

**ORDINANCE NO. 704
(AS AMENDED THROUGH 704.3)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING
ORDINANCE NO. 704 PROVIDING FOR THE ABATEMENT OF GRAFFITI**

The Board of Supervisors of the County of Riverside Ordains as Follows:

Section 1. FINDINGS. The Board of Supervisors finds the following:

- a. Graffiti placed or inscribed on public and private property is a blighting factor which depreciates the value of the property which has been the target of such malicious vandalism, and also depreciates the value of the adjacent surrounding properties, with a resulting negative impact on the entire community.
- b. The abatement of graffiti will enhance the appearance of and benefit the use and enjoyment of properties in the County and appreciate the values and appearance of neighboring properties.
- c. Graffiti must be abated in a rapid manner to prevent the further spread of graffiti to avoid detrimental impacts on the public health, safety and welfare of the citizens of Riverside County.

Section 2. PURPOSE. It is the purpose and intent of this ordinance to provide procedures for the removal of graffiti from walls and structures on both public and privately owned property in order to reduce blight and deterioration within the County and to protect and promote the public safety.

Section 3. AUTHORITY. This ordinance is adopted pursuant to Government Code Section 53069.3 which authorizes counties to adopt ordinances establishing procedures for the abatement of graffiti.

Section 4. DEFINITIONS. As used in this ordinance, the following terms shall

have the following meanings:

- a. GRAFFITI. Any unauthorized inscription, word, figure, mark, symbol or design that is marked, etched, scratched, drawn, or painted on any structural component of any building, structure, sign or other facility, on publicly or privately owned real property, regardless of the nature of the material of that structural component.
- b. ENFORCEMENT OFFICER. The Transportation and Land Management Agency (TLMA) Director, the TLMA Assistant Director-Community Development, Community Health Agency Director, Building Official, the TLMA Deputy Director-Code Enforcement Department, Environmental Health Department Director, Department of Animal Services Director, Agricultural Commissioner, Fire Chief, Clerk of the Board of Supervisors, Sheriff and their designees.
- c. HEARING OFFICER. The County Hearing Officer established pursuant to Ordinance No. 643 as the entity conducting a hearing authorized by this ordinance and issuing a written order or decision.
- d. PROPERTY. Publicly or privately owned real property and any structural component of a building, structure, sign or other facility located on publicly or privately owned real property.
- e. RESPONSIBLE PARTY. Shall include any of the following:
 1. Each person committing the violation or causing a condition on a parcel of real property located within the jurisdiction of the County of Riverside which violates this ordinance; or

2. Each person who has an ownership interest in that parcel of real property; or
3. Each person who, although not an owner, nevertheless has a legal right or a legal obligation to exercise possession and control over that parcel of real property. In the event the person who commits the violation or causes the violating condition is a minor, then the minor's parents or legal guardian shall be deemed a responsible party; or
4. In the event the violation or violating condition is most reasonably attributable to a business, then that business, to the extent it is a legal entity such that it can sue and be sued in its own name, and each person who is an owner of that business shall be deemed responsible parties.

Section 5. GRAFFITI PROHIBITED.

- a. It shall be unlawful for any person to place graffiti upon any publicly or privately owned property within the unincorporated areas of Riverside County.
- b. No person owning or otherwise in control of any real property as tenant, occupant or otherwise within the unincorporated areas of Riverside County shall permit or allow any graffiti to be placed upon or remain on any property when the graffiti is visible from the street or other public or private property.
- c. Any person applying graffiti within the unincorporated areas of Riverside County shall have the duty to remove the same

within twenty-four (24) hours after notice by the County or the public or private owner of the property involved. Failure of any person to promptly remove the graffiti shall constitute a separate and additional violation of this ordinance. Where graffiti is applied by a person under the age of 18, the parent or guardian of such minor shall be responsible for the removal and for the payment therefore.

