

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2007-13

No. 13

AN ORDINANCE

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

Approved January 2, 2007

Be it ordained by the City of Providence:

Section 1. That 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. 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 any aerosol paint container, a broad-tipped marker, ~~gum label, paint stick or graffiti stick, or 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 (1/4th) of an inch, containing ink or other pigmented liquid that is not water soluble.
- (e) "Etching Equipment" means any tools, device, acid or cream manufactured or sold for the specific purpose of etching glass, metal, stone or other ~~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, which cannot be removed with soap and water.
- (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 -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~~

display these items either (a) in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business; or (b) in an area not accessible to the public in the regular course of business without employee assistance. Only the use of facsimiles of graffiti implements, or locked and secured display cases containing graffiti implements, shall be permitted.

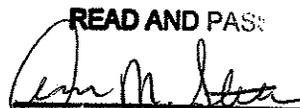
(f) Penalties:

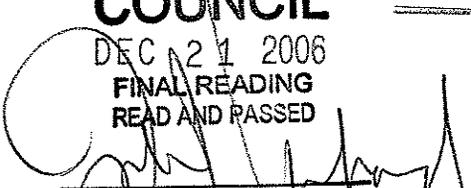
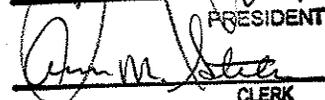
1. Any person who sells, displays or stores, or permits the sale, display or storage of any graffiti implements in violation of the provisions of this ordinance shall be fined not more than one hundred dollars (\$100) for each offense.
2. Any person who sells, displays or stores, or permits the sale, display or storage of these products 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 possession of the graffiti implement used is proven to be the result of a specific sale, display or storage violation. Such liability shall not exceed fifteen hundred dollars (\$1,500).

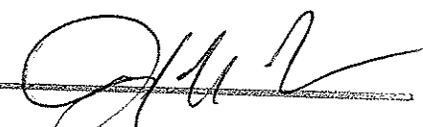
(g) The severability provision is intended to permit a court to strike a portion of the ordinance that is over broad, vague or otherwise unconstitutional, while upholding the remainder of the ordinance. Severability is intended throughout and within the provisions of the Ordinance. If any section, subsection, 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.

Section 2. This Ordinance shall take effect upon passage.

APPROVED

IN CITY COUNCIL
 DEC 7 2006
 FIRST READING
 READ AND PASSED
 CLERK

IN CITY COUNCIL
 DEC 21 2006
 FINAL READING
 READ AND PASSED

 PRESIDENT

 CLERK


 MAYOR 11/20/07