

## ORDINANCE NO. 2022-04

### ORDINANCE TO CREATE SEC. 58-80 OF CHAPTER 58 OF THE MUNICIPAL CODE PROHIBITION OF GRAFFITI

THE VILLAGE BOARD OF THE VILLAGE OF KEWASKUM, WASHINGTON COUNTY, WISCONSIN, DO  
ORDAIN AS FOLLOWS:

**Section 1.** That Section 58-58 of the Municipal Code of the Village of Kewaskum, relating to  
Prohibition of Graffiti, should be created as follows:

#### 58-80 PROHIBITION OF GRAFFITI

(1) **PURPOSE AND INTENT.** The purpose and intent of this section is to prohibit graffiti vandalism, and to provide a procedure requiring the removal of graffiti from property within the Village of Kewaskum. Graffiti contributes to blight and deterioration of surrounding properties, and reduces the physical attractiveness to the neighborhoods, and is detrimental to the Village. Graffiti constitutes a public nuisance and must be abated promptly in order to alleviate the detrimental impact it has on the neighborhoods, businesses, surrounding properties, and citizens and the Village of Kewaskum, in general.

(2) **DEFINITIONS.** For the purposes of this section, the following definitions shall apply:

(a) **Broad-tipped indelible marker.** Any felt-tip marker or similar implement which contains a non-water soluble fluid and has a flat or angled writing surface one-half inch or greater in any dimension.

(b) **Child.** See §48.02(2), Wis. Stats.

(c) **Graffiti.** Any writings, drawings, inscriptions, figures or marks of paint, ink, dye, chalk or other similar substances on public or private buildings, structures or places that are not expressly authorized by the property owner or occupant and that are not otherwise permitted by law. For the purposes of this section, graffiti includes any form of writings, drawings, inscriptions, figures or marks, regardless of their content or the nature of materials used in their placement.

(3) **PROHIBITION OF GRAFFITI.** It shall be unlawful for any person to write, draw, inscribe, mark, scratch, scrawl, paint, spray or otherwise place graffiti of any kind on any public or private building, structure or place or on any other real or personal property. This subsection shall not be construed to prohibit the placement of temporary and easily removable chalk or other water soluble markings on public or private streets, sidewalks or other paved surfaces incident to youth activities such as hopscotch and various types of ball games or any lawful business or activity.

(3) **POSSESSION BY CHILD.** It shall be unlawful for any child to have in his or her possession any aerosol or pressurized spray paint container between the hours of 10:00 p.m. and the following 6:00 a.m., while in or on any public sidewalk, street, right-of-way, park, playground, recreational facility, or other public place, unless accompanied by a parent or legal guardian.

(4) **PENALTY.**

(a) Any person who violates this section shall be subject to a forfeiture as stated in Section 1-11 of this code. In addition, any person who shall cause physical damage to or destroy any public

property shall be liable for the costs of replacing or repairing such damaged or destroyed property.

(b) Parental Liability. Pursuant to §895.035, Wis. Stats., the parent(s) or guardian(s) of an unemancipated minor may be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed the amount specified in §799.01(1)(d), Wis. Stats.

(5) PUBLIC NUISANCE. Graffiti is hereby specifically declared to be a public nuisance, as defined in Section 58-79 of this code, affecting peace and safety.

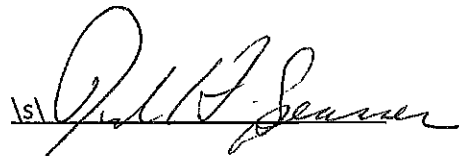
(6) ABATEMENT. Every owner of a structure or property defaced by graffiti shall comply with the terms of a written Notice to Abate served upon the property owner by the Police Department ordering the removal or covering of such graffiti. The Notice to Abate shall be served personally or by certified mail upon the property owner. If any property owner fails to comply with the Notice to Abate within 10 days of the Notice being served on the property owner, the Public Works Department may have the graffiti covered or removed and all costs, fees and expenses shall be entered in the tax roll as a special charge, pursuant to sec. 66.0627, Wis. Stats., against the parcel of land on which the property defaced by the graffiti is located.

(7) SEVERABILITY. The terms and provisions of this section are severable. Should any term or provision of this section be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

**Section 2.** Severability. The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the Ordinance. The remainder of the Ordinance shall remain in full force and effect. Any other Ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

**Section 3.** This Ordinance shall take effect immediately upon passage and publication as provided by law.

Passed and adopted by the Village Board of the Village of Kewaskum, Washington County, Wisconsin, this 18th day of April 2022.



David Spenner  
Village President

ATTEST:

  
/s/

Tammy Butz  
Village Clerk