

ORDINANCE NO. 180708

An ordinance amending Article 14 of Chapter IV of the Los Angeles Municipal Code in its entirety to establish the Graffiti Removal and Recovery Act and the Los Angeles Administrative Code to establish the Graffiti Technology and Recovery Fund.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Article 14 of Chapter IV of the Los Angeles Municipal Code is amended to read in its entirety as follows:

**ARTICLE 14  
GRAFFITI REMOVAL AND RECOVERY**

**SEC. 49.84.1. PURPOSE AND INTENT.**

(A) The City Council of the City of Los Angeles finds graffiti on public or private property a blighting element that leads to depreciation of the value of property and depreciates the value of the adjacent and surrounding properties to the extent that graffiti creates a negative impact on the entire city.

(B) The City Council finds and determines that the power of graffiti to create fear and insecurity within the community detracts from the sense of community enjoyed by residents making graffiti both a property crime and a social crime impacting the quality of life and freedom from intimidation that citizens desire within their neighborhoods.

(C) The City Council finds and determines that the spread of graffiti often leads to violence, genuine threats to life, and the perpetuation of gangs, gang violence, and gang territories.

(D) The City Council finds and determines that graffiti is obnoxious and a public nuisance, and must be eliminated by means of prevention, education, and abatement to avoid the detrimental impact of such graffiti on the City and its residents, and to prevent the further spread of graffiti.

(E) The purpose and intent of the City Council, through the adoption of this Article, is to protect public and private property from acts of vandalism and defacement.

**SEC. 49.84.2. DEFINITIONS.**

(A) "Act of graffiti" means an act which causes any form of unauthorized inscription, word, figure or design to be marked, etched, scratched, drawn, sprayed, painted or otherwise affixed on any structural component of any building, structure or

other facility or upon any other property, regardless of its content or nature and regardless of the nature of the material of that structural component or property.

(B) "Aerosol paint container" means any aerosol container, which is adapted or made for the purpose of applying spray painting, or other substance capable of defacing property.

(C) "City" means the city of Los Angeles.

(D) "Etching cream" means any caustic cream, gel, liquid, or solution capable, by means of a chemical action, of defacing, damaging, or destroying hard surfaces in a manner similar to acid.

(E) "Graffiti" means any form of unauthorized inscription, word, figure or design which is marked, etched, scratched, drawn, sprayed, painted or otherwise affixed to or on any surface of public or private property, including but not limited to, buildings, walls, signs, structures or places, or other surfaces, regardless of the nature of the material of that structural component.

(F) "Graffiti implement" means any implement capable of marking a surface to create graffiti, including but not limited to aerosol paint containers, markers, etching devices, and gum labels.

(G) "Gum label" means any material such as, but not limited to, decals, stickers, posters or labels which contain a substance commonly known as adhesive or glue, which cannot be removed from the surface in an intact condition and with minimal effort.

(H) "Marker" means any indelible or permanent marker with tips exceeding four millimeters in width or similar implement containing ink that is not water-soluble.

(I) "Owner" means any person, firm, corporation, partnership or other entity, owning property either public or private, whose name or title appears on the last equalized assessment role with the Los Angeles County Recorder's Office, or the lessee, tenant or other person having control or possession of the property.

### **SEC. 49.84.3. GRAFFITI PROHIBITED.**

(A) It is unlawful for any person to write, paint, spray, chalk, etch, or otherwise apply graffiti on public or privately owned buildings, signs, walls, permanent or temporary structures, places, or other surfaces located on public or privately owned property within the City.

(1) A violation of this subsection shall be subject to enforcement only through civil action, administrative fine, or nuisance abatement lien.

(B) It is unlawful for any person owning or otherwise in control of any real property within the City to permit or allow any graffiti to be placed upon or remain on any walls, temporary or permanent structure, places, or other surfaces located on such property when the graffiti is visible from a public street or other public or private property.

**SEC. 49.84.4. DISPLAY OF AEROSOL PAINT CONTAINERS AND MARKER PENS.**

(A) It shall be unlawful for any person who owns, conducts, operates or manages a retail commercial establishment selling aerosol containers, or marker pens with tips exceeding four millimeters in width, containing anything other than a solution which can be removed with water after it dries, to store or display, or cause to be stored or displayed, such aerosol containers or marker pens in an area accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition.

(B) Nothing herein shall preclude the storage or display of spray paint containers and marker pens in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

**SEC. 49.84.5. POSSESSION OF SPECIFIED GRAFFITI IMPLEMENTS PROHIBITED IN DESIGNATED AREAS.**

(A) It is unlawful for any person to have in his or her possession any aerosol paint container or etching cream while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building owned or operated by the City unless otherwise authorized by the City, where signs forbidding such possession are displayed as provided in Subsection (B).

