

Article 4: Public Hazards and Public Nuisances

Division 4: Graffiti Abatement

(“*Graffiti Abatement*” added 8-10-1993 by O-17957 N.S.)

§54.0401 Declaration of Purpose

- (a) It is the purpose and intent of this Division to provide a procedure for removal of *graffiti* from surfaces on public or private property in order to reduce blight and deterioration within the City and to protect the public health and safety.
- (b) The City finds and determines that *graffiti* is obnoxious and constitutes both a public nuisance and a crime, and that it must be abated to avoid the detrimental impact of such *graffiti* on the City and its residents and prevent the further spread of *graffiti*.
- (c) The City further finds that *graffiti* is often related to activities of criminal street gangs, and its eradication and the aggressive prosecution of those who defile others’ property with *graffiti* is a useful component in the City of San Diego’s efforts to combat activity by criminal street gangs. In order to further the City’s efforts to combat criminal street gangs, it is the City’s desire that all offenders, whether adult or juvenile, who violate the City’s anti- *graffiti* laws be prosecuted aggressively, be compelled to pay victim restitution, and if granted probation to be compelled to clean up *graffiti* in the City of San Diego.

(Amended 10-16-2000 by O-18863 N.S.)

(Amended 6-12-2008 by O-19750 N.S.; effective 7-12-2008.)

§54.0402 Definitions

Defined words appear in italics. The words and phrases used in this Division have the meanings set forth in this section:

“*Enforcement Official*” has the same meaning as defined in Section 11.0210.

“*Glass etching products*” means any product which can be used to permanently alter a glass surface, including but not limited to such products that contain hydrofluoric acid, ammonium bifluoride and sulfuric acid, or sodium bifluoride.

“*Graffiti*” means any *unauthorized* inscription, word, figure, picture, or design that is sprayed, marked, posted, pasted or otherwise affixed, drawn, or painted on any surface of public or private property. *Graffiti* shall not mean a sign as defined in Municipal Code section 113.0103.

“*Graffiti Abatement Procedure*” means an administrative abatement procedure which identifies *graffiti*, issues notice to the *responsible person* to abate the *graffiti*, and provides for abatement in the absence of timely response.

“*Private Contractor*” means any person with whom the City has duly contracted to remove *graffiti*.

“*Responsible Person*” has the same meaning as defined in Section 11.0210.

“*Unauthorized*” means without the permission of a responsible person or in violation of this Division as determined by the enforcement official.

(Amended 9-24-2001 by O-18984 N.S.)

§54.0403 Authority

The City Attorney and the Director of the Neighborhood Code Compliance Department, or any Director authorized by the City Manager, shall be vested with the authority to administer and enforce the provisions of this Division. The City Attorney and the Director may exercise any enforcement powers as provided in Division 1, Article 2 of Chapter 1 of this Code as may be necessary to effectively implement and enforce this Division.

(Amended 10-16-2000 by O-18863 N.S.)

§54.0404 Enforcement Remedies

Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provided in Municipal Code Section 12.0201. The City Attorney and the Director may seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code Section 12.0202 or pursue any administrative remedy as provided in Chapter 1 of this Code.

(Amended 6-24-1996 by O-18315 N.S.)

§54.0405 Graffiti Prohibited

- (a) It is the intent of the People of the City of San Diego that all perpetrators of *graffiti* vandalism be prosecuted to the fullest extent of the law, and that prosecutors seek stiff penalties, including prison or jail time, full and timely payment of restitution to *graffiti* vandalism victims, and community service as authorized by state law..
- (b) It is unlawful for any responsible person, to maintain *graffiti* that has been placed upon, or to allow *graffiti* to remain upon, any surface within that person's control, possession or ownership when the *graffiti* is visible from the street or other public property.

(Amended 10-16-2000 by O-18863 N.S.)

(Amended 6-12-2008 by O-19750 N.S; effective 7-12-2008.)

§54.0406 Abatement Authority and Procedures

Whenever an enforcement official determines that *graffiti* located on publicly or privately owned property in the City of San Diego is visible from the street or other public property, the enforcement official is authorized to follow the administrative abatement procedures for Time Frame One as found in Division 6, Article 2 of Chapter 1.

(Retitled to "Abatement Authority and Procedures" and amended 10-16-2000 by O-18863 N.S.)

§54.0407 Removal of *Graffiti* by City on Private Property

- (a) In accordance with the administrative abatement procedures found in Division 6, Article 2 of Chapter 1 of this Code to remove *graffiti*, City crews or its *private contractor* are authorized to enter upon private property and abate *graffiti* upon real property and its appurtenances which are visible from public streets, property or rights-of-way.

