

O-2008-

AN ORDINANCE

ADDING SECTIONS 9.60.055 AND 9.60.057 TO TITLE 9 OF THE LAKEWOOD MUNICIPAL CODE PERTAINING TO GRAFFITI MATERIALS

WHEREAS, graffiti contributes to the deterioration of neighborhoods, the depreciation of property values, and encourages similar acts of vandalism and increased criminal activity; and

WHEREAS, to be truly effective in the deterrence, eradication, and removal of graffiti, it is necessary to implement a comprehensive ordinance regulating the possession of graffiti materials.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

Section 1. CHAPTER 9.60 of the Lakewood Municipal Code is hereby amended by the addition of a new Section 9.60.055 and shall be as follows:

9.60.055 POSSESSION OF GRAFFITI MATERIALS BY MINORS PROHIBITED.

A. It shall be unlawful for any person under eighteen (18) years of age, except for a minor under the supervision of the minor's parent, legal guardian, instructor, employer, or law enforcement officer, to purchase, procure, or possess, or attempt to purchase, procure, or possess any prohibited graffiti material.

B. For the purposes of this section, the words and phrases are defined as follows:

1. "Broad tipped marker pen" means a felt-tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4) of an inch, containing a fluid which is not water soluble.
2. "Glass etching tool or instrument" means any tool, device, or substance that can be used to make permanent marks on any surface or to create a frosted effect on any surface or to deliver a solution to any surface in order to create an image, or any container of such solution, including, but not limited to, glass etching creams or solutions.

3. "Paint pen" means a tube, marker, or other pen-like instrument with a tip of greater than one-fourth (1/4) inch in diameter that contains paint or a similar fluid and an internal paint agitator.
 4. "Prohibited graffiti material" means any can of spray paint, spray paint nozzle, broad tipped marker pen, paint pen, glass-cutting tool, or glass etching tool or instrument.
 5. "Spray paint" means any aerosol container that is made or adapted for the purpose of applying spray paint or other substance capable of defacing property.
 6. "Spray paint nozzle" means a nozzle designed to deliver a spray of paint of a particular width or flow from a can of spray paint.
- C. Affirmative Defense. It shall be an affirmative defense to a violation of this section that the minor possessing the prohibited graffiti material was:
1. Within the minor's home;
 2. At the minor's place of employment and the minor possessed the materials or devices within the scope of that employment;
 3. Upon real property with permission to possess such materials from the owner, occupant, or person having lawful control of such property; or
 4. Attending a school or traveling between any location set forth in this subsection (C) and a school, at which the minor was enrolled if the minor was participating in a class at the school that formally required the possession of the materials.

SECTION 2. Chapter 9.60 of the Lakewood Municipal Code is hereby amended by the addition of a new Section 9.60.057 and shall be as follows:

9.60.057 UNLAWFUL POSSESSION OF GRAFFITI MATERIALS.

A person commits unlawful possession of graffiti materials if he possesses any tool, instrument, or other article adapted, designed, or commonly used for committing or facilitating the commission of an offense involving damaging, defacing, or destroying public or private property and intends to use the thing possessed, or knows that some other person intends to use the thing possessed, in the commission of such an offense. Graffiti materials include those tools,

devices, materials, or substances meeting the definition of prohibited graffiti materials as set forth in Section 9.60.055.

SECTION 3. This ordinance shall take effect thirty (30) days after final publication.