(B) Posting of No Possession of Graffiti Implements Signs. At least two signs shall be conspicuously painted or posted on the outside of every public facility, park, playground, swimming pool, recreational facility, or other public building owned or operated by the City that is subject to this regulation. The letters and numbers on said signs shall be in black lettering at least six inches high on a white background stating:

**NO POSSESSION OF AEROSOL SPRAY PAINT OR ETCHING CREAM  
L.A.M.C. SEC. 49.84.5**

**SEC. 49.84.6. GRAFFITI DECLARED A PUBLIC NUISANCE.**

Declaration of Nuisance. The City Council hereby declares and finds graffiti, which is visible from a street or other public or private property to be a nuisance subject to abatement according to the provisions and procedures contained herein.

**SEC. 49.84.7. GRAFFITI REMOVAL AT CITY EXPENSE.**

**(A)** Authorization to Use City Funds. Whenever the Board of Public Works or its designated representative determines that graffiti is so located on public or private property within the City so as to be capable of being viewed by persons utilizing any public right-of-way in the City, the Board of Public Works or its designated representative is authorized to provide for the removal of the graffiti solely at the City's expense, without reimbursement from the property owner upon whose property the graffiti has been applied.

**(B)** Limitations to Use of City Funds. The use of City funds as authorized in this section is limited to the following cases.

**(1)** The Board of Public Works or its designated representative must approve each proposed use of City funds for the removal of graffiti.

**(2)** In removing the graffiti, the painting or repair shall be limited to the minimum necessary to properly restore the defaced area.

**(3)** Where a structure is owned by a public entity other than the City, the removal of the graffiti may be authorized only after securing the consent of the public entity having jurisdiction over the structure as set forth in subsection (C), below.

**(4)** Where a structure is privately owned, the removal of the graffiti by City personnel or by a private contractor under the direction of the City may be authorized only after securing the consent of the owner as set forth in subsection (C), below.

**(5)** The City reserves the right to recover City costs and expenses pursuant to this chapter, Penal Code Section 594, *et seq.*, Code of Civil Procedure Section 731, Civil Code Section 1714.1, Government Code Section 38771, *et seq.*, Welfare and Institutions Code Section 742.10 *et seq.*, and any other remedies provided by law.

**(C)** Securing Consent. The City shall obtain the written consent of the owner of the affected public or private structures prior to removal of graffiti. Owners may consent in advance to City entry onto private property for graffiti removal purposes. The City will make forms for such consent available. The consent form shall be approved by the City and shall:

**(1)** Authorize entry of City employees or contractors on the affected property to accomplish the removal of the material;

**(2)** Assign to the City any cause or causes of action which the owner may have against any person or persons who deface said property with graffiti; and

(3) Hold the City, its officers, employees and contractors harmless from all liability arising out of the entry on the property or the work of removing the material.

(D) In any instance where the owner of the affected property or structure caused, materially contributed, or voluntarily consented to the placement of the graffiti, the owner may be held financially responsible pursuant to Section 49.84.8 of this Article.

**SEC. 49.84.8. REMEDIES WHEN OWNER REFUSES TO CONSENT.**

(A) Vacant Property. If the City requested consent from an owner to remove or abate graffiti and that owner refused or failed to consent, the City may commence abatement and cost recovery proceedings for the removal of the graffiti pursuant to the provisions of Section 91.8904 *et seq.* of this Code, and any other remedies provided by law.

(B) Occupied Buildings and Premises. If the City requested consent from an owner to remove or abate graffiti and that owner refused or failed to consent, the City may pursue other remedies provided by this Article, Section 91.8903 *et seq.* of this Code, and any other remedies provided by law.

**SEC. 49.84.9. CITY FUNDS TO BE RECOVERED.**

(A) Recovery of Costs. The City shall recover all costs incurred to remove graffiti and repair or replace graffiti damaged real or personal property within the City. These costs may be recovered as follows:

(1) Criminal Prosecution. A person who suffers a conviction for committing an act of graffiti who is granted probation, or any minor who is found to be a person described in California Welfare and Institutions Code Section 602 as a result of committing an act of graffiti shall make restitution to the victim, in addition to any other penalties prescribed by law.

(2) Civil Action.

(a) Adult Defendants. The City Attorney may bring and maintain a civil action in the name of the City of Los Angeles in the Superior Court to obtain a money judgment against the defendant for any amount not ordered or collected by the criminal court, including, but not limited to, all attorney's fees, court costs, and civil penalties incurred in connection with the civil prosecution of any claim for damages or reimbursement.

(b) Juvenile Offender. The City Attorney may bring and maintain a civil action in the name of the City of Los Angeles in the Superior Court to obtain a money judgment against the juvenile offender and/or his or her parent(s) or guardian(s) having custody and control of the minor for any amount not ordered or collected by the juvenile court, including, but not limited to, all attorney's fees, court costs, and civil penalties incurred in

connection with the civil prosecution of any claim for damages or reimbursement.

