

# City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

## CHAPTER 2006-34

No. 246

AN ORDINANCE

IN AMENDMENT OF CHAPTER 16, "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLES I AND V OF THE CODE OF ORDINANCES REGARDING GRAFFITI AND REWARDS

Approved June 12, 2006

*Be it ordained by the City of Providence:*

WHEREAS, The City of Providence is enacting this ordinance to prevent graffiti and its spread, to establish a program for the removal of graffiti from public and private property, and to reward those whose public-spirited actions result in the apprehension of those defacing property; and

WHEREAS, The City of Providence finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless action is taken to remove graffiti from public and private property, the graffiti tends to remain. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City; and

WHEREAS, The City of Providence intends, through the adoption of this Ordinance, to provide enforcement tools to protect public and private property from acts of graffiti vandalism, defacement and to minimize graffiti in the City;

NOW THEREFORE, Chapter 16, entitled "Offenses and Miscellaneous Provisions," Article I, entitled "In General" of the Code of Ordinances of the City of Providence, Rhode Island is hereby amended as follows:

Section 1.

**Sec. 16-5.** Same – Reward for apprehension of person maliciously damaging city property.

- (a) Authorized. The mayor of the City of Providence is hereby authorized to offer a suitable reward, not to exceed the sum of five hundred dollars (\$500.00) in any case, for any information leading to the detection, apprehension and conviction of any

No.

Ans/ord 06/4-17-06

CHAPTER  
AN ORDINANCE

IN CITY COUNCIL  
SEP 1 2005  
FIRST READING  
REFERRED TO COMMITTEE ON  
ORDINANCES  
CB Gaird Butler CLERK  
First Deputy

THE COMMITTEE ON

Ordinances  
Recommends  
Ann M. Steen  
CLERK

9-26-05  
10-25-05  
1-26-06  
3-15-06  
4-18-06 (neword)

THE COMMITTEE ON  
ORDINANCES  
Approves Passage of  
the Within Ordinance

Ann M. Steen  
5-9-06  
Clerk

Councilman William By Request

offender, or offenders who maliciously destroy or deface ~~city~~ public or private property.

- (b) Payment. Said reward shall be paid by the city treasurer upon the order of the city controller, and said city controller shall draw said order for payment whenever he shall receive a certificate of final conviction from the justice or clerk of the court before which said offender or offenders were tried.

Section 2. Chapter 16, entitled "Offenses and Miscellaneous Provisions," Article V, entitled "Graffiti" of the Code of Ordinances of the City of Providence, Rhode Island is hereby amended as follows:

**Sec. 16-141. Prohibited.**

~~It shall be unlawful for any person without the expressed consent of the owner of the subject property to daub, scratch, write or otherwise injure with paint or similar materials, blacken, caulk or in any other way or manner deface any post, lamppost, fence, tree, tree box, dwelling or other building situated on or upon any street, highway, bridge, way public or private, place or ground set apart for public purpose in the city or any ornament or appurtenance of such post, lamppost, fence, tree, tree box, dwelling or other building.~~

Definitions:

- (a) "Graffiti" means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance.
- (b) "Graffiti Implement" means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.
- (c) "Aerosol Paint Container" means any aerosol container that is adapted or made for the purpose of applying spray paint or other substance capable of defacing property.
- (d) "Broad-tipped Marker" means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4<sup>th</sup>) of an inch, containing ink or other pigmented liquid that is not water soluble.

- (e) "Etching Equipment" means any tools, device or substance that can be used to make permanent marks on any natural or man-made surface.
- (f) "Paint Stick or Graffiti Stick" means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark thereon.
- (g) "Person" means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- (h) "Abate" means to effectively remove
- (i) "Public or Private Property" shall include any building, bridge fence or other structure, any street, alley, sidewalk, or other vehicular or pedestrian right-of-way, any article of street furniture, lamppost, bus shelter, newspaper box, or trash receptacle, any tree, rock, or other natural fixture, any utility or public service equipment, or any other personal property located outdoors, whether publicly or privately owned.