Section 6. GRAFFITI REMOVAL AT COUNTY EXPENSE. Whenever an Enforcement Officer determines that graffiti is so located on a property within the unincorporated areas of Riverside County so as to be capable of being viewed by persons utilizing any public right-of-way in the County, the Enforcement Officer is authorized to provide for the removal of the graffiti at the County's expense in accordance with this ordinance and the following:

- a. In removing the graffiti, the painting or repair shall be limited to the minimum necessary to properly restore the defaced area.
- b. Where a property is owned by a public entity other than the County, the removal of the graffiti may be performed only after securing the written consent of the public entity having jurisdiction over the property.
- c. When a property is privately owned, the removal of the graffiti by County personnel or by a private contractor under the direction of the County shall be performed only after securing the written consent of the owner on the Right of Entry consent form provided by the County.
- d. Whenever graffiti has been removed from public or private property at the expense of the County, the owner of the property, each person who placed any of the graffiti, and the custodial parents or guardians of any minor who placed any of

the graffiti shall be legally responsible to reimburse the County in accordance with this ordinance for all costs for removal of such graffiti as well as for related staff investigation time.

Section 7. GRAFFITI DECLARED PUBLIC NUISANCE. Graffiti which an Enforcement Officer has determined to exist on any property in the unincorporated area of the County and which is visible from a street or other public or private property is hereby declared to be a public nuisance.

Section 8. ABATEMENT PROCEDURE. Whenever an Enforcement Officer determines that graffiti on a particular property constitutes a public nuisance, the County may abate the graffiti in accordance with this ordinance and the following regardless if the property owner consents to the graffiti's removal:

- a. Notice. The Enforcement Officer shall issue or cause to be issued a "Notice of Violation and Order to Abate Public Nuisance" to the property owner as identified on the last Equalized Property Tax Assessment Roll of the County of Riverside, and to any of responsible parties if known to the Enforcement Officer. The property owner shall have ten (10) calendar days after the date of service of the Notice to remove the graffiti, otherwise the graffiti shall be subject to abatement by the County.
- b. Service of Notice. Unless otherwise noted, all notices under this ordinance shall be served upon the owner(s) of the affected property, as such owner's name and address appears on the last Equalized Property Tax Assessment Roll of the County of Riverside. If there is no known address for the owner, the notice shall be sent in care of the property address. The notice may also be served on any other responsible parties if known to the Enforcement Officer. All notices required by this section may be served by any of the following

manners:

1. By personal service on the owner, occupant, or person in charge or control of the property.
 2. By posting a copy of the notice in a visible place on the property and mailing a copy to the property owner as such person's name and address appears on the last Equalized Property Tax Assessment Roll. If this address is unknown, the notice will be sent to the property address. If the notice is mailed to a responsible party other than the property owner then the notice may be mailed to the last known address. Service by mail and posting shall be deemed complete five days after the date of deposit in the mail and posting, whichever is later.
- c. Content of Notice of Violation and Order to Abate. The Notice of Violation and Order to Abate ("Notice") shall be in writing and shall:
1. Identify the owner(s) of the property upon which the nuisance exists, as named in the last County Equalized Assessment Roll.
 2. Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any.
 3. Identify such property by reference to the Assessor's Parcel Number.
 4. Contain a statement that said graffiti is hereby

determined to constitute a public nuisance. "If you fail to remove the graffiti, County personnel or private contractors employed by the County will enter upon your property and abate the public nuisance by removal or painting over the graffiti. The cost of such abatement by County personnel or private contractors hired by the County shall be assessed upon your property and such costs will constitute a lien upon the land until paid".

5. Contain a statement that the property owner and any other responsible party is required to abate the graffiti within ten (10) calendar days after the date that the Notice was served.

6. Contain a statement that the owner or any other responsible party may, within ten (10) calendar days after the date that the Notice was served, make a request in writing for a hearing to appeal the determination of the Enforcement Officer that the conditions existing on the property constitute a public nuisance, or to show other cause why those conditions should not be abated.

d. The failure of the Notice to set forth all required contents shall not affect the validity of the proceedings.