**(c) Parental Liability.** Any parent or legal guardian of a minor shall be personally liable for any and all costs to the City or any person or business incurred in connection with the removal of graffiti caused by conduct of said minor, and for all attorney's fees, court costs, and civil penalties incurred in connection with the civil prosecution of any claim for damages or reimbursement up to twenty-five thousand dollars (\$25,000).

**(3) Administrative Hearing.** An administrative order may be sought for violations relating to graffiti offenses against the responsible person(s) and/or, if the responsible person is a minor, against the parent(s) or guardian(s) having custody and control of the minor.

**(4) Lien and Personal Obligation.** The expense of abating the graffiti nuisance shall constitute a lien against, and be a personal obligation of, the minor or other person creating, causing, or committing the nuisance. The parent(s) or guardian(s) having custody and control of the minor shall be jointly and severally liable with the minor for the expense of abatement.

**(B) Selecting the Remedy.** Selecting the appropriate remedy to be sought lies within the sole discretion of the Los Angeles City Attorney's office and shall be consistent with the purpose and intent of this Article. This includes, but is not limited to, alternative sentencing options, such as parenting classes, counseling, and other forms of remedial education.

**(C) Disposition of Funds Collected.** All funds collected pursuant to this section shall be deposited into the Graffiti Technology and Recovery Fund established pursuant to the Los Angeles Administrative Code Sections 5.552, 5.553 and 5.554. These monies shall be utilized for the purposes authorized for expenditure from that Fund.

**(D) Remedies Not Exclusive.** Remedies provided for the enforcement of this Article are in addition to and do not supersede or limit any and all other remedies provided by law. The remedies provided herein are cumulative and not exclusive.

#### **SEC. 49.84.10. ADMINISTRATIVE HEARING.**

**(A) Administrative Fines.**

**(1)** Whenever an enforcement officer determines that a violation of a provision of this Article has occurred, the enforcement officer is authorized to issue a notice of violation to the responsible person(s). If the responsible person is a minor, the enforcement officer is authorized to issue a notice of violation to the parent(s) or guardian(s) having custody and control of the minor.

**(2)** Each violation of any provision of this Article and each separate offense designated by this Article shall be subject to an administrative fine, as provided for in this Section.

**(3)** The amount of the administrative fine shall be determined by the enforcement officer, based upon the penalty schedule set forth in Subdivision (4) of this Section, subject to the following limitations:

**(a)** Where the violation would otherwise be an infraction, the administrative fine or penalty shall not exceed the maximum fine or penalty amounts for infractions set forth in subdivision (b) of Section 36900 of the California Government Code.

**(b)** For all other violations of this Article, the amount of the administrative fine shall not exceed one-thousand dollars (\$1,000).

**(4)** The administrative fine levied for a violation of this Article shall be in the following amounts:

**(a)** For the first offense by a fine of two hundred dollars (\$250); or

**(b)** For a second offense by a fine of five hundred dollars (\$500); or

**(c)** For a third or any subsequent offense by a fine of one thousand dollars (\$1,000).

**(B)** Service Procedures for Issuing Administrative Citations. An administrative citation in a form approved by the City may be issued to the responsible party by an enforcement officer for violations of those sections set forth in this Article in the following manner:

**(1)** Personal Service. In any case where an administrative citation is issued to an individual the enforcement officer shall attempt to:

**(a)** Locate the individual and serve the administrative citation to the responsible person or party. If the responsible person is a minor, the enforcement officer shall also attempt to serve the administrative citation on the parent(s) or guardian(s) having custody and control of the minor.

**(b)** Obtain on the administrative citation the signature of the person in violation of this Code.

**(c)** If the responsible person or party served refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation or of subsequent proceedings.

**(2) Service of Citation by Mail.** If the enforcement officer is unable to locate the responsible person for the violation, the administrative citation shall be mailed to the responsible person by certified mail, postage prepaid, return receipt requested. If the responsible person is a minor, the administrative citation shall be mailed to the parent(s) or guardian(s) having custody and control of the minor by certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail. If a notice sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned.

**(C) Contents of Administrative Citations.** Administrative citations shall contain all of the following information:

**(1)** The date and location of the violation and the approximate time the violation was observed;

**(2)** The Code Section violated and a description of how the Section was violated;

**(3)** The action required to correct the violation;

**(4)** The consequences of failing to correct the violation;

**(5)** The amount of penalty imposed for the violation;

**(6)** Information regarding the procedure to contest the citation;

**(7)** The signature of the enforcement officer and the signature of the responsible person if that person can be located and will sign the citation, as set forth in this section.

