

NOTICE OF INTENT TO ADOPT ORDINANCE

NOTICE IS HEREBY GIVEN that on the 21st day of July, 2008, at its regular meeting at 6:00 p.m., in the City Commission Chambers at City Hall, 200 East Broadway, Hobbs, New Mexico, the governing body of the City of Hobbs proposes to adopt an ordinance which reads as follows:

AN ORDINANCE ADDING TO SECTION 9.17 OF THE HOBBS MUNICIPAL CODE CONCERNING SALE, PROVISION AND USE OF GLUE, AEROSOL PAINT, PAINT STICK, AND BROAD-TIPPED INDELIBLE MARKER; PENALTIES

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF

HOBBS, NEW MEXICO that the following will become effective January 1, 2009:

9.16.??? **Sale, provision and use of glue, aerosol paint, paint stick, and broad-tipped indelible marker; penalties.**

A. Definitions.

1. Glue shall mean what is commonly referred to as plastic or model airplanes cement and includes any cement containing hexane, benzene, toluene, xylene, carbon tetrachloride, chloroform, ethylene dichloride, acetone, cyclohexanone, methyl ethyl ketone, methyl isobutyl, ketone, amyl acetate, butyl acetate, ethyl acetate, tricresyl phosphate, butyl alcohol, ethyl alcohol, isopropyl alcohol or methylcellosolve acetate.
2. Broad-tipped indelible marker shall mean any indelible marker or similar implement with a tip which is one-quarter inch or greater at its broadest width.

B. Furnishing to minors - Petty misdemeanor. It shall be a petty misdemeanor for any person, other than a parent or legal guardian, to sell, offer to sell, exchange, give, loan, or otherwise furnish, or cause to permit to be sold, offered to be sold, exchanged, given, loaned, or otherwise furnished, any glue, aerosol paint container, paint stick, or broad-tipped indelible marker to any person under the age of 18 years of age without written consent of the minor's parent or guardian. A state driver's license, an identification card issued to a member of the United States armed forces, or an identification card issued pursuant to NMSA 1978, §66-5-401 (2004), et. seq., as such may be amended from time to time, shall be considered prima facie evidence of age.

C. Sale of glue, aerosol paint, paint stick, or broad-tipped indelible marker.

1. Storage and display. Every person who owns, conducts, manages, or operates a place of business engaged in the retail sale of glue, aerosol paint containers, paint sticks, or broad-tipped indelible markers shall store or cause to be stored such glue, aerosol paint containers, paint sticks, and broad-tipped markers either:

a. In an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the business hours; or

b. In an area not accessible to the public during business hours without employee assistance.

2. Signs. Every person who owns, conducts, manages, or operates a place of business engaged in the retail sale of glue, aerosol paint containers, paint sticks, or broad-tipped indelible markers shall prominently display signs or decals in clear view of the public:

a. At or near any display containing aerosol paint containers, paint sticks, and/or broad-tipped indelible markers stating:

GRAFFITI IS A CRIME. ANY PERSON DEFACTING PUBLIC OR PRIVATE PROPERTY IS GUILTY OF A CRIME PUNISHABLE BY IMPRISONMENT OF UP TO 90 DAYS AND/OR A FINE OF UP TO \$500.

b. At each cash register or other point of customer payment, and in clear view of the person accepting customer payment, stating:

NO GLUE, AEROSOL PAINT CONTAINERS, PAINT STICKS, OR BROAD-TIPPED INDELIBLE MARKERS MAY BE SOLD TO MINORS, SALES TO PERSONS UNDER 18 YEARS OF AGE IS AGAINST THE LAW. IDENTIFICATION IS REQUIRED.

c. At or near any display of glue or aerosol paint containers stating:

INHALATION OF GLUE OR AEROSOL PAINT IS A CRIME. IT IS PUNISHABLE BY IMPRISONMENT OF UP TO 90 DAYS AND/OR A FINE OF UP TO \$500.

The signs shall be in both English and Spanish with the lettering at least three-eighths inch high.

D. Use of glue, aerosol spray products, other chemical substances.

1. Inhalation of fumes. No person shall intentionally smell, sniff or inhale the fumes or vapors from a glue, aerosol spray product, mouthwash or other chemical substance for the purpose of causing a condition of or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, stupefaction or dulling of the senses, or for the purpose of in any manner change, distorting or disturbing the audio, visual or mental process.

2. Possession for inhalation prohibited. No person shall intentionally possess a glue, aerosol spray product or other chemical substance for any purpose set forth in subsection (D)(1) of this section.

3. Application of section. The provisions of subsection (D) do not apply to any aerosol spray product or chemical substance used for legitimate medicinal purposes and obtained either by or with a prescription or for medicinal purposes by a person over the age of eighteen.

Penalty. A person who violates any provision of this section shall be deemed guilty of committing a misdemeanor and shall be punished as provided for by section 1.16.010 herein. The sentence or fine may be waived at the discretion of the Court in the case of any person who has not been previously convicted of violating this section and who has successfully completed a drug education or treatment program approved by the Court.

Copies of the proposed ordinance in its entirety are available to interested persons during regular business hours in the Office of the City Clerk, City Hall, 200 East Broadway, Hobbs, New Mexico, and also available online at www.hobbsnm.org.

/s/ Jan Fletcher
City Clerk