

Print

**Subject:** Fw: Graffiti as Hate Crime  
**From:** Mitchell Stollberg (mitchellstollberg@att.net)  
**To:** mitchellstollberg@att.net;  
**Date:** Sunday, November 3, 2013 4:39 PM

Mitchell Stollberg-Appleyard  
mitchellstollberg@att.net  
 954-275-3653

----- Forwarded Message -----

**From:** Michael Gregory <MGregory@fortlauderdale.gov>  
**To:** mitchellstollberg@att.net  
**Cc:** Rick Maglione <RMaglione@fortlauderdale.gov>  
**Sent:** Monday, September 17, 2012 6:34 PM  
**Subject:** FW: Graffiti as Hate Crime

Hello, I have received your below complaint would like to assist in this matter. Can you please provide the address or nearest intersection for the graffiti depicted in each photograph? Thank you...

**Captain Michael G. Gregory**  
 Police Department /Operations Bureau - District 2  
 954.828.5483

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**From:** Rick Maglione  
**Sent:** Monday, September 17, 2012 1:27 PM  
**To:** Anthony Williams; Michael Gregory  
**Cc:** Assistant Chiefs; Majors; Frank Adderley  
**Subject:** FW: Graffiti as Hate Crime

Major, Please handle as the area in question is District II please.

**Captain Rick Maglione**  
 Ft. Lauderdale Police Department  
 Office of the Chief  
 Office: (954) 828-5572  
 Fax: (954) 828-6001

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**From:** Rick Maglione  
**Sent:** Monday, September 17, 2012 1:26 PM  
**To:** Assistant Chiefs; Majors  
**Cc:** Frank Adderley  
**Subject:** FW: Graffiti as Hate Crime

FYI

**Captain Rick Maglione**  
 Ft. Lauderdale Police Department  
 Office of the Chief  
 Office: (954) 828-5572  
 Fax: (954) 828-6001

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**From:** NeighborSupport  
**Sent:** Monday, September 17, 2012 12:08 PM  
**To:** Rick Maglione; Skip Margerum  
**Subject:** FW: Graffiti as Hate Crime

FYI...

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**From:** City of Ft. Lauderdale Webmaster  
**Sent:** Monday, September 17, 2012 11:49 AM  
**To:** NeighborSupport  
**Subject:** FW: Graffiti as Hate Crime

**From:** Mitchell Stollberg [<mailto:mitchell-nana@hotmail.com>]  
**Sent:** Monday, September 17, 2012 10:44 AM  
**Subject:** RE: Graffiti as Hate Crime

Once again I find my self Frustrated and dismayed this will be my 3rd Attempt since January. I have had no, none, 0, zero, response regarding this particular Graffiti that still exist.

Yes I know with most of the Graffiti yea they try to remove them, but more those most aren't. Some of you like to Glorify it by calling it Art. Do you see any Art in this! Every day I drive by this on my way to work Cypress Creek Blvd., by Executive Airport.

For the past month for some reason the County felt it necessary to dig up the Sidewalks and put in new ones not sure why couldn't tell you if they were cracked or not. I don't see a mass of foot traffic along Cypress, most people drive.

In this process of the sidewalks being working they put this Orange netting around the FPL Poles and Light fixtures. The very poles that has Swastika carvings and Graffiti on them.

I was told if I get the # on the poles FPL would take care of the Graffiti but they don't.

Over the Weekend on the Commercial Blvd Wall in my neighborhood we have more Graffiti, as I drove to a family dinner on I 95 going north to Hillsburgh there is more and more. So it leaves me wondering again does anyone take this seriously. Do we wait till we become the East LA or Bronx New York's were people are afraid to go.

I know there maybe some more important thing on the Cities and Counties plate like the Side walks. But I do have another Question I know in the new Budget talks we hear talk of merit Pay!!! Just how does that work. Does someone who puts netting around a pole with graffiti to work on Sidewalks and doesn't think they should do something about the Graffiti get merit pay. Does the County or City employee who drives by me as I am taking the picture of Graffiti get Merit pay? Does the FPL employee who drives by these poles get Merit pay??? Does everyone have Blinder on and not see this. Doesn't anyone find this offensive?

I am now going on 9 Months and no response or Action, what will it take???

