

October 3, 2006

City Council Meeting  
October 10, 2006

Mayor and Members  
of the City Council

**ORDINANCE NO. 06-1273 - "AN ORDINANCE OF THE CITY OF  
HERMOSA BEACH, CALIFORNIA, REGARDING GRAFFITI  
REMOVAL AND AMENDING THE HERMOSA BEACH MUNICIPAL  
CODE."**

Submitted for **waiver of full reading** and **adoption** is Ordinance **No. 06-1273**, relating to the above subject.

At the meeting of September 26, 2006, the ordinance was presented to the City Council for consideration and was amended to eliminate the provision requiring businesses to keep aerosol paint spray cans and wide blade markers in a locked area. The ordinance, as amended, was then introduced by the following vote:

AYES:	Bobko, Keegan, Reviczky, Tucker, Mayor Edgerton
NOES:	None
ABSENT:	None
ABSTAIN:	None

  
Elaine Doerfling, City Clerk

Noted:

  
Stephen R. Burrell, City Manager

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**ORDINANCE NO. 06-1273**

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA,  
REGARDING GRAFFITI REMOVAL AND AMENDING THE HERMOSA  
BEACH MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH,  
CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Title 9 of the Hermosa Beach Municipal Code is amended by adding  
thereto a new Chapter 9.36 to read as follows:

**Chapter 9.36**

**Graffiti Removal**

**9.36.010 Short title.**

This chapter of the Hermosa Beach Municipal Code may be referred to as the "Graffiti  
Removal Ordinance" of the City.

**9.36.020 Purpose.**

The purpose of this chapter is to provide for the prompt abatement of graffiti from public  
and private properties in the city and to regulate the sale of materials used in acts of graffiti to  
minors.

**9.36.030 Definitions.**

For the purpose of this chapter, unless otherwise apparent from the context, certain words  
and phrases used in this chapter are defined as follows:

"Defacement" means the intentional altering of the physical shape or physical appearance  
of property without prior consent of the owner of the property.

"Graffiti" means any painting, marking, symbol, design, inscription or other defacement  
which is written, sprayed, painted, scratched, etched, engraved, or placed without the prior consent  
of the owner or person in possession thereof.

"Responsible adult" is a parent or guardian of an individual under eighteen (18) years of  
age and includes an agent of the parent or guardian, provided the agent is over the age of eighteen  
(18).

1           “Wide blade marker” means any marker, pen or similar implement which contains a fluid  
2 which is not soluble in water, or which cannot be removed with water after drying, and has a flat,  
3 pointed or angled writing surface of a width of four millimeters or greater.

4       **9.36.040 Declaration of graffiti as a public nuisance.**

5           The City Council finds and declares that appearance of graffiti on public and private  
6 properties within public view is obnoxious and constitutes a public nuisance, the abatement of  
7 which shall be provided as set forth herein.

8       **9.36.050 Permitting graffiti to remain prohibited.**

9           No person shall permit any graffiti that may be viewed from the public right-of-way or  
10 other public property to remain on any building, structure, tree, shrub, sidewalk or curb owned or  
11 possessed by such person.

12       **9.36.060 Notice to owners or possessors of private property.**

13           Whenever the City Manager, or his or her designee, determines that graffiti is being  
14 maintained upon the premises within the City in violation of Section 9.36.050 of this chapter, the  
15 City Manager, or his or her designee, shall send written notice to the owner or possessor of the  
16 premises of such condition and shall require that the graffiti be removed. The notice and order  
17 shall be sent to the owner as shown on the most recent equalized assessment roll and a copy shall  
18 be posted on the subject property. The notice shall state that the owner must remove the graffiti or  
19 consent to its removal by the city within fourteen (14) days from the date the notice was mailed.

20       **9.36.070 Removal by City with owner consent.**

21           Whenever the City Manager, or his or her designee, determines that graffiti is located on  
22 public or private property so that graffiti may be viewed by a person using any public right-of-way  
23 or other public property, the City Manager, or his or her designee, is authorized to provide for and  
24 use public funds, if necessary, to remove graffiti by City crews or contractor upon the following  
25 conditions:

26           A.     Public Property. Whenever the City Manager or his or her designee determines that  
27 graffiti exists upon property owned by the city, it shall be removed as soon as possible. When the  
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1 property is owned by a public entity other than the City, the removal of the graffiti is authorized  
2 after securing written consent of the public agency having jurisdiction over the property.

3 Private Property. Where the subject property is privately owned, the removal of graffiti is  
4 authorized after the City Manager, or his or her designee, secures the written consent of the owner  
5 of the property and the owner executes a release and waiver approved as to form by the City  
6 Attorney.

7 **9.36.080 Removal by City without owner consent.**

8 A. The City Manager may initiate proceedings to abate any graffiti maintained  
9 contrary to the provisions of this chapter without the consent of the owner only after the following  
10 has occurred:

- 11 1. The City Manager has determined that graffiti within public view exists on  
12 particular premises in the city;
- 13 2. A notice of such condition has been sent to the property owner pursuant to  
14 Section 9.36.060; and
- 15 3 The property owner has failed to either remove the graffiti or consent to its  
16 removal by the City within the time period specified in the notice.