**(D) Satisfaction of Administrative Citation.**

**(1)** Upon receipt of a citation, the responsible party shall either:

**(a) Pay the Penalty.** Payment of the penalty waives the responsible party's right to the administrative hearing and appeal process pursuant to Paragraph (d), below; or

**(b) Perform community service or parenting classes.** Any responsible person(s) served with an administrative citation pursuant to this Section may request to perform community service or attend parenting classes in lieu of payment of the administrative penalty pursuant to subdivision (F) of this Section; or

**(c) Remedy the Violation.** If the violation is of a nature that it can be remedied, and the responsible party remedies it within the time indicated on

the citation, upon providing proof of correction to the enforcement officer the responsible party shall pay only the administrative reimbursement portion of the penalty; or

**(d)** Request an Administrative Hearing. If the responsible party chooses to contest the citation, the party shall submit a request to do so no later than 15 calendar days, excluding weekends and holidays, after service of the citation. The request shall be submitted in writing as directed on the citation and shall include a statement of reasons why the citation is being contested. The request shall be accompanied by a deposit in the full amount of the penalty, inclusive of the administrative reimbursement portion, or written proof of financial hardship, which at a minimum must include tax returns, financial statements, bank account records, salary records or similar documentation demonstrating that the responsible party is unable to deposit the penalty. A hearing will not be scheduled unless the full amount of the penalty is deposited, or the City finds the responsible party financially unable to do so and waives the deposit requirement.

**(2)** In the event the responsible party fails or refuses to select and satisfy any of the alternatives set forth in Paragraphs (a), (b) (c) or (d) above, then the penalty shall be immediately due and owing to the City and may be collected in any manner allowed by law for collection of a debt.

**(E)** Administrative Hearings and Appeal Process.

**(1)** Appointment of Administrative Hearing Officer. Within 180 days of the effective date of this Section, the City Attorney's Office, with the City Council's approval, shall create an administrative hearing and appeals process that is consistent with this Article and with due process principles, including the selection and appointment of one or more independent Administrative Hearing Officers, who shall be responsible for conducting administrative hearings authorized under this Article. Until such time, no enforcement officer may issue an administrative citation under this Section.

**(2)** Pre-hearing Dismissal of Citation. The City may dismiss an administrative citation at any time if it is determined to have been issued in error.

**(3)** Time for Administrative Hearing. The administrative hearing shall be scheduled no later than 90 days after receipt of the request for a hearing to contest the citation. The responsible party will be notified in writing at least ten days prior to the date of the hearing by first class mail of the date and time of the hearing.

**(4)** Request for Continuance of Hearing. The responsible person may request one continuance of the hearing, but in no event may the hearing begin later than 90 days after receipt of the request for hearing from the responsible person.

**(5) Failure to Attend Administrative Hearing.** The individual to whom an administrative citation is issued, or that person's representative, may attend the hearing in person, or in lieu of attending may submit an Appearance by Written Declaration on a form provided by the City for that purpose.

**(a)** If the cited individual or his or her representative fails to attend the scheduled hearing, or fails to submit an Appearance by Written Declaration on the form provided by the City for that purpose, he or she shall be deemed to have waived his or her right to an administrative hearing. Under these circumstances, the Administrative Hearing Officer shall dismiss the challenge to the administrative citation, and shall issue a written notice to that effect. An individual whose challenge to an administrative citation is dismissed under this section shall be deemed not to have availed himself or herself of the right to an administrative hearing as provided in this Article.

**(b)** An individual who has been issued an administrative citation and who has requested an administrative hearing to challenge the citation as provided in this Article may request in writing that his or her challenge to the citation be dismissed and the hearing canceled. Upon receipt of a request to dismiss a challenge to the administrative citation, the City shall cancel the pending hearing, and issue a written notice to that effect. Any individual who requests the dismissal of a challenge to an administrative citation under this Section shall be deemed never to have availed himself or herself of the right to an administrative hearing as provided in this Article.

**(6) Procedures at Administrative Hearing.** Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present evidence in support of his or her case and to cross-examine witnesses. The City bears the burden of proof at an administrative hearing to establish a violation. The citation is prima facie evidence of the violation and the enforcement officer who issued the citation is not required to participate in the hearing. The Administrative Hearing Officer shall use preponderance of the evidence as the standard of evidence in deciding the issues. Written and oral evidence submitted at the hearing shall be submitted under penalty of perjury. Documentary and other tangible evidence must be authenticated to the satisfaction of the Administrative Hearing Officer.

