



MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jorge M. Gonzalez, City Manager

FROM: Jerry Libbin, Commissioner

DATE: September 25, 2008

SUBJECT: Agenda item for October 7, 2008 Commission meeting

Please place on the October 7, 2008 Commission agenda a discussion and referral item to the Neighborhoods committee regarding the need to create a Graffiti Ordinance in the City of Miami Beach. I have attached a sample of anti-graffiti ordinance provisions for your review.

If you have any questions, please do not hesitate to contact Enid Rodriguez or Sandra Meyer in my office.

JL/sm

2008 SEP 26 10:10 AM
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Agenda Item R9D
Date 10-7-08

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Drafting an Anti-Graffiti Ordinance -- Some Essential Provisions

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International Municipal Lawyers Association, Washington, D.C.
for the Metropolitan Washington Council of Governments Conference
A Community Strategy for Combating Graffiti Vandalism

March 20-21, 1996
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I. Introduction

The provisions below have been excerpted from the International Municipal Lawyer Association's (IMLA) Model Anti-Graffiti Ordinance, which is published in the IMLA Model Ordinance Service. The IMLA Model provides local governments a starting point in their ordinance drafting process by including suggested anti-graffiti provisions and an editor's commentary that discusses legal challenges to graffiti ordinances. IMLA staff attorneys drafted the IMLA Model, working in conjunction with the IMLA member city and county attorneys who are most familiar with anti-graffiti measures and the National Council to Prevent Delinquency in Alexandria, Virginia. The IMLA Model is based on provisions contained in the ordinances from the following cities and counties: Chula Vista, Los Angeles County, Redlands, and San Diego, California; Wilmington, Delaware; Dade County and Hollywood, Florida; Aurora and Chicago, Illinois; Boston, Massachusetts; Rochester, Minnesota; and Portland, Oregon.

IMLA strongly recommends that a local government consult its legal counsel when considering the adoption of an anti-graffiti ordinance or the amendment of an existing anti-graffiti measure. Further, a local government contemplating the adoption or amendment of an anti-graffiti ordinance should be aware that the ordinance should be but one part of a local government's comprehensive approach to a graffiti vandalism problem. A comprehensive approach involves implementing an anti-graffiti program that includes an education and prevention program, law enforcement participation, and community involvement.

To obtain more information about the IMLA Model and the IMLA Model Ordinance Service, please contact the Service's Editor, Rodney T. Willett, at (202)466- 5424, ext. 110; or e-mail him at imladc@aol.com. The IMLA Internet Web site address is <http://www.imla.org>. Please note that the provisions included below are copyrighted by IMLA and may not be reproduced in any manner without the written authorization of IMLA.

II. Findings and Purpose

The Findings and Purposes provisions of an anti-graffiti ordinance have two essential functions: first, to state the authority by which the local government is enacting the anti-graffiti ordinance (e.g., pursuant to specific state authorization, charter provision, home rule power, etc.); and second, to identify and quantify the graffiti problem that the ordinance is intended to address. Often, the findings and purpose provisions express the city council's concern about the deterioration of the property values of graffitied property and those lands adjacent to graffitied property.

The City Council of _____ is enacting this Ordinance to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property. The Council is authorized to enact this Ordinance pursuant to its police powers, as specified in Section _____ of the City Charter and _____ [state code] that authorize the City, under certain circumstances, to provide for the removal of graffiti from private and public property.

The Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the City acts to remove graffiti from public and private property, the graffiti tends to remain. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City.

The City Council intends, through the adoption of this Ordinance, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The Council does not intend for this Ordinance to conflict with any existing anti-graffiti state laws.

III. Definitions

An anti-graffiti ordinance's definitions must be carefully drafted in order to properly define the conduct that the ordinance is prohibiting and to avoid legal challenges based on the alleged overbreadth or vagueness of the ordinance. The definition of "graffiti" below contains comprehensive language intended to include all types of graffiti vandalism. For example, the definition refers to "etching," a relatively new type of graffiti whereby graffiti vandals use very hard and sharp objects to etch words, designs, and other markings on glass or other surfaces (the IMLA Model includes a separate definition for "etching").

To avoid prohibiting legitimate artwork, the graffiti definition only includes markings that are unauthorized or otherwise deemed by the city council to be public nuisances. Thus, a

property owner is not absolutely prohibited from authorizing graffiti- type artwork, such as a mural painting, for decorative purposes.

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 by the City Council.

