

ORDINANCE NO. 2007-06

AN ORDINANCE OF THE BOROUGH OF COALDALE, SCHUYLKILL COUNTY, PENNSYLVANIA PROHIBITING GRAFFITI AND REGULATING THE DISPLAY AND SALE OF AEROSOL PAINT CONTAINERS AND MARKER PENS BY PROVIDING DEFINITIONS THEREOF; REQUIRING REIMBURSEMENT FOR THE COSTS OF REMOVAL OF GRAFFITI; REGULATING THE DISPLAY OF AEROSOL PAINT CONTAINERS AND MARKER PENS IN COMMERCIAL ESTABLISHMENTS; PROHIBITING THE SALE OF AEROSOL PAINT CONTAINERS AND MARKER PENS TO PERSONS UNDER THE AGE OF EIGHTEEN AND ESTABLISHING EXCEPTIONS THERETO; RESTRICTING POSSESSION OF AEROSOL PAINT CONTAINERS AND MARKER PENS WITH THE INTENT TO USE THE SAME TO DEFACE A BUILDING, FACILITY OR PROPERTY; REQUIRING THE OWNER OR OCCUPANT OF ANY BUILDING OR STRUCTURE WHICH HAS BEEN DEFACTED TO REMOVE THE GRAFFITI; AND PROVIDING FOR PENALTIES FOR VIOLATION THEREOF.

SECTION 1. Definitions. As used in this Ordinance the following terms shall have the meanings indicated:

Aerosol Paint Container - Any aerosol container, regardless of the material from which it is made, which is adopted or made for the purpose of spraying paint capable of defacing property.

Graffiti - An inscription, drawing, or design, scratched, painted, sprayed, or placed on a surface, without the consent of the owner of the property.

Marker Pen - Any indelible marker or similar implement with a writing tip exceeding four (4) millimeters in width that contains a solution that cannot be removed with water after it dries.

SECTION 2. Graffiti Prohibited; Costs of Removal. It shall be unlawful to spray or create graffiti on any building or structure and any person doing the same shall be liable for the cost of removal.

SECTION 3. Storage and Display of Aerosol Paint Containers and Marker Pens.

(a) It shall be unlawful for any person who owns, conducts, operates, or manages a retail commercial establishment where aerosol paint containers or marker pens are sold to display or cause to be stored or displayed, such spray paint containers and marker pens in an area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition.

(b) Nothing herein shall preclude the storage or display of spray paint containers and marker pens in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

SECTION 4. Sale of Spray Paint and Marker Pens; Duties of Merchants.

(a) No person shall sell or offer for sale to any minor under the age of eighteen (18) years any paint in aerosol paint containers or marker pens.

(b) It shall be the duty of any person who sells or offers for sale any aerosol paint container described in subsection (a) above to require from any person desiring to purchase such container and appearing to be less than eighteen (18) years of age, identification and proof of such person's age before selling or delivering a container to such person. A person under eighteen (18) years of age may purchase any aerosol paint container described in subsection (a) above only if the minor provides written documentation that said paint is to be used for educational or employment purposes. Said documentation must state the minors name, the purpose for which the paint will be used, and the name, address, telephone number and signature of the employer, parent or educator of the minor who provided said documentation.

SECTION 5. Possession Restricted. Absent express permission to the contrary by the owner or other person having control thereof, it shall be unlawful for any person to possess an aerosol paint container and/or marker pen in any public building or upon any public facility or upon private property with the intent to use the same to deface said building, facility or property. Any person who possesses an aerosol paint container and/or a marker pen in any public building or upon any public facility or private property with no legitimate or lawful purpose therefore shall be presumed to have possession of the same with the intention of using such aerosol paint container and/or marker pen to deface said building, facility or property; however such a presumption shall be considered to be rebuttable.

SECTION 6. Removal of Graffiti by Owner or Occupant. Any person owning or occupying any building or structure which has been defaced with graffiti shall, within ten (10) days after written notice to remove by the Borough of Coaldale, cause such graffiti to be removed or covered over. In the event that the time provided shall be insufficient, the affected person may apply in writing for an extension of time to remove the graffiti, and the time to remove the graffiti shall, in any event, be extended until the Code Enforcement Officer makes a decision of the extension request. In no event shall the extension be for an additional period of more than twenty (20) days.

SECTION 7. Penalties. Any person violating any of the provisions of this ordinance, upon conviction before a District Justice, shall pay a fine not exceeding Three Hundred dollars (\$300.00), the costs of removing the graffiti, and costs of prosecution, and, in default of payment of either a fine, costs of removal, or costs of prosecution, shall be imprisoned in the county jail for a period not to exceed thirty (30) days.

SECTION 8. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not effect the remaining portions of this ordinance which shall remain in full force and effect and to this end the provisions of this ordinance are hereby declared to be severable.

SECTION 9. Repealer. All other ordinances or parts of ordinances inconsistent herewith are hereby repealed.

BE IT ORDAINED BY THE COUNCIL OF THE BOROUGH OF COALDALE AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE SAME AS FOLLOWS:

ENACTED AND ORDAINED, this 10<sup>th</sup> day of July, 2007.

**BOROUGH OF COALDALE**

BY: Susan Solt  
Susan Solt, President

**ATTEST:**

Louise Lill  
Louise Lill, Secretary

Claire Remington  
Claire Remington, Mayor