**(7) Decision of Administrative Hearing Officer.** At the conclusion of the hearing or within 15 days thereafter, the Administrative Hearing Officer shall render a decision as follows:

**(a)** Determine that the violation for which the citation was issued occurred, and impose a fine in the amount set forth in the citation, inclusive of the administrative reimbursement portion, and if the violation has not been corrected as of the date of the hearing, order correction of the violation; or

**(b)** Determine that the violation for which the citation was issued occurred, but that the responsible party has introduced credible evidence of mitigating circumstances warranting imposition of a lesser penalty than that prescribed in the citation, or no penalty at all, and impose a lesser fine, if any, and if the violation has not been corrected as of the date of the hearing, order that the violation be corrected; or

**(c)** Determine that the violation for which the citation was issued did not occur or that the condition did not constitute a violation of the Code.

**(8)** Issuance of Administrative Order. The Administrative Hearing Officer shall issue a written decision entitled "Administrative Order" no later than 15 days after the date on which the administrative hearing concludes. The Administrative Order shall be served upon the responsible person by first class mail, or if that method fails, by any one of the other methods set forth in this Section. The Administrative Order shall become final on the date of mailing or other service, and shall notify the responsible person of his or her right to appeal as provided below in this Section. The Administrative Order shall also (i) either set a deadline for compliance with its terms, in the event that the responsible person fails to file an appeal, in no event less than 20 days from the date of mailing or other service, or (ii) if the hearing officer determines as described in Subdivisions (7)(b) or (7)(c) immediately above, and the responsible party has deposited the penalty with the City, order a partial or full refund of the deposit.

**(9)** Appeal of Administrative Order. Within 20 days after mailing or other service of the Administrative Order to the responsible person, he or she may seek review of the Administrative Order by filing a notice of appeal with the Superior Court, pursuant to California Government Code Section 53069.4. The responsible person shall serve upon the City Clerk either in person or by first-class mail a copy of the notice of appeal. If the responsible person fails to timely file a notice of appeal, the Administrative Order shall be deemed final.

**(F)** Request to Perform Community Service or Parenting Classes. Any responsible person(s) served with an administrative citation and/or issued an Administrative Order pursuant to this Section may request to perform community service or attend parenting classes in lieu of payment of the administrative penalty. Community service and parenting classes must be in a program approved by the issuing department.

**(1)** Written Request. Any eligible responsible person(s) served with an administrative citation who requests permission to perform community service or attend parenting classes in lieu of payment of the administrative penalty, as provided in Subsection (F), must make the request in writing and file it with the issuing department no later than fifteen (15) calendar days, excluding weekends and holidays, after service of the citation. Any eligible responsible person(s) issued an Administrative Order who requests permission to perform community service or attend parenting classes in lieu of payment of the administrative penalty, as provided in Subsection (F), must make the request in writing and file it with the issuing department no later than twenty (20) days after mailing or other service of the administrative Order. All requests made pursuant to Subsection (F) must

include the address of the responsible person(s) for the purpose of correspondence by the issuing department.

**(2) Notification.** The issuing department shall notify the responsible person(s) by first class mail, postage prepaid, whether the request to perform community service or attend parenting classes has been approved, and if approved, shall identify the program(s) that the responsible person must complete, and the date by which such program shall be completed. The decision to grant or deny the request shall be in the sole discretion of the issuing department. In the event the issuing department denies the request to perform community service or attend parenting classes, the administrative penalty otherwise payable as set forth in the administrative citation and/or Administrative Order previously served on the responsible person(s) shall be made by the date specified in the notice denying the request to perform community service or attend parenting classes.

**(3) Suspension of Administrative Penalty.** The obligation to pay the administrative penalty otherwise required shall be suspended during the time period provided for completion of the approved program as set forth in the written notification approving the request sent by the issuing department under Paragraph (2), above.

**(4) Proof of Completion.** The responsible person(s) shall provide proof of completion of the approved program by submitting, to the issuing department within five (5) calendar days following the date by which the program was to be completed, a certificate of completion issued by the program provider. Failure to present such proof within the required time period shall result in the reinstatement of the administrative penalty otherwise due as stated in the administrative citation or Administrative Order without further notification by the issuing department. Payment of the amount due shall be made within seven (7) calendar days of the date by which the program was to be completed as specified in the notice provided under Paragraph (2), above.

**(G) Failure to Comply with Administrative Order.** In addition to any other remedy provided by law, if the responsible person fails to comply with the Administrative Order, the City may use any other legal remedy available to gain compliance with the Administrative Order.

**(H) Disposition of Collected Administrative Fines.** The fines recovered pursuant to this section shall be deposited into the Graffiti Technology and Recovery Fund established pursuant to Los Angeles Administrative Code Sections 5.552, 5.53 and 5.554.

**(I) Definitions.** For purposes of this Section, the following definitions apply:

**(1) "Enforcement Officer"** means any peace officer or probation officer delegated with the power to enforce any provision of this Code.

