

ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. 2827

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD
REPEALING AND READOPTING SECTIONS 7-81, 7-86, 7-87, 7-88,
7-89, AND 7-92 OF THE OXNARD CITY CODE, AMENDING SECTION
7-82, SUBDIVISION (A) OF SECTION 7-85, AND SECTION 7-91 OF
THE OXNARD CITY CODE, AND REPEALING SECTION 7-93 OF THE
OXNARD CITY CODE CONCERNING ANTI-GRAFFITI MEASURES

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The City Council of the City of Oxnard does ordain as follows:

Part 1. Section 7-81 of the Oxnard City Code is hereby repealed and readopted to read as follows:

“SEC. 7-81. DEFINITIONS.

For purposes of this article, the following words shall have the following meanings:

(A) **ADHESIVE STICKERS** – Any piece of paper, fabric, plastic, or other material with an adhesive, paste or gummed backing, which, when applied or affixed to any surface, either creates a permanent contact or is not easily removable without the use of solvents.

(B) **AEROSOL PAINT CONTAINER** – A container, regardless of the material from which it is made, that is adapted or made for the purpose of spraying paint or other substances capable of defacing property.

(C) **DEFACEMENT** – The intentional altering of the physical shape or physical appearance of property without the prior written consent of the owner.

(D) **ETCHING CREAM** – Any caustic cream, gel, liquid, or solution capable, by means of a chemical action, of marking, defacing, damaging, or destroying glass, plastic, wood, metal, or concrete surfaces in a manner similar to acid.

(E) **ETCHING TOOL** – Any sharp or pointed instrument that is capable of etching or marking glass, plastic, wood, metal, or concrete surfaces, including, but not limited to, picks, scribes, awls, chisels, markers, and etchers, or any masonry or glass drill bit, carbide drill bit, glass cutter, grinding stone, or acid etching solution.

(F) **GRAFFITI** – Any unauthorized inscription, word, figure, mark, adhesive sticker, or design that is written, marked, etched, scratched, drawn, painted, labeled, pasted, applied, or affixed on any real or personal property of another.

(G) GRAFFITI IMPLEMENT -- An adhesive sticker, an aerosol paint container, etching cream, an etching tool, an indelible marker, a paint stick, a graffiti stick, a spray actuator, or any other device or instrument capable of creating graffiti.

(H) INDELIBLE MARKER -- Any device containing fluid that is not soluble in water and has a writing surface for applying such fluid.

(I) MINOR -- A person less than 18 years of age.

(J) PAINT STICK or GRAFFITI STICK -- A device containing a solid form of paint, chalk, wax, epoxy, or other similar substance that is not soluble in water, is capable of being applied to a surface by pressure, and upon application, leaves a mark.

(K) RESPONSIBLE ADULT -- A parent, legal guardian or teacher of a minor.

(L) SPRAY ACTUATOR -- An object or device that is capable of being attached to an aerosol or other paint container for the purpose of spraying the substance contained therein.”

Part 2. Section 7-82 of the Oxnard City Code is hereby amended to read as follows:

“It shall be unlawful for any person to place graffiti on or apply graffiti to any public, private, or personal property located within the city without permission of the owner of the property.”

Part 3. Subdivision (A) of section 7-85 of the Oxnard City Code is hereby amended to read as follows:

“(A) Only the graffiti or other inscribed material itself may be removed unless the graffiti or other inscribed material itself cannot be removed cost effectively. In such cases, the portion of the property that was defaced may be repaired or replaced. Portions of the property that were not defaced, shall not be painted, repaired, or replaced.”

Part 4. Section 7-86 of the Oxnard City Code is hereby repealed and readopted to read as follows:

“SEC. 7-86. PROHIBITION OF SPECIFIED GRAFFITI IMPLEMENTS IN DESIGNATED AREAS.

(A) It shall be unlawful for any person to have in his or her possession any adhesive sticker, etching tool, indelible marker, paint stick, or graffiti stick while in or upon any public facility, park, playground, swimming pool, beach, recreational facility, or other public building owned or operated by the city where signs forbidding such possession without valid authorization are displayed in a reasonable location or locations.

(B) It shall be unlawful for any minor to possess any graffiti implement while in or upon school property, grounds, facilities, buildings, or structures. The provisions of this subdivision shall not apply to the possession of indelible markers by a minor attending a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of indelible markers.”

Part 5. Section 7-87 of the Oxnard City Code is hereby repealed and readopted to read as follows:

“SEC. 7-87. PROHIBITION OF SALE OF SPECIFIED GRAFFITI IMPLEMENTS TO MINORS.

It shall be unlawful for any person, other than a responsible person, to sell, exchange, give, loan, or otherwise furnish, or cause to permit to be sold, exchanged, given, loaned, or otherwise furnished, any etching tool, indelible marker, paint stick, graffiti stick, or spray actuator to a minor unless such minor is accompanied by a responsible adult.”

Part 6. Section –7-88 of the Oxnard City Code is hereby repealed and readopted to read as follows:

“SEC. 7-88. REQUIRED SIGNS.

