

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Supervisor Jeff Stone

SUBMITTAL DATE:
September 27, 2005

SUBJECT: Ordinance No. 733.2

RECOMMENDED MOTION: That the Board of Supervisors introduce and adopt Ordinance No. 733.2, which provides for a Graffiti Implement Sales License.

BACKGROUND: This amendment requires each seller of "graffiti implements" to obtain an annual business license (and to pay an annual business regulatory fee). The collected fees will be used as a funding mechanism to monitor the sales practices of such sellers (and to thereby confirm that those practices comply with other subsections of Ordinance 733 which regulate the sale of graffiti implements). Each annual period runs from July 1 through June 30 of the following year. By March 31 (or about 3 months before the start of an annual period), the Building and Safety Department will estimate (or re-estimate) the amount of the annual fee per sale location. Beginning on the following day (April 1), sellers can submit their annual applications and pay their annual fees. Each separate sale location will require the submittal of an application and the payment of a fee. The Department of Building and Safety will also issue the annual licenses. As defined, "graffiti implements" include aerosol paint containers, indelible felt tip markers, paint sticks (which are defined broadly to include such items as ordinary crayons and ordinary chalk), etchers, gummed labels or stickers (regardless of their size), paint balloons, and rubber stamps or stamping devices (regardless of their size). Enforcement will be via administrative and/or civil and/or criminal avenues.

Departmental Concurrence



Jeff Stone, Supervisor Third District

1 **ORDINANCE NO. 733.2**

2 **AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 733.1,**
3 **TO PROVIDE FOR A GRAFFITI IMPLEMENT SALES LICENSE**

4 The Board of Supervisors of the County of Riverside, State of California, Ordains as

5 Follows:

* 6 **Section 1.** The definition in subsection 2.D. is amended to read as follows:

7 D. Paint Stick. Any device which contains any substance, solid or liquid,
8 including, but not limited to, any form of any substance commonly known as paint, stain,
9 ink, chalk, wax, epoxy and/or any other similar substance which can be applied to any
10 surface by such means as applying pressure to and/or contacting any surface in such a way
11 as to leave any visible mark measuring at least 1/16 (one-sixteenth) of 1 (one) inch at any
12 point – otherwise described as graffiti or related vandalism (as described above in Section
13 2.A). Provided, however, that this definition of “paint stick” shall be limited to devices
14 which create such a mark that is indelible or permanent in nature (and cannot therefore
15 easily and completely be removed with water after the mark has dried).

16 **Section 2.** A new subsection 2.L. is added to the list of definitions to read as follows:

17 L. Graffiti Implements. Aerosol paint containers, felt tip markers, paint sticks,
18 etchers, gum labels, paint balloons, stamp or stamping devices, tips that can be attached to
19 an aerosol paint container, nozzles that can be attached to an aerosol paint container, or
20 spray actuators as defined in this ordinance.

21 **Section 3.** A new Section 11 is added to read as follows:

22 **Section 11. Graffiti Implement Sales License**

23 A. Beginning on July 1, 2006, it shall be unlawful for any person to sell, offer
24 for sale, display for sale, or otherwise make available for sale (within unincorporated
25 Riverside County) any graffiti implement unless that person then holds a valid annual
26 Graffiti Implement Sales License. A valid annual Graffiti Implement Sales License will
27 hereinafter be referred to as a “GIS License”.
28

1 B. Each GIS License shall cover an annual period that extends from the
2 beginning of the day on July 1 until the end of the day on June 30 of the following year.
3 A GIS License shall be obtained in advance (in the manner specified by this ordinance) by
4 any person who intends to sell any graffiti implement during a particular annual period (or
5 during any part of that annual period).

6 C. The issuing department for GIS Licenses will be the Department of
7 Building and Safety for the County of Riverside. Upon the submission to that department
8 of a properly filled-out application for a GIS License (and the payment to that department
9 of the annual regulatory fee for a GIS License), that department shall issue a GIS License
10 to the applicant. In order to obtain the issuance of a GIS License for a particular annual
11 period, the applicant shall submit its application and pay its fee no earlier than the April 1
12 date (that is three months prior to the commencement of the annual period for which the
13 GIS License is being requested) and no later than June 29 (of the annual period for which
14 the GIS License is being requested). If a GIS license is issued after July 1 of the annual
15 period for which the license is issued, it shall not have the retroactive effect of legalizing
16 any unlawful act or omission (regarding graffiti implements) that may have occurred
17 between July 1 and the date of license issuance.