Mitchell Stollberg

954-275-3653

[mitchellstollberg@att.net](mailto:mitchellstollberg@att.net)

I appoliges for using this email but again some as my att email sometime will not allow me to email

To all elected officials and Staff

I know each of you have received PDF files from me at one time or another showing Graffiti that plagues our Cities and County. I do hope you take the time to read this and review the PDF file not just disregard.

This type graffiti is a symbol of hate and it offends me on many levels. One is the fact that I reported these Swastika carvings on January 23, 2012 at that time I only found 2. Seven months latter since that report no one from the City of Ft. Lauderdale or Broward County has responded to me about these carvings. The fact is, those carvings are still there, with the addition of 2 more, adding to the other criminal vandalism on poles and buildings.

As I am a relative to family members, who fled Austria, German, Russia and Hungary to escape the persecution at the hands of people who wore that symbol as a badge of honor, while they murdered and tortured people whether they be Jewish or Gay, is offensive to me. Having to see that symbol every day is usually offensive. Doing nothing about it is Highly Offensive

Graffiti in General brings down a community and adds to crime. People I know that have parked their car at the Palm Air Park will attest to that. They have had car windows smashed and purses stolen, while teaching their daughter how to ride a bike.

I renew my plea for All surrounding Cities along with Broward county to work together in curbing this blight plaguing our Cities and County.

I am again asking for each City and the County to work on a Ordinance similar to that of Dade County or Los Angeles's in banning the Sale of spray paint and markers to anyone under the age of 18. With an ordinance that would require those items be locked up to prevent the theft of said items.

I am also asking the County and all Cities to Remove said Graffiti in Timely Manner as ordinance already in the books state. (3 days)

Below is the Both ordinance from Dade County and the ordinances from Los Angeles's on the 49.84.4 Display of Aerosol Paint Containers and Marker Pens. below as well

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Controlling graffiti is necessary since it has been proven to:

cause a decline in property values.

attract criminals into the neighboring areas.

discourage businesses from relocating into areas.

cause residents to hesitate about moving into areas.

costs to the County, residents, and businesses are extremely high.

Property owners are responsible for maintaining their residential property or common area graffiti free, including walls and fences that are visible from the public right-of-way, mailboxes, etc.

Property owners must remove graffiti from commercial buildings, vehicles, trash dumpsters, and other commercial property.

Miami-Dade County has the authority to paint over graffiti that is on a wall or fence that abuts the right-of-way without prior notice to the property owner.

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Good afternoon Mr. Stollberg.

In pursuant to your request, below please find the link regarding the ordinance regarding the sale of spray cans and/or broad tipped markers to minors under age 18.

[http://library.municode.com/HTML/10620/level3/PTIICOOR\\_CH21OFMIPR\\_ARTIV.html#PTIICOOR\\_CH21OFMIPR\\_ARTIVMI\\_S21-30.01GR](http://library.municode.com/HTML/10620/level3/PTIICOOR_CH21OFMIPR_ARTIV.html#PTIICOOR_CH21OFMIPR_ARTIVMI_S21-30.01GR)

hope this is the information you are looking for. If you have any further questions, please feel free to contact us at (305) 468-5967.

Barbie Zas and Roberta Pasquier

<http://library.municode.com/index.aspx?clientId=10620&stateId=9&stateName=Florida>

## ARTICLE IV. - MISCELLANEOUS

Sec. 21-30.01. - Graffiti.

(a)

*Definitions.* For the purpose of this section, the following terms apply.

(1)

"*Broad tipped indelible marker*" means any felt tip marker, or similar implement, which contains a fluid which is not water soluble and which has a flat or angled writing surface one-half (½) inch or greater.

(2)

"*Bona fide evidence of majority*" means a document issued by a federal, state, county, or municipal government or agency hereof, including but not limited to, a motor vehicle operator's license, or registration certificate issued under the Federal Selective Service Act, a passport, or an identification card issued to a member of the armed forces which identifies an individual and provides proof of the age of such individual.

(3)

"*Business day*" means any day of the week except Saturday, Sunday, or legal holidays.