“(A) Every retail establishment selling or offering for sale etching tools, indelible markers, paint sticks, graffiti sticks, or spray actuators shall post at the location of retail sale a sign in letters at least three-eighths of an inch high and clearly visible and legible to employees and customers stating:

“It is unlawful for any person to sell or give any etching tool, indelible marker, paint stick, graffiti stick, or spray actuator to a minor who is not accompanied by a responsible adult.”

(B) Every retail establishment selling or offering for sale etching tools, indelible markers, paint sticks, graffiti sticks, or spray actuators capable of defacing property shall post in a conspicuous space a sign in letters at least three-eighths of an inch high stating:

“Any person who defaces real or personal property with an etching tool, indelible marker, paint stick, graffiti stick, or spray actuator is guilty of vandalism which is punishable by a fine, imprisonment, or both.” ”

Part 7. Section 7-89 of the Oxnard City Code is hereby repealed and readopted to read as follows:

“SEC. 7-89. STORAGE REQUIREMENTS FOR GRAFFITI IMPLEMENTS.

(A) Every person who owns, conducts, operates, or manages a retail establishment selling or offering for sale any graffiti implement shall keep, store, and maintain such graffiti implements in a place that is locked and secure or otherwise made unavailable to the public except upon request.

(B) This section shall not apply to the selling or offering for sale of adhesive stickers.”

Part 8. Section 7-91 of the Oxnard City Code is hereby amended to read as follows:

“Any person who violates the provisions of sections 7-82, 7-84(B), 7-86, 7-87, 7-88, or 7-89(A) of this article is subject to a fine in accordance with article III of this chapter.”

Part 9. Section 7-92 of the Oxnard City Code is hereby repealed and readopted to read as follows:

“SEC. 7-92. LIABILITY FOR COST OF GRAFFITI ABATEMENT; LIEN PROCEDURES.

(A) For purposes of this section, the following words and phrases shall have the following meanings:

(1) “Expense of abatement” includes, but is not limited to, court costs, attorney’s fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred in identifying and apprehending the person responsible for placing graffiti or other inscribed material on property of another.

(2) “Minor” means a person less than 18 years of age who falls into one of the following categories:

(a) Has confessed to, admitted to, or pled guilty or nolo contendere to a violation of section 594, 594.3, 640.5, 640.6, or 640.7 of the Cal. Penal Code;

(b) Has been convicted by final judgment of a violation of section 594, 594.3, 640.5, 640.6, or 640.7 of the Cal. Penal Code; or

(c) Has been declared a ward of the Juvenile Court pursuant to section 602 of the Cal. Welfare and Institutions Code by reason of the commission of an act prohibited by section 594, 594.3, 640.5, 640.6, or 640.7 of the Cal. Penal Code.

(3) "Person other than a minor" means a person who has confessed to, admitted to, or pled guilty or nolo contendere to a violation of section 594, 594.3, 640.5, 640.6, or 640.7 of the California Penal Code.

(B) When the city abates graffiti or other inscribed material placed on public or private property by a minor, the city manager or designee may impose a lien for the expense of abatement against the property of the minor or against the property of the parent or guardian having custody and control of said minor, and the expense of abatement shall be a personal obligation against the minor or against the parent or guardian having custody and control of the minor.

(C) When the city abates graffiti or other inscribed material placed on public or private property by a person other than a minor, the city manager or designee may impose a lien for the expense of abatement against the property of said person, and the expense of abatement shall be a personal obligation against the person.

(D) If the city manager or designee imposes a lien for the expense of abatement as set forth in subdivisions (B) or (C) of this section, the city manager or designee shall provide notice to the person who owns the property upon which the lien is being imposed prior to the recordation of the lien. The city manager or designee shall serve the notice in the same manner as a summons in a civil action pursuant to Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Cal. Code of Civil Procedure.

(E) If the person who owns the property upon which the lien is being imposed cannot be located after diligent search, the city manager or designee may serve the notice by posting a copy of the notice upon the property in a conspicuous place for a period of ten days. The city manager or designee shall also publish the notice pursuant to Cal. Code of Civil Procedure, section 6062 in a newspaper of general circulation that is published in the county in which the property is located.

(F) All liens imposed pursuant to subdivisions (B) or (C) of this section shall be recorded in the county recorder's office in the county in which the parcel of land is located and shall contain the following information:

- (1) The amount of the lien;
- (2) The name and agency on whose behalf the lien is imposed;
- (3) The date of the abatement order;
- (4) The street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed; and

(5) The name and address of the recorded owner of the parcel.

(G) If a lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subdivision (F) of this section shall be recorded by the city. A lien and the release of a lien shall be indexed in the grantor-grantee index.

(H) Any lien imposed pursuant to subdivisions (B) or (C) of this section may be satisfied through foreclosure in an action brought by the city."

Part 10. Section 7-93 of the Oxnard City Code is hereby repealed.

Part 11. Within 15 days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the city. Ordinance No. ____ was first read on _____, 20__ and finally adopted on _____, 20__ to become effective thirty days thereafter.

AYES:

NOES:

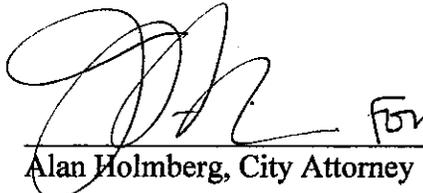
ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney
4.12.10