18 D. The annual regulatory fees for GIS Licenses shall be used to fund the
19 following activities and operations of the Department of Building and Safety of the County
20 of Riverside (and its Code Enforcement Division): they shall be used to fund efforts to
21 identify and compile a list of those individuals and companies that are selling or otherwise
22 furnishing graffiti implements or paraphernalia (within the meaning of sections 5 and 6 of
23 this ordinance); they shall be used to fund efforts to compile a list of the stores and other
24 locations from which graffiti implements or paraphernalia are being sold or otherwise
25 furnished (within the meaning of sections 5 and 6 of this ordinance); they shall be used to
26 fund the monitoring of such sellers or furnishers in order to confirm that they are not
27 selling or furnishing graffiti implements or paraphernalia to minors (without receiving the
28 prior written consent of the parents or lawful custodians of those minors) within the

1 meaning of section 5 of this ordinance; they shall be used to fund the monitoring of such
2 sellers or furnishers in order to confirm that they are storing, stocking, and displaying their
3 stock of graffiti implements and paraphernalia in a manner that is inaccessible (within the
4 meaning of sections 6.A., 6.B., and 6.C. of this ordinance); they shall be used to fund the
5 monitoring of such sellers or furnishers in order to confirm that they are properly
6 displaying the sign that is required by section 6.D. of this ordinance; and they shall be used
7 to fund the costs of administering the County's GIS License program.

8 E. By March 31, 2006, and by March 31 of each succeeding year, the
9 Department of Building and Safety for the County of Riverside shall cause to be estimated
10 (for the annual period beginning approximately three months later) the sum total of funds
11 that will be necessary to fund the regulatory activities and operations described above in
12 section 11.D, and it shall cause to be estimated (for the annual period beginning
13 approximately three months later) the sum total of separate locations from which graffiti
14 implements or paraphernalia will be sold, offered for sale, displayed for sale, or otherwise
15 made available for sale. Under no circumstances shall the annual regulatory fee per
16 location (for a GIS License) exceed a dollar amount that is equal to the number obtained by
17 dividing the sum total of such estimated separate locations into the sum total of such
18 estimated funds. If a person sells graffiti implements or paraphernalia, offers them for
19 sale, displays them for sale, or otherwise makes them available for sale out of more than
20 one separate location during a particular annual period, that person must submit an
21 application for each and every one of those separate locations, and that person must pay the
22 annual regulatory fee for each and every one of those separate locations.

23 F. A violation of section 11 of this ordinance is enforceable in the following
24 manner.

25 1) A violation of section 11 of this ordinance may be charged as either an
26 infraction or a misdemeanor. If charged as an infraction, such a violation is
27 punishable by a fine not exceeding one hundred dollars (\$100) for a first violation, a
28 fine not exceeding two hundred dollars (\$200) for a second violation within one

1 year, and a fine not exceeding five hundred dollars (\$500) for each additional
2 violation within one year. If charged as a misdemeanor, a violation of section 11 of
3 this ordinance is punishable by a fine not exceeding one thousand dollars (\$1,000)
4 or by imprisonment in the county jail not exceeding six months, or by both such
5 fine and imprisonment. Payment of any fine or completion of any jail term shall
6 not relieve a person from the responsibility of correcting the violation.

7 2) A violation of section 11 of this ordinance shall constitute a public
8 nuisance.

9 3) A violation of section 11 of this ordinance may be administratively
10 prosecuted under sections 1, 3, 5, 6, 7, 8, 11, 12, 13, 14, and 15 of Riverside County
11 Ordinance no. 725. For purposes of such an administrative prosecution, section 11
12 of this ordinance shall constitute one of the "County Land Use Ordinances". For
13 each and every day during any portion of which a violation of section 11 of this
14 ordinance is committed, continued, or permitted, it shall constitute a separate and
15 distinct administrative offense.

16 4) A violation of section 11 of this ordinance may be enforced through a
17 civil action to recover the annual regulatory fee for a GIS License, for damages, for
18 injunctive relief, or for any other civil remedy whatsoever.

19 5) All criminal, administrative, civil, and other remedies mentioned in
20 section 11 of this ordinance shall be cumulative and not exclusive.

21 6) Violations of sections 3, 4, 5, or 6 of this ordinance shall be governed by
22 section 7 of this ordinance.

23 ///
24 ///
25 ///

1 **Section 4.** A new Section 12 is added to read as follows:

2 Section 12. Date of Adoption

3 This Ordinance shall be effective sixty (60) days after the date of adoption.

4

5 BOARD OF SUPERVISORS OF THE COUNTY
6 OF RIVERSIDE, STATE OF CALIFORNIA

7 By: _____
8 Chairman, Board of Supervisors

9

10 ATTESTED:
11 NANCY ROMERO
12 Clerk to the Board

13 By: _____
14 Deputy

15

16

17

18

19

20 G:\Property\Gbeloian\Graffiti Ordinance.5.doc

21

22

23

24

25

26

27

28