



Legislation Details (With Text)

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Title: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to penalties for violating park rules

Sponsors: Melissa Mark-Viverito, Helen K. Rosenthal, Ritchie J. Torres, Jumaane D. Williams, Vanessa L. Gibson, Mark Levine, Laurie A. Cumbo, Ydanis A. Rodriguez, Stephen T. Levin, Donovan J. Richards, Annabel Palma, Daniel R. Garodnick, Mathieu Eugene, Brad S. Lander

Indexes: Agency Rule-making Required

Attachments: 1. Legislative History Report, 2. Summary of Int. No. 1056-A, 3. Summary of Int. No. 1056, 4. Int. No. 1056-A - 2/5/16, 5. Committee Report 1/25/16, 6. Hearing Testimony 1/25/16, 7. Hearing Transcript 1/25/16, 8. February 5, 2016 - Stated Meeting Agenda with Links to Files, 9. Proposed Int. No. 1056-A - 5/24/16, 10. Committee Report 5/25/16, 11. Hearing Transcript 5/25/16, 12. May 25, 2016 - Stated Meeting Agenda with Links to Files, 13. Fiscal Impact Statement, 14. Int. No. 1056-A (FINAL), 15. Hearing Transcript - Stated Meeting 5-25-16, 16. Mayor's Letter, 17. Minutes of the Stated Meeting - May 25, 2016, 18. Local Law 70

Date	Ver.	Action By	Action	Result
1/25/2016	*	Committee on Public Safety	P-C Item Laid Over by Comm	
1/25/2016	*	Committee on Public Safety	Hearing on P-C Item by Comm	
2/5/2016	*	City Council	Introduced by Council	
2/5/2016	*	City Council	Referred to Comm by Council	
5/25/2016	*	Committee on Public Safety	Hearing Held by Committee	
5/25/2016	*	Committee on Public Safety	Amendment Proposed by Comm	
5/25/2016	*	Committee on Public Safety	Amended by Committee	
5/25/2016	A	Committee on Public Safety	Approved by Committee	Pass
5/25/2016	A	City Council	Approved by Council	Pass
5/25/2016	A	City Council	Sent to Mayor by Council	
6/13/2016	A	Mayor	Hearing Held by Mayor	
6/13/2016	A	Mayor	Signed Into Law by Mayor	
6/13/2016	A	City Council	Recved from Mayor by Council	

Int. No. 1056-A

By The Speaker (Council Member Mark-Viverito) and Council Members Rosenthal, Torres, Williams, Gibson, Levine, Cumbo, Rodriguez, Levin, Richards, Palma, Garodnick, Eugene and Lander

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to penalties for violating park rules

Be it enacted by the Council as follows:

Section 1. Paragraph 9 of subdivision a of section 533 of the New York city charter, as amended by chapter 167 of the laws of 2010, is amended to read as follows:

9. to establish and enforce rules and regulations for the use, government and protection of public parks and of all property under the charge and control of the department, which rules and regulations so far as practicable shall be uniform in all boroughs and shall have the force and effect of law. Such rules and regulations shall apply to and be enforceable within public parks, recreational facilities and other property under the jurisdiction of the Hudson River park trust, the battery park city authority and the Brooklyn bridge park corporation provided that such trust, authority or corporation have entered into agreements with the commissioner to provide for the maintenance, protection and/or government of such property by the department, except to the extent that such rules and regulations are inconsistent with specific rules and regulations of the Hudson river park trust, the battery park city authority or the Brooklyn bridge park corporation.

(i) [Any] Except as otherwise provided by subparagraphs (ii) and (iii) of this paragraph, any violation of such rules or regulations[, except any violation of subparagraph (ii) of this paragraph,] shall be [a misdemeanor triable by a judge of the criminal court of the city of New York and] an offense punishable by [not more than ninety days] imprisonment of up to one day or by a fine of not more than [one thousand] 200 dollars[or by both]. Any violation of such rules or regulations shall also subject the violator to a civil penalty of not more than [ten thousand] 300 dollars for each violation, provided that the default judgment for any such violation shall not exceed 150 percent of the scheduled penalty as set forth in section 3-116 of title 48 of the rules of the city of New York or any successor provision, which may be recovered in a proceeding before the [environmental control board] office of administrative trials and hearings pursuant to section 1049-a. Such proceeding shall be commenced by the service of a notice of violation returnable to [the environmental control board] such office pursuant to such section.