17 B. Prior to the City abating graffiti on private property without the consent of the  
18 owner, a hearing shall be conducted by the City Manager or his or her designee serving as hearing  
19 officer, at which time the property owner shall be given an opportunity to be heard regarding the  
20 proposed abatement. A notice of the time, place and subject of the hearing before the City  
21 Manager or his or her designee shall not less than ten (10) days prior to the hearing be sent  
22 personally or by first class United States mail to the owner's address as shown on the latest  
23 equalized tax assessment roll of the affected premises and shall be conspicuously posted on the  
24 affected premises. Proof of posting and serving of such notice shall be made by declaration under  
25 penalty of perjury filed with the hearing officer. The failure of any person to receive the notice  
26 shall not affect the validity of any proceedings under this chapter.

27 C. At the hearing, the hearing officer shall receive and consider all relevant evidence.  
28 Any interested person shall be given a reasonable opportunity to be heard in conjunction

1 therewith. Based upon the evidence so presented, the City Manager shall determine whether a  
2 nuisance within the meaning of this chapter exists and whether an abatement is appropriate.

3 D. Within ten (10) days after the hearing, the City Manager, or his or her designee,  
4 shall give written notice of the decision to the owner and to any other person requesting the same  
5 personally or by first class United States mail, postage paid. If a nuisance is determined to exist  
6 and abatement is determined to be appropriate, the notice shall contain an order of abatement  
7 directed to the owner of the affected property or the person in the control and/or charge of the  
8 property, and shall set forth the nature of the graffiti, its location on the premises and the  
9 maximum number of days, time and manner for its abatement. The City Manager may impose  
10 such conditions as are reasonably necessary to abate the graffiti. The decision of the City Manager  
11 may be appealed to the City Council by the filing of a written request for appeal with the City  
12 Clerk within ten (10) days after the City Manager's notice of the decision to the owner. In the  
13 event of an appeal, the decision of the City Council shall be final.

14 E. If the City Manager's decision is not appealed and the nuisance is not abated within  
15 the time set by the order of abatement, the City Manager, or his or her designee, is authorized to  
16 enter upon the premises and to abate the graffiti nuisance through utilization of labor, equipment  
17 and materials as directed by the City Manager. The graffiti shall be removed as authorized herein,  
18 but the removal shall not involve the painting or repair of a more extensive area than is necessary  
19 for such removal. The City Manager shall then prepare a statement of the fact of such abatement  
20 and of the expense incurred in abatement and shall file the statement with the City Clerk. Such  
21 statement shall identify the premises including more than one lot, each separate lot, or all of the  
22 lots may be set forth in the same statement.

23 F. Upon completion of the work required to abate the graffiti, the cost to the City to  
24 perform such work shall be assessed against the property owner pursuant to the procedures set  
25 forth in Section 8.28.080 of this code.

26 **9.36.090 Signs required.**

27 Any person doing business in the City displaying, selling or otherwise providing any of the  
28 substances referred to in Section 9.36.090 shall prominently display at the location of sale and/or

1 delivery a sign(s) clearly visible to employees and customers which states in writing, in both  
2 English and Spanish, "It is unlawful for any person to sell, lend, or give to any individual under  
3 the age of eighteen (18) years, aerosol spray paint cans or wide blade markers."

4 **9.36.100 Posting on City property.**

5 The City Manager or his or her designee is hereby authorized to post a notice at appropriate  
6 locations indicating that pursuant to California Penal Code Section 594.1 no person shall carry any  
7 aerosol can of paint or wide blade marker into or upon any city-owned building, grounds, park or  
8 other City facility without the permission of an authorized City officer.

9 **9.36.110 Reward.**

10 The City may pay to any person who provides information which leads to arrest and  
11 conviction of any person who applies graffiti to any public or private property in the City visible to  
12 the public a reward as established by City Council resolution. The amount of any reward paid  
13 pursuant to this section may be sought from the person arrested and convicted as restitution in  
14 addition to any other restitution associated with the removal of graffiti.

15 **9.36.120 Remedies cumulative.**

16 The remedies provided in this chapter are in addition to other remedies and penalties  
17 available under the Hermosa Beach Municipal Code and the laws of the State of California,  
18 including but not limited to California Civil Code Section 1714.1, California Penal Code Section  
19 594 *et seq.* and California Vehicle Code Section 13202.6.

20 **SECTION 2.** This Ordinance shall become effective and be in full force and effect from  
21 and after thirty (30) days of its final passage and adoption.

22 **SECTION 3.** Prior to the expiration of fifteen (15) days after the date of its adoption, the  
23 City Clerk shall cause this Ordinance to be published in the Easy Reader, a weekly newspaper of  
24 general circulation published and circulated, in the City of Hermosa Beach in the manner provided  
25 by law.

26 **SECTION 4.** The City Clerk shall certify to the passage and adoption of this Ordinance,  
27 shall enter the same in the book of original ordinances of said city, and shall make minutes of the  
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1 passage and adoption thereof in the records of the proceedings of the City Council at which the  
2 same is passed and adopted.

3 **PASSED, APPROVED and ADOPTED** this 10th of October 2006 by the following vote:

4 AYES:

5 NOES:

6 ABSENT:

7 ABSTAIN:

8 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

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11 ATTEST:

APPROVED AS TO FORM:

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City Clerk

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City Attorney