Graffiti implement means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

IV. Prohibited Acts

In addition to addressing the act of defacement itself, the prohibited acts provisions of an anti-graffiti ordinance also may restrict the possession of graffiti implements in those places most vulnerable to graffiti vandalism, including schools and public right-of-ways.

A. Defacement. It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any city-owned property or, without the permission of the owner or occupant, on any non-city-owned property.

B. Possession of Graffiti Implements.

1. **By Minors at or Near School Facilities.** It shall be unlawful for any person under the age of eighteen (18) years to possess any graffiti implement while on any school property, grounds, facilities, buildings, or structures, or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or occupant of such private property. The provisions of this Section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers. The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need to possess a broad-tipped marker.
2. **In Designated Public Places.** It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the City or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain, or similar types of infrastructure unless otherwise authorized by the City.

V. Accessibility to Graffiti Implements

An increasing number of local governments are imposing restrictions on the retail display of spray paint cans and wide-tipped markers to discourage the theft of potential graffiti implements. "Responsible retailer" measures typically require sellers of spray paint and wide-tip markers to only display the items in areas that are continuously observable by store employees. Many local governments have adopted more stringent "lock-up" provisions that require spray paint retailers to maintain their products in locked display cases. At least one city, Chicago, Illinois, has taken the even more extreme step of banning all sales of spray paint and jumbo indelible markers. The United States Court of Appeals for the Seventh Circuit upheld a challenge to that prohibition, and the United States Supreme Court declined to review the case. See *National Paint & Coatings Assoc. v. City of Chicago*, 45 F.3d 1124 (7th Cir.), cert. denied, 115 S. Ct. 2579 (1995).

A. Furnishing to Minors Prohibited. It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, broad-tipped marker, or paint stick to any person under the age of eighteen (18) years without the written consent of the parents or guardian of the person.

B. Display and Storage.

1. Every person who owns, conducts, operates, or manages a retail commercial establishment selling aerosol paint containers, paint sticks, or broad-tipped markers shall store the containers, sticks or markers in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business.
2. In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks, or broad-tipped markers in an area as provided above, the establishment shall store the containers, sticks, and markers in an area not accessible to the public in the regular course of business without employee assistance.

C. Signage Required. Every person who operates 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 of a crime punishable by imprisonment of up to _____ days and/or a fine up to \$ _____."
2. Place a sign in the direct view of such persons responsible for accepting customer payment for graffiti implements stating: "Selling spray paint, paint sticks, or broad-tipped markers to persons less than 18 years of age is against the law and punishable by a fine of \$ _____."

VI. Penalties

Penalties for the violation of anti-graffiti ordinances range from fines and imprisonment to property forfeiture, restitution, parental liability, and community service. Local governments are adopting parental liability, restitution and personal property forfeiture provisions with increasing frequency, but those provisions are generally more difficult to enforce than fines and imprisonment penalties. The particular penalties that a local government adopts must be consistent with its state laws and should reflect the measures that the local government believes will be most effective in addressing the graffiti problem in that community.

A. Fines and Imprisonment. Any person violating this Ordinance shall be punished by a fine of two hundred and fifty dollars (\$250.00) for the first offense; five hundred dollars (\$500.00) for the second offense; and one-thousand dollars (\$1,000.00) for each subsequent offense, or by imprisonment in the City jail for a term not to exceed sixty (60) days, or by both fine and imprisonment at the discretion of the court.

1. In the case of a minor, the parents or legal guardian shall be jointly and severally liable with the minor for payment of all fines.
2. Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parents' or legal guardian's property that includes the fine and administrative costs.
3. Upon an application and finding of indigence, the court may decline to order fines against the minor, parents or guardian.

B. Restitution. In addition to any punishment specified in this Section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. In the case of a minor, the parents or legal guardian shall be ordered jointly and severally liable with the minor to make the restitution.

C. Forfeiture of Personal Property. All personal property, including, but not limited to, automobiles, motorcycles and bicycles, used or intended to be used in violating this Ordinance shall be forfeitable to the City. In forfeiting such personal property, the City shall follow the procedures outlined in _____ of the City Code concerning forfeitures of personal property. In any forfeiture proceeding under this Section, the court shall not order a forfeiture unless it finds that the forfeiture is commensurate with the severity of the violation to the extent required by the _____ [state] and United States constitutions.