(4)

"*Commercial property*" means real and personal property that is used for business, commercial, or for-profit purposes including but not limited to vehicles, dumpsters, advertisements and signs. It shall be prima facie evidence that a property is commercial if it (1) is located in a business, commercial, office, apartment, hotel or warehouse zoning district; (2) contains commercial or business advertising visible from the right-of-way; or (3) has posted on its premise a business occupational license. "Commercial property" shall include advertising and billboards. "Commercial property" shall include residential property of four (4) or more units that is rented or advertised for rent. "Commercial property" shall not include (1) single family homes or residential property of three (3) or less units; (2) property owned by governments; (3) property used for non-profit purposes by educational institutions, charities, or religious institutions; (4) property used for agricultural purposes except for those portions of the property containing a business open to the general public.

(5)

"*Corrective action*" mean an act required to remove or effectively obscure graffiti that is visible from the right-of-way.

(6)

"*Director*" mean the Director of the Public Works Department or his or her designee.

(7)

"*Non-commercial property*" means all property that is not included in the definition of commercial property in this section.

(8)

"*Owner*" means any and all persons with legal and/or equitable title to real property in Miami-Dade County as their names and addresses are shown upon the records of the Property Appraiser Department.

(9)

"*Supervising adult*" means an individual twenty-one (21) years of age or older who has been given responsibility by the minor's parents, legal guardian, or other lawful authority to supervise the minor.

(10)

"*Used or intended to be used*" includes usage in the course of a violation or usage to transport a violator to or from the scene of a violation.

(b)

*Application of section.*

(1)

This section shall be applicable in incorporated and unincorporated areas of Miami-Dade County, with the enforcement of the provision of this section in the unincorporated area being the responsibility of Miami-Dade County and in the incorporated area being the responsibility of the municipalities.

(c)

*Affect on municipal ordinances.* It is the intent of the Board to provide a minimum standard for those graffiti offenses provided in subsections (f), (h), and (i) in incorporated areas of Miami-Dade County. Any municipality in Miami-Dade County may adopt more stringent graffiti regulations and/or higher penalties for graffiti offenses than those provided herein.

(d)

*Graffiti prohibited.*

(1)

No person shall write, paint, or draw any inscription, figure, or mark of any type on any public or private building or structure or other real or personal property, owned, operated, or maintained by a governmental entity or any agency or instrumentality thereof or by any person, firm, or corporation, unless the express prior written permission of the owner, owner's agent, manager or operator of the property has been obtained and filed with the Public Works Department, Graffiti Coordinator. No filing is required if the owner, owner's agent, manager or operator of the property has obtained a valid painting permit in accordance with other pertinent law.

(2)

Any person violating this subsection shall be punished by a fine of two hundred and fifty dollars (\$250.00) for the first offense; five hundred dollars (\$500.00) for the second offense and one thousand dollars (\$1,000.00) for each subsequent offense or by imprisonment in the County jail for a term not to exceed sixty (60) days or by both fine and imprisonment at the discretion of the court.

(I)

In the case of a minor, the parents or legal guardian shall be jointly and severably liable with the minor for payment of all fines.

(II)

Failure of the parents or legal guardian to make payment, will result in the filing of a lien on the parents or legal guardian's property to include the fine and administrative costs.

(III)

Upon an application and finding of indigency, the court may decline to order fines against the minor or parents.

(3)

In addition to any punishment listed in subsection (d)(2), the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the defendant's offense in the amount or manner determined by the court.

(I)

In the case of a minor, the parents or legal guardian shall be ordered jointly and severably liable with the minor to make such restitution.

(4)

In addition to any punishment listed in subsection (d)(2) or restitution ordered under subsection (d)(3), the court shall order any violator to perform monitored community service in the removal of graffiti of not less than forty (40) hours and not more than one hundred (100) hours.

(5)

Forfeiture of personal property. All personal property, including, but not limited to automobiles and bicycles, used or intended to be used in violating this subsection, shall be forfeitable to Miami-Dade County. In forfeiting such personal property, the County shall follow the procedures outlined in Section 31-116 et seq. of the Miami-Dade County Code concerning forfeitures of passenger motor vehicles for violation of the transportation code, except that one (1) violation of this subsection shall be the basis for forfeiture; the County Manager or his designee shall act as the party for the County in lieu of CSD as recipient of all request for hearings and for all other purposes under the procedure; the property subject to forfeiture shall be personal property as described above. In any forfeiture under this section, the court shall not order a forfeiture unless it finds that the forfeiture is commensurate with the severity of the violation to the extent required by Florida and Federal Constitution.