(ii) [Any violation of a rule or regulation concerning the unlawful cutting, removal or destruction of any tree shall be a misdemeanor triable by a judge of the criminal court of the city of New York and punishable by not more than one year imprisonment or by a fine of not more than fifteen thousand dollars or by both. Any violation of a rule or regulation concerning the unlawful cutting, removal or destruction of any tree shall also subject the violator to a civil penalty of not more than ten thousand dollars for each violation which may be recovered in a proceeding before the environmental control board. Such proceeding shall be commenced by the service of a notice of violation returnable to the environmental control board. The environmental control board shall have the power to impose the civil penalties prescribed herein;] Notwithstanding subparagraph (i) of this paragraph, the civil penalty limitations in relation to open container restrictions, littering and urination, and noise set forth in sections 10-173, 16-141 and 24-270, respectively, shall govern where applicable.

(iii) Notwithstanding subparagraphs (i) and (ii) of this paragraph, the administrative code may classify violations of such rules as misdemeanors, and may prescribe sanctions consistent with such classification. Violations of rules that are subject to misdemeanor sanctions in accordance with this subparagraph and the administrative code may also subject the violator to civil penalties greater than those specified in subparagraph (i), as may be provided in such code.

§ 2. Paragraph 9 of subdivision a of section 533 of the New York city charter, as amended by chapter 167 of the laws of 2010, is amended to read as follows:

9. to establish and enforce rules and regulations for the use, government and protection of public parks and of all property under the charge or control of the department, which rules and regulations so far as practicable shall be uniform in all boroughs and shall have the force and effect of law. Such rules and regulations shall apply to and shall be enforceable within public parks, recreational facilities and other property under the jurisdiction of the Hudson river park trust, the battery park city authority and the Brooklyn bridge park corporation provided that such trust, authority or corporation have entered into agreements with the commissioner to provide for the maintenance, protection and/or government of such property by the

department, except to the extent that such rules and regulations are inconsistent with specific rules and regulations of the Hudson river park trust, the battery park city authority or the Brooklyn bridge park corporation.

(i) Any violation of such rules or regulations, except any violation of [subparagraph] subparagraphs (ii) and (iii) of this paragraph, shall be a misdemeanor triable by a judge of the criminal court of the city of New York and punishable by not more than ninety days imprisonment or by a fine of not more than one thousand dollars. Any violation of such rules or regulations shall also subject the violator to a civil penalty of not more than ten thousand dollars for each violation which may be recovered in a proceeding before the environmental control board. Such proceeding shall be commenced by the service of a notice of violation returnable to the environmental control board.

(ii) Any violation of a rule or regulation concerning the unlawful cutting, removal or destruction of any tree shall be a misdemeanor triable by a judge of the criminal court of the city of New York and punishable by not more than one year imprisonment or by a fine of not more than fifteen thousand dollars or by both. Any violation of a rule or regulation concerning the unlawful cutting, removal or destruction of any tree shall also subject the violator to a civil penalty of not more than ten thousand dollars for each violation which may be recovered in a proceeding before the environmental control board. Such proceeding shall be commenced by the service of a notice of violation returnable to the environmental control board. The environmental control board shall have the power to impose the civil penalties prescribed herein;

(iii) Any violation of sections 1-03(a) and 1-03(c)(2) of such rules and regulations shall be an offense punishable by imprisonment of up to one day or a fine of not more than 200 dollars;

§ 3. Title 18 of the administrative code of the city of New York is amended by adding new sections 18-146 and 18-147 to read as follows:

§18-146 Prohibitions in Parks.

a. Penalties. In accordance with subparagraph (ii) of paragraph 9 of section 533 of the charter, the

violation of any provision of this section shall be a misdemeanor punishable by not more than 20 days imprisonment or by a fine of not more than 1,000 dollars. Any person who violates this section shall, for the first violation, also be liable for a civil penalty of not more than 5,000 dollars, and for the second or any subsequent violation committed within a twelve month period, for a civil penalty of no more than 10,000 dollars, which may be recovered in a proceeding before the office of administrative trials and hearings pursuant to section 1049-a of the charter. For the purposes of this subdivision, the term “first violation” means any number of violations issued during a single incident. Nothing in this section shall be construed to prevent the department from promulgating additional rules concerning activities within the scope of this section; provided that except as specifically provided in this section, violation of such additional rules shall be subject to penalties in accordance with subparagraph (i) of paragraph 9 of section 533 of the charter rather than this section.

b. Notwithstanding any provision of law to the contrary, the civil penalty limitation in relation to noise set forth in section 24-270 shall govern where applicable.

c. Offenses. The prohibitions set forth in this subdivision shall apply to public parks and to all property under the charge and control of the department.