D. Community Service. In lieu of, or as part of, the penalties specified in this Section, a minor or adult may be required to perform community service as described by the court based on the following minimum requirements:

1. The minor or adult shall perform at least thirty (30) hours of community service.
2. At least one parent or guardian of the minor shall be in attendance a minimum of fifty percent (50%) of the period of assigned community service.

3. The entire period of community service shall be performed under the supervision of a community service provider approved by the Chief of Police.
4. Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have the most rehabilitative effect on the minor or adult, including community service that involves graffiti removal.
5. Any minor determined to be a ward of the court under _____ [state law] as a result of committing an offense in the City shall be required, at the City's option, to perform community service, including graffiti removal service of not less than thirty (30) hours nor more than eighty (80) hours.

VII. Rewards and Reimbursements for Information

Many local governments establish reward and reimbursement programs as part of their comprehensive approach to a graffiti problem. Those programs often include "graffiti hotlines" to facilitate the reporting of graffiti incidents and the furnishing of information regarding the perpetrators of graffiti vandalism. Similar to "crime-solvers" programs, the hotlines permit anonymous reporting and offer rewards to those individuals who provide tips leading to the arrest of graffiti vandals. The funding for those rewards is generally based on private contributions and any fines collected through enforcement of the ordinance (see the "Trust Fund" provision below).

A. Pursuant to _____ of the City Code, the City may offer a reward in an amount to be established by resolution of the City Council for information leading to the identification and apprehension of any person who willfully damages or destroys any public or private property by the use of graffiti. In the event of damage to public property, the offender or the parents or legal guardian of any unemancipated minor must reimburse the City for any reward paid. In the event of multiple contributors of information, the reward amount shall be divided by the City in the manner it shall deem appropriate.

B. Claims for rewards under this Section shall be filed with the City in the manner specified by the City Council.

C. No claim for a reward shall be allowed unless the City investigates and verifies the accuracy of the claim and determines that the requirements of this Section have been satisfied.

D. The City shall reimburse to any person reporting by means of a mobile or cellular phone an act of graffiti vandalism or existence of graffiti within the City the amount of the direct phone charges, exclusive of taxes, incurred by the person.

VIII. Graffiti as Nuisance

A local government's declaration that graffiti is a nuisance facilitates the removal of the graffiti, pursuant to the ordinance's abatement and removal provisions.

A. The existence of graffiti on public or private property in violation of this Ordinance is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Ordinance.

B. It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

IX. Removal of Graffiti

Ideally, a local government would apprehend the perpetrator of graffiti vandalism and then require that person to remove the graffiti, at little or no cost to the local government or the property owner. However, given that many graffiti vandals are never apprehended, the removal burden most often falls on the property owner or the local government.

Property owner removal or "anti-blight" provisions require the property owner to remove graffiti within a specified number of days following the vandalism. If the property owner does not comply with that requirement, the local government may institute nuisance abatement procedures and then recover the cost of the removal, placing a lien on the property if necessary. Anti-blight provisions are often controversial because property owners may feel that they, the victims of the graffiti, are being victimized again by the ordinance's removal provisions. To avoid the property owners' perception that they are the only ones paying for graffiti vandalism, a local government should fully enforce the ordinance's penalties, including any graffiti removal or restitution provisions, against the graffiti vandals. Additionally, the local government may offer a hardship exception to the removal requirement for those property owners who demonstrate that they lack the financial means to cover the removal costs.

When removing graffiti from private property, a local government must first attempt to obtain the consent of the property owner to enter the property. Failure to obtain that consent or a valid inspection warrant may constitute a violation of the property owner's Fourth Amendment right against unreasonable search and seizure. If the property owner refuses to grant removal consent, or the local government is unable to contact the property owner because the property is abandoned, the local government may institute public nuisance abatement procedures in order to remove the graffiti. As with any nuisance abatement proceeding, the local government must provide the owner of the graffitied property adequate due process. Due process must include a proper declaration of the nuisance by the governing body, notice, and opportunity for hearing regarding the abatement.

A. Removal by the Perpetrator. Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the City or private owner of the property involved. Such removal shall be done in a manner prescribed by the Chief of Police, the Director of the Department of Public Works, or any additional City department head, as authorized by the City Council. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Ordinance. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.