(I)

Municipalities may establish their own system for the forfeiture of personal property.

(e)

*Graffiti removal by the County.*

(1)

Whenever the County becomes aware of the existence of graffiti on any property, including any structure or

improvement, that abuts the public right-of-way within any unincorporated area of the County, County personnel are authorized to immediately remove or obscure such graffiti.

(2)

For purposes of this subsection (e) only, "property that abuts the public right-of-way" means property that can be accessed by County personnel without substantially encroaching onto private property, such as subdivision walls and other structures and improvements lying at or near the public right-of-way.

(3)

General notice. Property owners are hereby put on notice of the County's intention to immediately obscure graffiti placed on walls, buildings and other surfaces that abut the public right-of-way. Team Metro shall also publish notice once during each week for four (4) consecutive weeks in the Miami Herald and shall substantially comply with Chapter 50, Florida Statutes. Any property owner who objects to graffiti being obscured on property abutting the public right-of-way shall file a statement of objection with the County Manager or his designee within thirty (30) days of the date of the final published notice. Such objection shall be effective for one (1) year. A new objection must be filed each year thereafter to preserve the objection. If an objection is filed, subsection (e) shall not apply to the property owner's property. The County reserves the right, however, to ensure that graffiti is obscured on such property by citation and fine under subsection (g).

(4)

Specific notice to affected property owner. The appearance of graffiti on a wall, building or other surface abutting the public right-of-way shall serve as notice to the property owner that the graffiti is subject to being obscured or removed by the County. Any property owner who has not filed a statement under subsection (3) and who desires to obscure or remove the graffiti himself shall (i) immediately remove the graffiti; or (ii) notify the County Manager or his designee immediately of his intention to remove the graffiti within forty-eight (48) hours. Graffiti not removed within forty-eight (48) hours is subject to removal by the County.

(5)

Nothing contained in this subsection (e) shall be construed to supersede or otherwise affect the provisions contained in subsection (g).

(f)

*Graffiti removal by the property owner.*

(1)

Whenever the County becomes aware of the existence of graffiti visible from the public right-of-way on any property, real or personal, including structures or improvements within the County, a Code Enforcement Officer is authorized, upon such discovery, to give, or cause to be given, notice to take corrective action to the property owner or the property owner's agent or manager.

(2)

For commercial property, the property owner or the property owner's agent or manager shall take corrective action within two (2) business days from receipt or posting of the notice listed in subsection (f)(1). For non-commercial property, the property owner or the property owner's agent or manager shall take corrective action within fourteen (14) calendar days from receipt or posting of the notice listed in subsection (f)(1).

(3)

If the property owner or the property owner's agent or manager fails to take corrective action, he or she shall be cited pursuant to Chapter 8CC of this Code or by any municipal citation system.

(I)

For commercial property, the property owner or the property owner's agent or manager has two (2) business days from receipt or posting of the citation to file for an 8CC hearing officer, or municipal hearing officer, or take corrective action. For non-commercial property, the property owner or the property owner's agent or manager has seven (7) calendar days from receipt or posting of the citation to file for an 8CC Hearing Officer, or municipal hearing officer, or take corrective action.

(II)

If the owner or the property owner's agent or manager does not appeal the citation, they shall pay the fine in accordance with Section 8CC-10 of the Code, or in accordance with the applicable municipal citation system. Thereafter, each day the owner, or property owner's agent or manager fails to take corrective action counts as a continuing violation.

(4)

The above listed hearing shall be conducted not sooner than five (5) calendar days, but not later than twenty (20) calendar days after receipt of the appeal.

(5)

Notwithstanding any provision of this Chapter or Chapter 8CC of the Miami-Dade County Code to the contrary, the appeal of a violation of this section shall not extend or otherwise change the time period for corrective action of the violation. Continuing penalties as provided for herein and in Section 8CC-4(c) shall accrue upon the expiration of the time period provided in subsection (3) above.