1. Failure to comply with lawful order. No person shall fail, neglect or refuse to comply with the lawful direction or command of any member of the police department, peace officer, park supervisor or such person’s superior, lifeguard, or department employee under the command of the parks enforcement patrol division.

2. Pollute waters. No person shall throw, drop, allow to fall, or discharge into or leave in, or otherwise introduce into the waters within the jurisdiction of the department, including pools and bathing areas, or any tributary, brook, stream, sewer or drain flowing into said waters, any substance, liquid or solid, gas, or other item which may or will result in the pollution of said waters.

3. Unlawful dumping. No person shall engage in unlawful dumping. For purposes of this subdivision “unlawful dumping” shall mean suffering or permitting any dirt, sand, gravel, clay, loam, stone, rocks, rubble, building rubbish, sawdust, shavings or trade or household waste, refuse, ashes, manure, garbage, rubbish or

debris of any sort or any other organic or inorganic material or thing or other offensive matter being transported in a dump truck or other vehicle or conveyance to be dumped, deposited or otherwise disposed of.

4. Aviation. No person shall voluntarily bring, land or cause to alight within or upon the jurisdiction of the department, any airplane, hot air balloon, parachute, hang glider, or other aerial craft or device, that endangers any person or property, except that certain areas may be designated appropriate landing places for medical evacuation helicopters. For the purposes of this subdivision “voluntarily” shall mean anything other than a forced landing caused by mechanical or structural failure of the aircraft or other aerial device.

5. Explosives, firearms and weapons. No person shall bring into or have in his or her possession any firearms, slingshots, firecrackers, missile propelling instruments or explosives, including any substance, compound or mixture having properties of such a character that alone or in combination with other substances, compounds or mixtures, propel missiles, explode or decompose to produce flames, combustion, noise, or noxious or dangerous odors; provided that this subdivision shall not apply to: a sworn member of the uniformed force of the police department, whether on or off-duty; persons in the military or other service of the United States who are in pursuit of official duty or duly authorized by federal law, regulation or order to possess the relevant firearm or other item; persons in the military service of the state of New York when on duty and duly authorized by applicable regulations to possess the relevant firearm or other item; police officers as defined by subdivision 34 of section 1.20 of the criminal procedure law, if not otherwise specified by this subdivision, when on duty; or peace officers as defined by section 2.10 of the criminal procedure law, when on duty. Nothing in this subdivision shall be construed to prohibit the proper use of cigarette lighters, matches or of charcoal lighter fluid in proper containers in picnic grills where permissible pursuant to the rules promulgated by the commissioner.

6. Animals, nests and eggs. Except pursuant to a permit for trapping issued by the department, no person shall molest, chase, harass, injure, wound, trap, hunt, shoot, throw missiles at, kill or remove any animal, any nest, or the eggs of any amphibian, reptile or bird, or, otherwise harm or intentionally take actions

that could reasonably harm any animal, nest, or such eggs. Further, no person shall knowingly buy, receive, have in his or her possession, sell or give away any such animal or egg taken from or killed within the jurisdiction of the department including any zoo area.

7. Failure to control animals. No person owning, possessing or controlling any animal shall cause or allow such animal to be unleashed or out of control in a manner prohibited by the rules of the department.

8. Trespass. No person, unless authorized to do so, shall knowingly enter or remain in a building or other structure, or upon real property, which is fenced, barricaded or otherwise enclosed in a manner designed to exclude or otherwise discourage entrance by any unauthorized individual, or shall enter or leave the jurisdiction of the department except by designated entrance ways or exits.

9. Fee evasion. No person shall gain or attempt to gain admittance to department facilities or structures for the use of which charge is made without paying such charge.

10. Climbing. No person shall climb upon any statue or artwork not specifically intended for climbing purposes in a manner that damages or could reasonably damage such statue or artwork.

11. Dangerous roads. No person shall render dangerous any part of a road.

12. Unlawful exposure. No person shall appear in public in such a manner that one's genitalia are unclothed or exposed.

13. Unlawful commercial activity. No person shall engage in any commercial activity or commercial speech, except pursuant to a permit issued by the department.

14. Events without permits. No person shall hold or sponsor any event that significantly interferes with ordinary park use, as such interference is defined by rules of the department, without a permit issued by the department, or erect any structure, stand, booth, platform, or exhibit in connection with any event without a permit issued by the department.