B. Property Owner Responsibility. If graffiti is not removed by the perpetrator according to the Section above, graffiti shall be removed pursuant to the following provisions:

It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the City to permit property that is defaced with graffiti to remain defaced for a period of ten (10) days after service by first class mail of notice of the defacement. The notice shall contain the following information:

1. The street address and legal description of the property sufficient for identification of the property;
2. A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;
3. A statement that the graffiti must be removed within ten (10) days after receipt of the notice and that if the graffiti is not abated within that time the City will declare the property to be a public nuisance, subject to the abatement procedures in City Code Section _____; and
4. An information sheet identifying any graffiti removal assistance programs available through the City and private graffiti removal contractors.

C. Exceptions to Property Owner Responsibility. The removal requirements above shall not apply if the property owner or responsible party can demonstrate that:

1. The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or
2. The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of fifteen (15) days after service by first class mail of notice of the defacement.

D. Right of City to Remove.

1. **Use of Public Funds.** Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the City Manager, or the designee of the City Manager, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.
2. **Right of Entry on Private Property.** 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 attempt to 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 property owner or responsible party fails to remove the offending graffiti within the time specified by this Ordinance, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this Section, the City shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified below.

E. Abatement and Cost Recovery Proceedings.

1. **Notice of Due Process Hearing.** The City Manager, or the designee of the City Manager, serving as the Hearing Officer, shall provide the property owner of record and the party responsible for the maintenance of the property, if a person different from the owner, not less than forty-eight (48) hours notice of the City's intent to hold a due process hearing at which the property owner or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance. Notice shall be served in the same manner as a summons in a civil action in accordance with _____ of the City Code. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in the area in which the property is located pursuant to _____ of the City Code.
2. **Determination of Hearing Officer.** The determination of the Hearing Officer after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of the attendance of the Owner or the responsible party or their respective agents, the Hearing Officer determines that the property contains graffiti viewable from a public or quasi-public place, the Hearing Officer shall give written notice in an eradication order that, unless the graffiti is removed within ten (10) days, the City shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the Hearing Officer), or such other eradication thereof as the Hearing Officer determines appropriate, and shall provide the Owner and the responsible party thereafter with an accounting of the costs of the eradication effort on a full cost recovery basis.
3. **Eradication Effort.** Not sooner than the time specified in the order of the Hearing Officer, the City Manager, or the designee of the City Manager, shall implement the eradication order and shall provide an accounting to the Owner and the responsible party of the costs thereof.
4. **Cost Hearing.** The Owner or responsible party may request a cost hearing before the Hearing Officer on the eradication accounting, and appropriate due process must be extended to the Owner or responsible party. If following the cost hearing or, if no hearing is requested, after the

implementation of the eradication order, the Hearing Officer determines that all or a portion of the costs are appropriately chargeable to the eradication effort, the total amount set forth in the eradication accounting, or an amount thereof determined as appropriate by the Hearing Officer, shall be due and payable by the Owner or responsible party within thirty (30) days. Any amount of eradication charges assessed by the Hearing Officer that are less than the total amount set forth in the eradication accounting shall be explained by written letter from the Hearing Officer to the City Council.

5. **Lien.** As to such property where the responsible party is the property owner, if all or any portion of the assessed eradication charges remain unpaid after thirty (30) days, pursuant to the authority created by _____ [state law], the portion thereof that remains unpaid shall constitute a lien on the property that was the subject of the eradication effort. The Director of Public Works shall present a Resolution of Lien to the City Council, and upon passage and adoption thereof, shall cause a certified copy of the Lien to be recorded with the

X. Ease of Removal and Prevention

Several local governments are requiring applicants for design review approval, conditional use permits, or development agreements to consider the prevention of graffiti in the design and construction of new structures. Those prevention measures include the use of protective coatings that facilitate graffiti removal, additional lighting, non- solid fencing, landscaping that covers large walls, and architectural designs that break up long, continuous walls or solid areas. For existing structures that are the target of repeated graffiti attacks, the ordinances include a retrofitting provision that requires the city or the property owner to take certain design measures to prevent future defacement.

A. **Common Utility Colors and Paint-Type.** Any gas, electric, telephone, water, sewer, cable, telephone and other utility operating in the City shall paint its above-surface metal fixtures with a uniform paint type and color that meets with the approval of the City Manager.

B. **Condition Encroachment Permits.** All encroachment permits issued by the City shall, among such other things, be conditioned on:

1. The permittee's application of an anti-graffiti material to the encroaching object of a type and nature that is acceptable to the City Manager, or the City Manager's designee;
2. The permittee's immediate removal of any graffiti;
3. The City's right to remove graffiti or to paint the encroaching object; or
4. The permittee's providing the City with sufficient matching paint and/or anti-graffiti material on demand for use in the painting of the encroaching object containing graffiti.

