

12/08/98  
01/19/99  
02/04/99

**112-O-98**

**AN ORDINANCE**

**Regulating the Sale, Possession  
and Use of Spray Paint Cans  
and Certain Paint Markers**

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

**SECTION 1:** That Chapter 5 of Title 9 of the Evanston City Code, 1979, as amended, is hereby further amended by adding the following new sections:

**9-5-29: SALE OF SPRAY PAINT CANS OR MARKERS PROHIBITED:**

It shall be unlawful for any person operating a retail business in the City of Evanston ("City") to sell paint in spray cans to any person under the age of 18 or to sell any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three-eighths of an inch or greater to any person. "Retail" means sales other than those for the purpose of resale or for use by manufacturers, contractors, trades, railroads, public service corporations and institutions, or for the supplying of branch or general establishments from a central depot or store, and shall not include the sale at retail of secondhand or used goods, wares, or commodities.

**9-5-30: POSSESSION OF SPRAY CANS OR MARKERS BY UNDERAGE PERSONS PROHIBITED:**

No person under the age of 18 shall possess within the City any paint in a spray can or any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three-eighths of an inch or greater. This prohibition shall not apply to:

- (a) A child using paint or a marker while under the immediate supervision of his or her parent or legal guardian;
- (b) A student using paint or a marker while under the immediate supervision of his or her teacher;
- (c) An employee using paint or a marker at the direction and under the supervision of his or her employer.

**9-5-31: AIDING OR ASSISTING UNDERAGE PERSON IN OBTAINING PAINT SPRAY CANS OR MARKERS PROHIBITED:**

No person shall aid, assist or abet a person under the age of 18 in obtaining possession of paint in a spray can or any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three-eighths of an inch or greater. This prohibition shall not apply to:

- (a) A parent or legal guardian assisting and supervising his or her own child or ward in the use of paint or a marker;
- (b) A teacher assisting and supervising his or her students in the use of paint or a marker;

(c) An employer assisting and supervising his or her employee in the use of paint or a marker.

**9-5-32: POSSESSION OF SPRAY PAINT CANS OR MARKERS WITH INTENT TO DEFACE PROHIBITED:**

(a) It shall be unlawful for any person to possess a spray paint container, liquid paint or any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three-eighths of an inch or greater, or any etching equipment or etching materials on the property of another or in any public building or upon any public facility with intent to use the same to deface any building, structure or property. It shall be a defense to an action for violation of this subsection that the owner, manager or other person having control of the property, building or facility consented to the presence of the paint or marker.

(b) It shall be unlawful for any person to possess a spray paint container, liquid paint or any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three-eighths of an inch or greater, or any etching equipment or etching materials, on the public way with intent to use the same to deface any building, structure or property.

(c) For purposes of this section, "etching equipment" and "etching materials" include any tool, device, equipment or substance that can be used to make permanent marks on metal, glass, plastic, concrete or stone.

(d) Any person who violates any provision of this section shall be subject to a fine of not less than \$500.00 for each offense.

**9-5-33: VIOLATION -- PENALTY:**

Any person violating Sections 9-5-29 through 9-5-31 of this Chapter shall be fined not less than \$200.00 nor more than \$500.00 for each offense. Every day such violation continues shall constitute a separate and distinct offense.

**SECTION 2:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 3:** That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

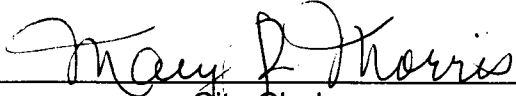
Introduced: January 25, 1999

Adopted: February 8, 1999

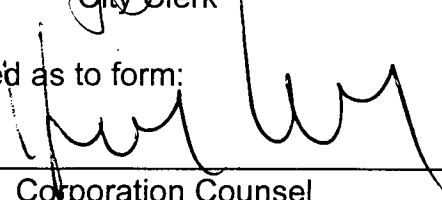
Approved: February 9, 1999

Lorraine H. Mardon  
Mayor

ATTEST:

  
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City Clerk

Approved as to form:

  
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Corporation Counsel

