

NYE COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM REQUEST FORM

SUMMARY: A Bill proposing to amend Nye County Code Title 9 titled Public Peace, Morals and Welfare, by adding Chapter 9.29 titled Graffiti, by providing remedies for covering or removing graffiti by Adding section 9.29.030 titled Definitions, section 9.29.040 titled Graffiti Prohibited, section 9.29.050 titled Abatement by County on Residential Property, section 9.29.060 titled Abatement by County on Non-Residential Property, section 9.29.070 titled County Property, section 9.29.080 titled Reward for Information Leading to Arrest of Perpetrator section 9.29.090 titled Graffiti Reward and Abatement Fund, section 9.29.100 titled Imposition of Civil Liability on Parent(s) or Guardian(s) Having Custody and Control of Minor Child, section 9.29.110 titled Violation; Penalty, section 9.29.120 titled Appeals to the Board of County Commissioners; section 9.29.130 titled Hearing Procedures, section 9.29.140 titled Appeals of Decisions of the Board; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

TITLE: A BILL PROPOSING TO AMEND NYE COUNTY CODE TITLE 9 TITLED PUBLIC PEACE, MORALS AND WELFARE, BY ADDING CHAPTER 9.29 TITLED GRAFFITI, BY PROVIDING REMEDIES FOR COVERING OR REMOVING GRAFFITI BY ADDING SECTION 9.29.030 TITLED DEFINITIONS, SECTION 9.29.040 TITLED GRAFFITI PROHIBITED, SECTION 9.29.050 TITLED ABATEMENT BY COUNTY ON RESIDENTIAL PROPERTY, SECTION 9.29.060 TITLED ABATEMENT BY COUNTY ON NON-RESIDENTIAL PROPERTY, SECTION 9.29.070 TITLED COUNTY PROPERTY, SECTION 9.29.080 TITLED REWARD FOR INFORMATION LEADING TO ARREST OF PERPETRATOR SECTION 9.29.090 TITLED GRAFFITI REWARD AND ABATEMENT FUND, SECTION 9.29.100 TITLED IMPOSITION OF CIVIL LIABILITY ON PARENT(S) OR GUARDIAN(S) HAVING CUSTODY AND CONTROL OF MINOR CHILD, SECTION 9.29.110 TITLED VIOLATION; PENALTY, SECTION 9.29.120 TITLED APPEALS TO THE BOARD OF COUNTY COMMISSIONERS; SECTION 9.29.130 TITLED HEARING PROCEDURES,

SECTION 9.29.140 TITLED APPEALS OF DECISIONS OF THE BOARD; AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, pursuant to NRS 244.119, the Nye County Board of County Commissioners (“Board”) is authorized to amend the Nye County Code; and

WHEREAS, Incidents of the defacement of public and private property through the application of graffiti upon walls, rocks, buildings, fences, gates, other structures, trees and other real and personal property within Nye County constitutes a blight on the community, and is inimical to the health, safety and general welfare of the community; and

WHEREAS, NRS 244.3693 provides that the board of county commissioners may bring an action against a person responsible for placing graffiti on the property of the county to recover a civil penalty and damages for the cost of removing or covering the graffiti placed on such property; and

WHEREAS, NRS 244.36935 provides that the board of county commissioners may adopt by ordinance procedures pursuant to which officers, employees or other designees of the county may cover or remove graffiti that is placed on residential property; and

WHEREAS, NRS 244.3694 provides that the board of county commissioners of a county may adopt by ordinance procedures pursuant to which the board or its designee may order an owner of nonresidential property within the county to cover or remove graffiti that is placed on that nonresidential property to protect the public health, safety and welfare of the residents of the county and to prevent blight upon the community; and

WHEREAS, NRS 244.3695 provides that the board of county commissioners shall create a graffiti reward and abatement fund. The money in the fund must be used to pay a reward to a person who, in response to the offer of a reward, provides information which results in the identification, apprehension and conviction of a person who violates a county ordinance that prohibits graffiti or other defacement of property; and

WHEREAS, the Board finds this amendment to be appropriate; and

NOW, THEREFORE, pursuant to NRS 244.110, the Board of County Commissioners of the County of Nye, State of Nevada, does ordain:

NYE COUNTY CODE IS HEREBY AMENDED AS FOLLOWS, with ~~Deletions~~ shown in strike-through, red font, and additions and modifications shown in underscored blue font:

CHAPTER 9.29 GRAFFITI

9.29.010: Short Title

9.29.020: Purpose

9.29.030: Definitions

9.29.040: Graffiti Prohibited

9.29.050: Abatement by County on Residential Property
9.29.060: Abatement by County on Non-Residential Property
9.29.070: County Property
9.29.080: Reward for Information Leading to Arrest of Perpetrator
9.29.090: Graffiti Reward and Abatement Fund
9.29.100: Imposition of Civil Liability on Parent(s) or Guardian(s) Having Custody and Control of Minor Child
9.29.110: Violation; Penalty
9.29.120: Appeals to the Board of County Commissioners
9.29.130: Hearing Procedures
9.29.140: Appeals of Decisions of the Board

9.29.010: Short Title: This chapter shall be known as the *GRAFFITI ORDINANCE*.

