



Legislation Details (With Text)

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Title: A Local Law to amend the administrative code of the city of New York, in relation to imposing a fine against the owners of commercial buildings and residential buildings of six or more units who do not remove graffiti from their premises, and in relation to allowing the city to clean graffiti from these buildings without the consent of the owner of the property.

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Int. No. 604

By Council Members Monserrate, Vallone Jr., Addabbo, Avella, Gentile, Gerson, Koppell, Martinez, Nelson, Rivera, Sears and Liu

A Local Law to amend the administrative code of the city of New York, in relation to imposing a fine against the owners of commercial buildings and residential buildings of six or more units who do not remove graffiti from their premises, and in relation to allowing the city to clean graffiti from these buildings without the consent of the owner of the property.

Be it enacted by the Council as follows:

Section One. Legislative Findings and Intent.

The City Council finds that graffiti is a public nuisance, one that degrades the quality of life in neighborhoods and communities across the city. Graffiti creates an atmosphere of neglect, inviting criminal activity and contributing to a feeling of disorderliness and fear.

In light of these considerations, it is important that graffiti in public view be cleaned as quickly as possible, while respecting property rights and First Amendment free speech rights.

The goal of this legislation is to accommodate both of these important interests and to craft a solution to the City's graffiti problem that both adequately addresses the need to rid our communities of graffiti as well as protect our important freedoms. By imposing fines against the owners of certain property who fail to remove graffiti from their premises, coupled with granting to the City the ability to clean graffiti in public view from commercial buildings and residential buildings of six or more dwelling units, after an adequate notification process to property owners of such buildings, this legislation will improve the quality of life for our residents while protecting our cherished liberties.

§ 2. Chapter one of title ten of the administrative code of the city of New York is amended to add a new section 10-117.3, to read as follows:

§10-117.3 Penalties and Remedies for Failure to Remove Graffiti From Certain Premises.

(a) Definitions. For purposes of this section, the following terms shall have the following meaning:

(1) "Graffiti" means any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public from a public place that is drawn, painted, chiseled, scratched, or etched on a commercial building or residential building, or any portion or structure thereof, including fencing, provided, however, that this definition shall not include advertising or any other letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on a commercial building or residential building by an owner of the property, a tenant of the property, by an authorized agent of such owner or tenant, or unless otherwise approved by the owner or tenant.

(2) "Advertising" means any letter, word, name, number, symbol, slogan, message, drawing, picture, writing, or other mark of any kind lawfully placed on a commercial building or residential building by an owner or tenant of the property, or an agent of such owner or tenant, for the purpose of promoting products or services or conveying information to the public.

(3) "Commercial building" means a building which is used, or any building a portion of which is used, for buying, selling or otherwise providing goods or services, or for other lawful business, commercial, professional services or manufacturing activities.

(4) "Residential building" means a building containing six or more separate dwelling units.

(5) "Public place" means a place to which the public or a substantial group of persons has access including, but not limited to, any highway, street, road, sidewalk, parking area, shopping area, place of amusement, playground, park or beach.

(b) Duty to Keep Property Free of Graffiti. The owner of every commercial building and residential building shall keep and cause to be kept such building free of all graffiti and graffiti-like defacements that are visible from a public place.

(c) Penalty for Failure to Remove Graffiti From Property and City's Ability to Remove Graffiti From Commercial or Residential Buildings. The owner of a commercial building or residential building who has been given written notice to remove graffiti from such building, and who fails to remove such graffiti within thirty days of receipt of such notice, shall be liable for a civil

penalty for each violation of not less than one hundred fifty dollars nor more than three hundred dollars. Such civil penalty may be recovered in a proceeding before the environmental control board. Notice to remove graffiti from a commercial or residential building shall be given by delivering such notice to the owner or to an agent of the owner or to a person of suitable age and discretion at the residence or place of business of the owner. If upon reasonable application such delivery cannot be completed, the appropriate city agency may affix such notice in a conspicuous place at the owner's place of business or residence or place this notice under the entrance door at either of such locations or deliver such notice to a person employed by the owner of the property on which the graffiti is located. Such written notice shall also indicate that if the owner of a commercial or residential building fails to remove such graffiti within thirty days of receipt of such notice, then the city may cause such graffiti visible to the public from a public place to be removed. Such removal may be conducted pursuant to a written consent signed by the property owner, lessee, tenant, occupant or other person in charge of such commercial building or residential building. If the property owner, lessee, tenant, occupant or other person in charge of any commercial building or residential building does not give written consent authorizing removal of the graffiti, then the department of sanitation, community assistance unit, or any other agency designated by the mayor may remove such graffiti and graffiti-like defacement without securing the consent of the owner, lessee, tenant, occupant or other person in charge of such commercial building or residential building. In addition to police officers, officers and employees of the department of consumer affairs, sanitation, environmental protection and transportation shall have the power to enforce the provisions of this subsection and may issue notices of violation, appearance tickets or summonses for violations thereof.

§ 3. This local law shall become effective immediately.

TB
10/29/03