

ORDINANCE NO. 115, 2011  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
ADDING A NEW SECTION IN ARTICLE VII OF CHAPTER 17  
OF THE CODE OF THE CITY OF FORT COLLINS  
PERTAINING TO GRAFFITI CRIMES

WHEREAS, Fort Collins Police Services ("FCPS") and City staff have observed an increase in the number of incidents of graffiti in the City over the past few years; and

WHEREAS, FCPS recommends adding the proposed new sections to the City Code regulating graffiti to address the increasing incidents of graffiti; and

WHEREAS, the City Council believes that it would be in the best interests of the City to approve the addition of these sections to the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the Code of the City of Fort Collins is hereby amended by the addition of new Sections 17-135, 17-136, and 17-137, which read in their entirety as follows:

**Sec. 17-135. Definitions.**

The following words, terms and phrases, when used in this Division shall have the meanings ascribed to them in this Subsection:

*Broad tipped marker pen* shall mean a felt-tip marker, or similar implement containing a fluid which is not water soluble, with a tip that exceeds one-quarter (1/4) inch in width.

*Glass etching tool or instrument* shall mean any device or product used for engraving or creating a frosted effect on any surface or delivering a solution to any surface in order to create an image, or any container of such solution, including, but not limited to, glass etching creams or solutions.

*Paint pen* shall mean a tube, marker, or other pen-like instrument with a tip of one-quarter (1/4) inch in diameter or less that contains paint or a similar fluid and an internal paint agitator.

*Prohibited graffiti material* shall mean any can of spray paint, spray paint nozzle, broad tipped marker pen, paint pen, glass cutting tool, or glass etching tool or instrument.

*Spray paint* shall mean any aerosol container that is made or adapted for the purpose of applying paint or other substance capable of defacing property.

*Spray paint nozzle* shall mean a nozzle designed to deliver a spray of paint of a particular width or flow from a can of spray paint.

**Sec. 17-136. Possession of graffiti materials by minors prohibited.**

(a) It shall be unlawful for any minor, except a minor under the direct supervision of the minor's parent, legal guardian, school teacher, or a law enforcement officer in the performance of duty, to purchase, procure, or possess, or attempt to purchase, procure, or possess, any prohibited graffiti material.

(b) It shall be an affirmative defense to charges under this Section that the minor possessing the material was:

- (1) within his or her home;
- (2) at his or her place of employment; or
- (3) upon real property with permission from the owner, occupant, or person having lawful control of such property, to possess such materials.

**Sec. 17-137. Possession of graffiti materials prohibited.**

(a) It shall be unlawful for any person to possess graffiti materials.

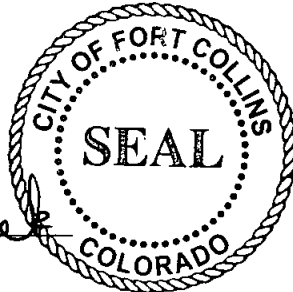
(b) A person possesses graffiti materials when he or she possesses any paint, marking pen, materials, instrument or other article adapted, designed or commonly used for committing or facilitating the commission of an offense involving damaging, defacing, or destroying public or private property, and intends to use the thing possessed in the commission of such offense, or knows that some other person intends to use the thing possessed in the commission of such an offense.

(c) *Defacing* as used in subsection (b) above shall include, but not be limited to, the writing, painting, inscribing, drawing, scratching or scribbling upon any wall or surface owned, operated or maintained by any person or the city unless the city or the property owner grants written permission for such writing, painting, inscribing, drawing, scratching or scribbling.

Introduced, considered favorably on first reading, and ordered published this 6th day of September, A.D. 2011, and to be presented for final passage on the 20th day of September, A.D. 2011.

ATTEST:

*David M. Hejicek*  
City Clerk



*Karen Witkenat*  
Mayor

Passed and adopted on final reading on the 20th day of September, A.D. 2011.

ATTEST:

*Rita Knoll Harris*  
Chief Deputy City Clerk



*Karen Witkenat*  
Mayor