9.29.020: Purpose: In order to promote the public health, safety, morals and general welfare of the present and future inhabitants of this County, this chapter is adopted and established for the avowed purpose of eradicating, at least in part, the graffiti menace in our society.

9.29.030: Definitions:

Board: The Nye County Board of County Commissioners.

County: The county of Nye, State of Nevada.

Estray: Any livestock running at large upon public or private lands in this State whose owner is unknown in the section where the animal is found.

Graffiti:

1. Any unauthorized inscription, word, figure or design that is marked, etched, scratched, drawn, painted on or affixed to the public or private property, real or personal, of another, including, without limitation, an estray or one or more head of livestock, which defaces the property.
2. The term does not include any item affixed to property which may be removed:
 - (a) By hand without defacing the property;
 - (b) Through the use of a chemical or cleaning solvent commonly used for removing an adhesive substance without defacing the property; or
 - (c) Without the use of a decal remover tool.
3. As used in this section, “decal remover tool” means any device using power or heat to remove an adhesive substance.

Livestock: All manner of farm or agricultural animals, including, but not limited to, horses, mules, mustangs, burros, cattle, buffalo, swine, goats, sheep, chickens, turkeys, and other farm fowl.

Nonresidential Property: All real property other than residential property. The term does not include real property owned by a governmental entity.

Owner: Applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

Residential Property: A parcel of land, including all structures thereon, that is an owner-occupied single-family residence.

9.29.040: Graffiti Prohibited:

It is unlawful for any person to write, paint or draw upon any wall, rock, bridge, building, fence, gate, other structure, tree or other real or personal property, either publicly or privately owned by another, without the consent of the owner, any drawing, inscription, figure or mark without the permission of the owner or operator of such property.

9.29.050: Abatement by County on Residential Property:

A. The county may cover or remove graffiti when:

1. The owner of the residential property consents to the covering or removal of the graffiti; or
2. The Board, or its designee, is unable to contact the owner of the residential property to obtain the owner's consent, the Board first provides the owner of the residential property with written notice that is:
 - a. Send by certified mail, return receipt requested, to the owner of record; and
 - b. Posted on the residential property on which the graffiti will be covered or from which the graffiti will be removed, at least thirty (30) calendar days from the date of notice before the officers, employees or other designees of the county cover or remove the graffiti.

B. The county shall pay the cost of covering or removing the graffiti.

9.29.060: Abatement by County on Non-Residential Property:

A. In order to remedy graffiti on a non-residential property, the county shall send notice by certified mail, return receipt requested, to the owner of the property of the existence on the owner's property of graffiti and provide the owner with thirty (30) calendar days from the date of the notice to cover or remove the graffiti.

B. In addition, the notice shall:

1. Provide the owner with an opportunity for a hearing and an appeal before the board or its designee. The owner shall have thirty (30) calendar days to request a hearing pursuant to section 9.29.120.;

2. Provide that the date specified in the notice by which the owner must cover or remove the graffiti is tolled for the period during which the owner requests a hearing and receives a decision; and
3. Provide the manner in which the county will recover money expended for labor and materials used to cover or remove the graffiti if the owner fails to cover or remove the graffiti.

C. The board or its designee may direct the county to cover or remove the graffiti and may recover the amount expended by the county for labor and materials used to cover or remove the graffiti if:

1. The owner failed to cover or remove the graffiti or has not requested a hearing before the board within the thirty (30) calendar days as set forth in section 9.29.120; or
2. After a hearing in which the owner did not prevail, the owner did not file an appeal to the district court pursuant to section 9.29.140, and has failed to cover or remove the graffiti within the period specified in the board's order; or
3. The board has denied the appeal of the owner, and the owner has failed to cover or remove the graffiti within the period specified in the board's order or failed to file an appeal to the district court pursuant to section 9.29.140.

D. In addition to any other reasonable means of recovering money expended by the county to cover or remove the graffiti, the board may:

1. Provide that the cost of covering or removing the graffiti is a lien upon the nonresidential property on which the graffiti was covered or from which the graffiti was removed; or
2. Make the cost of covering or removing the graffiti a special assessment against the nonresidential property on which the graffiti was covered or from which the graffiti was removed.