**Sec. 16-142. Violation; penalty.**

~~Any person who commits any of the aforesaid offenses shall be punished by a fine of not less than two hundred dollars (\$200.00) and one hundred twenty (120) hours of community service. Such community service shall be completed by the removal of litter, painting of community lots and the general restoration of public grounds.~~

**Prohibited Acts: Defacement.**

It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any city-owned property or on any non city-owned property.

**Sec. 16-143. Violation; penalty**

Any person violating this ordinance shall be punished in the following manner:

- (a) Fines: A fine not to exceed one-thousand dollars (\$1,000) for any offense.
  - 1. In case of a minor, the parents or legal guardian shall be jointly and severally liable with the minor for the payment of all fines.
  - 2. Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parent's or legal guardian's property that includes the fine and administrative costs.
  - 3. Upon an application and finding of indigence, the court may decline to order fines against the minor, parents or guardian.

- (b) Restitution: A court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. In the case of a minor, the parents or legal guardian shall be ordered jointly and severally liable with the minor to make the restitution.
- (c) Community Service: A minor or adult shall be required to perform community service as described by the court based on the following minimum requirements:
1. The minor or adult shall perform up to one hundred (100) hours of community service for a first offense. A second or subsequent offense shall require up to two hundred (200) hours of public community restitution work.
  2. At least one parent or guardian of the minor shall be in attendance a minimum of fifty percent (50%) of the period of assigned community service.
  3. The entire period of community service shall be performed under the supervision of a community service provider approved by the chief of police or the probation department of the court.
  4. Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have the most rehabilitative effect on the minor or adult, including community service that involves graffiti removal.

**Sec. 16 -144. Sale of Graffiti Materials to Minors**

- (a) It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan, otherwise furnish, cause, or permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, broad-tipped marker, etching equipment, paint stick or graffiti stick to any person under the age of eighteen (18) years without the written consent of the parents or guardian of the person.
- (b) For purposes of this section, bona fide evidence of majority, identity of majority and identity of the person is a document issued by a federal, state, country, or municipal government, or subdivision or agency of them, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the federal Selective Service Act, 50 App. U.S.C. § 451 et seq., or an identification card issued to a member of the armed forces.

- (c) Proof that the defendant, or his employee or agent, demanded, was shown and acted in reliance upon bona fide evidence in any sale transaction forbidden by this Ordinance, shall be a defense to any criminal prosecution for that violation.
- (d) Any person who owns, manages or operates a place of business where aerosol containers of paint capable of defacing property are sold shall conspicuously post notice of this law in the place of business in letters at least three-eighths of an inch (3/8") high.
- (e) Any person who owns, manages or operates a place of business where graffiti implements (as defined in Sec. 16-141) are sold shall be prohibited from displaying these items. Only the use of facsimiles of graffiti implements, or locked and secured display cases containing graffiti implements shall be permitted.
- (f) Penalties:
1. Any person who sells, displays or stores, or permits the sale, display or storage of any graffiti implements in violation of the provisions of this ordinance shall be fined not more than one hundred dollars (\$100) for each offense.
  2. Any person who sells, displays or stores, or permits the sale, display or storage of any graffiti implement in violation of the provisions of this ordinance shall be personally liable for all costs, including attorney's fees and court costs, incurred by any party in connection with the removal of graffiti, the repair of any property containing graffiti, or such party's prosecution of a civil claim for reimbursement or damages resulting from such graffiti removal or property repair, arising from the use by any person of such implements in violation of the provisions of this ordinance, provided that such liability shall not exceed fifteen hundred dollars (\$1,500).
- (g) The severability provision is intended to permit a court to strike a portion of the ordinance that is over broad, vague or otherwise unconstitutional, while upholding the remainder of the ordinance. Severability is intended throughout and within the provisions of the Ordinance. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction than that decision shall not affect the validity of the remaining portions of this Ordinance.

**Sec. 16-145. Graffiti as Nuisance**

(a) Prohibited:

1. The existence of graffiti on public or private property in violation of this Ordinance is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Ordinance.
2. It is the duty of both the owner of the property to which the graffiti has been applied and any other person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

(b) Removal of Graffiti by Perpetrator:

1. Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the City or private owner of the property involved. Such removal shall be done in a manner prescribed by the Chief of Police, the Director of the Department of Public Property, or any additional City department head, as authorized by the City of Providence. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Ordinance. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment of such removal.

