

**CITY OF AMSTERDAM  
COMMON COUNCIL MEETING  
AUGUST 4, 2015  
7:00 P.M.**

**ORDINANCE 2015-E (for introduction)**

**AN ORDINANCE ESTABLISHING CHAPTER 135 – GRAFFITI - OF THE CODE OF THE CITY OF AMSTERDAM**

**BY: MAYOR THANE**

**The City of Amsterdam, in Common Council convened, does hereby ordain and enact as follows:**

**Chapter 135 of the code of the City of Amsterdam is hereby stabled as indicated below:**

**CHAPTER 135: GRAFFITI**

**§135.1 Legislative Intent**

The Common Council finds that the defacement of private property by graffiti, especially vacant buildings, is proliferating throughout the City and constitutes a public nuisance. This problem requires the enactment of measures to rapidly remove graffiti to preserve, enhance and protect the aesthetics of the City and to ensure the general welfare of the public.

**§135.2 Definitions**

As used in this chapter, the following words shall have the meanings indicated:

- A. **ENFORCEMENT OFFICIAL** – For the purpose of enforcement of this chapter of the code of the City of Amsterdam an enforcement official shall be any employee of the City authorized by the Mayor to enforce this section and shall include and not be limited to any Police Officer, Housing Inspector and the Chief Code Enforcement Official.
- B. **OWNER** – Includes the following
  1. One or more persons of either sex, natural persons or individuals or corporation or partnership or agency or joint venture or titled owner of the subject real or personal property, association, joint stock companies, societies and all other entities of any kind capable of being used, who either is or claims to be the owner of such lot or land or of any occupied or unoccupied lot or land or any part therefore in the City of Amsterdam; or
  2. Any lessee, tenant or occupant of the real or personal property or any part thereof located in the City of Amsterdam; or
  3. Any agent, servant, representative or employee of any such persons or individual or corporation or partnership or agency or joint venture or titled owner of the subject real or personal property, associations, joint stock companies, societies and all other entities of any kind capable of being sued, who either is or claims to be the owner of such lot or land or any occupied or unoccupied lot or land or any part thereof in the City of Amsterdam.
- C. **GRAFFITI** – shall mean the etching, painting, covering, drawing upon or otherwise placing of a mark upon a wall, building, monument, statue, sock, vehicle or any other surface of real or personal property without the prior consent of the owner. Markings that are not a sign, artwork, protective coating or decoration are presumed to be graffiti and to have been made without the prior consent of the owner. This presumption is rebuttable and convincing evidence.

### **§135.3 Owners Responsibilities**

Owners of real and personal property in the City of Amsterdam shall remove, cover or paint over graffiti and/or otherwise restore any real personal property defaced with graffiti.

### **§135.4 Notice to Remove Graffiti**

When an enforcement office determines that real or personal property located in the City of Amsterdam has been marked or defaced by graffiti he shall serve on the owner of the subject property, as determined by public records, investigation or the records in the assessor's office at the address listed in the assessor's office for the mailing of tax bills, a notice by first class mail. The notice shall state in part. "There is graffiti on this property that violates Section 135 of the code of City of Amsterdam, should the violating conditions not be corrected within thirty days of the date of this notice, the City of Amsterdam may correct the violating condition and charge the owner of the property the cost of correcting the violation (if these charges are not promptly paid they will become a lien on the subject property)." The notice shall name the owner, describe the property and describe the graffiti.

### **§135.6 Removal by the City**

It is essential that the City of Amsterdam adopt a procedure for the efficient removal of graffiti that violates this chapter. The City or its agents may enter private property and remove the offending condition pursuant to the following procedure:

- When twenty (20) days have expired after the mailing and posting of the above-described notice the City Engineer shall direct City employees or contractors to correct the violation if the owner has not corrected the violating condition.
- The City Engineer shall cause such graffiti on such property to be removed, covered, or painted over, the actual cost of such removal, covering or painting, and any other additional costs in connection therewith, shall be certified by the City Engineer to the City Controller who shall mail a bill for same to the owner and if said bill is unpaid after 30 days the charges shall thereupon become and be a lien upon the real on which such graffiti was located and shall be added to and become a form part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes.

### **§135.7 Abatement of Bill**

A property owner who receives a bill for the removal of graffiti may appeal to the City Engineer for a reduction of the bill, within 30 days of the bill date, based on the grounds that the property owner lacked the financial and physical ability to remove the graffiti or that the property owner has been the repeated victim of graffiti. The City Engineer may reduce or waive any bill at his discretion based on these grounds and he may establish rules to administer this section.

### **§135.8 Appeal**

A property owner who has been billed pursuant to §135.6 and has timely applied for an abatement pursuant to §135.7 and has been denied the requested abatement may appeal the decision of the City Engineer to the Citizen's review Board. The determination of the Citizen's Review Board shall be binding on the City Engineer's proof in the discretion of the Citizen's review Board shall not be limited to information previously presented to the City Engineer. The Citizen's Review Board may upon a showing of any abatement factors in §135.7 may authorize a reduction of the bill amount.

This Ordinance shall take effect pursuant to Section C33 of the Charter.