

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 3.20  
(ID # 12694)

**MEETING DATE:**

Tuesday, June 02, 2020

**FROM:** TLMA-PLANNING:

**SUBJECT:** TRANSPORTATION & LAND MANAGEMENT AGENCY/CODE ENFORCEMENT:  
Introduction of Ordinance No. 704.3 amending Ordinance No. 704, an ordinance of the County of Riverside providing for the abatement of graffiti, to clarify and streamline the County of Riverside's graffiti abatement procedures. All Districts. [\$6,000 Total Cost - 100% Code Enforcement Cost Recovery] (CEQA Exempt)

**RECOMMENDED MOTION: That the Board of Supervisors:**

1. Find that Ordinance No. 704.3 is exempt from CEQA pursuant to State CEQA Guidelines section 15061(b)(3); and
2. Introduce, read title, waive further reading of, and adopt on successive weeks Ordinance No. 704.3, an ordinance amending Ordinance No. 704 in its entirety to clarify and streamline the County of Riverside's graffiti abatement procedures.

**ACTION:** Policy

Charissa Leach, Assistant TLMA Director

5/26/2020

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Perez, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays: None  
Absent: None  
Date: June 2, 2020  
xc: Planning

Kecia R. Harper  
Clerk of the Board

By:   
Deputy

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STATE OF CALIFORNIA**

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$6,000	\$0	\$6,000	\$0
<b>NET COUNTY COST</b>	\$0	\$0	\$0	\$0
<b>SOURCE OF FUNDS:</b> 100% Code Enforcement Cost Recovery			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b> 19/20	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

Summary

On December 4, 2018 (Agenda Item 3.55), the Board of Supervisors initiated and introduced an amendment to Ordinance No. 725 related to Code Enforcement and streamlining the enforcement process for administrative abatements. Ordinance No. 725 sets forth the penalties for violating the County's land use ordinances, as well as the administrative hearing process regarding such violations and abatements of public nuisances. It is one of the primary enforcement tools for the County. This amendment to Ordinance No. 725 was approved by the Board on December 11, 2018 and effective on February 08, 2019. The provisions of Ordinance No. 725 are applicable to Ordinance No. 704 because it is included within the definition of Land Use Ordinances provided in Ordinance No. 725.

Ordinance No. 704 was last updated in 2005, which was prior to the Board of Supervisors transitioning public nuisance abatement hearings to an appointed hearing officer and revising Ordinance No. 725. Ordinance No. 704.3 is recommended for introduction and adoption on successive weeks in order to clarify and streamline graffiti abatement procedures and to achieve consistency between Ordinance No. 704 and Ordinance No. 725. Ordinance No. 704 also delegates authority to the appointed hearing officer to hear administrative appeals after a Notice of Violation and Order to Abate has been issued.

Ordinance No. 704.3 is exempt pursuant to State CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the amendment to Ordinance No. 704 may have a significant effect on the environment. The vast majority of the changes to Ordinance No. 704 merely clarify and streamline existing abatement authority held by the County. As a result, adoption of Ordinance No. 704.3 is exempt from CEQA and there is no possibility that this amendment will cause a significant impact on the environment.

**Impact on Residents and Businesses**

Code Enforcement plays a critical role in preserving the Quality of Life of our unincorporated communities. Critical functions of the Department include the abatement of graffiti. The Department will continue to work with individuals and business owners on 'compliance first' based strategies to try and achieve voluntary compliance. The included 'Right-of-Entry' form will be the second step to abatement. Where enforcement does become necessary, Ordinance No. 704.3 allows for reasonable time for compliance while maintaining due process protections, increasing transparency for the activities undertaken by the Department and reducing the total processing time for graffiti abatement.

**Additional Fiscal Information**

The Board's adoption of this ordinance will protect public funds from being used to pay expenses associated with private property graffiti abatements by properly passing that responsibility to the property owners who maintain or allow the land use violation. Further, the less burdensome process will provide a

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more streamlined path to abatement.

ATTACHMENTS

1. Ordinance No. 704.3



Jason Farin, Senior Management Analyst

5/27/2020



Gregory V. Priamos, Director County Counsel

5/26/2020



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

4                    Section 4.     DEFINITIONS. As used in this ordinance, the following terms shall have the  
5 following meanings:

6                    a.     GRAFFITI. Any unauthorized inscription, word, figure, mark, symbol or  
7 design that is marked, etched, scratched, drawn, or painted on any structural  
8 component of any building, structure, sign or other facility, on publicly or  
9 privately owned real property, regardless of the nature of the material of that  
10 structural component.

11                   b.     ENFORCEMENT OFFICER. The Transportation and Land Management  
12 Agency (TLMA) Director, the TLMA Assistant Director-Community  
13 Development, Community Health Agency Director, Building Official, the  
14 TLMA Deputy Director-Code Enforcement Department, Environmental  
15 Health Department Director, Department of Animal Services Director,  
16 Agricultural Commissioner, Fire Chief, Clerk of the Board of Supervisors,  
17 Sheriff and their designees.

18                   c.     HEARING OFFICER. The County Hearing Officer established pursuant to  
19 Ordinance No. 643 as the entity conducting a hearing authorized by this  
20 ordinance and issuing a written order or decision.

21                   d.     PROPERTY. Publicly or privately owned real property and any structural  
22 component of a building, structure, sign or other facility located on publicly  
23 or privately owned real property.