(6)

The Director, or City Manager of a municipality, shall cause corrective action to take place at the owner's expense after two (2) business days for commercial property, or fourteen (14) calendar days for non-commercial property from the date of citation or date of the rendering of the Hearing Officer's order, which finds the violator guilty.

(I)

The County or municipality shall have the right to enter upon private property to the extent necessary to take corrective action. Entry into any dwelling or structure is expressly prohibited.

(II)

After taking corrective action, the Director, or City Manager of a municipality, shall file a lien in the amount of all expenses incurred in correcting the condition, including all fines, continuing penalties and actual administrative costs.

(III)

Such liens shall be enforceable in the same manner as a tax lien and may be satisfied at any time by payment thereof, including accrued interest. Upon such payment, the Clerk of the Circuit Court shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the record thereof. Notice of such lien may be filed in the Office of the Clerk of the Circuit Court and recorded among the public records of Miami-Dade County, Florida.

(7)

It shall be an affirmative defense preventing any fines from issuing under this section if the property owner proves at a hearing that, at the subject location, he or she had been victimized by graffiti three (3) or more times within the calendar year of the violation and had removed or effectively obscured the graffiti within two (2) business days of its appearance for commercial property, or within fourteen (14) days of its appearance for non-commercial property, or within the times provided in this ordinance if a notice of violation was issued. This mitigation provision applies only to fines and shall not prevent the Director, pursuant to section (d)(6), from taking corrective action and liening the property for costs, if the property owner fails to take corrective action.

(g)

*Possession of spray paint and markers.*

(1)

Possession of spray paint and markers with intent to make graffiti is prohibited. No person shall carry an aerosol spray paint can or broad-tipped indelible marker with the intent to violate the provisions of subsection (d)(1).

(2)

Possession of spray paint and markers by minors on public property prohibited. No person under the age of eighteen (18) shall have in his or her possession any aerosol container of spray paint or broad-tipped indelible marker while on any public property, highway, street, alley or way except in the company of a supervising adult.

(3)

Possession of spray paint and markers by minors on private property prohibited without consent of owner. No person under the age of eighteen (18) shall have in his or her possession any aerosol container of spray paint or broad-tipped indelible marker while on any private property unless the owner, agent, or manager, or person in possession of the property knows of the minor's possession of the aerosol container or marker and has consented to the minor's possession while on his or her property.

(4)

Any person violating this subsection (g)(1), (2) or (3) shall be punished by a fine of two hundred and fifty dollars (\$250.00) for a first offense, and five hundred dollars (\$500.00) for a second offense and one thousand dollars (\$1,000.00) for each subsequent offense, or by imprisonment in the County Jail for a term not to exceed sixty (60) days, or by both fine and imprisonment in the discretion of the court.

(I)

In the case of a minor, the parents or legal guardian shall be responsible for payment of all fines.

(II)

Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parents or legal guardian's property to include the fine and administrative costs.

(5)

In addition to any punishment, the court shall order any person found in violation of subsection (g)(1), (2) or (3) to make

restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense in a reasonable amount or manner to be determined by the court.

(I)

Where the defendant is a minor, the parent or legal guardian shall be jointly and severably liable with the minor to make such restitution.

(6)

In addition to any punishment listed in subsection (g)(5) or restitution ordered under subsection (g)(6), the court shall order any person found in violation of subsection (g)(1), (2), or (3) to perform monitored community service in the removal of graffiti of not less than forty (40) hours and not more than one hundred (100) hours.

(h)

*Storage and sale of spray paint and markers.*

(1)

*Sale to minors prohibited.* No person or firm shall sell or cause to be sold to any person under the age of eighteen (18) years, and no person under the age of eighteen (18) years shall buy any aerosol container of spray paint or broad-tipped indelible markers. Evidence that a person, his or her employee, or agent demanded and was shown bona fide evidence of majority and acted upon such evidence in a transaction or sale shall be a defense to any prosecution thereof.

(2)

*Display or spray paint and markers.* Every person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers of spray paint or broad-tipped indelible markers shall:

(I)

Place a sign in clear public view at or near the display of such products stating:

"GRAFFITI IS A CRIME. ANY PERSON DEFACING REAL OR PERSONAL PROPERTY NOT HIS OR HER OWN WITH PAINT OR ANY OTHER LIQUID OR DEVICE IS GUILTY OF A CRIME PUNISHABLE BY IMPRISONMENT OF UP TO 60 DAYS AND/OR A FINE UP TO \$1,000.00."