Section 9. HEARINGS. Within ten (10) calendar days from the date of service of a Notice of Violation and Order to Abate or a Statement of Abatement Costs and Demand for Payment, the owner or person occupying or controlling such premises or lot affected may request a hearing before a Hearing Officer.

Pursuant to California Government Code Section 25845, as may be amended, the hearing may be conducted by either the Board of Supervisors, the County

Hearing Officer or the County Hearing Board as follows:

- a. Pursuant to California Government Code Sections 25845 and 27720 and Riverside County Ordinance No. 643, the Board of Supervisors hereby delegates to the County Hearing Officer the authority to conduct administrative hearings under this ordinance. Said delegation shall include, but shall not be limited to all matters set forth in Subsections (b) – (d) of this Section 9. A decision rendered by the County Hearing Officer is a final administrative determination on the matter.
- b. A notice of the date, time, and place of the hearing to be conducted by the Hearing Officer shall be issued pursuant to the provisions of Section 8.b. of this ordinance and filed with the Clerk of the Board. The hearing shall be set not less than ten (10) calendar days after issuance of the notice of hearing.
- c. When the Hearing Officer conducts an administrative hearing, the Hearing Officer shall consider the violation(s) of this ordinance, and shall hear all facts and testimony they deem pertinent. The Hearing Officer shall not be limited by the technical rules of evidence. The owner of the property or other responsible party may appear in person or by an agent at the hearing, and may present a written statement in time for consideration at the hearing.
- d. At the conclusion of the hearing and no later than fifteen (15) days thereafter, the Hearing Officer shall issue a written decision, including any findings or conclusions required for that decision, a copy of which shall be served in accordance with Section 8.b of this ordinance upon the party requesting the hearing. The Hearing Officer may impose such conditions and take such actions and issue such orders as he deems

appropriate under the circumstances to carry out the purpose of this ordinance. The Hearing Officer may delay the time for removal of the graffiti if, in his opinion, the circumstances justify the delay. The Hearing Officer's decision shall specify the time allowed for judicial appeal of the decision rendered by the Hearing Officer. The Hearing Officer shall submit the decision and the record to the Clerk of the Board of Supervisors.

Section 10. REMOVAL BY COUNTY. If the owner of the affected property fails to comply with the Notice of Violation and Order to Abate by the designated date and fails to request a hearing, or fails to comply by such date imposed by the Hearing Officer after a hearing pursuant to Section 9 of this ordinance, then the Enforcement Officer is authorized to cause the graffiti to be abated by County personnel or by private contractors, and the County personnel and its private contractors are expressly authorized to enter upon the premises for such purposes. All reasonable efforts to minimize damage from such entry shall be taken by the County and its private contractors, and any paint used to cover the graffiti shall be as close as practicable to the background color(s) on which the graffiti has been painted or inscribed.

Section 11. ABATEMENT COST RECOVERY. The Enforcement Officer or authorized representative shall keep an account of all costs incurred and associated with the abatement of graffiti on a particular property, including but not limited to incidental, hearing and administrative expenses; investigation costs, contractor costs, court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, costs of administering and monitoring the participation of a defendant and his or her parents or guardians in a graffiti abatement program, and the law enforcement costs incurred by the County in identifying and apprehending the person who created, caused, or committed the graffiti or other inscribed material on the publicly or privately owned permanent real or personal property within the County. The term "incidental expenses" shall include, but not be limited to, the actual expenses and costs of the County in the preparation of notices, hearings, specifications and contracts and in inspecting the work, and the costs of printing and mailing required hereunder.

