



CITY OF COSTA MESA

CALIFORNIA 92628-1200

P.O. BOX 1200

FROM THE POLICE DEPARTMENT

Costa Mesa Business Owner,

The purpose of this letter is to inform you of recent changes in the Costa Mesa Municipal Code relating to graffiti, and how the changes in the Code may affect your business. The recent amendments to our Code have come about largely as a result of those doing graffiti expanding the use of items to deface both public and private property. The cost to local taxpayers is almost a quarter million dollars annually for the City to clean or remove graffiti from public property. This figure does not include the substantial cost to private property owners who are responsible for their own clean-up. Of the graffiti documented and cleaned by the City, approximately 50% is spray paint, 30% is marking pens, and the remainder is incurred from permanent etching tools, stickers and other improvised instruments.

In October 2010, Costa Mesa City Council voted in favor of a new municipal ordinance within Title 11 of the Costa Mesa Municipal Code, revising the definition of graffiti instruments and placing enhanced safeguards on the sale of such items to help mitigate graffiti incidents throughout Costa Mesa. With the new law, the Costa Mesa City Council and Police Department have sought to strike a balance between the interests of the businesses selling these items, the ability to target individuals who attempt to gain possession of these instruments for unlawful purposes, as well as the quality of life for our residents and visitors affected by the blight of graffiti. This legislation was crafted with considerable input from a variety of City departments, as well as our partners from the private sector and the Costa Mesa Chamber of Commerce.

For your convenience, an excerpt of the municipal ordinance that pertains to businesses in Costa Mesa that furnish and/or sell tools or instruments that could be used for graffiti vandalism has been provided with this letter. It is important for you to understand how this new legislation potentially applies to your business, and any obligation you may have as of January 2011.

Once reasonable notification has been made to the Costa Mesa business community to understand and comply with the new legislation, the City of Costa Mesa intends to begin "spot checking" such businesses for compliance with the ordinance. These inspections will ensure that we are working together to reduce the heavy burden that graffiti vandals place on our community.

If you have any questions about the graffiti ordinance or how your business can better comply with its requirements, please feel free to contact Officer Jason Chamness of the Costa Mesa Police Department at (714) 754-5055. To read the ordinance in its entirety, please visit www.ci.costa-mesa.ca.us.

Thank you in advance for your cooperation,

Captain Les Gogerty
Costa Mesa Police Department
Field Operations Division

Costa Mesa Municipal Code
New Graffiti Vandalism Ordinance as of January 2011

Section 2. Sections 11-140 to 11-149.4, Title 11, Chapter VII ½ of the Costa Mesa Municipal Code are adopted as follows:

Sec. 11-141. Definitions.

(1) *Adhesive stickers* means any sheet of paper, fabric, plastic or other substance or material with an adhesive backing.

(2) *Aerosol paint container* means any aerosol container, regardless of the material from which it is made, which is adapted or made for the purpose of spraying paint or other substances capable of being applied on public or private property in a manner that defaces the property.

(3) *Bona fide evidence of majority and identity* means any document evidencing or verifying the identity of an individual and that the individual is at least eighteen (18) years of age, which has been issued by a federal, state or local government entity, and includes, but is not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a member of the armed forces.

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(6) *Continuously viewable* means within line of sight of an employee or store manager at all times during business hours. Continuously viewable shall include viewable via closed circuit security cameras.

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(8) *Etching cream* means any caustic cream, gel, liquid, or solution capable, by means of a chemical action, of defacing, damaging, or destroying surfaces.

(9) *Etchers or etching tools* means any sharp or pointed instrument, device or other mechanism, including but not limited to, glass etchers, metal etchers, cutting and grinding instruments, awls, chisels, glass cutters, drill bits or any other instrument that is capable of scratching or otherwise marking any surface, including but not limited to, glass, mirrors, windows, steel, aluminum, brass, tin, fiberglass, wood, plastic, concrete or any other surface.

For the purposes of this chapter, the following words and terms shall have the meaning ascribed thereto:

(12) *Graffiti implement* means an adhesive sticker, aerosol paint container, etching cream, etching tool, marking pen, a paint or graffiti stick, spray actuators, or other similar devices that may be used to scar or deface property.

(14) *Marking pen* means any marker pen or any similar implement containing an ink, paint, or other pigmented liquid.

(15) *Not accessible to the public* means that such supplies must be (a) stored under lock and key, and only the store manager or his/her designee shall have access to the supplies, or (b) stored behind or under a store counter that is only accessible to authorized store personnel.

(16) *Paint stick or graffiti stick* means a device containing a solid form of paint, wax, epoxy, or other similar substance capable of leaving a visible mark on a surface.

(17) *Parent or guardian* means a parent with legal custody, guardian, conservator, or relative caregiver of the minor. "Relative caregiver" means a relative, as defined in Section 6550(i) of the California Family Code, who assumed primary responsibility for the minor while the child was in the relative's care and control, and who is not a biological or adoptive parent.

(18) *Spray actuator* (also known as a spray tip, nozzle, or button) means 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.

Sec. 11-144. Sale and possession.

(3) *Sale of graffiti implements to minors.* It shall be unlawful for any person, other than a parent or guardian, to knowingly sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned or otherwise furnished, any graffiti implement to anyone under the age of eighteen (18) years.

(4) *Proper identification presented prior to sale.* No person shall sell any pressurized can containing paint or dye, marking pens, adhesive stickers, etchers or any other graffiti implement without first obtaining bona fide evidence of majority and identity from the purchaser.

Sec. 11-145. Public Access to Graffiti Implements; Signage.

(1) *Restricted access.* Aerosol paint containers and actuators shall not be accessible to the public in the regular course of business without employee assistance, pending legal sale or disposition of such supplies.

(2) *Continuously viewable implements.*

(a) Every person who owns, conducts, operates or manages a retail commercial establishment selling paint sticks, marking pens, or etching creams shall store or cause such supplies to be stored in an area continuously viewable by store employees.

(b) *Etching tools.* Every person who owns, conducts, operates or manages a retail commercial establishment selling masonry or glass drill bits, carbide drill bits, glass cutters, grinding stones, awls, chisels or carbide scribes, or other similar implement shall store or cause such items to be stored in an area continuously viewable by store employees.

(3) *Customer signage.* Every retail commercial establishment selling graffiti implements shall post a sign in clear public view at or near display of such products stating: "Pursuant to Penal Code Section 594.1, Graffiti is against the law. Any person who defaces real or personal property with paint or any other liquid, tool, or device is guilty of a crime punishable by imprisonment of up to six (6) months and/or a fine up to \$1,000."

(4) *Additional signage.* Every retail commercial establishment selling graffiti implements shall place a sign in the direct view of such persons responsible for accepting customer payment for graffiti implements stating: "Pursuant to Costa Mesa Municipal Code Title 11, Section 11-143, selling Graffiti Implements to persons less than eighteen (18) years of age is against the law and punishable by six (6) months in jail and/or a fine of \$1,000."

(5) *Merchandise inventory.* Upon request of a Costa Mesa Police Officer or Code Enforcement Officer, any person who owns, conducts, operates or manages a retail commercial establishment selling graffiti implements shall provide copies of any merchandise inventory.

Sec. 11-146. Penalties.

(1) Any violation of this chapter shall be a misdemeanor offense punishable by either six (6) months in jail, a one thousand dollar (\$1,000.00) fine, or both such fine and imprisonment.