24                   e.     RESPONSIBLE PARTY. Shall include any of the following:

- 25                   1.     Each person committing the violation or causing a condition on a  
26 parcel of real property located within the jurisdiction of the County of  
27 Riverside which violates this ordinance; or  
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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.

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

- 7                   a.     In removing the graffiti, the painting or repair shall be limited to the minimum  
8                             necessary to properly restore the defaced area.
- 9                   b.     Where a property is owned by a public entity other than the County, the  
10                            removal of the graffiti may be performed only after securing the written  
11                            consent of the public entity having jurisdiction over the property.
- 12                   c.     When a property is privately owned, the removal of the graffiti by County  
13                            personnel or by a private contractor under the direction of the County shall  
14                            be performed only after securing the written consent of the owner on the  
15                            Right of Entry consent form provided by the County.
- 16                   d.     Whenever graffiti has been removed from public or private property at the  
17                            expense of the County, the owner of the property, each person who placed  
18                            any of the graffiti, and the custodial parents or guardians of any minor who  
19                            placed any of the graffiti shall be legally responsible to reimburse the County  
20                            in accordance with this ordinance for all costs for removal of such graffiti as  
21                            well as for related staff investigation time.

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

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

2 a. Notice. The Enforcement Officer shall issue or cause to be issued a "Notice  
3 of Violation and Order to Abate Public Nuisance" to the property owner as  
4 identified on the last Equalized Property Tax Assessment Roll of the County  
5 of Riverside, and to any of responsible parties if known to the Enforcement  
6 Officer. The property owner shall have ten (10) calendar days after the date  
7 of service of the Notice to remove the graffiti, otherwise the graffiti shall be  
8 subject to abatement by the County.

9 b. Service of Notice. Unless otherwise noted, all notices under this ordinance  
10 shall be served upon the owner(s) of the affected property, as such owner's  
11 name and address appears on the last Equalized Property Tax Assessment  
12 Roll of the County of Riverside. If there is no known address for the owner,  
13 the notice shall be sent in care of the property address. The notice may also  
14 be served on any other responsible parties if known to the Enforcement  
15 Officer. All notices required by this section may be served by any of the  
16 following manners:

17 1. By personal service on the owner, occupant, or person in charge or  
18 control of the property.

19 2. By posting a copy of the notice in a visible place on the property and  
20 mailing a copy to the property owner as such person's name and  
21 address appears on the last Equalized Property Tax Assessment Roll.  
22 If this address is unknown, the notice will be sent to the property  
23 address. If the notice is mailed to a responsible party other than the  
24 property owner then the notice may be mailed to the last known  
25 address. Service by mail and posting shall be deemed complete five  
26 days after the date of deposit in the mail and posting, whichever is  
27 later.  
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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.



1 the Hearing Officer shall issue a written decision, including any findings or  
2 conclusions required for that decision, a copy of which shall be served in  
3 accordance with Section 8.b of this ordinance upon the party requesting the  
4 hearing. The Hearing Officer may impose such conditions and take such  
5 actions and issue such orders as he deems appropriate under the  
6 circumstances to carry out the purpose of this ordinance. The Hearing Officer  
7 may delay the time for removal of the graffiti if, in his opinion, the  
8 circumstances justify the delay. The Hearing Officer's decision shall specify  
9 the time allowed for judicial appeal of the decision rendered by the Hearing  
10 Officer. The Hearing Officer shall submit the decision and the record to the  
11 Clerk of the Board of Supervisors.

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

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

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

25 Section 12. ASSESSMENT OF COSTS AGAINST PROPERTY. Pursuant to  
26 Government Code Section 25845, if payment is not made within thirty (30) calendar days of service of the  
27 Statement of Abatement Costs and Demand for Payment, or by a later date as ordered by the Hearing  
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1 Officer, the Enforcement Officer shall transmit the Statement of Abatement Costs and Fees and, if  
2 applicable, the Hearing Officer's decision to the County Auditor, who shall place the amount thereof on the  
3 Assessment Roll as a Special Assessment to be paid with County taxes, unless sooner paid. At the same  
4 time, the Enforcement Officer shall file with County Recorder a Notice of Abatement Lien, describing the  
5 real property affected, a summary of the action taken to abate the violative condition(s), if any, and the  
6 amount of the lien claimed by the County. After such recordation, such lien may be foreclosed by judicial  
7 or other sale in the manner and means provided by law.

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

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

26 Section 15. SEVERABILITY. If any clause, provision, sentence, or paragraph of this  
27 ordinance, or the application thereof, is deemed to be invalid as to any person, entity, establishment, or  
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1 circumstance, such invalidity shall not affect the other provisions of this ordinance which shall still be in  
2 effect, and to its end, it is hereby declared that the provisions of this ordinance are severable.”

3 Section 2. This ordinance shall be effective thirty (30) days after the date of adoption.  
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5 BOARD OF SUPERVISORS OF THE COUNTY  
6 OF RIVERSIDE, STATE OF CALIFORNIA

7 By: \_\_\_\_\_

8 Chairman

9 ATTEST:

10 CLERK OF THE BOARD

11 By: \_\_\_\_\_

12 Deputy

13 (SEAL)

14  
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16  
17 APPROVED AS TO FORM

18 May 26, 2020

19 By: 

20 AARON GETTIS

21 Deputy County Counsel

6/2/2020  
3.20