

AN ORDINANCE OF THE BOARD OF SUPERVISORS ADDING CHAPTER 47 GRAFFITI ABATEMENT

The Board of Supervisors of the County of Santa Barbara does hereby ordain as follows:

CHAPTER 47 GRAFFITI ABATEMENT

Sec. 47-1. Title. This Chapter shall be known as the County of Santa Barbara "Graffiti Abatement Ordinance."

Sec. 47-2. Findings & Purpose. The County finds and declares that:

Graffiti is proliferating on permanent structures throughout the County of Santa Barbara. Said graffiti is detrimental to the health, safety and welfare of the community in that it fosters disrespect for the law, results in increased crime and damages property.

The use of County funds to promptly remove graffiti from private property in the unincorporated areas of the County is necessary to reduce the detrimental impact of graffiti and to prevent the further spread of graffiti.

Sec. 47-3. Effective Area.

This Graffiti Abatement Ordinance is not effective until it is specifically enabled by Resolution of the Board of Supervisors for a specific Planning or Redevelopment Area within an unincorporated portion of the County of Santa Barbara. The enabling Resolution for each specific Planning or Redevelopment Area must certify the availability of an effective graffiti abatement implementation plan and funding mechanism.

Sec. 47-4. Definitions.

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

"Director" means the Chief Executive Officer or his designee.

"Effective Area" means a specific Planning or Redevelopment Area within an unincorporated portion of the County of Santa Barbara where this Graffiti Abatement Ordinance has been enabled by Resolution of the Board of Supervisors.

"Graffiti" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn or painted on any structural component of any building, structure, or other facility.

"Property Owner" means any person, his/her heirs, executors, administrators or assigns, agent, firm, partnership or corporation having or claiming any legal or equitable interest in the real property in question as listed on the last available equalized tax assessment roll for Santa Barbara County.

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

Sec. 47-5. Authority.

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

Sec. 47-6. Graffiti Prohibited.

- (a) It is unlawful for any person to place graffiti upon any public or private property within the unincorporated area of the County as provided in California Penal Code section 594.
- (b) It is unlawful for any Property Owner to maintain graffiti that has been placed upon, or to 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 Chapter is hereby declared a public nuisance subject to the penalties set forth in Penal Code section 594 as well as the penalties set forth in Section 47-9 herein.

Sec. 47-7. Standards for Graffiti Removal.

- (a) The abatement of graffiti shall be performed as determined by the County, and may be in patches, blocks or strips where the graffiti appears, and that the surface from which the graffiti is removed may not match the colors on the remainder of the property.
- (b) The County does not guarantee that the colors on the subject property will match after graffiti abatement is completed.
- (c) Some residue of the graffiti or cover may remain after the County's abatement efforts are completed.

Sec. 47-8. Removal of Graffiti.

Whenever the Director determines that graffiti has been applied to any privately owned surface, structure or building on privately owned real property within the Effective Area, the Director shall direct County staff or its contractors or volunteers to arrange for abatement of the graffiti according to the following procedures:

- (a) When the Director determines that graffiti is on a privately owned surface, structure or building within the Effective Area, the Director shall attempt to contact the Property Owner to issue a Graffiti Notice and direct the Property Owner to remove or repaint the graffiti within five (5) calendar days of receiving the Graffiti Notice or that the Property Owner sign a right-of-entry agreement. The right-of-entry 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.

If the Property Owner cannot be contacted in person, the Director shall serve a Graffiti Notice on the Property Owner, as shown on the last equalized assessment roll, by certified mail return receipt requested and by posting a Graffiti Notice at the graffiti site. The Director shall also contact the Santa Barbara County Sheriff Department to report the graffiti.

- (b) The Director may direct County staff or contractors or volunteers to abate the graffiti at County expense provided that the Property Owner has given consent in writing to the County and that abatement of the same site does not exceed three (3) times in any twelve-month period. The Director may also authorize graffiti abatement at a single site more than three (3) times within a twelve-month period if local graffiti abatement funds are available.
- (c) The Director may obtain Property Owner's consent to abate graffiti per subsection (1) above for a period of time up to one (1) year, renewable by mutual consent.
- (d) If the Property Owner does not remove or give consent to the County to abate the graffiti within five (5) calendar days of receipt of the Graffiti Notice the Property Owner shall be issued a citation informing the person of the fines and appeal procedures set forth in Section 47-9.

Sec. 47-9. Penalties for Violation of Article and Administrative Appeal.

