



CITY COUNCIL AGENDA REPORT

MEETING DATE: MARCH 16, 2010

ITEM NUMBER: _____

SUBJECT: AMENDMENTS TO THE GRAFFITI ORDINANCE

DATE: FEBRUARY 23, 2010

FROM: CITY MANAGER'S OFFICE

PRESENTATION BY: THOMAS R. HATCH, ASSISTANT CITY MANAGER

FOR FURTHER INFORMATION CONTACT: TOM HATCH - (714) 754-5328 or
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RECOMMENDATION:

Introduce and give first reading to the attached Ordinance amending Title 11 relating to graffiti and tagging.

BACKGROUND:

The City's Graffiti Ordinance was last amended by City Council on May 15, 2007. The amendment included updated and additional definitions of graffiti implements; stricter requirements for retailers to maintain those implements in a secure manner; and additional penalties for those individuals convicted of anti-graffiti law violations.

The City is continuing to find ways to proactively address graffiti, institute safeguards to further prevent opportunities for graffiti vandals and taggers, and discourage them through penalties and restitution. As mentioned in the staff report in 2007, the graffiti vandals continue to find different ways to mark and deface both public and private property.

In 2008, Governor Schwarzenegger signed two bills into law: AB 1767 (Ma), and AB 2609 (Davis). These bills are now in effect. AB 1767 mandates community service for individual(s) committing a criminal act of graffiti vandalism. AB 2609 requires defendants convicted of graffiti to clean up or repair defaced or damaged property and to keep such property or another specified property in the community free of graffiti for up to one year. Last year, AB 576 (Torres) was signed into law and became effective January 1, 2010. AB 576 adds government entities to the definitions of victim when the court imposes an order upon the defendant or the juvenile offender to make restitution to the victim or victims.

In 2009, the City learned that several cities in Southern California had revised their graffiti ordinances to further strengthen the language concerning definitions, sale and possession, public access and penalties. Two cities, West Covina and Santa Ana, included sections in their ordinances on parental civil liability for minors who violate their graffiti ordinance; restitution to the victim; and community service requirements. These sections address accountability and discourage recidivism. As graffiti vandals/taggers have found more ways to deface property, local agencies are now turning to the stronger use of parental civil liability and restitution to combat problems, to pay for damages to victims and to educate the vandals and their parents or guardians.

A Graffiti Ordinance Committee consisting of staff from the Police, Public Services, and Development Services Departments, and the City Attorney's and City Manager's Offices met several times to review the best provisions in the West Covina and Santa Ana ordinances and prepare the attached proposed ordinance for Costa Mesa (Attachment 1).

ANALYSIS:

Graffiti negatively impacts the quality of life in a community. As noted in the Background section, the proposed ordinance amendment further addresses current trends by graffiti vandals and incorporates the new strategies some cities are now taking. These include:

- a comprehensive list of definitions and of graffiti implements;
- further restrictions on accessibility of graffiti implements and signage requirements;
- new sections pertaining to:
 - parental civil liability;
 - restitution to the victim(s), including the authority for the City to place a lien on property if necessary;
 - expanded authority for the chief of police to reward a person who provides credible information regarding graffiti violations;
 - a 48-hour removal time frame for utility companies to remove graffiti on utility fixtures and equipment upon being reported to the utility;
 - cost recovery procedures; and
 - community service requirements and penalties.

While graffiti can be attributed to both criminal gang activity and tagger activity, the Costa Mesa Police Department has indicated that the graffiti most often seen in the City is the work of taggers. The majority of these are minors. By involving the parent, guardian or legal guardian, the educational and financial responsibility components have been found to be a deterrent to minors becoming repeat offenders. The proposed changes will also assist the Police Department in its efforts to educate parents and the community, while increasing its ability to arrest graffiti vandals.

The City of Santa Ana has reported that they have been enforcing their new graffiti ordinance since mid-October. Both public works (graffiti removal) and police have stated that they have noticed no significant or subjective difference yet. They are working with their school police officers as well as primarily enforcing California Penal Code Section 594 and 594.2 (vandalism; graffiti; persons possessing graffiti implements; punishment; community service as a condition of probation; and descriptions of graffiti implements). Since October, the Santa Ana Police Department has made 11 arrests; 6 which are related to the new code that will involve the parents. These cases are in process now. After gathering more objective data and statistics, Santa Ana may be conducting some sort of interview-format evaluation, following up with offenders and their parents to find out the possible deterrent effects. Santa Ana PD has also been meeting with the County's Probation Department regarding second time offenders and with their City Attorney regarding some sections of their ordinance, such as forfeiture and restitution.

The City of West Covina's graffiti ordinance was amended in 1994 and again in February 2009. It is somewhat less restrictive than Santa Ana's ordinance. West Covina PD advised that they have experienced a 70% reduction in graffiti after their ordinance was implemented and with the use of "graffiti tracker" software. Police Department School Resource Officers interact with school officials, students and parents to further educate and reduce graffiti.

ALTERNATIVES CONSIDERED:

Do not adopt the proposed revision.

FISCAL REVIEW:

None required.

LEGAL REVIEW:

The City Attorney’s Office has been involved in the preparation of the proposed amendments to the Graffiti Ordinance and has reviewed and approved the attached ordinance “as to form.”

CONCLUSION:

The proposed amendment to the Costa Mesa Municipal Code is intended to further deter graffiti in Costa Mesa. City Council is requested to give first reading to the Ordinance.

CAROL C. PROCTOR
MANAGEMENT ANALYST

THOMAS R. HATCH
ASSISTANT CITY MANAGER

KIMBERLY HALL BARLOW
City Attorney (legal review only)

DISTRIBUTION: Police Chief Chris Shawkey
Acting Development Services Director Kim Brandt
Director of Public Services Peter Naghavi
Maintenance Svcs Manager Bruce Hartley

Sergeant Keith Davis
Officer Jason Chamness
City Engineer Ernesto Munoz
Chief of Code Enforcement Willa Bouwens-Killeen

ATTACHMENTS: 1 [Proposed Ordinance No. 10-](#)
2 [Redlined Ordinance](#)

Graffiti Ord Rpt

3-9-10

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