File #: 2008-0407, **Version:** 2

Title
Ordinance supplementing the Pittsburgh Code, Title Six, Conduct, Article I, Regulated Rights and Actions, Chapter 616 Damaging, Defacing and Interfering with Property, Section 616.03, Sale of Spray Paint Containers, Indelible Markers and Etching Acid, by adding language relating to the display, storage and signage for graffiti implements sold at retail commercial establishments.

Body
Be it resolved by the Council of the City of Pittsburgh as follows:

Section 1. That the Pittsburgh Code, Title Six, Conduct, Article I, Regulated Rights and Actions, Chapter 616 Damaging, Defacing and Interfering with Property, Subsection 616.03, Sale of Spray Paint Containers, Indelible Markers and Etching Acid, is hereby supplemented by adding subsection (d), as follows:

(a) ***Definitions***.
- (1) ***INDELIBLE MARKER.*** Any felt tip marker, china marker or similar device that is not water-soluble.
- (2) ***ETCHING ACID.*** Any liquid, cream, paste or similar substance, including but not limited to hydrofluoric acid, that can be used to etch, carve, engrave, or otherwise impair the physical integrity of glass or metal.
- (3) ***ETCHING TOOL.*** Any tool capable of defacing property.
- (4) ***PERSON.*** Any individual or retail establishment.
- (5) ***MINOR.*** Any person under the age of eighteen (18) years.

(b) ***Prohibited conduct***.
- (1) No person shall knowingly sell, offer for sale, furnish, provide or otherwise transfer any spray paint container, indelible marker, or etching acid to any person for the purpose of having such spray paint container, indelible marker, or etching acid to be used in violation of Section 616.01*.
- (2) No person shall knowingly sell, offer for sale, furnish, provide or otherwise transfer any spray paint container, indelible marker, etching acid or etching tools capable of defacing property to any minor, unless said minor is accompanied by parent or legal guardian at time of purchase or transfer.
- (3) No minor shall purchase any spray paint container, indelible marker, or etching acid, without the accompaniment of parent or legal guardian.

(c) ***Possession restricted***.

It is unlawful for any minor to have in his possession any aerosol spray paint container, indelible marker, or etching materials and/or substances while on any public highway, street, alley or way, park, playground, swimming pool, or other public place, whether such person is or is not in any automobile, vehicle or other conveyance, unless under direct supervision of parent or legal guardian.

(d) ***Accessibility to Graffiti Implements***
- (1) **Display and Storage.**

(a) Every person who owns, conducts, operates, or manages a retail commercial establishment selling aerosol paint containers, paint sticks, or broad- tipped markers shall store the containers, sticks or markers in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business.

(b) In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks, or broad-tipped markers in an area as provided above, the establishment shall store the containers, sticks, and markers in an area not accessible to the public in the regular course of business without employee assistance.

(2) **Signage Required.** Every person who operates a retail commercial establishment selling graffiti implements shall:

(a) Place a sign in clear public view at or near the display of such products stating: "Graffiti is against the law. Any person who defaces real or personal property with paint or any other liquid or device is guilty of a crime punishable by a fine of up to $500 for each offense.

(b) Place a sign in the direct view of such persons responsible for accepting customer payment for graffiti implements stating: "Selling spray paint, paint sticks, or broad-tipped markers to persons less than 18 years of age is against the law and punishable by a fine of $300 for each offense

(e) ***Fines***.

(1) Person.

Any person violating any provision of Section 616.03 will be fined three hundred dollars ($300.00) on first and subsequent offences. The person in default of payment of the fine and costs shall be subject to imprisonment for a period not exceeding thirty (30) days.

(2) Retail establishment responsibility.

Any retail establishment violating any provision of Section 616.03 shall be given a warning on the first offense. On the second and any subsequent offence, a retail establishment shall be fined three hundred dollars ($300.00) and in default of payment of the fine and costs shall be subject to imprisonment for a period not exceeding thirty (30) days.

(3) Parental responsibility.

In the case of a minor, the City Solicitor shall seek restitution from the parents or legal guardian, subject to the amounts specified in 23 Pa. C.S.A. § 5505 as may be amended.

(f) ***Restitution***.

In addition to any punishment specified in Section 616.03, the City Solicitor shall seek restitution to the City for reimbursement of the costs incurred by the City in removing the graffiti. In the case of a minor, the City Solicitor shall seek restitution from the parents or legal guardian.

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