

1 BILL NO. 360

A BILL

ORDINANCE NO.

98- 379

3 FOR

4 AN ORDINANCE

5 RELATING TO THE ABATEMENT OF GRAFFITI

6 AND DECLARING A PUBLIC NUISANCE

7
8 WHEREAS, the City of Keizer does experience incidents of graffiti being
9 placed on public and private property; and

10 WHEREAS, the City Council of the City of Keizer knows that by removing
11 graffiti promptly it will deter further incidents from occurring and will decrease the
12 likelihood of criminal activity; and

13 WHEREAS, the City Council of the City of Keizer finds that graffiti
14 constitutes a public nuisance and must be abated to avoid the detrimental impact of
15 vandals who place additional graffiti on neighboring properties; NOW,
16 THEREFORE,

17 The City of Keizer ordains as follows:

18 Section 1. SHORT TITLE. This ordinance shall be known as the "Keizer
19 Graffiti Abatement Ordinance" and shall be so cited and pled.

20
21 Section 2. DEFINITIONS.

22 a. Graffiti: The unauthorized spraying of paint or marking of paint,
23 ink, chalk, dye or other similar substances on, or the etching or defacing of,
24 property of any kind, including, but not limited to structures, fences, parking
25 lots, or vehicles.

1 b. Graffiti Instruments: Paint or other substances, ink, chalk, dye, or
2 any other instrument or article designed or adapted for spraying, marking,
3 etching, scratching, or carving surfaces.

4 c. "Intentionally" or "With Intent": This term is given the meaning
5 set forth in ORS 161.085(7).

6 d. "Knowingly" or "With Knowledge": This term is given the meaning
7 set forth in ORS 161.085(8).

8 e. Lawful Custodian: The parent, guardian, or other person responsible
9 by authority of law for the care, custody or control of another.

10 f. Responsible Person: The equitable or legal owner of the subject
11 property.

12 g. Working Days: Any day that is not a Saturday, Sunday or Legal
13 Holiday as defined in ORS 187.010 and ORS 187.020.

15 Section 3. DECLARATION OF NUISANCE. Graffiti is hereby
16 declared to be a public nuisance.
17

18 Section 4. POSSESSION OF GRAFFITI INSTRUMENTS. It is a
19 violation of this Ordinance to:

20 a. Possess any Graffiti Instrument with the intent to violate ORS
21 164.345 (Criminal Mischief III), ORS 164.354 (Criminal Mischief II), and/or
22 ORS 164.365 (Criminal Mischief I).

23 b. Possess any Graffiti Instrument with the intent to promote,
24 facilitate, solicit or command another person to commit the crime of criminal
25 mischief as defined in ORS 164.345 (Criminal Mischief III), ORS 164.354
(Criminal Mischief II), and/or ORS 164.365 (Criminal Mischief I).

1 Section 5. VIOLATION BY A LAWFUL CUSTODIAN. A Lawful
Custodian is liable for a violation of this Ordinance if the person over which the
3 Lawful Custodian has responsibility violates Section 4 of this Ordinance. Proof of a
4 culpable mental state of the Lawful Custodian is not required for a conviction.

5
6 Section 6. PENALTIES. A violation of Sections 4 and 5 of this
7 Ordinance is a City infraction under Civil Infraction Ordinance No. 86-063. The
8 burden of proof for the City shall be a preponderance of the evidence. In addition to
9 the forfeitures that may be assessed under the Civil Infraction Ordinance, the
10 Municipal Court may order the violator or the Lawful Custodian to pay restitution or
11 perform community service.

12
13 Section 7. ABATEMENT OF GRAFFITI.

14 a. When Graffiti is visible from any public right-of-way, any other
15 public or private property, or from any premises open to the public, no
16 Responsible Person may maintain, permit or allow such Graffiti to remain
17 upon their property in excess of five (5) working days after notice by the City
18 is given to such Responsible Person.

19 b. Upon written request to the City Manager, the City Manager or
20 his/her designee may grant an extension to the Responsible Person for a
21 period of time not to exceed fourteen (14) additional calendar days

22 c. If the City Manager or his/her designee determines that there is a
23 violation of subsection (a) above, he or she may proceed to abate the
24 nuisance pursuant to the Keizer Nuisance Abatement Procedure (Ordinance
25 No. 94-282) or may seek any other legal or equitable remedy provided by law

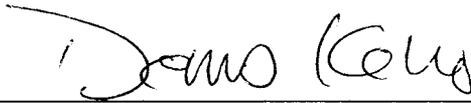
1 for the abatement of the nuisance or for the enforcement of the provisions of
2 this Ordinance.

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4 Section 8. EMERGENCY CLAUSE. This Ordinance being
5 necessary for the immediate preservation of the public health, safety, and welfare,
6 an emergency is declared to exist. This Ordinance shall become effective
7 immediately as passed.

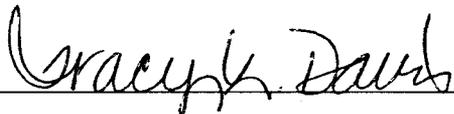
8 PASSED ON FIRST READING

9 PASSED this 20th day of January, 1998.

10
11 SIGNED this 20th day of January, 1998.

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14 Mayor

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18 City Recorder