



Legislation Text

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AN ORDINANCE AMENDING SECTIONS 34-41(b) and 34-41(c) OF CHAPTER 34 OF THE DULUTH CITY CODE TO AMEND THE DEFINITION OF GRAFFITI STICK AND ESTABLISH DEFACEMENT AND/OR POSSESSION OF GRAFFITI IMPLEMENTS AS A MISDEMEANOR OFFENSE.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 34-41 (b) of Chapter 34 of the Duluth City Code is hereby amended as follows:

(b) Definitions. For the purposes of this Section, the following terms shall have the meanings stated below:

- (1) Administrative lieutenant. The administrative lieutenant of the Duluth police department or their designee;
- (2) Aerosol paint container. Any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property;
- (3) Broad-tipped marker. Any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than 1/4 of an inch, containing ink or other pigmented liquid that is not water soluble;
- (4) Etching equipment. Any tool, device, or substance that can be used to make permanent marks on any natural or man-made surface;
- (5) Graffiti. Any inscription, word, figure, painting, symbol or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed by any graffiti implement to any surface of public property or private property without the possessor's permission, or despite such permission, is otherwise deemed a public nuisance by the city council;
- (6) Graffiti implement. An aerosol paint container, a broad-tipped marker, gum label, graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface;
- (7) Graffiti stick. Any device containing a solid form of paint, ~~chalk~~, wax, epoxy or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least 1/4 of an inch in width;
- (8) Gum label. Any material that adheres to a natural or man-made surface by an adhesive substance;
- (9) Owner or property owner. Those shown to be the owner or owners of property on the records of the St. Louis County auditor's office;
- (10) Possessor. Those having a superior right of possession, custody or control of property;

Section 2. That Section 34-41 (c) of Chapter 34 of the Duluth City Code is hereby amended as follows:

(c) Prohibited acts.

- (1) Defacement. No person shall intentionally apply graffiti to any natural or man-made surface on any publicly or privately-owned property. A violation of this subdivision is a misdemeanor offense for which a sentence of not more than 90 days or a \$1000 fine, or both, may be imposed.
- (2) Possession of graffiti implements. Unless otherwise authorized by the possessor, it is unlawful for any person to possess any graffiti implement for the purpose of placing graffiti while:
  - (A) On public property or private property of another where graffiti is located; or
  - (B) Within 200 feet of any graffiti located in or on any primary or secondary school building or structure; ~~or~~
  - (C) Within 200 feet of any graffiti located in or on any building or structure owned or operated by a governmental entity or agency, religious organization or non-profit organization; or

(D) A violation of this subdivision is a misdemeanor offense for which a sentence of not more than 90 days or a \$1000 fine, or both, may be imposed.

(3) Possession of graffiti implements by minors at or near school facilities. It shall be unlawful for any person under the age of 18 years to possess any graffiti implement while on any school property, grounds, facilities, buildings, or structures, or on public property in areas immediately adjacent to those specific locations, or upon private property without the prior written consent of the possessor of such private property. The provisions of this Section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers. The burden of proof in any prosecution for violation of this Section shall be upon the minor student to establish the need to possess a broad-tipped marker.

(4) Furnishing to minors prohibited. It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan or otherwise furnish, or cause or permit to be exchanged, given, loaned or otherwise furnished, any aerosol paint container, broad-tipped marker or graffiti stick to any person under the age of 18 years without the written consent of the parent or guardian of the person;

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This ordinance amends Chapter 34-41 to correct typographical errors and remove the definition of chalk from the definition of graffiti stick. Additionally, the ordinance establishes defacement by graffiti as a misdemeanor offense.