9

10

11

12 13

14

15

16 17

18

19 20

22

21

23 24

25

[Graffiti Abatement Liability]

AMENDING ARTICLE XXIII, PART II, CHAPTER X, OF THE SAN FRANCISCO MUNICIPAL CODE (PUBLIC WORKS CODE), BY AMENDING SECTION 1304 RELATING TO GRAFFITI ABATEMENT PROCEDURES FOR SUBSEQUENT GRAFFITI ON THE SAME PROPERTY FOR THE 12 MONTH PERIOD FOLLOWING THE INITIAL REMOVAL, AND BY AMENDING SECTION 1305 TO EXCLUDE OWNER OPTION TO CONSENT TO DIRECTOR'S REMOVAL OF SUBSEQUENT GRAFFITI ON THE SAME PROPERTY FOR THE 12 MONTH PERIOD FOLLOWING THE INITIAL REMOVAL.

> Note: Additions are underlined; deletions are in ((double parentheses)).

Be it ordained by the People of the City and County of San Francisco:

Section 1. Article XXIII, Part II, Chapter X of the San Francisco Municipal Code (Public Works Code), is hereby amended by amending Section 1304, to read as follows:

Section 1304. Graffiti Abatement Procedures.

- Once every 12 months, the director may remove any graffiti he or she determines to be in violation of Section 1303 of this Article upon receiving written consent and waiver of liability from the owner of the property in accordance with paragraph(c) of this Section. The director may prepare and distribute forms for this purpose.
- (b) If the Director is otherwise unable to obtain consent from the property owner, the Director shall provide notice to the property

SUPERVISOR TENG, Kaufman, Newson, Yaki, Becerril, Katz, Brown, Bierman, Leno

owner of the Director's determination that the property contains graffiti in violation of Section 1303. The notice shall also state that the owner may authorize the Director to remove the graffiti by giving written consent and a waiver of liability in accordance with paragraph (c) of this Section. The notice shall be provided through the means specified in Section 1305(a).

- of the graffiti, the owner shall also sign a release on a form provided by the Director releasing the City and County from liability for damage to public or private property in connection with the removal of graffiti. If the Director makes the hardship determination described in paragraph (g), the owner may, if he or she desires, give advance consent to the Director to remove graffiti from the property in the future without the need for the Director to obtain the owner's consent prior to each removal. Such prior authorization shall be in writing to the Director and shall be signed by the owner. The prior authorization may be revoked by the owner at any time by notifying the Director in writing.
- (d) Whenever the Director is authorized by this ordinance to remove graffiti and uses public funds for the removal and for the repainting and repair of the property from which the graffiti is removed, the Director shall not authorize or undertake to provide for the painting or repair of any more extensive area than that where the graffiti is located except in the following circumstances:

- (1) The director determines in a written notice to the owner that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community; or
- (2) The owner agrees to pay for the costs of repainting or repairing the more extensive area.
- (e) If the Director has not received consent from the owner within 10 days from the date of the notice described in paragraph (b), the Director may initiate a Graffiti Abatement Action in accordance with Section 1305.
- (f) Where property defaced by graffiti is owned by a public entity other than the City and County, the Director shall cause removal of the graffiti only after securing the consent of an authorized representative of the public entity that has jurisdiction over the structure.
- more than one graffiti removal, at the public expense, from a specific property during a 12 month period. After the initial removal of graffiti by the Director, the owner shall remove all graffiti, in violation of Section 1303, placed on the same property within a 12 month period from the date of the initial removal. If the owner has failed to remove the graffiti within 10 days after Director notification specified in Section 1305(a), the Director may initiate a Graffiti Abatement Action in accordance with Sections 1305 and 1306. The Director of Public Works may provide paint to a

property owner for graffiti removal without charge. Where the

Director determines that a property is burdened with a

disproportionate share of graffiti vandalism and requiring the owner

to remove the graffiti would result in an unfair hardship, the

Director is authorized, at the City's expense, to remove graffiti

placed on the same that property more than once during that 12 month

period.

Section 2. Article XXIII, Part II, Chapter X of the San Francisco Municipal Code (Public Works Code), is hereby amended by amending Section 1305, to read as follows:

Section 1305. Notice of Graffiti Abatement Action.

- (a) Whenever the Director determines that graffiti exists in violation of Section 1303, and the Director has been unable to obtain the owner's consent to remove the graffiti in accordance with Section 1304, the Director may initiate a Graffiti Abatement Action by causing a Graffiti Abatement Notice to be served as follows:
- 1. One copy of the Notice shall be posted in a conspicuous place upon the building or property.
- 2. Once copy of the Notice shall be served upon each of the following:
- A. The person, if any, in real or apparent charge and control of the premises or property involved;
  - B. The owner of record.

## SUPERVISOR TENG

/ / /

9

11

12

13 14

15

16

17

18

19 20

21

2223

By:

24

25

3. The Director may also serve one copy of the notice upon any other parties with a recorded interest.

(b) The Graffiti Abatement Notice shall provide the property owner seven calendar days from the date of the Notice in which to remove the graffiti, consent to removal of the graffiti by the Director, notify the Director in writing that he or she has consented or consents to the graffiti, or request a hearing before the Director. If the property owner fails to take one of these actions within the above time, the property shall thereafter be subject to abatement of the graffiti by the Director in accordance with Section The City will provide the owner, not more than once during a 1306. 12 month period, the option to consent to the Director's removal of graffiti from a specific property. If the Director makes the hardship determination described in 1304(g), the Director is authorized to provide the owner with the option to consent to the Director's removal of graffiti more than once during the 12 month period.

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

MARIO M. KASHOU Deputy City Attorney



## City and County of San Francisco Tails

City Hall 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4689

## Ordinance

File Number:

990623

Date Passed:

Ordinance amending Public Works Code Sections 1304 and 1305 relating to graffiti abatement procedures for subsequent graffiti on the same property for the 12 month period following the initial removal and to exclude owner option to consent to Director's removal of subsequent graffiti on the same property for the 12 month period following the initial removal.

July 12, 1999 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

July 19, 1999 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Teng,

Yaki, Yee

Absent: 1 - Katz

File No. 990623

I hereby certify that the foregoing Ordinance was FINALLY PASSED on July 19, 1999 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Y

Clerk of the Board

JUL 3 0 1999

**Date Approved**