

SEC. 31-38. DUTY OF PROPERTY OWNER TO REMOVE GRAFFITI.

(a) In this section:

(1) DIRECTOR means the director of the department designated by the city manager to enforce and administer this section or the director's authorized representative.

(2) GRAFFITI means any marking, including, but not limited to, any inscription, slogan, drawing, painting, symbol, logo, name, character, or figure, that is made in any manner on tangible property.

(3) OWNER means any person with the legal right of possession to tangible property.

(b) An owner of any tangible property in the city commits any offense if he fails to remove all graffiti from the property that is visible from any public property or right-of-way or from any private property other than the property on which the graffiti exists, unless the graffiti was created on the property with the owner's consent and does not violate the sign regulations of the Dallas Development Code or any other applicable city ordinance or state or federal law.

(c) Before issuing a citation for a violation under Subsection (b) of this section, the director shall serve the property owner with written notice to remove the graffiti from the property within 21 calendar days from the date the notice is served. The notice may be served by handing it to the owner in person or by United States certified mail, five-day return receipt requested, addressed to the owner at the owner's post office address as shown on the tax rolls of the city or of the county in which the premises are located. If the owner cannot be found and the notice is returned by the United States Postal Service, then the owner may be notified by:

(1) publication two times within 10 consecutive days in the official newspaper adopted by the

city council;

(2) posting the notice on or near the front door of each building on the premises to which the violation relates; or

(3) posting the notice on a placard attached to a stake driven into the ground on the premises to which the violation relates, if the premises contains no buildings.

(d) The 21 calendar days will be counted:

(1) from the date the notice is personally served on the owner or from the sixth day after the notice is placed in the United States certified mail; or

(2) if the owner cannot be found or the notice is returned by the United States Postal Service, from the date the notice is:

(A) published for the second time in accordance with Subsection (c)(1) of this section; or

(B) posted in accordance with Subsection (c)(2) or (3) of this section.

(e) It is a defense to prosecution under Subsection (b) of this section that:

(1) no notice was served on the property owner in compliance with Subsection (c);

(2) the property owner has removed graffiti from that particular property three or more times within the preceding 12 months; or

(3) before being issued a citation under this section, the property owner gave the director written authorization to allow persons to enter onto the property and remove the graffiti pursuant to a volunteer or community service program approved by the director in which the property owner is eligible to participate.

(f) An offense under this section is punishable by a fine of not less than \$200 nor more than \$500. (Ord. 22064)

**SEC. 31-39. RESPONSIBILITY OF PARENT OR GUARDIAN FOR
GRAFFITI CREATED BY A MINOR.**

(a) In this section:

(1) **GRAFFITI** means any marking, including, but not limited to, any inscription, slogan, drawing, painting, symbol, logo, name, character, or figure, that is made in any manner on tangible property.

(2) **GUARDIAN** means:

(A) a person who, under court order, is the guardian of the person of a minor; or

(B) a public or private agency with whom a minor has been placed by a court.

(3) MINOR means any person under 17 years of age.

(4) OWNER means any person with the legal right of possession to tangible property.

(5) PARENT means a person who is a natural parent, adoptive parent, or step-parent of another person.

(b) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to create graffiti on tangible property in the city without the property owner's consent.

(c) An offense under this section is punishable by a fine of not less than \$200 nor more than \$500. (Ord. 22064)

**SEC. 31-39.1. POSSESSION OF GRAFFITI IMPLEMENTS
PROHIBITED; PRESUMPTIONS; DEFENSES.**

(a) In this section:

(1) AEROSOL PAINT CONTAINER means any container that is adapted or made for the purpose of applying aerosolized paint, or any other aerosolized substance capable of defacing property.

(2) CONSENT means assent in fact, whether express or apparent, by a person legally authorized to act for an owner of property.

(3) ETCHING OR ENGRAVING DEVICE means a device that is capable of making a delineation or impression on tangible property, regardless of the manufacturer's intended use for that device.

(4) FELT TIP MARKER means any marker or similar implement that:

(A) contains ink; and

(B) has a flat or angled writing surface that, at its broadest width, exceeds one-eighth inch.

(5) GRAFFITI means any temporary or permanent marking, including, but not limited to, any inscription, slogan, drawing, painting, symbol, logo, name, character, or figure, that is made in any manner on tangible property without the consent of the property owner.

(6) GRAFFITI IMPLEMENT means any aerosol paint container, paint gun, paint ball gun, paint ball gun pellets or capsules, felt tip marker, paint stick, graffiti stick, brush, or etching or engraving device that is capable of scarring, marking, or otherwise defacing stone, glass, metal, concrete, wood, or any surface of tangible property.

(7) MINOR means any person under 17 years of age.

(8) OWNER means any person with the legal right of possession to tangible property.

(9) PAINT STICK or GRAFFITI STICK means any device containing a solid or liquid form of

paint, chalk, wax, epoxy, or other similar substance that leaves a visible mark upon application to a surface.

(10) PARENT means a person who is the natural parent, adoptive parent, or step-parent of a person.

(11) GUARDIAN means:

(A) a person who, under court order, is the guardian of the person of a minor; or

(B) a public or private agency with whom a minor has been placed by a court.

(b) A person commits an offense if, with the intent to make graffiti, he possesses any graffiti implement:

(1) in or on any part of a publicly-owned or privately-owned building, facility, park, school ground, library, playground, swimming pool, recreational facility, right-of-way, or other property when that property or that part of the property is closed to the public; or

(2) within 10 feet of any underpass, overpass, bridge abutment, storm drain, or similar type of infrastructure.

(c) A person is presumed to possess the graffiti implement with the intent to make graffiti on such property under Subsection (b)(1) or on such infrastructure under Subsection (b)(2) if while on the property or within 10 feet of the infrastructure, whichever applies, he possesses on or about his person at least:

(1) one aerosol paint container; or

(2) two graffiti implements other than an aerosol paint container.

(d) A person commits an offense if he is the parent or guardian of a minor and knowingly permits, or by insufficient control allows, the minor to violate:

(1) Subsection (b)(1); or

(2) Subsection (b)(2).

(e) It is a defense to prosecution under Subsections (b)(1) and (d)(1) that the graffiti implement was possessed on the property with consent.

(f) It is a defense to prosecution under Subsections (b)(2) and (d)(2) that the graffiti implement was:

(1) possessed on the property with consent; or

(2) possessed in a place where the implement was going to be used for a non-graffiti activity, including but not limited to an employment, school, home, church, art, or similar activity, or possessed while enroute to or from such a place and activity.

(g) For purposes of applying the defenses set forth in Subsections (e) and (f)(1) of this section, consent is presumed to exist if the person possessing

the graffiti implement is an employee or relative of the property owner.

(h) Before taking any enforcement action under Subsection (b)(2) or (d)(2) of this section, a police officer shall ask the apparent offender's reason for being within 10 feet of the underpass, overpass, bridge abutment, storm drain, or other similar type of infrastructure with a graffiti implement and whether the apparent offender has the consent of the property owner to be on the property and to possess the graffiti implement. The officer shall not issue a citation or make an arrest under Subsection (b)(2) or (d)(2) of this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense described in Subsection (f) is present.

(i) An offense under this section is punishable by a fine of not less than \$200 or more than \$500. (Ord. 26342)