C. **Condition Tentative Maps.** In approving tentative or parcel maps, conditional use permits, variances, or other similar land use entitlements, the City shall consider imposing any or all of the following conditions, or other

similar or related conditions, at the public hearing required by law for approval of the tentative or parcel map, conditional use permit, variance or other similar land use entitlement:

1. **Use of Anti-Graffiti Material.** Developer shall apply an anti-graffiti material of a type and nature that is acceptable to the City Manager, or the designee of the City Manager, to the publicly viewable surfaces on the improvements to be constructed at the site deemed by the City Manager, or designee, to be likely to attract graffiti;
2. **Right of Access to Remove Graffiti.** Developer shall grant, prior to resale of any of the parcels that are within the territory of the map, the right of entry over and access to such parcels, upon forty-eight (48) hours posting of notice by authorized City employees or agents, to the City for the purpose of removing or painting over graffiti;
3. **Supply City with Graffiti-Removal Material.** Developer shall, for a period of two (2) years after the resale of the final lot, provide the City with sufficient matching paint and/or anti-graffiti material on demand for use in the painting over or removal of graffiti; or
4. **Owner to Immediately Remove Graffiti.** Developer shall, either as part of the general conditions, covenants and restrictions, or separate covenants recorded against individual lots, prior to resale of any of the parcels, covenant in a form satisfactory to the city that the owner of the lots shall immediately remove any graffiti placed thereon.

D. Design of Potential Graffiti-Attracting Surfaces. Any applicant for design review approval, conditional use permit, special use permit, unclassified use permit, development agreement, or other form of development or building permit shall, to the extent deemed feasible by the City Manager, or the designee of the City Manager, have designed any building structures visible from any public or quasi-public place in such a manner to consider prevention of graffiti, including, but not limited to the following:

1. Use of a protective coating to provide for the effective and expeditious removal of graffiti;
2. Use of additional lighting;
3. Use of non-solid fencing;
4. Use of landscaping designed to cover large expansive walls such as ivy or similar clinging vegetation; or
5. Use of architectural design to break up long, continuous walls or solid areas.

E. Retro-Fit Existing Graffiti-Attracting Surfaces; Non-Residential Structures. The following provisions may be incorporated in a graffiti eradication order during an abatement hearing, at the discretion of the Hearing Officer.

1. **At Owner's Expense.** Any surface of a structure on a parcel of land used for non-residential purposes that has been defaced with graffiti more than five (5) times in twelve (12) months shall be declared a public nuisance and required to be retrofitted, at the cost of the property owner,

with features or qualities as may be established by the City as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti. In exercising the authority hereunder, the City may not impose a cost on the property owner of greater than \$ _____.

2. **At City's Cost.** The owner of property used for non-residential purposes on which is located a surface of a structure that has been defaced with graffiti more than five (5) times in twelve (12) months shall permit the City to enter the property and, at the City's cost, make modifications as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti.

XI. Trust Fund

In order to fund the rewards for graffiti information providers and to help cover the costs of graffiti abatement, many local governments seek private contributions from the community, including paint supply companies, to an anti-graffiti trust fund. The trust funds also include any fines collected for violation of the ordinance.

The City Council hereby creates the City of _____ Anti-Graffiti Trust Fund. Penalties assessed against violators of this Ordinance shall be placed in the fund, along with any monetary donations received from persons wishing to contribute to the fund. The Council shall direct the expenditures of monies in the fund. Such expenditures shall be limited to the payment of the cost of graffiti removal, the payment, at the discretion of the City Manager, of rewards for information leading to the conviction of violation of the Ordinance, the costs of administering the Ordinance, and such other public purposes as may be approved by the Council by resolution.

XI. Trust Fund

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, then that decision shall not affect the validity of the remaining portions of this Ordinance.

The International Municipal Lawyers Association ("IMLA," formerly the National Institute of Municipal Law Officers, "NIMLO") is a non-profit, professional organization based in Washington, D.C. that has been an advocate and valuable legal resource for local government attorneys since 1935. IMLA offers its more than 1,400 members across the United States and Canada continuing legal education courses, research services, litigation assistance on amicus briefs, a bi-monthly magazine, the Municipal Lawyer, the IMLA Model Ordinance Service, and a facsimile document on-demand system,

MuniFax.