(c) Removal of graffiti by property owner or city: If graffiti is not removed by the perpetrator according to this chapter, graffiti shall be removed pursuant to the following provisions:

1. Property Owner Responsibility: It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the city to permit property that is defaced with graffiti to remain defaced for a period of ten (10) days after receiving notification by the city of the defacement. Such notice shall be provided in a manner prescribed by the Chief of Police, the Director of the Department of Public Property, or any additional City department head, as authorized by the City of Providence.
2. Exceptions to Property Owner Responsibility: The removal requirements above shall not apply if the property owner or responsible party can demonstrate that:

- a. The property owner or responsible party lacks the financial ability to remove the defacing or graffiti; or
- b. The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of fifteen (15) days after receiving notification of the defacement.

(d) Right of City to Remove:

1. Use of Public and/or Trust Funds. Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the City shall be authorized to use public and/or trust funds for the removal of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the City determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.
2. Right of Entry on Private Property. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury.

(e) Abatement and Cost Recovery:

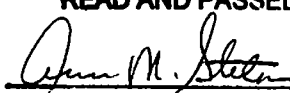
If the property owner or responsible party fails to remove the offending graffiti within the time specified by this ordinance, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this section, the City may enter and abate the graffiti. If all or any portion of the eradication charges remain unpaid after thirty (30) days, the portion

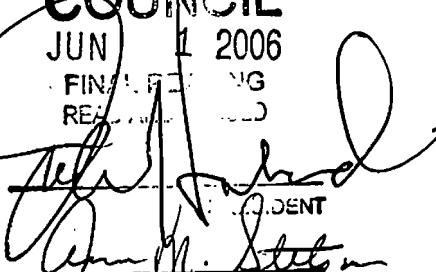


thereof that remains unpaid shall constitute a lien on the property that was the subject of the eradication effort.

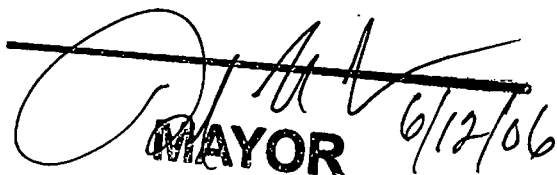
- (f) The severability provision is intended to permit a court to strike a portion of the ordinance that is over broad, vague or otherwise unconstitutional, while upholding the remainder of the ordinance. Severability is intended throughout and within the provisions of the Ordinance. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction than that decision shall not affect the validity of the remaining portions of this Ordinance.

Section 3. This Ordinance shall take effect upon passage.

**IN CITY COUNCIL**  
**MAY 18 2006**  
**FIRST READING**  
**READ AND PASSED**  
 **CLERK**

**IN CITY COUNCIL**  
**JUN 1 2006**  
**FINAL READING**  
**READ AND PASSED**  
 **CLERK**

**APPROVED**

 **MAYOR** 6/12/06

2006 -- H 7431

LC02310

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

**06-H 7431**

A N A C T

RELATING TO TRESPASS AND VANDALISM

Introduced By: Representatives Giannini, Rose, McNamara, Wasylyk, and Petrarca

Date Introduced: February 16, 2006

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 11-44 of the General Laws entitled "Trespass and Vandalism" is  
2 hereby amended by adding thereto the following section:

3           **11-44-21.1. Graffiti -- Defacing private residences, offices, businesses or commercial**  
4 **property.** -- Every person who shall willfully, maliciously or mischievously write upon, paint, or  
5 otherwise deface the private property or residence of another, any office building, business or  
6 commercial property, shall be guilty of a misdemeanor and shall be fined not exceeding one  
7 thousand dollars (\$1,000) and/or be imprisoned not exceeding one year. Every person convicted  
8 of a first offense under this section shall be required to perform up to one hundred (100) hours of  
9 community service.

10          SECTION 2. This act shall take effect upon passage.

LC02310

**06-H 7431** EXPLANATION  
BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO TRESPASS AND VANDALISM

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1           This act would make it an offense to use graffiti in any way on any private residence,  
2 office, business or commercial property. It would also implement a penalty of community  
3 service, and a fine of \$1,000 and/or imprisonment of one year.

4           This act would take effect upon passage.

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LC02310  
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