(2) "Issuing Department" means the City department that has authority and responsibility for enforcing and prosecuting the Code section that is the subject of the administrative citation.

(3) "Responsible Person" means any person who is responsible for, or alleged to be responsible for, a violation and/or any parent or guardian having custody and control of a minor committing such violation, on a joint and several basis with such minor, provided such minor and parent or guardian are each served with notice of violation.

#### **SEC. 49.84.11. NUISANCE ABATEMENT LIEN.**

(A) Summary Abatement. The City may summarily abate any nuisance resulting from the defacement of the property of another by graffiti or any other inscribed material at the expense of the minor or other person creating, causing, or committing the nuisance and make the expense of abatement of the nuisance a lien against the property of the person and a personal obligation against that person.

(1) The determination of responsibility shall be presumed by any confession, admission, guilty plea, or plea of nolo contendere to any violation of Section 594, 594.3, 640.5, 640.6, or 640.7 of the California Penal Code.

(2) In the case of a minor, responsibility shall be presumed by any confession, admission, or by the minor being declared a ward of the juvenile court pursuant to Section 602 of the 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 Penal Code

(B) Joint and Several Liability of Parent(s) or Guardian(s). The parent or guardian having custody and control of a minor committing a nuisance described in Subsection A, shall be jointly and severally liable with the minor for the expense of abatement. The unpaid expense of abatement of any nuisance resulting from the defacement of the property of another by graffiti or any other inscribed material shall become a lien against the property of a parent or guardian having custody and control of the minor, and a personal obligation against the parent or guardian having custody and control of the minor.

(C) Definitions. For purposes of this Section, the following definitions apply:

(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 by the City in identifying and apprehending the minor or other person.

(2) "Minor" or "other person" means a minor or other 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; or a minor convicted by final judgment of a violation of Section 594, 594.3, 640.5, 640.6, or 640.7 of the California Penal Code; or a minor declared a ward of the juvenile court pursuant to Section 602 of the 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 Penal Code.

**(D) Procedures.**

**(1) Collection of Expenses of Abatement.** Upon the determination of the expense of abatement, the City, Board of Public Works or its designated representative, shall send an abatement expense statement to the responsible person(s) pursuant to Subsection (A), and if applicable, Subsection (B), above. Payment shall be due fifteen (15) calendar days from the service of the abatement expense statement.

**(2) Notice and Hearing**

**(a)** Within ten (10) calendar days of the mailing of the abatement expense statement, any person served with an abatement expense statement may file with the City representative who issued the statement, a written request for a hearing on the correctness, reasonableness, or both of such claim of abatement costs.

**(b)** Upon receipt of the written request for a hearing, the City representative who issued the statement shall send notice describing the time and place of such hearing by the United States mail, postage prepaid, addressed to the requesting party's last-known address at least five days in advance of the hearing.

**(c)** At the hearing, upon request, the city representative shall receive all evidence presented by the responsible person and by the City. Thereupon, the City representative shall make such revision, correction, and modification to the statement as deemed warranted, after which the statement as submitted, or as revised, corrected, or modified, shall be confirmed. The decision of the City representative shall be final.

**(d) Suspension of Abatement Costs.** The obligation to pay the expenses of abatement otherwise required under subsection (D)(1) of this section shall be suspended during the pendency of any hearing provided for under this Subsection. Upon the City representative rendering his or her decision following a hearing, payment of the confirmed or otherwise revised, corrected, or modified abatement expense statement shall be made within ten (10) calendar days following service of the City representative's decision upon the responsible person.

**(3) Lien Against Property for Unpaid Expenses.**

**(a)** The City may make the unpaid expenses of abatement a lien against the property of the person committing a nuisance described in Subsection A, above, and, where such person is a minor, against the property of the parent or guardian having custody and control of such minor.

**(b) Notice of Intent to Lien.** Notice of Intent to record a lien shall be given to the minor or other person and to the parent or guardian having custody and control of the minor prior to the recordation of any lien. Said notice shall be served in the same manner as a civil action in accordance with the Code of Civil Procedure Section 415.10. If the minor or other person, and/or the parent or guardian having custody and control of the minor, after diligent search, cannot be found, the notice may be served by posting a copy of the Notice in a conspicuous place upon the property for a period ten (10) days and publication thereof in a newspaper of general circulation published in the county in which the property is located pursuant to Government Code Section 6062.

**(c) Recordation.** A graffiti nuisance abatement lien shall be recorded in the County Recorder's Office in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.

**(d) Specific Data.** A graffiti nuisance abatement lien authorized by this section shall specify the amount of the lien; the name of the agency on whose behalf the lien is imposed; the date of the abatement order; the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed; and the name and address of the recorded owner of the parcel.