(Retitled to "Removal of Graffiti by City on Private Property" and amended 10-16-2000 by O-18863 N.S.)

§54.0408 Private Property Consent Forms

Upon receiving a Notice and Order of Abatement, property owners in the City of San Diego may consent in writing prior to the City's entry onto private property for *graffiti* removal purposes. The Director will make forms for such consent available. The consent form shall include a waiver of liability by the property owner in the event of any damage caused by the City in removing the *graffiti*.

(Amended 10-16-2000 by O-18863 N.S.)

§54.0409 Removal by City on Public Property

- (a) Where *graffiti* is located on property owned by a public entity other than the City, the removal of the *graffiti* may be authorized only after securing the consent of an authorized representative of the public entity having jurisdiction over the property.

(Retitled to "Removal by City on Public Property" and amended 10-16-2000 by O-18863 N.S.)

§54.0410 Cost Recovery

- (a) The Director shall follow the cost recovery procedures found in Division 3, Article 3 of Chapter 1 of this Code. Except as provided in 54.0410(b), no costs shall be assessed against any property owner who was not responsible for, or who did not cause, the placement of the *graffiti* on the affected premises.
- (b) The Director may recover the costs of abatement as to property owners whose properties have been abated by the City more than five times within a twelve month period;
- (c) In deciding whether to recover abatement costs under this Section, the Director may consider the financial and physical ability of the property owner to abate the property;
- (d) Cost recovery procedures shall also apply to parents of juveniles who violate Section 54.0405 of this Code.

(Amended 10-16-2000 by O-18863 N.S.)

§54.0411 Parent Responsibility

Any act of willful misconduct of a minor who violated Section 54.0403 of this Code and whose willful misconduct caused damage to property not in excess of \$25,000, shall cause the parent or guardian having custody and control of the minor to be jointly and severally liable with the minor for any damages resulting from the willful misconduct in accordance with California Civil Code section 1714.1(b).

(“*Parent Responsibility*” added 2-13-1995 by O-18163 N.S.)

§54.0413 Reward Authority

- (a) Pursuant to Section 53069.5 of the Government Code, the City Manager may pay from City funds a reward of up to \$500.00 for information leading to the arrest and conviction of any person for violation of Section 54.0405 or any Penal Code sections prohibiting *graffiti*. In the event of multiple contributors of information, the reward amount shall be divided by the City in the manner the City deems appropriate. For the purposes of this section, a plea bargain to a lesser offense, or diversion of the offending violator to a community service program or volunteer work service program, shall constitute a conviction.
- (b) Claims for rewards under this section shall be filed with the City. Each claim shall:
 - (1) specifically identify the date, location, and kind of property damaged or destroyed;
 - (2) identify by name the person who was convicted, or the person who confessed to the damage or destruction of the City property;
 - (3) identify the court and the date upon which the conviction occurred or the place and the date of the confession.
- (c) No claim shall be allowed by the City Manager unless the Police Chief or his designated representative investigates and verifies the accuracy of the claim and recommends that it be allowed or disqualified.
- (d) If the party providing information is a private security guard, and the claim qualifies for a reward, the reward shall be given to the security company that employed the guard.
- (e) If the person committing the *graffiti* is a juvenile, then the custodial parent of the juvenile shall be liable to reimburse the City for any reward paid pursuant to this section.

(Amended 10-16-2000 by O-18863 N.S.)

§54.0414 Restriction on Display of Graffiti Instruments for Sale

- (a) It is unlawful for any person, firm or entity engaged in a commercial enterprise, to display for sale, trade or exchange, any aerosol paint container, marking pens with tips exceeding four millimeters in width containing anything other than a solution which can be removed with water after it dries, *or glass etching product* except in an area from which the public shall be securely precluded without employee assistance.
- (b) The only two acceptable methods for displaying aerosol paint containers, marking pens with tips exceeding four millimeters in width containing anything other than a solution which can be removed with water after it dries, and *glass etching products* shall be by containment in: (1) a completely enclosed cabinet or other storage device which shall be permanently affixed to a building or building structure, and which shall at all times, except during access by authorized representatives, remain securely locked; or (2) in an enclosed area behind a sales or service counter from which the public is precluded from entry.

(Added 9-24-2001 by O-18984 N.S.)

(Amended 6-12-2008 by O-19750 N.S.; effective 7-12-2008.)