



OFFICE OF THE
MAYOR
CITY OF SAN LUIS

Ordinance

ORDINANCE NO. 287

**An Ordinance of the Mayor and Council of the City of San Luis,
Amending Ordinance No. 220 Regulating the Access to and
Possession and Use of Graffiti Implements By Amending Provisions
for Licensing, Storage, Access; and Display; Amending Provisions
for Penalties; Repealing Any Conflicting Provisions; and Providing
for Severability**

Whereas, the increase of graffiti, on both public and private property, is creating a condition within the city which results in blight and deterioration of property values and of the comfortable enjoyment of life and property for adjacent and surrounding residents and owners, and contributes to the overall detriment of the city;

Whereas, graffiti constitutes a public nuisance and a threat to public safety which must be abated to alleviate the detrimental impact of such graffiti on the city, and to prevent the further spread of graffiti;

Whereas, certain categories of graffiti which incite violence, are especially harmful and must be removed as quickly as possible to avoid or minimize harm to persons and the whole community; and

Whereas, there has been an recent increase in the amount of graffiti in the community; and

Whereas, there is a desire to ensure that businesses keep and maintain records showing that sales of graffiti implements are conducted in strict compliance with the ordinances of the City of San Luis;

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the City of San Luis, State of Arizona, as follows:

Section 1: Section 4 of Ordinance No. 220 of the City of San Luis, Arizona as adopted on January 26, 2005 by the City Council of the City of San Luis, Arizona is hereby amended to read as follows:

Section 4. Limiting access to graffiti implements.

(a) The sale, purchase, manufacture, possession, exchange, or use of any graffiti implement, except as provided by this ordinance, is unlawful.

(b) No person other than a parent or legal guardian shall sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any graffiti implement to any person under the age of eighteen (18) years. For sales of graffiti implements to persons eighteen (18) years or older, such sales must only be to persons who have provided identification and proof of compliance with the requirements of this ordinance.

(c) Every merchant shall maintain a record of every sale, exchange, or transfer of every graffiti implement. Said record shall include the following information:

1. Name, address, and age of the person or persons purchasing or otherwise taking possession of the graffiti implement.

2. Driver's license number or number of other record of photo identification, such as a passport card number, identifying the person or persons purchasing or otherwise taking possession of the graffiti implement.

3. Date of purchase and a description of the type, brand, quantity, and color of the graffiti implement.

(d) Records of sale as required by subsection c above shall be maintained for a period of three (3) years from date of sale. Such records along with records of purchase and delivery of graffiti implements to the merchant for purposes of resale shall be made available for inspection by the City of San Luis upon request.

(e) Evidence that a person, his or her employee, or agent demanded and was shown government issued identification bearing a photograph and birth date of the person or persons purchasing or otherwise taking possession of the graffiti implement and reasonably acted upon such identification in a transaction or sale shall be a defense to any prosecution under this section.

(f) This section does not apply to the transfer of graffiti implements from parent to child, guardian to ward, employer to employee, teacher to student or in any other similar relationship when such transfer is for a lawful purpose.

(g) A violation of this section is a class one misdemeanor punishable pursuant to the City Code. A first offense shall be subject to a fine of not less than five hundred dollars (\$500.00). A second offense within any twenty-four (24) month period shall be subject to a fine of not less than one thousand dollars (\$1,000.00). A third and subsequent offense within any twenty-four (24) month period shall be subject to a fine of not less than fifteen hundred dollars (\$1,500.00).

Section 2: Section 5 of Ordinance No. 220 of the City of San Luis, Arizona is hereby amended to read as follows:

Section 5. Storage and display of graffiti implements.

(a) No person who owns, conducts, operates or manages a business, where aerosol paint containers or broad tip markers are sold, nor any person who sells or offers for sale aerosol paint containers or broad-tipped markers, shall store or display, or cause to be stored or displayed, such aerosol spray paint containers and broad tip markers in an unlocked area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition. Storage in a locked cabinet or display case shall be considered compliant with these requirements.

(b) Nothing herein shall preclude the storage or display of aerosol paint containers and broad tip markers in an area viewable by the public so long as such items are in a locked area, such as a locked cabinet or display case, not accessible to the public without employee assistance.

(c) A violation of this section is a class one misdemeanor punishable pursuant to the City Code. A first offense shall be subject to a fine of not less than five hundred dollars (\$500.00). A second offense within any twenty-four (24) month period shall be subject to a fine of not less than one thousand dollars (\$1,000.00). A third and subsequent offense within any twenty-four (24) month period shall be subject to a fine of not less than fifteen hundred dollars (\$1,500.00).

Section 3: Any portion of Ordinance No. 220 of the City of San Luis, Arizona, not amended herein shall remain in full force and effect.

Section 4: In the event of a conflict between the provisions of this Ordinance and any other ordinance, resolution, regulation, or policy regarding the purchasing policies of the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced, and the provisions of this ordinance shall govern.

Section 5: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the City of San Luis, Arizona, this 8th day of September, 2010.



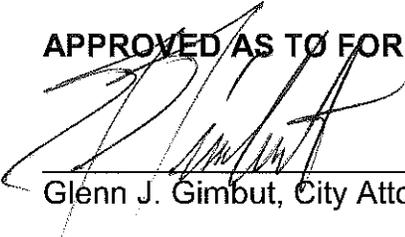
Juan Carlos Escamilla, Mayor

ATTEST:



Sonia Cuello, City Clerk

APPROVED AS TO FORM:



Glenn J. Gimbut, City Attorney