- a. The Enforcement Officer shall serve a Statement of Abatement Costs and Demand for Payment on the property owner in accordance with Section 8.b. of this ordinance. Payment shall be due within thirty (30) calendar days of service of the Statement of Abatement Costs and Demand for Payment.
- b. Any property owner or any other responsible party who receives a Statement of Abatement Costs and Demand for Payment shall have the opportunity to contest the Statement of Abatement Costs and Fees by requesting a hearing on such costs and fees in accordance with Section 9 of this ordinance. Notice of the opportunity for hearing, together with a form to request a hearing shall be provided with the Statement of Abatement Costs and Demand for Payment.
- c. If a hearing is requested pursuant to Section 9 of this ordinance, the Hearing Officer shall consider whether the costs and fees contained in the Statement of Abatement Costs are reasonable based on the circumstances of the case, and shall also consider any objections by the property owner or other responsible party. In issuing a decision, the Hearing Officer may revise, correct, or modify the Statement of Abatement Costs based upon the evidence presented.
- d. The decision of the Hearing Officer is the final administrative determination on the matter.

Section 12. ASSESSMENT OF COSTS AGAINST PROPERTY. Pursuant to Government Code Section 25845, if payment is not made within thirty (30) calendar days of service of the Statement of Abatement Costs and Demand for Payment, or by a later date as ordered by the Hearing Officer, the Enforcement Officer shall transmit the Statement of Abatement Costs and Fees and, if applicable, the Hearing Officer's decision to the County

Auditor, who shall place the amount thereof on the Assessment Roll as a Special Assessment to be paid with County taxes, unless sooner paid. At the same time, the Enforcement Officer shall file with County Recorder a Notice of Abatement Lien, describing the real property affected, a summary of the action taken to abate the violative condition(s), if any, and the amount of the lien claimed by the County. After such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.

Section 13. LIMITATION OF FILING JUDICIAL ACTION. Any owner, lessee, occupant or other interested person having any objections or being aggrieved at any proceeding taken on appeal by the Hearing Officer in ordering the public nuisance under the provisions of this ordinance must bring a judicial action to contest such decision within ninety (90) days of the date of service such decision by the Hearing Officer. Otherwise, all objections to such decision shall be deemed waived.

Section 14. NON-EXCLUSIVE REMEDIES AND PENALTIES. All remedies and penalties for the abatement of graffiti provided for in this ordinance shall be cumulative and not exclusive. Enforcement by use of any administrative, criminal or civil action, citation or administrative proceeding or abatement remedy does not preclude the use of additional citations or other remedies as authorized by other ordinance or law, including but not limited to Riverside County Ordinance No. 725. Enforcement remedies may be employed concurrently or consecutively. Conviction and punishment of or enforcement against any person hereunder shall not relieve such person from the responsibility of correcting, removing or abating a violation, nor prevent the enforced correction, removal or abatement thereof. Each and every day, or any portion thereof, during which any violation of a Land Use Ordinance or the rules, regulations, orders, permits or conditions of approval issued thereunder is committed, continued, or permitted by such person, shall be deemed a separate and distinct offense. A person convicted under Ordinance No. 704 may also be ordered to render Community Service, including, but not limited to, cleaning up, painting over, or otherwise removing his own graffiti and/or graffiti of others.

Section 15. SEVERABILITY. If any clause, provision, sentence, or paragraph of this ordinance, or the application thereof, is deemed to be invalid as to any person, entity, establishment, or circumstance, such invalidity shall not affect the other provisions of this

ordinance which shall still be in effect, and to its end, it is hereby declared that the provisions of this ordinance are severable.

SECTION 16. This ordinance shall be effective thirty (30) days after the date of adoption.

Adopted: 704 Item 10.3 of 04/30/1991 (Eff: 05/30/1991)

Amended: 704.1 Item 3.5 of 05/04/1993 (Eff: 06/03/1993)

704.2 Item 3.1 of 04/19/2005 (Eff: 05/19/2005)

704.3 Item 3.30 of 06/16/2020 (Eff: 07/16/2020)