

(O-2001-147)

ORDINANCE NUMBER O- 18981 (NEW SERIES)

ADOPTED ON SEP 24 2001, 2001

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 4, BY AMENDING SECTION 54.0402 AND ADDING SECTION 54.0414; AND BY AMENDING CHAPTER V, ARTICLE 8, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 2, BY ADDING SECTIONS 58.0201, 58.0202, 58.0203, 58.0204, AND 58.0205, ALL RELATING TO REGULATION ON THE USE AND POSSESSION OF GLASS ETCHING PRODUCTS, AND THE SALE OF GLASS ETCHING PRODUCTS AND AEROSOL PAINT CONTAINERS

WHEREAS, the Council of The City of San Diego finds that glass etching products, sold in craft and home improvement stores, have legitimate uses including decorative arts; and

WHEREAS, the Council finds that in addition to their legitimate uses, glass etching products are being used for illegal purposes, including for the purpose of permanently defacing glass and plastic surfaces on public and private property within the City of San Diego; and

WHEREAS, such glass etching products are also known to be dangerous if improperly handled; and

WHEREAS, the Council further finds that there is a current and immediate threat to the public health, safety and welfare in that the use of glass etching products for these illegal purposes is dangerous, obnoxious and damaging to public and private property, and contributes to appearances of blight in the commercial areas of the City; and

WHEREAS, the Council of the City of San Diego finds that there has been an increase in the incidence of the use of glass etching products to deface public and private property, including 29 reported incidents in the downtown area since October, 2000; and

WHEREAS, the Council further finds that unrestricted retail access to graffiti materials, including both glass etching products and aerosol paint containers, contributes to the incidence of graffiti in the City; and

WHEREAS, the Council of the City of San Diego finds that reasonable limitations on the possession, use and sale of glass etching products and aerosol paint containers will not unreasonably restrict legitimate businesses or customers from selling or purchasing the product in a lawful manner; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter V, Article 4, of the San Diego Municipal Code is amended by amending Section 54.0402 to add the following:

SEC. 54.0402 Definitions

"Glass etching products" means any product which can be used to permanently alter a glass surface, including but not limited to such products that contain hydrofluoric acid, ammonium bifluoride and sulfuric acid, or sodium bifluoride.

[No change to text of other definitions].

Section 2. That Chapter V, Article 4, of the San Diego Municipal Code is amended by adding Section 54.0414 to read as follows:

SEC. 54.0414 Restriction on Display of Graffiti Instruments for Sale

(a) It is unlawful for any person, firm or entity engaged in a commercial enterprise, to display for sale, trade or exchange, any aerosol paint container or *glass etching product* except in an area from which the public shall be securely precluded without employee assistance.

(b) Three such acceptable methods for displaying aerosol paint containers and *glass etching products* shall be by containment in: (1) a completely enclosed cabinet or other storage device which shall be permanently affixed to a building or building structure, and which shall at all times except during access by authorized representatives, remain securely locked; (2) in an enclosed area behind a sales or service counter from which the public is precluded from entry; or (3) in an area under the direct visual supervision of employees at all times during business hours.

Section 3. That Chapter V, Article 8, of the San Diego Municipal Code is amended by adding a new Division 2, and new Sections 58.0201, 58.0202, 58.0203, 58.0204 and 58.0205, to read as follows:

Division 2

Limits on Use and Possession of Glass Etching Products

SEC. 58.0201 Declaration of Purpose

The Council of the City of San Diego finds and declares that:

(a) In addition to its legal uses, *glass etching products* are used for the illegal purpose of defacing glass and plastic surfaces on public and private property in the City of San Diego.

(b) There is a current and immediate threat to the public health, safety and welfare in that the illegal use of *glass etching products* to deface public and private property is dangerous, obnoxious and damaging to public and private property, and contributes to the appearance of blight in the commercial areas of the City.

(c) There has been an increase in the incidence of the use of *glass etching products* to deface public and private property, requiring additional measures to combat the illegal use of these products.

(d) The reasonable limitations found in this Division on the use and possession of *glass etching products* will assist the City in its efforts to combat the criminally and civilly damaging illegal uses of glass etching products in the City, and will not unduly restrict legitimate businesses or customers from selling or buying these products.

(e) For purposes of this Division, the term *glass etching product* shall have the same meaning as it has in Section 54.0402 of this Code.

SEC. 58.0202 Limitations on the Sale of Glass Etching Products to Minors

It is unlawful for any person to sell, exchange, give or loan, any container or dispenser containing *glass etching products* to any minor under the age of eighteen (18) years, unless that person provides for the supervision of the minor's lawful use of the *glass etching products*.

SEC. 58.0203 Prohibition on Possession of Glass Etching Products by Minors

(a) Except as provided in this section, it is unlawful for any person under the age of eighteen (18) years to have in his or her possession any container or dispenser containing *glass etching products*, while upon any public property, street or sidewalk, or upon private property without the consent of the owner of such private property.

(b) This section shall not apply to any minor engaged in lawful supervised, or other lawful, activity involving *glass etching products*, or who is

going to or returning from a place where the minor was engaged in such supervised or other lawful activity.

SEC. 58.0204 Enforcement Authority

The Chief of Police, or any other Director authorized by the City Manager, is authorized to administer and enforce the provisions of this Division. The Chief of Police may exercise any enforcement powers as provided in Division 1, Article 2 of Chapter I of this Code.


SEC. 58.0205 Enforcement Remedies

Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provided in Municipal Code Section 12.0201. The Chief of Police may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code Section 12.0202 or pursue any administrative remedy provided in Chapter I of this Code.

Section 4. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By 
Theresa C. McAteer
Deputy City Attorney

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Or.Dept: PS&NS
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