will preserve and protect the life, health, safety, and property of residents of the city.
- B. Although it is appropriate, where possible, to request that the courts require people who are convicted of acts of defacement and vandalism involving the application of graffiti to public or private property to restore the property so defaced, damaged, or destroyed, apprehension of persons who commit such acts is difficult because the offenses involved can be committed quickly and surreptitiously so that witnesses to the acts are frequently nonexistent.
- C. Although the public should be encouraged to cooperate in the elimination of graffiti by reporting the same to the proper authorities, it is also important to eliminate the presence of graffiti from the community so that the product of the illegal acts of those involved in the application of graffiti is not visible and the property on which the graffiti is located and surrounding properties do not suffer a diminution of value.

**9.85.020 Definitions.**

For this chapter, the following words shall have the following meanings:

- A. “Abate” means to repair, replace, remove, paint over, 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 Code enforcement officer determines appropriate in the interest of the general health, safety, and welfare of the community. For purposes of this chapter, when the city abates graffiti under Section 9.85.040 TMC herein, “abate” means only to paint over.
- B. “City property” means property owned by the city, including, but not limited to, real and personal property, trees, utility poles, garbage cans, and dumpsters.
- C. “Code enforcement officer” means the city of Toppenish code enforcement officer.
- D. “Graffiti” means any unauthorized inscription, word, figure, painting, or other defacements that are written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to or on any surface of public or private property, by or with, but not limited to, any of the following: felt-tip marker, paint stick or graffiti stick, paint brush, spray can, or other graffiti implement.
- E. “Graffiti abatement procedure” means the abatement procedure which identifies graffiti, issues notice to the landowner to abate the graffiti and cures the absence of response.
- F. “Owner” means any person or entity who, alone or with others, has legal title to a property.
- G. “Private contractor” means any person with whom the city shall have duly contracted to remove graffiti.
- H. “Property” means any land and that which is affixed, incidental, or appurtenant to the land, including, but not limited to, any business or residence, parking area, loading area, landscaping, building, fence or structure, or any separate part, unit, or portion thereof.
- I. “Property manager” means a person or entity who has a contract with an owner to manage real property.
- J. “Tenant” means a person or persons who are renting or leasing real property under any type of landlord-tenant relationship.

**9.85.030 Graffiti—Notice to abate.**

- A. Whenever the code enforcement officer determines that graffiti exists on any public or private buildings, structures, and places that are visible to any person utilizing any public street, parkway, alley, sidewalk, or another right-of-way within the city, the code enforcement officer shall cause a notice to be issued to abate such nuisance. The property owner shall have five days after receipt of the notice to abate the graffiti or the same will be subject to Section 9.85.070 TMC. The code enforcement officer may specify a period more than five days after the date of notice to abate the graffiti when weather conditions do not permit the painting of exterior surfaces or abatement by other means.
- B. The notice to abate graffiti pursuant to this section shall consist of a written notice to be served upon the owner(s) of the affected premises, as such owners’ names and addresses appear on the last property tax assessment rolls for Yakima County, Washington. If there is no known address for the owner, the notice shall be sent in care

of the property address. The notice required by this section may be served in any one of the following manners:

1. By personal service on the owner, occupant, or person in charge or control of the property.  
or
2. By U.S. first class mail, in which case the notice shall be deemed to have been received three days after depositing such notice, postage prepaid, in the United States mail in a properly addressed envelope.

C. The notice required by this section shall be in substantially the following format:

**NOTICE AND ORDER TO ABATE GRAFFITI**

Date:

To:

The City has found that your property located at \_\_\_\_\_, Toppenish, Washington, has graffiti in violation of Chapter 9.85 of the Toppenish Municipal Code. This Notice is given pursuant to Section 9.85.030 TMC requiring such graffiti to be abated within five (5) days of your receipt of this Notice.

Within five (5) days of the receipt of this Notice, you are ordered to:

1. Paint over or abate the graffiti yourself.  
**OR**
2. Contact the City of Toppenish - Code Enforcement Program to see if you qualify to participate in the city's graffiti abatement program. If your property is eligible for participation, the city or its contractor may perform the abatement by painting over the graffiti. The city or its contractor will use its paint.

Code Enforcement Graffiti Abatement Program may be contacted by calling City Hall.

If the graffiti is not abated, or if you have not been approved to participate in the graffiti abatement program, within five days of your receipt of this notice, the City of Toppenish will enforce the provisions of this chapter to ensure abatement of graffiti from the property.

An appeal of this order may be submitted in writing to the Code enforcement officer of the City of Toppenish within five days from the date of this notice.

If you fail to comply with this order or appeal it pursuant to Section 9.85 TMC, a civil penalty will be assessed against you for \$25.00 for every 5 days you remain in violation of this chapter.

If no appeal of the notice is received by the City, the City will proceed with enforcement of this chapter and all available laws to address the graffiti located on the property.

**9.85.035 City abatement program—Priorities.**

There may not always be adequate funding or personnel for the city abatement program outlined in Section 9.85.040 TMC. When funding and/or personnel is limited, the following priority may be established for service to those property owners who have entered the program:

1. Single-family residential zoned properties and city properties.
2. Two-family residential zoned properties.
3. Multifamily residential zoned properties.
4. Commercially zoned properties.
5. Manufacturing zoned properties.

