

ORDINANCE NO. 1244

AN ORDINANCE OF THE CITY OF ROSWELL CREATING SECTION 16-36 IN THE ROSWELL CITY CODE TO RESTRICT THE SALE, DISPLAY, POSSESSION BY MINORS OF AEROSOL SPRAY PAINT IN CANS; ESTABLISH PENALTIES; PROVIDING FOR REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND FIXING AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that the public interest will best be served by restricting the sale or possession of spray paint by minors; restrict the buying, procuring, or providing spray paint to a minor; the placement of signs in businesses warning customers of the restrictions; prohibit the inhaling spray paints and other substances.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE GOVERNING BODY, THE CITY COUNCIL, OF ROSWELL, NEW MEXICO, that:

Section 1. The Roswell City Code Section 16-36 is hereby created to read as follows:

**Section 16-36.** Sale, display, possession by minors of aerosol spray paint in cans; penalties.

1. No person shall sell glue or aerosol spray paint in cans to any person under eighteen (18) years of age. A New Mexico driver's license or, identification card issued to a member of the armed forces, or an identity card issued pursuant to section 60-10-17, NMSA 1978, shall be prima facia proof of age.
  - a. Any person that shall intentionally buy, procure, or provide spray paint to a minor for the purpose of defacing property will be charged with the offense of contributing to the delinquency of a minor as stated in 30-6-3, NMSA 1978 Annotated.
2. Any person who owns, manages or operates a place of business in which aerosol spray paint in cans is sold, shall conspicuously post a notice by heading or title of this ordinance in such place of business in letters at least three-eighths ( $\frac{3}{8}$ ) inch high. To read, "SALE, DISPLAY, POSSESSION BY MINOR OF AEROSOL SPRAY PAINT IN CANS IS PROHIBITED BY LAW. City of Roswell Municipal Ordinance: 1244"
3. No person under eighteen years of age shall have in his possession any can of aerosol spray paint while in any public place, except under the supervision of a parent or other parentally approved adult supervisor whether such person is or is not in any automobile, vehicle or other conveyance.
4. No person shall intentionally smell, sniff or inhale the fumes or vapors from a glue, aerosol spray product or other chemical substance for the purpose of causing a condition of or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, stupefaction or dulling of the senses, or for the purpose of in any manner changing, distorting or disturbing the audio, visual, or mental processes.
5. No person shall intentionally possess a glue, aerosol spray product or other chemical substance for any purpose set forth in paragraph 4 of this section.
6. As used in this section, "glue" means what is commonly referred to as plastic or model airplane cement and includes any cement containing hexane, benzene, toluene, xylene, carbon tetrachloride, chloroform, ethylene dichloride, acetone, cyclohexanone, methyl ethyl ketone, methyl isobutyl ketone, amyul acetate, butyl acetate, ethyl acetate, tricresol phosphate, butyl alcohol, ethyl alcohol, isopropyl alcohol or methyl cellosolve acetate.

7. Third and subsequent convictions of sections 4 and 5 will be processed through Magistrate Court.
8. Any person who violates any provision of this section is guilty of a petty misdemeanor.

Section 2. All ordinances or parts of ordinances in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

Section 3. If any section, paragraph, clause or provision of this ordinance for any reason shall be held to be invalid or nonenforceable, the invalidity or nonenforceability of such section, paragraph, clause or provision shall not affect any other part of this ordinance.

Section 4. This ordinance shall be effective after five (5) days following its publication as required by law.

PASSED, ADOPTED, SIGNED AND APPROVED the 9<sup>th</sup> day of September, 1993.

CITY SEAL

  
WM. F. BRAINERD, Mayor

ATTEST:

  
Ruth A. May, City Clerk