- (a) If the Property Owner does not remove or give consent to the County to abate the graffiti within five (5) calendar days of receipt of a Graffiti Notice, the Property Owner shall be guilty of an infraction punishable by a fine not exceeding one hundred dollars (\$100.00). A separate offense shall be deemed to have been committed for each day that such violation continues.
- (b) A violation of subsection (a) above shall also be subject to an administrative fine in the amounts set forth in Government Code section 25132 and shall also be subject to the administrative appeal procedures set forth below.
- (c) Any person upon whom an administrative fine is imposed pursuant to Section 47-9 may appeal such fine pursuant to the procedures set forth in this section. The appellant must file a written appeal with the Director within ten (10) working days of service of the citation or any other date of mailing of a notice of determination of fine. The written appeal shall contain:
 - (1) A brief statement setting forth the interest the appealing party has in the matter relating to the imposition of the fine;
 - (2) A brief statement of the material facts which the appellant claims supports his or her contention that no administrative fine should be imposed or that an administrative fine of a different amount is warranted;

(d) An appeal of an administrative fine imposed for violations of Section 47-9 shall be heard by a person appointed by the County to act as the hearing examiner. The administrative fine appeal hearing shall be set no sooner than twenty (20) days and no later than forty-five (45) days following a request for an appeal hearing. Notice of the appeal hearing shall be mailed at least twelve (12) calendar days before the date set for the hearing. Failure to appear timely will cause the administrative fine to become a final order or decision.

(e) In reviewing the fine, the hearing examiner shall consider all facts relating to the issuance of the citation and the reasons therefore and shall uphold the fine imposed, eliminate the fine, or modify it. The decision of the hearing examiner shall constitute the final administrative order or decision of the local agency within the meaning of Government Code section 53069.4(b)(1).

(f) The hearing examiner shall serve a copy of his or her written decision on the appellant by first class mail to the address provided by appellant in the written notice of appeal. The hearing examiner's decision shall be deemed served within two days after the date it was mailed to the address provided by the appellant.

Sec. 47-10. Enforcement and Collection.

When an administrative fine becomes a final order under Section 47-9 or Government Code Section 53069.4, the county may proceed to collect the fine as set forth in Santa Barbara County Code Chapter 24A, Section 24A-8.

Sec. 47-11. Judicial review.

Any person aggrieved by a final administrative order or decision imposing an administrative fine may seek review with the superior court in Santa Barbara County pursuant to Government Code section 53069.4.

Sec. 47-12. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Santa Barbara County Board of Supervisors hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

Sec. 47-13. Effective Date.

This ordinance, within fifteen (15) days after its passage and adoption, shall be published once in the Santa Barbara News Press and shall be in full force and effect thirty (30) days after its passage and adoption.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 13th day of January, 2009, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
ATTEST:

SALUD CARBAJAL
CHAIR, BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

APPROVED AS TO FORM:
DENNIS MARSHALL
COUNTY COUNSEL

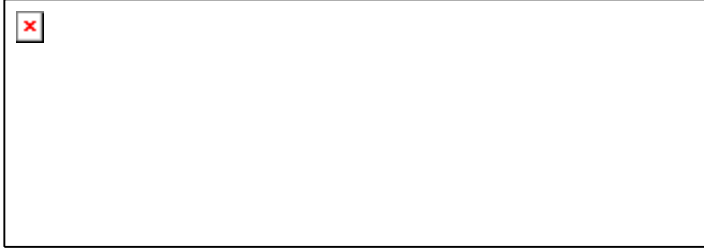
By: _____

By: _____

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, C.P.A.
AUDITOR-CONTROLLER

By _____

COUNTY OF SANTA BARBARA



Graffiti Action Program
105E. Anapamu St., Suite
Santa Barbara, CA 93101
Telephone: (805)568-
FAX: (805) 568-

GRAFFITI REMOVAL PROGRAM CONSENT TO ENTER & RELEASE OF LIABILITY

1. I, the undersigned, as owner or contractual property manager of the subject property located at _____, in the County of Santa Barbara, do hereby give my consent for agents and/or employees of the County of Santa Barbara (collectively referred to as "County"), to enter upon the above described property for the purpose of removing graffiti by painting or using solvents, as deemed necessary or desirable by the County.
2. I also agree to the following limitations on the graffiti removal:
 - A. The removal of graffiti shall be performed as determined by the County, and may be in patches, _____ blocks or strips where the graffiti appears, and that the surface from which the graffiti is removed _____ may not match the colors on the remainder of the property.
 - B. The County does not guarantee that the colors on the subject property will match after graffiti removal is completed.
 - C. Some residue of the graffiti or cover may remain after the County's removal efforts are completed.
3. I also agree that the County may utilize the services of volunteers or minors to remove graffiti, and that these individuals will be deemed agents of the County for purpose of this removal. In any cases where a person, under the age of eighteen (18) years of age, removes graffiti, the County shall provide adult supervision.
4. Further, I hereby agree to indemnify and hold harmless, the County, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the County.
5. I agree that the County is not obligated in any way, to do any work, or to use equipment or resources for graffiti removal to any greater extent, than determined necessary by the County.

Date Property Owner

Date Contractual Property Manager

Telephone Print Name