Entry into the graffiti abatement program is not a guarantee of service. If adequate funding or personnel is not available, the property owner/property manager and tenant (if applicable) will be notified that they are responsible for the abatement of graffiti on the property.

**9.85.040 City abatement program—Request for assistance.**

Subject to the availability of funding and personnel, the city makes available a graffiti abatement program. Owners of property within the city, and any owner who receives a notice issued pursuant to Section 9.85.030 to abate graffiti, may request assistance from the city’s graffiti abatement program to abate graffiti placed on their property. Participation in such graffiti abatement program shall include the following:

- A. Applicant shall sign a consent and release from liability form approved by the city authorizing city personnel and/or its contractors to enter upon the owner’s property to abate the graffiti. Upon execution, such consent and release shall be in effect pursuant to the terms and conditions of the document. Any consent and release may be revoked in writing by the owner and/or property manager and/or tenant at any time.
- B. The city or its contractors may abate the graffiti. Graffiti abated by the city shall be only by the application of paint provided by the city or contractor. Matching paint is not guaranteed. The city will only paint over graffiti and will not remove it through sandblasting or other means.
- C. For applicants who have received a notice issued pursuant to Section 9.85.030 TMC to abate graffiti, acceptance into the city’s graffiti abatement program shall stay the five-day compliance requirement, or such other compliance deadline established in such notice by the Code enforcement officer unless otherwise notified by the city.
- D. The city or its contractors shall not authorize nor undertake to provide for the painting of any more extensive area than the area where the graffiti is located.
- E. The city reserves the right to establish, modify and amend its graffiti abatement program, and to define by rule or policy standards of eligibility for participation, methods of abatement, and scheduling of abatement activities.

**9.85.050 Appeal of notice and order to abate—Stay of proceedings.**

- A. Appeals filed under this Chapter shall be filed with the city clerk. All appeals shall be heard by the City’s land use Hearing Examiner.

- B. Upon receipt of a timely written appeal from the owner or person occupying or controlling the premises affected, the city clerk shall, within ten days of receipt of said timely appeal forward the appeal to the code enforcement officer. The code enforcement officer shall arrange for a hearing before the Hearing Examiner. City staff, the owner, and other parties entitled to be served with the notice to abate graffiti may participate as parties in the hearing and each party may call witnesses. Any complainant or person affected by the graffiti may appear and present evidence. The city shall have the burden of demonstrating by a preponderance of the evidence that the graffiti at issue is in violation of this chapter and that a determination of hardship should not issue.

Following such hearing, the Hearing Examiner shall:

1. Issue a determination upholding the code determination and requiring abatement within a specific amount of time.
  2. Issue a determination of hardship; or
  3. Issue a determination of termination of proceedings.
- C. A determination upholding the code enforcement officer's determination shall be served in the same manner as the notice to abate graffiti contained in Section 9.85.030 TMC. Such determination shall notify the property owner of the city's intent to proceed with any legal recourse after the amount of time listed in the determination has expired.
  - D. A determination of hardship shall stay the enforcement of this chapter for a specified period. A determination of hardship shall be issued to give appropriate effect to special and extenuating circumstances which, to do substantial justice, warrant the exercise of discretion to adjust the timeframes, standards, and other provisions of this chapter. Examples of circumstances warranting such exercise of discretion include, without limitation: medical illness or disability affecting a property owner's ability to comply, absences from Yakima County, and bona fide insurance coverage disputes that create a definite risk that enforcement of this chapter would unfairly result in a substantial economic loss to the property owner.

**9.85.060 Penalty.**

Failure to comply with the notice to abate graffiti issued pursuant to Section 9.85.030 TMC may result in civil penalties against the property owner. A civil penalty of twenty-five dollars may be assessed if the graffiti is not abated. The first civil penalty shall be issued five days after the notice to abate graffiti is issued. An additional twenty-five-dollar civil penalty may be assessed for every additional five-day period thereafter.

**9.85.070 Enforcement.**

Upon failure of persons to comply with any notice issued pursuant to this chapter by the designated date, or such continued date thereafter as the code enforcement officer approves, or upon failure or refusal of the owner to participate in any available city graffiti abatement program, then the city attorney may initiate an action in any court of competent jurisdiction to abate the graffiti, to impose penalties pursuant to this chapter, to seek alternative remedies under city or state laws or seek any other relief authorized by law. The city is entitled to its costs associated with enforcement of this chapter, including, but not limited to, reasonable attorneys' fees and costs.

**Section 2. Severability:** If any one or more sections, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

**Section 3. Effective Date:** This ordinance shall become effective five days after publication of a summary hereof.

PASSED by the Toppenish City Council during its regular meeting held on August 1, 2022.

---

ELPIDIA SAAVEDRA, Mayor

ATTEST:

---

HEIDI RIOJAS, CMC, City Clerk

APPROVED AS TO FORM:

---

GARY M. CUILLIER, City Attorney