E. A lien authorized pursuant to this chapter shall be perfected by:

1. Mailing by certified mail a notice of the lien, separately prepared for each lot affected, addressed to the last known owner of the property at his or her last known address, as determined by the real property assessment roll in the county in which the nonresidential property is located; and
2. Filing with the county recorder of the county in which the nonresidential property is located, a statement of the amount due and unpaid and describing the property subject to the lien.

F. A special assessment authorized pursuant to this chapter must be collected at the same time and in the same manner as ordinary county taxes are collected and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

9.29.070: County Property: In the event that graffiti is placed on any county property, or property facing or bordering a street or road, the county will be considered to be the victim of graffiti and suffers damage for the purpose of prosecution of any person violating any section of this chapter.

9.29.080: Reward for Information Leading to Arrest of Perpetrator:

A reward of no more than one thousand dollars (\$1,000.00) may be paid to a person who, in response to an offer of a reward by the county, provides information resulting in the identification, apprehension or conviction of a person who is alleged to have violated or who violates this chapter.

9.29.090: Graffiti Reward and Abatement Fund:

A. The graffiti reward and abatement fund is hereby created in the general fund.

B. When a person pleads or is found guilty of violating this chapter, the court shall include an administrative assessment of two hundred and fifty dollars (\$250.00) for each violation in addition to any other fine or penalty. The money collected must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for credit to the graffiti reward and abatement fund.

C. Upon a majority vote of the board of county commissioners, funding may be directed by any source to the graffiti reward and abatement fund.

D. If sufficient money is available in the graffiti reward and abatement fund, the Nye County Sheriff, or County Manager, may offer a reward, not to exceed one thousand dollars (\$1,000.00), for information leading to the identification, apprehension and conviction of a person who violates this chapter. The reward must be paid out of the graffiti reward and abatement fund upon approval of the board of county commissioners.

9.29.100: Imposition of Civil Liability on Parent(s) or Guardian(s) Having Custody and Control of Minor Child:

A violation of this chapter by a person under the age of eighteen (18) creates a civil cause of action that may be pursued against that minor child's parents or guardians having custody and control of the minor child by anyone who has sustained damage caused by the violation of this chapter. For purposes of this section, any reward the county pays pursuant to this chapter shall be deemed damage sustained by the county.

9.29.110: Violation; Penalty:

Any violation of any provision of this chapter shall be a misdemeanor. Each act of graffiti that is prohibited by the provisions of this chapter 9.29 shall be a separate violation of this chapter.

A. In addition, the court may order a person found guilty of violating this chapter 9.29 to cover or remove the graffiti.

B. The county may bring a civil action against any person found guilty of violating this chapter 9.29 to recover a civil penalty and damages for the cost of removing or covering the graffiti.

9.29.120: Appeals to the Board of County Commissioners:

- A. Any person who is entitled to a hearing before the board pursuant to this chapter shall be notified by certified mail, return receipt requested, sent to the last known address of the person. Within thirty (30) calendar days of the date of the notice, the person may file with the county clerk a written request for hearing before the board.
- B. If a hearing is requested within the specified time period, the board shall hear the appeal no later than thirty (30) business days after receipt of the written request for hearing. The county clerk shall notify the person in writing by certified mail, return receipt requested, of the date, time and place of the hearing. Such notice shall be made to the person at least ten (10) calendar days prior to the date of the hearing. The board shall act expeditiously to decide the matter and may uphold, overturn or modify the decision that the person violated this chapter.

9.29.130: Hearing Procedures:

At all hearings before the board, the following procedure shall apply:

- A. Oral testimony may be taken.
- B. The parties to the hearing have the right to:
 - 1. Call witnesses.
 - 2. Introduce exhibits relevant to the issues of the case.
 - 3. Offer rebuttal evidence.
- C. If the person entitled to a hearing does not testify in his or her own behalf, he/she may be called and examined.
- D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted.
- E. The parties or their counsel may by written stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection.
- F. Consider all evidence and testimony in support of and in opposition to the charges.
- G. Enter in the minutes of the board, the findings, conclusions, decision and action taken by the board.
- H. Within ten (10) calendar days of the date of the hearing, the county clerk shall notify the person in writing by certified mail, return receipt requested, of the board's determination in the matter.
- I. The decision of the board is a final decision for the purpose of judicial review.

9.29.140: Appeals of Decisions of the Board:

Any party who is aggrieved by a final decision of the board may appeal that decision to the district court by filing a petition for judicial review.

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 6th day of October, 2025.

Proposed on the ____ day of _____, 2025.

Proposed by:

Adopted on the ____ day of _____ 2025.

Vote: Ayes: Commissioners:
Nays: Commissioners:
Absent: Commissioners:

BY: _____

Ron Boskovich, Chair
Nye County Board of
County Commissioners

ATTEST: _____

Cori Freidhof
Clerk and Ex-Officio
Clerk of the Board