**(e) Discharge.** If the lien is discharged, released, or satisfied through payment or foreclosure, notice of the discharge containing the information specified in Subsection d, above, shall be recorded by the governmental agency. A graffiti nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

**(f)** A graffiti nuisance abatement lien may be satisfied through foreclosure in an action brought by the City.

**(g)** The City may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

**(E) Alternative Procedure for Assessment**

**(1)** As an alternative to the nuisance lien described in subsection A and B, above, the City may make the costs associated with the expense of abatement, as defined in Subsection C, above, a special assessment against the parcel of land owned by the person committing a nuisance described in Subsection (A), above, and, where such person is a minor, against the property of the parent or guardian having custody and control of such minor.

**(2)** The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes pursuant to Government Code Section 38773.7.

**(F) Second or Subsequent Civil or Criminal Judgment.**

**(1)** Upon the entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property or a minor or other person as defined in this Section is responsible for a condition that may be abated in accordance with this provision, except of conditions abated pursuant to Section 17980 of the Health and Safety Code, the court may order that person to pay treble the costs of the abatement.

**SEC. 49.84.12. PENALTIES.**

**(A) Criminal Penalties.**

**(1)** The civil and administrative penalties set forth in this section are not exclusive and may be used in addition to those set forth elsewhere in this Code or by other law.

**(B) Civil Penalties.**

**(1)** Irrespective of and cumulative to any criminal conviction for an act of graffiti or any final adjudication by the Juvenile Court or placement on a supervised program by the probation officer under the provisions of the Welfare and Institutions Code of the State of California for such act, any person who violates any provision or fails to comply with any requirement or provision of this Article, shall be liable for a civil penalty in a civil action brought by the City Attorney in an amount not to exceed one thousand dollars (\$1,000.00) for each violation. Each day of such conduct and each separate and distinct property victimized by an act of graffiti shall be considered a separate and distinct violation. The civil penalty prescribed by this Subsection may be sought in addition to, and not in lieu of, any other remedy, including, but not limited to, criminal remedies, injunctive relief, specific performance, or any other remedy.

(2) Determining the Amount. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including but not limited to: costs to the City relating to cleanup of graffiti caused by such person, costs to law enforcement incurred in identifying and apprehending such person, special costs to the City in the form of the payment of any reward in connection with any criminal action against such person, the degree of offense to the public as determined by the magnitude, form and visual prominence of the graffiti, the history of previous violations by the person committing graffiti, the assets, liabilities and net worth of the person, and any corrective action taken by the person committing the graffiti.

(3) Disposition of Penalties Collected. All civil penalties collected shall be deposited into the Graffiti Technology and Recovery Fund established pursuant to Los Angeles Administrative Code Sections 5.552, 5.553, and 5.554.

**(C) Administrative Penalties.**

(1) Any person who violates any provision or fails to comply with any requirement or provision of this Article shall be subject to an administrative fine as specified in Section 49.93.

(a) The administrative fine prescribed by this Subsection may be sought in addition to, and not in lieu of, any other remedy, including, but not limited to, criminal remedies, injunctive relief, specific performance, or any other remedy.

(2) Disposition of Penalties Collected. All administrative penalties collected shall be deposited into the Graffiti Technology and Recovery Fund established pursuant to Los Angeles Administrative Code Sections 5.552, 5.553 and 5.554.

**SEC. 49.84.12. SEVERABILITY.**

If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The City Council hereby declares that it would have passed this Article and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

Sec. 2. The definition of "Graffiti" under Section 91.202 of the Los Angeles Municipal Code is amended to read:

GRAFFITI shall mean any form of unauthorized inscription, word, figure or design which is marked, etched, scratched, drawn, sprayed, painted or otherwise affixed to or on any surface of public or private property, including, but not limited to buildings, walls, signs, structures or places,

or other surfaces, regardless of the nature of the material of that structural component.

Sec. 3. The fourth unnumbered paragraph in Section 91.8904.1 of the Los Angeles Municipal Code is amended to read:

It shall also be unlawful for the owner or person in control to allow to exist any graffiti on any walls, temporary or permanent structures, places, or other surfaces when that graffiti, as defined in Section 49.84.2 of this Code, is visible from a public street or other public or private property.

Sec. 4. The sixth unnumbered paragraph in Section 91.8904.1.2 of the Los Angeles Municipal Code is amended to read:

This section may also be used to abate graffiti that is observable from a public road, public right-of-way, or other property that is freely open to the public, as defined in Section 49.84.2 of the Los Angeles Municipal Code.

Sec. 5. Subsection 1. of Section 19.129.2 of the Los Angeles Administrative Code is hereby amended to read:

1. For the purposes of this Article "graffiti" means any form of unauthorized inscription, word, figure or design which is marked, etched, scratched, drawn, sprayed, painted or otherwise affixed to or on any surface of public or private property, including but not limited to buildings, walls, signs, structures or places, or other surfaces regardless of its content or nature and regardless of the nature of the material of that structural component or property.

