

ORDINANCE NO. 433**AN ORDINANCE MAKING IT UNLAWFUL TO POSSESS GRAFFITI IMPLEMENTS, PROVIDING FOR THEIR SEIZURE AND PROVIDING PENALTIES.**

The city of Aumsville ordains as follows:

Section 1. Definitions.

- (A) Aerosol Paint Container. Any aerosol container adopted or made for spraying paint.
- (B) Etching Device. A glass cutter, awl or any device capable of scratching or etching the surface of any structure or personal property.
- (C) Felt Tip Marker. Any indelible marker or similar implement with a tip, which, at its broadest width, is greater than one-fourth inch.
- (D) Graffiti. Any inscription, word, figure or design that is marked, etched, scratched, drawn or painted on any surface that is not authorized by the owner or person in charge of the property.
- (E) Graffiti Implement. Any aerosol paint container, a felt tip marker, an etching device or a graffiti stick.
- (F) Graffiti Stick. A device containing a solid form paint, chalk, wax, epoxy or other similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-fourth of an inch in width.

Section 2. Unlawfully Possessing Graffiti Implement. No person may possess, with the intent to unlawfully apply graffiti on any real or personal property of another, any graffiti implement.

Section 3. Seizure Impoundment. In addition to any citation issued, a graffiti implement possessed in violation of this ordinance may be immediately seized and impounded by the Aumsville Police Department. The court, upon disposition of the issued citation, shall determine whether the instrument shall be returned to the defendant or deemed contraband and disposed of according to state law.

Section 4. Penalty. A conviction for the violation of Section 2 of this ordinance shall be punishable by a fine not to exceed \$3,000, in conjunction with the fine, community service shall also be ordered, as required in Section 5 below. [Section 4 amended by Ord. No. 461 passed October 11, 1999]

Section 5. Community Service. In conjunction with a fine that may be imposed for violation of this ordinance the court shall order community service. To the extent possible, the community service shall be applied for the removal of graffiti and restoration of all surfaces to their original condition prior to the graffiti damage. [Section 5 amended by Ord. No. 461 passed October 11, 1999]

Section 6. Parental Responsibility. If a minor is determined to have violated Section 2 of this ordinance the minor's parent, guardian or other person having the legal custody of the minor may be charged with violation of Aumsville Ordinance No. 434 dealing with parental responsibility.

Section 7. Parental Civil Liability. In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for actual damages to person or property in connection with the removal of graffiti caused by said child in accordance with the provisions of ORS 30.765.

Section 8. Effective Date. This ordinance shall take effect on the 30th day after its enactment.

PASSED by the council September 9, 1996 and signed by the mayor September 16, 1996.