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SANTA FE COUNTY
ORDINANCE NO. 2007 – 12

ADOPTING AN ORDINANCE DECLARING GRAFFITI TO BE A PUBLIC NUISANCE, REQUIRING THAT A PERSON WHOSE PROPERTY IS DAMAGED BY GRAFFITI PROMPTLY ABATE THE GRAFFITI, AND IMPOSING PENALTIES

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR SANTA FE COUNTY:

Section 1. Short Title.

This Ordinance may be cited as the "Santa Fe County Graffiti Ordinance".

Section 2. Graffiti a Public Nuisance; Owner's Duty to Remove.

A. The Board of County Commissioners of Santa Fe County (hereinafter referred to as "the Board") hereby declares that graffiti is a public nuisance that, if not promptly removed will attract additional graffiti and has the effect of depressing property values and makes the County a less desirable place to live and visit.

B. Any owner or person in control of real or personal property defaced by graffiti has a duty to timely abate or cause it to be removed.

Section 3. Authority.

This Ordinance is enacted pursuant to the authority in NMSA 1978, § 4-37-1 (1975) (as amended) to make and publish any ordinance to discharge the powers not inconsistent with statutory or constitutional limitations placed on counties. NMSA 1978, § 3-18-17(A) (1965) (as amended) permits a County "by ordinance [to] define a nuisance, abate a nuisance and impose penalties upon a person who creates or allows a nuisance to exist". NMSA 1978, § 4-37-3 (1993) (as amended) permits the County's enforcement "by prosecution for violations of [its] ordinances in any court of competent jurisdiction of the county."

Section 4. Definitions.

A. "Abate" means to permanently remove or obscure so as to make Graffiti indistinguishable.

B. "Graffiti" means any inscription, work, figure, or design marked, etched, scratched, drawn, or painted on any surface without the express permission of the Owner.

C. "Owner" means the owner that owns property upon which Graffiti is found, the person in control of that property, or the owner's representative, an agent or attorney-in-fact of the Owner.

Section 5. Abatement.

A. Whenever the County finds that Graffiti has been placed upon a structure, vehicle, improvement or natural feature within the County which is visible from a Public Right-of-Way or County-owned land, the County shall give or cause to be given written

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notice of violation of this Ordinance by certified mail to the Owner that the Graffiti shall be abated within fifteen (15) calendar days of notice being sent.

B. The Owner may elect to have the County abate the Graffiti if the County, in its sole discretion, determines that it has sufficient staff and resources to complete the abatement. The Owner may be required to reimburse the abatement and related administrative costs.

Section 6. Enforcement.

A. Any person may report alleged Graffiti or a violation of this Ordinance to the County.

B. Any person found guilty of violating this Ordinance may be punished in accordance with NMSA 1978, § 4-37-3 (as amended).

C. The County may apply to a court of competent jurisdiction for an order or orders to compel abatement of Graffiti.

Section 7. Effective Date.

This Ordinance shall become effective on Dec. 15, 2007.

PASSED, APPROVED, AND ADOPTED THIS 13 DAY OF November, 2007, BY A VOTE OF 4 FOR AND 0 AGAINST.

BOARD OF COUNTY COMMISSIONERS

Virginia Vigil, Chairman

ATTEST:

Victor Trujillo for Valerie Espinoza

Valerie Espinoza
Santa Fe County Clerk

Approved as to form:

for Stephen C. Ross

Stephen C. Ross, County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDINANCE
PAGES: 3

I Hereby Certify That This Instrument Was Filed for Record On The 15TH Day Of November, A.D., 2007 at 08:29 And Was Duly Recorded as Instrument # 1506337 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy Marcella
County Clerk, Santa Fe, NM

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CERTIFICATE OF FILING

I, Valerie Espinoza, Santa Fe County Clerk, do hereby certify that the foregoing ordinance, designated as Santa Fe County Ordinance No. 2007 - 12, was filed in my office on the 15 day of Nov., 2007, in a book kept by my office for that purpose.

Victoria Trujillo for
Valerie Espinoza
Santa Fe County Clerk