Frequently Asked Questions about Portland City Code 14B.85

What's the purpose of this code?

Portland City Code 14B.85 was written and passed with the intent to control access to spray paint and other graffiti materials, and to create a record of such sales to help law enforcement AND to slow the incidents of graffiti vandalism.

Who does it affect?

Anyone who sells 'graffiti materials', inside the city limits of Portland, whether on a wholesale or retail basis must comply with the terms of this code.

What are 'graffiti materials'?

For purposes of this code, graffiti materials means the following:

- Spray paint aerosol container for the purpose of applying paint, including
- spray paint that only works when sprayed upside down.
- Paint pen a tube, marker or other pen-like instrument with a tip of one-quarter (1/4) inch in diameter or
 greater that contains paint or similar fluid and an internal paint agitator.
- Glass Cutting Tool a tool or instrument with the sole purpose of cutting glass or cutting a permanent design into glass.
- Glass Etching Tool or Instrument acid products designed for the purpose of etching a permanent design into
 glass.
- Spray paint nozzle a nozzle or tip designed to deliver a spray of paint of particular width or flow from a can of spray paint.

What does "inaccessible to the public" mean?

The materials must be secured such that it requires sales staff assistance to unlock, or hand it to, the purchaser. Graffiti materials must be displayed in locked cabinets, behind check out counters, in a room off the sales floor, or otherwise out of reach of the public.

What does "tracking all sales" mean?

Anyone selling graffiti materials inside the City of Portland is required to obtain current and acceptable identification (with photograph) and write specific information in a **secure** log, before selling said graffiti materials to any person, regardless of age.

- The log must be maintained in date order for two (2) years from date of sale.
- The logbook may be a spiral notebook, or a document in a format comparable to the Graffiti Material Sales Log
 provided as a template elsewhere on this website, or directly from the Office of Neighborhood Involvement
 (ONI).
- The business is responsible to comply with state and federal regulations to protect customers from potential identity theft. We recommend businesses keep the log in a secure location and ensure that customer information is protected. If a logbook or template is used that allows for multiple entries on a single page, the business should use cardboard or some other materials to keep current customers entering information from viewing anything than their own information.
- Required information to be logged shall include all of the following:
 - O Date of purchase
 - O Sales form number, receipt number, or time of sale
 - O Printed name of Purchaser
 - O Signature of Purchaser
 - O Type of photo ID presented, i.e., current Drivers License, State ID, Other** student ID, credit/debit card, employee ID (2 forms required if ID shown is not a government issued ID such as Drivers License or State ID)
 - O Drivers License Number or Date of Birth
 - O Graffiti Materials Description
 - O Either Brand and Color *or* Lot number **or** UPC
 - O Initials of sales clerk

What if customers complain that their personal information can be viewed by other customers?

If you use a log like the *Graffiti Materials Sales Log* template provided by ONI, then it allows multiple customers to be listed on a single page. As customers may be concerned about privacy issues (Drivers' License Numbers/Date of Birth) it is advisable to use a piece of paper or cardboard to block out all prior purchases/logs so that the customer is only viewing their own current entry. And, care should be taken to keep the log book in a secure place when not in use. **The business** is responsible to comply with state and federal regulations to protect customers from potential identity theft. We recommend businesses keep the log in a secure location and ensure that customer information is protected.

How do we deal with purchasers with commercial accounts?

The focus of the information gathered in the log should be on verifying the identification of the person purchasing the materials. You may list the commercial business as the "Purchaser" but the individual must still sign for the purchase and provide personal identification for the seller to verify.

What happens if I don't comply with this code?

Beginning after November 1, 2007, the Graffiti Abatement manager or designee, or the Portland Police Bureau will conduct site inspections of businesses selling graffiti materials, for the limited purpose of inspecting the location and the log maintained by the seller to ensure compliance.

If, upon initial inspection, the business is found to be out of compliance, the Manager or their designee may work with the business to provide clarification on the code requirements and guidelines; provide the business 15 days before reinspection for compliance; and, upon re-inspection if the business remains out of compliance pursue penalties as authorized in PCC 14B.85-030 and 14B.85.040.

How will we work with businesses making a good faith effort to comply with these requirements?

If upon inspection a business is found out of compliance, the Graffiti Abatement Manager or designee will communicate with the business to make sure they are aware of the requirements and provide suggestions on how to get into compliance. If businesses correct the errors in a timely manner and remain in compliance, no additional enforcement action will be pursued.

What are the penalties for non-compliance?

If a business is non-compliant after clarification and opportunities have been provided, the Graffiti Abatement Manager may file a complaint with the Code Hearings Officer, after serving written notice to the business.

- A first violation may result in civil penalties of up to \$5,000
- Second violation (by the same person or business) may result in civil penalties up to \$15,000
- Third or additional violations may result in civil penalties of **up to** \$25,000

Several factors will be considered by the Code Hearings Officer in determining the amount of the civil penalty. For a list of these factors and other specific details of the code, please go to:

http://www.portlandonline.com/auditor/index.cfm?c=45541 or contact ONI for a hard copy at: 503-823-5860