

GRAFITTI/SPRAY PAINT COMPLIANCE PROGRAM STAFF REPORT

Overview

On August 23, 2006, the Public Safety and Regulatory Services Committee held a hearing concerning making changes to Minneapolis Code of Ordinance 223.170, "Restricting Sale of Spray Paint to Minors." Ordinance amendments were passed to the Council requiring spray paint to be locked in cabinets. On October 6, 2006, the full Council sent the ordinance amendments back to the Public Safety and Regulatory Services Committee to convene an industry task force and to come to an agreement on ordinance changes benefiting both the industry and the City's need to reduce minor's access to spray paint. On October 11, 2006, the Public Safety and Regulatory Services Committee passed a staff directive to meet with the industry.

During the fall of 2006, Business Licenses met with representatives from the National Council for Prevention of Delinquency, who was representing the retail industry. The National Council proposed ordinance amendments that the industry supported and offered support in the form of a grant for enforcement and educational materials. The following is an overview of the meeting and proposal from the industry and Business License Division.

I. Ordinance Changes

- A. Add language that the business owner, manager, or employee may be held responsible for the provisions of the ordinance.
 - 1. "in the business of selling or promoting the sale of any glue, spray paint, inhalant or room odorizer or agent or employee of any such person."
- B. Add language that the business must have aerosol spray paint, 3/4 inch or larger paint sticks, or 3/4 inch broad-tipped markers in visual observation at all times.
 - 1. "Every person who owns, conducts, operates, or manages a retail commercial establishment offering for sale aerosol spray paint, paint sticks or 3/4 inch or larger broad-tipped markers shall store the containers, paint sticks and markers in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business".
- C. Add language that businesses that cannot provide visual observation must put the aerosol paint containers, 3/4 inch or larger paint sticks, or 3/4 inch broad-tipped markers in an area not accessible to the public.
 - 1. "In the event that a commercial retail establishment is unable to store the aerosol paint containers, paint sticks or 3/4 inch or larger broad-tipped markers in an area as provided above, the establishment shall store the containers, paint sticks and 3/4 inch or larger markers in an area of the establishment which is not accessible to the public during the regular course of business without employee assistance."

- D. Add language that allows retail establishment to store aerosol paint containers, 3/4 inch or larger paint sticks, or 3/4 inch broad-tipped markers in an area as provided above, the establishment shall store the containers, 3/4 inch sticks, and 3/4 markers in a back room or storage room.
1. "Nothing herein shall preclude a retail commercial establishment from storing the aerosol spray paint containers in a back room or other storage room which is not accessible to the public without employee assistance".
- E. Add language to require a sign requires identification to purchase aerosol spray paint containers, 3/4 inch or larger paint sticks, or 3/4 inch broad-tipped markers. The sign would have to have 1 inch high lettering on it.
1. "Any commercial retail establishment in the business of selling or promoting the sale of aerosol paint containers, paint sticks or 3/4 inch or larger broad-tipped markers must display at or near the aerosol paint display, in clear public view, a sign, with a minimum letter size of one inch which contains the words "We ID – No Spray Paint Sales to Minors" in addition to the language of section 223.150".

II. Ordinance Ideal Outcomes

- A. Diminish theft/shoplifting.
- B. Signs will educate stores and customers to not sell spray paint to minors.
- C. Makes businesses responsible for sale to minors.
- D. Increased enforcement will raise retailers awareness of their responsibility to make spray paint unavailable to minors in Minneapolis.
- E. Increased education to businesses by the City and the National Council for Prevention of Delinquency will bring this issue to the attention of parents/guardians that minors cannot buy aerosol spray paint.
- F. Allows retailer to continue the sale of spray paint with choices on how they plan to keep it away from minors without negatively affecting the business.

III. Graffiti/Spray Paint Compliance Program

A \$42,000 grant from the National Council on Prevention of Delinquency will be used to conduct one time checks on retail establishment that sell spray paint. The compliance program will be conducted in the same manner as the tobacco compliance program. The following is an overview on how the compliance program will be set up and conducted.