Sec. 6. Subsection (a) of Section 7.35.2 of the Los Angeles Administrative Code is hereby amended to read as follows:

(a) Scope. The procedures set forth in this Section 7.35.2 shall apply to the abatement of a public nuisance as specified in Sections 57.01.19 (nuisance caused by flammable or hazardous materials), 58.01 (nuisance that endangers public health, safety and welfare), and 65.16 (nuisance caused by hazardous private streets) of the Los Angeles Municipal Code and all other instances of a public nuisance where the abatement procedures are not specifically provided for by City ordinance or otherwise mandated by law. The procedures set forth in this Section 7.35.2 shall not apply to the abatement of a public nuisance as specified in Los Angeles Municipal Code Sections 47.50, 49.84.11, 50.00, 57.03.05, 57.08.09, 57.21.08, 61.02, 62.103, 62.104, 62.200, 64.70.09, 91.8119.4.2, 91.8119.5.4, 91.8904.3, 91.8905.3, 91.8906.2, 91.8907.4, 98.0402, 98.0411, 98.0421, or 161.904 or Los Angeles Administrative Code Section 19.106, because these sections specifically provide for alternative procedures.

Sec. 7. A new chapter 152 is added to the Los Angeles Administrative Code to read:

**CHAPTER 152**  
**GRAFFITI TECHNOLOGY AND RECOVERY FUND**

**Sec. 5.552. Necessity of the Fund.**

The City's ability to photograph graffiti, retain photographs of graffiti, and identify the graffiti vandals is paramount in the City's effort to successfully implement the cost recovery procedures outlined in Chapter IV, Article 14 of the Los Angeles Municipal Code. This fund is established to assist in providing the necessary technology to promptly identify, intervene and hold accountable graffiti vandals.

**Sec. 5.553. Purpose of the Fund.**

The purpose of the Graffiti Technology and Recovery Fund (Fund) is to establish a repository for deposit of monies derived from collection of restitution, both criminal and civil, as well as civil penalty fines, administrative fees and law enforcement investigative costs from graffiti offenders, and other sources, which are to be used for financing graffiti technology and recovery, including funding of the Graffiti Reward Program established pursuant to Section 19.129.2 of this Code.

The Fund may also be used for the receipt of any other donation, gift, contribution or similar funding source received by the City for the purposes for which this Fund is established. The acceptance of such funding shall be subject to approval of the City Council. The Controller shall establish a separate segregated account within the Fund for any monies received by the City which are subject to special requirement, qualification or condition.

**Sec. 5.554. Creation and Administration of the Fund**

(a) There is hereby created and established in the Treasury of the City of Los Angeles a special fund to be known as the Graffiti Technology and Recovery Fund.

(b) There is hereby established an Oversight Committee composed of the City Attorney, the Chief of Police and the President of the Board of Public Works, or their respective designated representatives, to recommend actions and expenditures, to identify, organize, implement and coordinate technology for the early identification, intervention and apprehension of graffiti vandals.

(c) All monies derived from the sources identified in Sec. 5.553 shall be deposited into the Fund. The Oversight committee is responsible for recommending actions to provide for financing the necessary technology needed for the collection and retention of graffiti photographs and the early identification of graffiti vandals. Once the Graffiti Reward Program and necessary technology is properly funded, the remaining money in the Fund may be used to finance increased recovery and collection efforts, early intervention and prevention programs in the most affected communities or neighborhoods, and City abatement efforts.

(d) All proposed transfers, appropriations, and expenditures from the Fund, including transfers from one account to another account within the Fund, must be submitted to the Oversight Committee for its recommendation and approved by the City Council.

(e) The Fund shall be administered by the City Clerk, or body approved and designated by the Oversight Committee.

(f) All interest and earnings on monies in the Fund shall be credited to the Fund and shall be used only for the purposes of the Fund. Money in the Fund shall not revert to the Reserve Fund of the City pursuant to Charter Section 344.

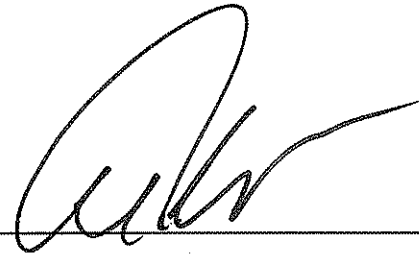
Sec. 8. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles of May 13, 2009, and was passed at its meeting of MAY 20 2009

JUNE LAGMAY, City Clerk


By  Deputy

Approved MAY 29 2009

 Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By   
MIKE DUNDAS  
Deputy City Attorney

Date 5/12/09

File No. 07-3428, 08-2385