

ORDINANCE NO. 9505 (NEW SERIES)

AN ORDINANCE ADDING DIVISION 12 TO TITLE 3 OF THE
SAN DIEGO COUNTY CODE RELATING TO GRAFFITI ABATEMENT

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Division 12 (commencing at section 312.101) is hereby added to Title 3 of the San Diego County Code to read as follows:

GRAFFITI ABATEMENT

SEC. 312.101 Declaration of Purpose

- (a) It is the purpose and intent of this Division to provide a procedure for removal of graffiti from surfaces on public or private property in order to reduce blight and deterioration within the unincorporated areas of the County and to protect the public health and safety.
- (b) The County finds and determines that graffiti is obnoxious and constitutes a public nuisance, and must be abated to avoid the detrimental impact of such graffiti on the County and its residents and prevent the further spread of graffiti.

SEC. 312.102 Definitions

The words and phrases used in this Division have the meanings set forth in this section.

"Director" means the Director of Planning and Land Use and his or her authorized employees and agents.

"Graffiti" means any unauthorized inscription, word, figure, picture, or design that is sprayed, marked, posted, pasted or otherwise affixed, drawn, or painted on any surface of public or private property. Graffiti shall not mean a sign as defined in this Code or the San Diego County Zoning Ordinance.

"Responsible Person" means a person who the Director determines is responsible for causing or maintaining a public nuisance or a violation of the Code or applicable state codes. The term "Responsible Person" includes but is not limited to a property owner, tenant, person with a legal interest in real property or person in possession of real property.

"Unauthorized" means without the permission of a Responsible Person or in violation of this Division as determined by the Director.

SEC. 312.103 Authority

The Director shall be vested with the authority to administer and enforce the provisions of this Division. The Director may exercise any enforcement powers as may be necessary to effectively implement and enforce this Division.

SEC. 312.104 Enforcement Remedies

Any person violating any provision of this Division shall be deemed guilty of a misdemeanor unless, in the discretion of the prosecutor, it is charged as an infraction. The County Counsel and the Director may seek injunctive relief and civil penalties in the Superior Court or pursue any administrative remedy as provided by this Code.

SEC. 312.105 Graffiti Prohibited

- (a) To the extent not otherwise provided for by state law, it is unlawful for any person to place graffiti upon any public or private property within the unincorporated area of the County.
- (b) It is unlawful for any Responsible Person to maintain graffiti that has been placed upon, or allow graffiti to remain upon, any surface within that person's control, possession or ownership when the graffiti is visible from a public street, property or right-of-way.
- (c) Graffiti prohibited under this section is hereby declared a public nuisance.

SEC. 312.106 Abatement Authority and Procedures

Whenever the Director determines that graffiti located on publicly or privately owned property in the unincorporated area of the County is visible from a public street, property or right-of-way, the Director is authorized to follow the Uniform Public Nuisance Abatement Procedure found in Chapter 2 (commencing at section 16.201) of Division 6 of Title 1 of this Code.

SEC. 312.107 Removal of Graffiti by County on Private Property

- (a) County employees (or a private contractor retained by the County) are authorized to enter upon private property and abate graffiti upon real property and its appurtenances which are visible from a public street, property or right-of-way. Graffiti abatement shall be conducted in accordance with the Uniform Public Nuisance Abatement Procedure found in Chapter 2 of Division 6 of Title 1 of this Code.
- (b) The Director may enter into an agreement for County removal of graffiti on private property at the expense of the property owner. The agreement shall include consent for County's entry onto private property for graffiti removal and a waiver of liability in the event of any damage caused by the County in removing graffiti.

SEC. 312.108 Removal of Graffiti by County on Public Property

- (a) Where graffiti is located on property owned by a public entity other than the County, the removal of the graffiti may be authorized only after securing the consent of an authorized representative of the public entity having jurisdiction over the property.
- (b) The Director may enter into an agreement for County removal of graffiti on property owned by a public entity other than the County at the expense of the property owner. The agreement shall include consent for County's entry onto the property for graffiti removal and a waiver of liability in the event of any damage caused by the County in removing graffiti.

SEC. 312.109 Standards for Graffiti Removal

Graffiti shall be removed or covered completely in a manner that renders it inconspicuous to the satisfaction of the Director. When graffiti is painted out, the color used to paint out the graffiti shall match the original color of the surface, or the surface shall be completely repainted with a new color which is aesthetically compatible with existing colors and architecture. The removal shall not leave shadows and shall not follow the pattern of the graffiti such that letters or similar shapes remain apparent on the surface after graffiti markings have been removed. Unless otherwise approved by the Director, the removal method shall be such that the graffiti is removed in an area which constitutes a box, circle, or other approved geometric shape to reduce the potential for shadows. If the area is heavily covered with graffiti, the entire surface is to be repainted.

SEC. 312.110 Cost Recovery

- (a) The Director shall follow the cost recovery procedures found in the Uniform Public Nuisance Abatement Procedure found in Chapter 2 of Division 6 of Title 1 of this Code.
- (b) The Director may enter into an agreement with a private or public property owner to recover the costs of graffiti abatement.

SEC. 312.111 Parent Responsibility

Any act of willful misconduct of a minor who violated Section 312.105 of this Code and whose willful misconduct caused damage to property not in excess of \$25,000, shall cause the parent or guardian having custody and control of the minor to be jointly and severally liable with the minor for any damages resulting from the willful misconduct in accordance with California Civil Code section 1714.1(b). The County may seek cost recovery for any damages not in excess of \$25,000 against a minor or the parent or guardian having custody and control of the minor by use of all available legal means.

SEC. 312.112 Community Service

Any juvenile convicted of willful misconduct in violation of Section 312.105(a) shall perform a minimum of twenty-four hours of community service. One parent or legal guardian shall be present at the community service site for at least one-half of the community service hours required of the juvenile.

PASSED, APPROVED AND ADOPTED this 2nd day of October 2002.