

BILL NO. 2008-40

ORDINANCE NO. _____

AN ORDINANCE TO UPDATE THE CITY'S PROHIBITIONS AND PENALTIES REGARDING GRAFFITI AND GRAFFITI IMPLEMENTS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Ricki Y. Barlow

Summary: Updates the City's prohibitions and penalties regarding graffiti and graffiti implements.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1: Title 10, Chapter 48, Section 60, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

10.48.060: Except as is otherwise required by the context, as used in Sections 10.48.050 through 10.48.110 the following words and terms shall have the meanings ascribed to them as follows:

(A) "Broad tipped indelible marker" means any felt tipped marker or similar implement which contains a fluid which is not soluble in water and has a flat or angled writing surface of a width of one-half inch or greater.

(B) "Graffiti" means any unauthorized inscription, insignia, symbol, word, figure, character or design that is marked, etched, scratched, drawn, sprayed or painted on a building, fence, wall, rock, bridge, gate, tree or landscaping, or other structure.

(C) "Graffiti implement" means any broad tipped indelible marker or aerosol paint container[.] or other item that may be used to propel or apply fluid that is not soluble in water.

(D) "Minor" means a person under eighteen years of age.

(E) "Responsible adult" means a parent or legal guardian of a minor.

SECTION 2: Title 10, Chapter 48, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 97, reading as follows:

10.48.097: Any person who carries on his person, while on public property, a graffiti implement with the intent to:

(A) Place graffiti on public or private property, real or personal, of another;

1 (B) Aid in the placement of such graffiti; or

2 (C) Otherwise vandalize or deface such property,

3 ➡ is guilty of a misdemeanor unless he has first received valid authorization from the governmental
4 entity which has jurisdiction over the public area or other person who is designated to provide such
5 authorization.

6 SECTION 3: Title 10, Chapter 48, Section 100, of the Municipal Code of the City of
7 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

8 **10.48.100:** (A) Except as otherwise provided in this Section, [Any] any person who is
9 convicted of violating the provisions of this Chapter shall be punished by a fine of not less than five
10 hundred dollars nor more than one thousand dollars or by imprisonment for a term of not more than
11 six months, or by any combination of such fine and imprisonment.

12 (B) A person who violates Section 10.48.070 shall, in addition to any other fine or
13 penalty imposed:

14 (1) For the first offense, pay a fine of not less than four hundred dollars but
15 not more than one thousand dollars, and perform one hundred hours of community service.

16 (2) For the second offense, pay a fine of not less than seven hundred fifty
17 dollars but not more than one thousand dollars, and perform two hundred hours of community service.

18 (3) For the third and each subsequent offense, pay a fine of one thousand
19 dollars and perform two hundred hours of community service.

20 ➡ The community service assigned pursuant to this Subsection must, if possible, be related to the
21 abatement of graffiti.

22 (C) In addition to such punishment, the court may, in imposing sentence, order the
23 defendant to restore the property so defaced, damaged or destroyed.

24 (D) The parent or legal guardian of a person under the age of eighteen years who
25 violates Section 10.48.070 is liable for all fines and penalties imposed against the person. If the parent
26 or legal guardian is unable to pay the fine and penalties resulting from a violation because of financial
27 hardship, the court may require the parent or legal guardian to perform community service.

28 (E) If a person who is eighteen years of age or older is found guilty of violating

1 Section 10.48.070, the court shall, in addition to any other penalty imposed, issue an order suspending
2 the driver's license of the person for not less than six months but not more than two years. The court
3 shall require the person to surrender all driver's licenses then held by the person. If the person does
4 not possess a driver's license, the court shall issue an order prohibiting the person from applying for
5 a driver's license for not less than six months but not more than two years. The court shall, within five
6 days after issuing the order, forward to the Department of Motor Vehicles any licenses together with
7 a copy of the order.

8 (F) A criminal penalty imposed pursuant to this section is in addition to any civil
9 penalty or other remedy available pursuant to another ordinance or statute for the same conduct.

10 SECTION 4: Title 10, Chapter 48, Section 105, of the Municipal Code of the City of
11 Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

12 **10.48.105:** (A) In the case of a violation of NRS 201.110 where the act or omission:

- 13 (1) Is the proximate cause of unlawful graffiti or property damage;
14 (2) Fails to abate, prohibit or avoid unlawful graffiti or property damage;

15 or

16 (3) Fails to protect any property from such unlawful graffiti or property
17 damage,

18 ➡ the offender's punishment shall include restitution for any property damage[;], community service
19 of [at least fifty, but not more than ninety-nine,] one hundred hours[;], or both. This punishment shall
20 be in addition to any other punishment for a misdemeanor that is deemed appropriate and is within
21 the municipal court's authority, but the aggregate punishment may not exceed that permissible for a
22 misdemeanor.

23 (B) The requirement for community service in Subsection (A) is satisfied where:

- 24 (1) A parent or legal guardian is the person convicted of a violation of
25 Subsection (A);
26 (2) The minor for whom the parent or legal guardian is responsible has been
27 ordered by a court of competent jurisdiction to perform community service; and
28 (3) The parent or legal guardian has been present during every hour of the

1 minor's performance of community service.

2 SECTION 5: If any section, subsection, subdivision, paragraph, sentence, clause or
3 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
4 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
5 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
6 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
7 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
8 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
9 invalid or ineffective.

10 SECTION 6: Whenever in this ordinance any act is prohibited or is made or declared
11 to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is
12 required or the failure to do any act is made or declared to be unlawful or an offense or a
13 misdemeanor, the doing of such prohibited act or the failure to do any such required act shall
14 constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than
15 \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such
16 fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

17 SECTION 7: All ordinances or parts of ordinances or sections, subsections, phrases,
18 sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada,
19 1983 Edition, in conflict herewith are hereby repealed.

20 PASSED, ADOPTED and APPROVED this ____ day of _____, 2008.

21 APPROVED:

22
23 By OSCAR B. GOODMAN, Mayor

24 ATTEST:

25 BEVERLY K. BRIDGES, CMC
26 City Clerk

27 APPROVED AS TO FORM:

28 Jerry G. Bethis 7-24-08
Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2008, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2008, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11
12 APPROVED:

13
14 By _____
OSCAR B. GOODMAN, Mayor

15 ATTEST:

16 _____
17 BEVERLY K. BRIDGES, CMC
City Clerk
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