(II)

Place a sign in the direct view of such persons responsible for accepting customer payment for aerosol containers of spray paint or broad-tipped indelible markers.

"IT IS A VIOLATION OF THE LAW TO SELL AEROSOL CONTAINERS OF SPRAY PAINT OR BROAD-TIPPED INDELIBLE MARKERS TO PERSONS UNDER 18 YEARS OF AGE PUNISHABLE BY A CIVIL FINE OF \$100.00."

(III)

Store or cause such aerosol containers or marker pens to be stored either (a) in the direct line of sight from the cash-register work station or any other work station that is normally continuously occupied while the store is open, or (b) in a place not accessible to the public in the regular course of business without employee assistance, pending legal sale or disposition of such marker pens or paint containers.

(3)

Violation of subsection (h)(1) or (2) shall result in a civil penalty of one hundred dollars (\$100.00) for a first offense and two hundred dollars (\$200.00) for subsequent offenses. When three (3) violations of subsection (h)(1) or (2) occur within any calendar year at a commercial establishment, that establishment shall be subject to an injunction from a court of competent jurisdiction forbidding the sale of aerosol containers of spray paints and broad-tipped indelible markers for a period up to two (2) years. Violation of such injunction shall be punished by a fine of one hundred dollars (\$100.00) per day of violation in addition to any other penalties levied by the Court. Failure to make payment of fines will be subject to an injunction from a court of competent jurisdiction forbidding the sale of aerosol containers of spray paints and broad-tipped indelible markers until payment of the fine, attorney's fees and costs.

(i)

*Anti-graffiti trust fund.*

(1)

There is hereby created the Miami-Dade County Anti-Graffiti Trust Fund. Civil and criminal penalties assessed against violators of this section shall be placed in the fund. The Board of County Commissioners shall direct the expenditures of monies in the fund. Such expenditures shall be limited to the payment of the cost of removal of graffiti, the payment, at the discretion of the County Manager, or rewards for information leading to the arrest, taking into custody, adjudication, referral to pre-trial programs or conviction for violation of this section or other state laws relating to graffiti, the costs of administering this ordinance, and such other public purposes as may be approved by the Miami-Dade County Commission by resolution.



(2)

Each jurisdiction that enforces the provisions of this section shall have the right to create its own anti-graffiti trust fund to fund anti-graffiti measures.

(Ord. No. 94-199, § 2, 11-1-94; Ord. No. 94-239, § 1, 12-20-94; Ord. No. 96-133, § 1, 9-10-96; Ord. No. 97-25, § 2, 4-8-97; Ord. No. 97-31, § 1, 4-15-97; Ord. No. 98-33, §§ 1, 2, 2-19-98; Ord. No. 09-88, § 1, 10-6-09)

**Editor's note—**

Ord. No. 94-199, § 1, adopted Nov. 1, 1994, repealed former § 21-30.01, relative to graffiti, and § 2 of said ordinance enacted a new § 21-30.01 to read as herein set out. The provisions of former § 21-30.01 derived from Ord. No. 88-113, § 1, adopted Dec. 6, 1988; Ord. No. 91-40, § 1, adopted April 2, 1991; Ord. No. 93-115, § 1, adopted Nov. 3, 1993; Ord. No. 94-46, § 2, adopted March 17, 1994.

## Los Angeles Municipal Code

[http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:lamc\\_cd](http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:lamc_cd)

### ARTICLE 14 GRAFFITI REMOVAL AND RECOVERY

(Title and Article Amended by Ord. No. 180,708, Eff. 7/6/09.)

Section	
<u>49.84.1</u>	Purpose and Intent.
<u>49.84.2</u>	Definitions.
<u>49.84.3</u>	Graffiti Prohibited.
<u>49.84.4</u>	Display of Aerosol Paint Containers and Marker Pens.
<u>49.84.5</u>	Possession of Specified Graffiti Implements Prohibited in Designated Areas.
<u>49.84.6</u>	Graffiti Declared a Public Nuisance.
<u>49.84.7</u>	Graffiti Removal at City Expense.
<u>49.84.8</u>	Remedies When Owner Refuses to Consent.
<u>49.84.9</u>	City Funds to Be Recovered.
<u>49.84.10</u>	Administrative Hearing.
<u>49.84.11</u>	Nuisance Abatement Lien.
<u>49.84.12</u>	Penalties.
<u>49.84.13</u>	Severability.