Procedures

License Inspectors would recruit youth between the ages of 15 to 17, to act as decoys, to conduct the compliance check. Recruitment would be done at Minneapolis Public Schools, Neighborhood Associations and Minneapolis Park Programs. The youths would be required to have a Minnesota driver's license or State identification card. Minneapolis City residents would be given priority in recruitment.

Retailers

It is estimated that 100 retailers currently sell spray paint. A search would need to be conducted to find the retailers that sell spray paint before checks are conducted. A data base would then be created to keep track of the pass/failures.

Compliance Check

A tape recorder will be used to record the check. The decoy will be sent into the store with a \$5.00 bill. They will be instructed to go to the shelf and remove a can of spray paint, bring it to the check out and attempt a buy. If an identification card is requested they will provide it to the retailer. If a purchase is made a receipt will be requested. The decoy will return to the license inspector with the purchase.

The license inspector will photograph the paint and receipt and return to the store. The party that sold the spray paint will be informed that a spray paint compliance check was conducted and an underage purchase occurred. The inspector will request the identification of the party that sold the spray paint. Their information will be recorded. The inspector will inform the party that an administrative citation will be issued and mailed to them within a week. Appeal information is on the administrative citation.

Administrative citations will be issued as directed in Minneapolis Code of Ordinances Chapter 2. A first offense is \$200 with each additional violation in a two year period doubling up to a maximum of \$2000.

Any business failing a check would be checked every six months until they pass a check.

Issuance of Administrative Citations

Two administrative citations would be issued for each offense. The party that sold the spray would get a \$50 administrative citation for the sale of spray paint to a minor. The retailer would receive an administrative citation in the amount of \$200 for allowing the sale of spray paint to a minor. There would need to be Council action for the \$50 administrative penalty for the party selling the spray paint.

Issuance of administrative citations is already established in the KIVA/RFS system.

Administrative fines are entered into the City General Fund.

Appeals

Minneapolis Code of Ordinances, Chapter 2, allows for an appeal within 20 days of issuance of an administrative citation. Appeals would be conducted through the system already set up for other administrative citations.

Collection of the Administrative Fine

Two collection systems would be used for administrative fines not paid after twenty days. If the business has a license, we will use the current method of collection. Chapter 259.15 provides that renewal of a business license can be denied if the business owes fines or fees to the City.

The majority of the businesses known to sell spray paint do not have business licenses. Any business without a current license that owes fines after 20 days would be issued a misdemeanor criminal citation. Penalties for a misdemeanor are \$1000 fines and/or 90 days in jail.

Personnel and Job Description

License Inspector. .5 FTE needed

- Identify all retailers that sell spray paint within the City of Minneapolis.
- Create and maintain a data base of all retailers that sell spray paint.
- Recruit and train youth from 15 to 17 to act as decoys
- Conduct the compliance checks
- Issue citations
- Write and present appeals
- Collect unpaid citations.
- Maintain a report of pass/fail.

Decoy approximately 5 youths

- Attend training to conduct spray paint compliance checks
- Conduct compliance checks as requested.
- Be available to appear at appeal hearings.

Clerical

- Create and maintain a data base of retailers that sell spray paint.
- Enter fines.
- Maintain a report of pass/failures.

Hearing Officer

- Conduct appeal hearings.
- Issue decisions in regard to the appeal

Budget

\$42,000 has been pledged to the City of Minneapolis from the National Council on the Prevention of Delinquency for the enforcement program. The amount pledged shall cover the cost of .5 FTE inspector, administration, transportation, and the cost of youth decoys. This would be money granted to us for one time checks only.

The funds would be set up in a grant format with a separate funding stream. Personnel would track expenses and time in the program and deduct it from the grant amount.

IV. Education

The National Council on Prevention of Delinquency developed an education program to prevent graffiti and prevent sales of spray paint to minors for the City of Milwaukee, Wisconsin. They have proposed conducting a similar program for the retail establishments in the City of Minneapolis. They will print and distribute the signs proposed in the ordinance change that retailers will be required to post.

The City Communications Department has been invited to participate in the effort to educate the public and retailers on preventing sales of spray paint to minors.

V. Rewards Program

The National Council on Prevention of Delinquency is offering to assist the City in setting up a program to give cash rewards to people that report tagging that results in a conviction. This program is still in the beginning planning stages. The Council will be updated at a future time as to how this program will be conducted.