15. Unauthorized vending. No person shall vend in a manner prohibited by the rules of the department.

16. Noise at night. No person shall play or operate any musical instrument or drum, radio, tape

recorder or other device for producing sound in any park between the hours of 10:00 p.m. and 8:00 a.m., except under the express terms of a permit issued by the department, provided that the department may vary the hours specified in this paragraph in a particular park or area by means of posting signs advising the public of the restricted hours applicable to such park or area.

17. Sound reproduction device. No person shall play or operate any sound reproduction device, as defined by the rules of the department, without a permit issued by the department and any other city agency or agencies with pertinent jurisdiction. This paragraph shall not apply to the regular and customary use of sound reproduction devices operated in full accordance with the rules of the department so as not unreasonably to disturb other persons in their permitted uses of the park, except that in areas designated by the department as "quiet zones," such regular and customary use of sound reproduction devices shall be prohibited. Signs shall be posted in all quiet zones advising the public of such prohibition. Use of radios and other sound reproduction devices listened to solely by headphones or earphones, and inaudible to others, is permitted in all areas.

18. Music or advertising noise without a permit. No person shall play or operate any musical instrument or drum or cause any noise for advertising or commercial purposes except under the express terms of a permit issued by the department.

19. Unauthorized commercial cinematic production. No person shall engage in filming or photography, where such activity is subject to the permit requirements of the mayor's office of film, theatre and broadcasting or any successor agency, except under the express terms of a permit issued by that office.

20. Dangerous transportation vehicles. No person shall operate a bicycle, motor vehicle, or similar vehicle in a manner that endangers any other person or property.

21. Boating. No owner or operator of a boat, vessel or dinghy shall violate rules of the department regulating the operation, docking, storage, maintenance or removal of such boat, vessel or dinghy, or the use or alteration of facilities connected with such activities.

22. Unlawful fires.

(a) No person shall kindle, build, maintain, or use a fire in any place in a manner prohibited by the rules of the department.

(b) No person shall leave, throw away, drop, or toss any lighted match, cigar, or cigarette, hot coals, or other flammable material within, on, near, or against any tree, building, structure, boat, vehicle or enclosure, or in any open area. This paragraph shall not apply to extinguishing a cigar or cigarette on a paved surface.

23. Unauthorized construction. No person shall perform or cause to be performed construction work of any kind or any work incidental thereto, including, but not limited to, construction staging, except pursuant to a permit issued by the department.

24. Unauthorized excavations. No person shall perform, cause, suffer or allow to be performed any excavations or similar activity that significantly disrupts park property within or adjacent to any park property without a permit issued by the department.

25. Area use restrictions.

(a) No person shall engage in any toy or model aviation, model boating or model automobiling, or activity involving other similar devices except at such times and at such places designated or maintained therefor.

(b) No person shall roller skate, ski, skateboard, sled or coast or ride on any similar device outside areas designated and maintained for such use in a manner that endangers any other person or property.

(c) No person shall go upon the ice of any lake or pond in a manner prohibited by the department.

26. Exclusive Children's Playgrounds. No person shall enter any playground designated by sign as an exclusive children's playground unless such person is accompanied by a child, in accordance with rules of the department.

§18-147. Destruction of trees and property. Any violation of a department rule or regulation concerning the cutting, removal or destruction of any tree or concerning the destruction or abuse of other public property under the charge and control of the department, where such destruction or abuse results in significant damage

or expense, shall be a misdemeanor punishable by not more than six months imprisonment or by a fine of not more than 15,000 dollars, or by both. Any violation of a rule or regulation concerning the unlawful cutting, removal or destruction of any tree or concerning the destruction or abuse of other public property, where such destruction or abuse results in significant damage or expense, shall also subject the violator to a civil penalty of not more than 10,000 dollars for each violation which may be recovered in a proceeding before the office of administrative trials and hearings pursuant to section 1049-a of the charter. Such proceeding shall be commenced by the service of a notice of violation returnable to such office pursuant to such section. The office of administrative trials and hearings shall have the power to impose the civil penalties prescribed herein in accordance with such section.

§ 4. Sections 1 and 3 of this local law take effect one year after they become law and apply to proceedings for enforcement of section 533 of the charter commenced on and after such date. Section 2 of this local law takes effect 30 days after it becomes law and expires and is deemed repealed one year after it becomes law, and applies to proceedings for enforcement of section 533 of the charter commenced 30 days after it becomes law.

BG/BC
4/27/2016
LS 3417