

**THE COUNCIL** of the Town of Sanford hereby ordains that Chapter 12, “Offenses – Miscellaneous,” of the “Code of Ordinances of the Town of Sanford, Maine,” be and hereby is amended as follows:

**ARTICLE IV. Section 12.17, ANTI-GRAFFITI ORDINANCE**

**I. Purpose.**

The Town Council has determined that graffiti creates a visual blight and adversely affects the enjoyment and value of property. When graffiti is allowed to remain on property and is not promptly removed, it invites additional graffiti and may encourage criminal activity or lead to nuisance conditions. This ordinance is intended to deter graffiti, to provide mechanisms for prompt removal of graffiti, and to establish penalties for graffiti.

**II. Definitions.**

“Graffiti” means any inscription, word, figure, design, painting, writing, drawing or carving that is marked, etched, scratched, drawn, painted or otherwise applied to property without the prior authorization of the owner of the property regardless of the content or nature of the material used.

“Graffiti implement” means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

“Graffiti removal” means the removal or attempted removal or painting over of graffiti by the owner of the affected property or by another person with the consent of the owner or owner’s designee or by court order.

“Owner” means the person listed on the Assessor’s records for the Town of Sanford as the owner of property, authorized agent, or legal occupant of property.

“Property” means any real or personal property, including but not limited to any portion of any premises, structure, house, building, fence or vehicle.

“Graffiti paraphernalia” (including graffiti implements) means files, folders, black books, sketch books, pictures (digital or printed), or papers with a common graffiti tag on them, computer files and or images, rubber or latex type gloves, or air filtration masks.

### **III. Prohibited acts.**

The following acts are prohibited:

- (a) Applying graffiti to any private or public property without the permission of the owner;
- (b) Soliciting or commanding another person to apply graffiti to any private or public property without the permission of the owner; or
- (c) Aiding or abetting or agreeing to aid or abet another person in planning to apply or applying graffiti to any private or public property without the permission of the owner.
- (d) Any person in violation of this section and who is found in possession of graffiti paraphernalia where a common or personal graffiti tag is written, painted, designed, photographed, or stored, shall be prima facie evidence that the person in possession is the author of the graffiti tag(s).

### **IV. Prohibited possession of graffiti implements.**

Possession of graffiti implements in the following situations is deemed to be evidence of an intent or attempt to commit a prohibited act and is prohibited:

- (a) By minors on or near school facilities. No person under the age of eighteen (18) years may possess any graffiti implement while on or within fifty feet (50') of any school property. Notwithstanding this provision, a person under eighteen may possess a broad-tipped marker if traveling to or from a school in which the minor is participating in a class or activity that requires the possession of a broad-tipped marker. The burden of proof shall be on the minor to demonstrate that possession was required for a school class or activity.
- (b) By any person on or immediately adjacent to private property without the permission of the owner of the property. "Immediately adjacent" means near enough to the property to apply graffiti.
- (c) By any person in any public facility, park, playground, swimming area, recreational facility, or other public building, structure, premises or vehicle without the Town's permission, or within fifty feet (50') of any bridge abutment, or similar infrastructure without permission of the owner.

## **V. Furnishing graffiti implements to minors prohibited.**

- (a) No person, other than a parent or legal guardian, may sell, exchange, give, lend, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any graffiti implement to any person under the age of eighteen (18) years.
- (b) The Chief of Police may promulgate rules and regulations that allow persons under the age of 18 years to purchase graffiti implements.

## **VI. Penalties.**

- (a) Any person violating sections III or IV of this ordinance shall be subject to a fine of not more than two hundred fifty dollars (\$250) for the first offense, and not more than five hundred dollars (\$500) for a second or subsequent offense. Each day any violation shall continue shall constitute a separate violation.
- (b) In addition to the fine stated in (a), any person found to have committed a violation of sections III or IV shall be subject to restitution for all costs of graffiti removal, and/or to perform community service to the Town of Sanford.
- (c) Any person found in violation of sections III and IV, shall forfeit ownership of any graffiti paraphernalia said person was in possession of during the commission of the act. Forfeited property will then be disposed of as determined by the Chief of Police.
- (d) In the case of a minor, the parents or legal guardian shall be jointly and severally liable with the minor for payment of all fines and fees.
- (e) In the case of community service, the minor or adult shall perform at least thirty (30) hours of community service. In a case where a minor is assigned community service, at least one parent or guardian of the minor shall be in attendance a minimum of fifty percent (50%) of the period of assigned community service. The entire period of community service shall be performed under the supervision of a community service provider approved by the Chief of Police.
- (f) Any person violating sections V or VII (d) or (e) of this ordinance shall be subject to a fine of not more than one hundred dollars (\$100) for the first offense, and not more than two hundred dollars (\$200) for a second or subsequent offense. Each seven day period that any violation shall continue shall constitute a separate violation.

## **VII. Enforcement**

- (a) The Chief of Police or designee shall investigate violations of this Ordinance and provide a Municipal Prosecutor to process these cases in court.
- (b) Graffiti on town or public property shall be reported to the Sanford Police Department immediately upon discovery.
- (c) Removal of graffiti on Town or public property shall be removed as soon as possible, however, not to exceed seven (7) days unless authorized by the Town Manager.
- (d) Graffiti on private property shall be reported immediately upon discovery and removed within two (2) weeks unless the Town Manager authorizes a longer period of time to remove the graffiti.
- (e) Graffiti on property prior to the enactment of this Ordinance shall be removed within 30 days of notification.
- (f) With approval of the Town Manager and Chief of Police a community based committee will be formed to coordinate Anti-Graffiti activities.

**VIII. Anti-graffiti Trust Fund.**

- (a) The Town Council hereby creates the Town of Sanford Anti-Graffiti Trust Fund. Penalties assessed against violators of this Ordinance shall be placed in the fund, along with any monetary donations received from persons wishing to contribute to the fund. The Town Manager shall direct the expenditures of monies in the fund. Such expenditures shall be limited to the payment of the cost of graffiti removal; the payment of rewards for information leading to the conviction of violation of the Ordinance, the cost of administering the Ordinance, and such other public purposes as may be approved by the Town Manager.

**IX. Effective date.**

This article shall become effective upon adoption by the Town Council.