

IVCSD Graffiti Abatement Policy (Phase 1)

PURPOSE:

In its mission to improve the health, safety, and welfare of the Isla Vista community and its citizens, consistent with its power and authority as provided by law, the Isla Vista Community Service District (“District”) recognizes that graffiti has a negative impact upon the nature, quality of life, and appearance of the District and its community. Additionally, the District understands and appreciates the extensive tradition of murals and public artwork on buildings in the community, and wishes to continue to respect this tradition while simultaneously addressing unwanted graffiti.

Accordingly, this policy establishes the process and procedure for the identification of graffiti and the enforcement of Phase 1 of the Graffiti Abatement Program within the boundaries of the District (“Policy”).

A. Definitions

- a. This Policy shall use the following definitions. Words not defined herein shall be interpreted according to their ordinary meaning as the context may require.
- b. “Fine Art” shall have the same definition as California Civil Code section 987, but shall also include Murals, and shall not include Graffiti.
- c. “Graffiti” shall mean unwanted marking of property, typically but not exclusively accomplished via use of paint, permanent marker, paint pen, and other instruments designed to leave a permanent or semi-permanent mark on a surface. Graffiti does not include Artwork or Murals.
- d. “Mural(s)” shall mean any intentionally painted work of expression located on any structure sited on private property.
- e. “Private Property” shall mean all property within the boundaries of the District that is not part of the Public Right of Way
- f. “Property Manager” shall mean the person or corporate entity which, by contract or other agreement with the property owner(s), has been provided authority and control over maintaining the condition of private property.
- g. “Public Right of Way” means all public property within the boundaries of the District, excluding property owned, maintained, and/or controlled by the County of Santa Barbara, the Regents of the University of California, and any other public entity with which the District does not have a written agreement for graffiti abatement services.
- h. “Staff” means employees, contractors, agents, volunteers, and/or interns of the District

B. Inventory of Artwork and Murals

- a. District staff will develop and maintain an inventory of Artwork and Murals of sufficient detail to allow for quick identification and in order to avoid unintentional abatement

C. Identification of Graffiti

- a. Graffiti will be brought to the attention of the District primarily through one of two avenues: staff identification or resident identification. In either case, the report of graffiti will be documented by District staff.
 - i. For staff identification, the location of the graffiti, the date, the time of identification, and the staff member's name and position should be documented.
 - ii. For resident identification, the location of the graffiti, the date, the time of identification, and the citizen reporter's name, residence, and contact information should be documented. If the citizen reporter wishes to remain anonymous, they may do so. Any information communicated in confidence shall be maintained as confidence in accordance with public disclosure requirements under California law, including provisions of the Public Records Act. Resident identification shall include reports made via the See-Click-Fix application.
- b. If the identified graffiti is on private property, District staff will proceed with each step in the program listed below. If the identified graffiti is in the public right of way, District staff may proceed directly to the issuance of a graffiti abatement work order.

D. Notice of Violation

- a. Once graffiti has been correctly identified, the District will begin the graffiti abatement process through the issuance of a courtesy notice of violation.
- b. The District will send a notice of violation to all property owners and, where applicable, the property manager, detailing the location of the graffiti. The notice will explain the nature of the violation, the rights of the property owner and/or Property Manager, as well as the obligation to abate the graffiti within a reasonable amount of time not to exceed thirty (30) calendar days. The notice will indicate that the property owner(s) and/or Property Manager can contact the District to organize abatement by the District at property owner expense.
- c. District staff will calendar the deadline for compliance when the notice is sent.

C. Preliminary Assessment

- a. During the notice period, District staff will conduct a preliminary assessment of the identified graffiti to determine the actual location and the necessary remediation type.
- b. District staff will make a determination about the actual location of the graffiti as being in one of the following locations:
 - i. Public right-of-way – If this determination is made, District staff may proceed directly to the issuance of a graffiti abatement work order.
 - ii. Property immediately adjacent or abutting the public right-of-way, such as walls or fences – If this determination is made, District staff may proceed to the issuance of a graffiti abatement work order .

- iii. Private property visible from the public right-of-way – District staff will proceed with all further steps.
- c. District staff will make a determination of the applicable remediation type, including but not limited to the following:
 - i. Match background color and paint over.
 - ii. Re-paint entire surface.
 - iii. Address graffiti on mural.
- d. If District staff determine that the graffiti overlaps any portion of Fine Art they will do the following:
 - i. Attempt to identify the creator, or their successor, of the Fine Art and secure their written consent to modify the Fine Art in order to remove the graffiti.
 - ii. If the creator, or their successor, cannot be located or they refuse to provide written consent to modify the Fine Art, the graffiti will only be abated to the extent determined by District staff that the graffiti can be removed without affecting the Fine Art. Any graffiti remaining on the Fine Art thereafter shall remain unabated until such time as may be determined by the General Manager.

[PROPOSED START OF PHASE II]

D. Failure to Comply - Abatement

- a. Should the deadline in the Notice of Violation expire, the District shall begin the graffiti abatement program.
- b. A graffiti abatement work order will be issued to begin the graffiti abatement program, detailing the location of the graffiti, a description of the graffiti, and any other pertinent information.
- c. If the graffiti is located on the public right-of-way or on private property immediately adjacent to the public right-of-way, District staff may immediately begin graffiti abatement.
- d. If the graffiti is on private property visible from the public right-of-way, District staff will contact the Property Owner or Manager to attempt to secure voluntary permission for staff to enter the property. Should the Property Owner or Manager approve such permission, staff must secure a signed Consent to Entry form from the Property Owner or Manager prior to entry.
 - i. Should the Property Owner or Manager reject voluntary permission to enter, staff will contact the District Counsel to begin proceedings to secure a court order allowing entry onto the property.
- e. Once the graffiti has been abated, District staff will record the completion of the abatement program for this property. District staff will then send a graffiti abatement cost accounting to the Property Owner or Manager, including overhead and administrative costs, as well as attorney's fees where applicable.