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**AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 17 (OFFENSES, MISCELLANEOUS PROVISIONS)  
ARTICLE I (IN GENERAL)**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

*That Section 17-6 of the Portland City Code is hereby  
enacted as follows:*

**Sec. 17-6. Graffiti.**

(a) Purpose. It is the intent of this section to prevent the spread of graffiti vandalism and to create a program for the removal of graffiti. Graffiti is a public nuisance and a visual symbol of disorder. Prompt removal is a proven deterrent to the spread of graffiti.

(b) Definitions. The following definitions shall apply in this section:

(1) Aerosol Paint container shall mean any container that is adapted or made for the purpose of applying aerosolized paint, or any other aerosolized substance capable of defacing property.

(2) Broad Tipped Marker shall mean any marker or similar implement that contains ink and has a flat or angled writing surface that, at its broadest width, exceeds one-eighth inch.

(3) Etching Cream shall mean 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.

(4) Graffiti shall mean any inscription, word, figure, design, painting, writing, drawing or carving that is

marked, etched, scratched, drawn, painted or otherwise applied to property without the prior authorization of the owner of the property, regardless of the content or nature of the material used.

- (5) Graffiti implement shall mean an aerosol paint container, etching cream, a broad-tipped marker, gummed label, glass cutter, paint stick or graffiti stick.
- (6) Minor shall mean a person under the age of eighteen.
- (7) Owner shall mean the person listed on the Portland City Assessor's records as the owner of property.
- (8) Paint Stick or Graffiti Stick shall mean any device containing a solid or liquid form of paint, wax, epoxy, or other similar substance that leaves a visible mark upon application to a surface.
- (9) Property shall mean any real or personal property, including but not limited to any portion of any premises, structure, house, building, sign, fence or vehicle.

(c) Prohibitions. No person shall apply graffiti to any private or public property; solicit or command another person to apply graffiti to any private or public property; or aid or abet, or agree to aid or abet another person in planning to apply or applying graffiti to any private or public property.

(d) Possession of graffiti implements. No person shall possess any graffiti implement under circumstances presumed to evidence the intent to violate the provisions of this section. A person is presumed to possess the graffiti implement with an intent to violate this section if he or she possesses any Graffiti implement:

- (1) In or on any part of a publicly-owned or privately-owned building, facility, park, walkway or trail, school ground, library, playground, swimming pool, recreational facility, or right-of-way; or

- (2) Within fifty (50) feet of any underpass, overpass, bridge abutment, storm drain, or similar type of infrastructure.

It is a defense to the presumption of possession with intent to violate the provisions of this section if the graffiti implement was possessed on the property with consent of the Owner or possessed in a place where the implement was going to be used for a non-graffiti activity, including but not limited to an employment, school, home, church, art, or similar activity or possessed while en route to or from such activity.

(e) *Furnishing graffiti implements.* No person, other than a parent or legal guardian, may sell, exchange, give, lend, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any of the following graffiti implements to any person under the age of eighteen (18) years without the written permission of the parent(s) or guardian of the minor: aerosol paint container(s), graffiti stick(s), paint stick(s) or etching cream.

(f) *Sale of graffiti implements.* Every person who owns, conducts, operates, or manages a retail commercial establishment selling graffiti implements shall store the graffiti implements in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business.

In the event that a commercial retail establishment is unable to store the graffiti implements in an area as provided above, the establishment shall store the graffiti implements in an area not accessible to the public in the regular course of business without employee assistance.

(g) *Notice to customers and employees.* Every person who owns, conducts, operates, or manages a retail commercial establishment selling graffiti implements shall:

- (1) Place a sign in clear public view at or near the display of such products stating: "Graffiti is against the law. Any person who defaces real or personal property with paint or any other liquid or device is guilty under state law of a crime punishable by imprisonment of up to 1 year and/or a fine of \$500"; and

- (2) Place a sign in the direct view of such persons responsible for accepting customer payment for graffiti implements stating: "Selling aerosol paint containers, paint sticks, or etching cream to persons less than 18 years of age without the written permission of the person's parents or guardian(s) is against the law and punishable by a fine of \$250."

(h) Graffiti removal. Property owners shall remove, or shall cause to be removed, all graffiti from their property within ten (10) days from receipt of a notice from the City ordering said removal. If a property owner is unable to remove graffiti within ten (10) days from receipt of a notice, said property owner shall submit an approved graffiti removal plan to the City within ten (10) days from receipt of the notice.

(i) Enforcement of graffiti removal.

- (1) Whenever the Chief of Police, or his or her designee, determines that graffiti is located on private property such that graffiti may be viewed by a person using any public right-of-way or other public property, the Chief of Police or his or her designee shall provide written notice to the Owner of said property that the graffiti shall be removed from the property within ten (10) days of receipt of such notice. ~~If the Owner fails to remove the graffiti or submit an approved graffiti removal plan within ten (10) days of receipt of the notice, the Owner will be subject to the imposition of fines in accordance with paragraph (j) of this section.~~

- (2) If the Owner fails to remove the graffiti, the City may undertake or arrange for its removal. 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 secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the City removes the graffiti or arranges for its removal, the property owner shall be charged the cost of removal plus a ten (10%) percent charge for administration. A separate bill for each such removal shall be submitted to the record owner of

the property as soon as practicable after the charges are incurred.

(j) Penalties.

- (1) Any person who violates paragraph (c) of this section (Prohibitions) shall be punished by a fine of not less than five hundred dollars (\$500.00) per violation plus costs; shall reimburse the property Owner or the City for all costs reasonably incurred by the Property Owner or the City for removal of the graffiti; and shall perform no less than twenty-five (25) hours of community service. In addition, the City may seek equitable relief including, but not limited to, injunctive relief.
- (2) Every parent or legal guardian having custody or control of a minor who violates paragraph (c) of this section shall be jointly and severally liable with the minor for the penalties imposed in this paragraph.

~~(3) Any person who violates paragraph (h) of this section (Graffiti removal) shall be punished by a fine of up to one hundred dollars (\$100.00) for the first violation, two hundred fifty dollars (\$250) for the second violation, and five hundred dollars (\$500) for subsequent violations plus costs. In addition, the city may seek equitable relief including, but not limited to, injunctive relief. No penalties shall be assessed under this subsection for violations of paragraph (h) for a period of six months from the effective date of this section.~~

~~(4)~~(3) Any person who violates paragraph (d) or (e) of this section, (Possession of graffiti implements) or (Furnishing graffiti implements), shall be punished by a fine of up to two hundred fifty dollars (\$250.00) per violation plus costs.