#### SEC. 49.84.1. PURPOSE AND INTENT.

(A) The City Council of the City of Los Angeles finds graffiti on public or private property a blighting element that leads to depreciation of the value of property and depreciates the value of the adjacent and surrounding properties to the extent that graffiti creates a negative impact on the entire city.

(B) The City Council finds and determines that the power of graffiti to create fear and insecurity within the community detracts from the sense of community enjoyed by residents making graffiti both a property crime and a social

crime impacting the quality of life and freedom from intimidation that citizens desire within their neighborhoods.

(C) The City Council finds and determines that the spread of graffiti often leads to violence, genuine threats to life, and the perpetuation of gangs, gang violence, and gang territories.

(D) The City Council finds and determines that graffiti is obnoxious and a public nuisance, and must be eliminated by means of prevention, education, and abatement to avoid the detrimental impact of such graffiti on the City and its residents, and to prevent the further spread of graffiti.

(E) The purpose and intent of the City Council, through the adoption of this Article, is to protect public and private property from acts of vandalism and defacement.

#### SEC. 49.84.2. DEFINITIONS.

(A) "**Act of graffiti**" means an act which causes any form of unauthorized inscription, word, figure or design to be marked, etched, scratched, drawn, sprayed, painted or otherwise affixed on any structural component of any building, structure or other facility or upon any other property, regardless of its content or nature and regardless of the nature of the material of that structural component or property.

(B) "**Aerosol paint container**" means any aerosol container, which is adapted or made for the purpose of applying spray painting, or other substance capable of defacing property.

(C) "**City**" means the city of Los Angeles.

(D) "**Etching cream**" means any caustic cream, gel, liquid, or solution capable, by means of a chemical action, of defacing, damaging, or destroying hard surfaces in a manner similar to acid.

(E) "**Graffiti**" means any form of unauthorized inscription, word, figure or design which is marked, etched, scratched, drawn, sprayed, painted or otherwise affixed to or on any surface of public or private property, including but not limited to, buildings, walls, signs, structures or places, or other surfaces, regardless of the nature of the material of that structural component.

(F) "**Graffiti implement**" means any implement capable of marking a surface to create graffiti, including but not limited to aerosol paint containers, markers, etching devices, and gum labels.

(G) "**Gum label**" means any material such as, but not limited to, decals, stickers, posters or labels which contain a substance commonly known as adhesive or glue, which cannot be removed from the surface in an intact condition and with minimal effort.

(H) "**Marker**" means any indelible or permanent marker with tips exceeding four millimeters in width or similar implement containing ink that is not water-soluble.

(I) "**Owner**" means any person, firm, corporation, partnership or other entity, owning property either public or private, whose name or title appears on the last equalized assessment role with the Los Angeles County Recorder's Office, or the lessee, tenant or other person having control or possession of the property.

#### SEC. 49.84.3. GRAFFITI PROHIBITED.

(A) It is unlawful for any person to write, paint, spray, chalk, etch, or otherwise apply graffiti on public or privately owned buildings, signs, walls, permanent or temporary structures, places, or other surfaces located on public or privately owned property within the City.

(1) A violation of this subsection shall be subject to enforcement only through civil action, administrative fine, or nuisance abatement lien.

(B) It is unlawful for any person owning or otherwise in control of any real property within the City to permit or allow any graffiti to be placed upon or remain on any walls, temporary or permanent structure, places, or other surfaces located on such property when the graffiti is visible from a public street or other public or private property.

#### SEC. 49.84.4. DISPLAY OF AEROSOL PAINT CONTAINERS AND MARKER PENS.

(A) It shall be unlawful for any person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers, or marker pens with tips exceeding four millimeters in width, containing anything other than a solution which can be removed with water after it dries, to store or display, or cause to be stored or displayed, such aerosol containers or marker pens in an area accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition.

