

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

ORDINANCE #03/08

PROHIBITING GRAFFITI VANDALISM AND THE  
DEFACEMENT OF PUBLIC OR PRIVATE PROPERTY

Adopted by Resolution #1177/08 of the Fond du Lac Reservation  
Business Committee on July 29, 2008.

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

ORDINANCE #03/08

PROHIBITING GRAFFITI VANDALISM AND THE  
DEFACEMENT OF PUBLIC OR PRIVATE PROPERTY

---

CHAPTER 1

AUTHORITY, PURPOSE AND SCOPE

---

Section 101 Authority

This Ordinance is enacted by the Fond du Lac Reservation Business Committee pursuant to the inherent sovereign authority of the Fond du Lac Fond du Lac Band of Lake Superior Chippewa, as recognized under the Treaty of LaPointe, 10 Stat. 1109; Section 16 of the Indian Reorganization Act, 25 U.S.C. § 476; Article VI of the Revised Constitution of the Minnesota Chippewa Tribe; and under the common law of the United States.

Section 102 Findings and Purposes

The Fond du Lac Reservation Business Committee finds that graffiti vandalism and the defacement of public or private property are a public nuisance which is destructive of the rights of both property owners and of the general community. The purpose of this Ordinance is, accordingly, to assist in the protection of public and private property from acts of graffiti vandalism and defacement.

Section 103 Scope and Applicability

This Ordinance shall apply to any act of graffiti vandalism or defacement of any real or personal property, publicly or privately owned, on lands of the Fond du Lac Band, where the individual committing such acts is subject to the jurisdiction of the Fond du Lac Band. Enforcement of this Ordinance by the Fond du Lac Band shall not preclude separate prosecution of such conduct under applicable federal or state law.

Section 104 Reservation of Rights

The Reservation Business Committee reserves the right to amend or repeal all or any part of this Ordinance at any time. There shall be no vested private right of any kind created by this Ordinance. All the rights, privileges, or immunities conferred by this

Ordinance or by acts done pursuant thereto shall exist subject to the powers of the Fond du Lac Band. Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Fond du Lac Band or a consent to jurisdiction by any government or forum not expressly authorized to exercise jurisdiction under this Ordinance.

---

## CHAPTER 2

### DEFINITIONS AND INTERPRETATION

---

#### Section 201 Definitions

For the purposes of this Ordinance, the following definitions shall apply:

- (a) "Band" means the Fond du Lac Band of Lake Superior Chippewa.
- (b) "Band lands" means any lands owned in trust or in fee by the Fond du Lac Band over which the Band possesses regulatory authority.
- (c) "Deface" means to alter the appearance of something by removing, distorting, adding to, or covering all or part of it.
- (d) "Graffiti" means any unauthorized inscription, letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched on a rock, tree, wall, bridge, roadway, fence, gate, building or other natural or man-made structure.
- (e) "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.
- (f) "Juvenile" means any person who is under 18 years of age.
- (g) "Nuisance" means conduct which interferes with the use or enjoyment of property, endangers public health or safety, or is offensive to the senses.
- (h) "Reservation" means the Fond du Lac Reservation.

- (i) "Reservation Business Committee or "RBC" means the governing body of the Fond du Lac Band of Lake Superior Chippewa.
- (j) "Vandalism" means the willful damage, destruction or defacement of public or private property.

**Section 201      Interpretation**

The provisions of this Ordinance shall be interpreted in a manner which gives plain effect to its terms and purposes, and to avoid unnecessary conflicts of law.

---

**CHAPTER 3**

**GENERAL PROVISIONS**

---

**Section 301      Prohibited Conduct**

- (a) **Defacement**. It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any Band-owned property or, without the permission of the owner or occupant, on any non-Band-owned property.
- (b) **Possession of Graffiti Implements**. It shall be unlawful for any person to possess any graffiti implement while on any school property, or in any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the Band, or in areas immediately adjacent to those locations, without specific permission of the Band.
- (c) **Presumption**. For the purposes of this section, it shall be presumed that the Fond du Lac Band does not give permission to any person to place graffiti upon any property, vehicles, signs, fixtures, or furnishings belonging to the Band.

**Section 302      Exception for School-Related Markers**

The provisions of this Section shall not apply to the possession of broad-tipped markers by a student attending or traveling to or from a school at which the student is enrolled if the student is participating in a class at the school, or in an activity at a community center, that formally requires the possession of broad-tipped markers. The burden of proof in any prosecution for violation of this Section shall be upon the student to establish the need to possess a broad-tipped marker.

---

CHAPTER 4

ADMINISTRATION AND ENFORCEMENT

---

Section 401 Administration of Ordinance

The Fond du Lac Police Department shall be responsible for the administration of this Ordinance. Citations issued under this Ordinance shall be heard before the Fond du Lac Tribal Court.

Section 402 Penalties

- (a) First offense. The maximum penalty for a first offense of vandalism under this Ordinance shall be a fine of \$250.00, plus full restitution to the victim.
- (b) Second offense. The maximum penalty for a second offense shall be a fine of \$500.00 per offense, plus full restitution to the victim. In addition, the person may be excluded from any or all Band lands by the Reservation Business Committee pursuant to the Fond du Lac Exclusion and Removal Ordinance, FDL Ord. #04/99.
- (c) Third offense. The maximum penalty for a third and any subsequent offense is a \$1,000.00 fine, plus full restitution to the victim. In addition, the person may be excluded from any or all Band lands by the Reservation Business Committee pursuant to the Fond du Lac Exclusion and Removal Ordinance, FDL Ord. #04/99.
- (d) Parental responsibility. The custodial parent or legal guardian shall be responsible for any fines imposed on a juvenile found guilty of a violation under this Ordinance.

---

CHAPTER 5

EFFECTIVE DATE; AMENDMENTS; SEVERABILITY

---

Section 501 Effective Date

The provisions of this Ordinance shall become effective sixty (60) days from adoption by the Reservation Business Committee.

Section 502      Additional provisions and requirements

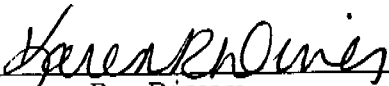
The Reservation Business Committee may amend this Ordinance as it deems necessary to protect the public health, safety and welfare of the Fond du Lac Reservation.

Section 503      Severability

If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #03/08 was duly presented and adopted by Resolution #1177/08 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on July 29, 2008 on the Fond du Lac Reservation.

  
\_\_\_\_\_  
Karen R. Diver  
Chairwoman

  
\_\_\_\_\_  
Ferdinand Martineau, Jr.  
Secretary/Treasurer