(B) Nothing herein shall preclude the storage or display of spray paint containers and marker pens in an area

viewable by the public so long as such items are not accessible to the public without employee assistance.

#### SEC. 49.84.5. POSSESSION OF SPECIFIED GRAFFITI IMPLEMENTS PROHIBITED IN DESIGNATED AREAS.

(A) It is unlawful for any person to have in his or her possession any aerosol paint container or etching cream while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building owned or operated by the City unless otherwise authorized by the City, where signs forbidding such possession are displayed as provided in Subsection (B).

(B) **Posting of No Possession of Graffiti Implements Signs.** At least two signs shall be conspicuously painted or posted on the outside of every public facility, park, playground, swimming pool, recreational facility, or other public building owned or operated by the City that is subject to this regulation. The letters and numbers on said signs shall be in black lettering at least six inches high on a white background stating:

NO POSSESSION OF AEROSOL SPRAY PAINT OR ETCHING CREAM

L.A.M.C. SEC. 49.84.5

#### SEC. 49.84.6. GRAFFITI DECLARED A PUBLIC NUISANCE.

**Declaration of Nuisance.** The City Council hereby declares and finds graffiti, which is visible from a street or other public or private property to be a nuisance subject to abatement according to the provisions and procedures contained herein.

#### SEC. 49.84.7. GRAFFITI REMOVAL AT CITY EXPENSE.

(A) **Authorization to Use City Funds.** Whenever the Board of Public Works or its designated representative determines that graffiti is so located on public or private property within the City so as to be capable of being viewed by persons utilizing any public right-of-way in the City, the Board of Public Works or its designated representative is authorized to provide for the removal of the graffiti solely at the City's expense, without reimbursement from the property owner upon whose property the graffiti has been applied.

(B) **Limitations to Use of City Funds.** The use of City funds as authorized in this section is limited to the following cases.

(1) The Board of Public Works or its designated representative must approve each proposed use of City funds for the removal of graffiti.

(2) In removing the graffiti, the painting or repair shall be limited to the minimum necessary to properly restore the defaced area.

(3) Where a structure is owned by a public entity other than the City, the removal of the graffiti may be authorized only after securing the consent of the public entity having jurisdiction over the structure as set forth in subsection (C), below.

(4) Where a structure is privately owned, the removal of the graffiti by City personnel or by a private contractor under the direction of the City may be authorized only after securing the consent of the owner as set forth in subsection (C), below.

(5) The City reserves the right to recover City costs and expenses pursuant to this chapter, Penal Code Section 594, *et seq.*, Code of Civil Procedure Section 731, Civil Code Section 1714.1, Government Code Section 38771, *et seq.*, Welfare and Institutions Code Section 742.10, *et seq.*, and any other remedies provided by law.

(C) **Securing Consent.** The City shall obtain the written consent of the owner of the affected public or private structures prior to removal of graffiti. Owners may consent in advance to City entry onto private property for graffiti removal purposes. The City will make forms for such consent available. The consent form shall be approved by the City and shall:

(1) Authorize entry of City employees or contractors on the affected property to accomplish the removal of the material;

(2) Assign to the City any cause or causes of action which the owner may have against any person or persons who deface said property with graffiti; and

(3) Hold the City, its officers, employees and contractors harmless from all liability arising out of the entry on the property or the work of removing the material.

(D) In any instance where the owner of the affected property or structure caused, materially contributed, or

voluntarily consented to the placement of the graffiti, the owner may be held financially responsible pursuant to Section 49.84.8 of this Article.

**SEC. 49.84.8. REMEDIES WHEN OWNER REFUSES TO CONSENT.**

(A) **Vacant Property.** If the City requested consent from an owner to remove or abate graffiti and that owner refused or failed to consent, the City may commence abatement and cost recovery proceedings for the removal of the graffiti pursuant to the provisions of Section 91.8904 *et seq.* of this Code, and any other remedies provided by law.

(B) **Occupied Buildings and Premises.** If the City requested consent from an owner to remove or abate graffiti and that owner refused or failed to consent, the City may pursue other remedies provided by this Article, Section 91.8903 *et seq.* of this Code, and any other remedies provided by law.

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Again Please forgive me for using this Email address as my personal email @att does not Recognize some of the emails