

CHAPTER 31

AN ACT concerning graffiti, supplementing chapter 48 of Title 40 of the Revised Statutes and amending P.L.2002, c.128.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the “Municipal Beautification Act.”

C.40:48-2.59 Municipal powers to abate graffiti.

2. a. The governing body of every municipality may make, amend, repeal, and enforce ordinances to prohibit acts of graffiti on buildings, structures and other exposed surfaces located within the municipality and to require the owner of a building, structure or other exposed surface located in the municipality to remove graffiti.

b. For the purposes of this section, "graffiti" means any drawing, painting or making of any mark or inscription on public or private real or personal property without the prior written permission of the owner of the property.

c. (1) An ordinance requiring an owner to remove graffiti shall provide that the owner of record of the property shall be entitled to written notice of the order to remove graffiti and that the notice shall be delivered to the owner by certified and regular mail. The order shall afford the owner the opportunity to remove the graffiti within 90 days from the date that the notice is sent, however, the Department of Transportation shall be afforded 120 days from the date a notice is sent to remove graffiti from property owned by the department.

(2) The notice to remove graffiti shall contain a form to be utilized by a property owner to inform the municipality that the graffiti has been removed. The form shall contain a provision stating that by affixing a signature to the form, indicating that graffiti has been removed, the owner is certifying that the facts set forth therein are true and that the certification shall be considered as if made under oath and subject to the same penalties as provided by law for perjury.

(3) An owner who has been ordered to remove graffiti shall respond to the municipality by personal delivery or by certified mail:

(a) of any objection to the order, within 30 days of the date of the order, or

(b) of notice that the graffiti has been removed, within 90 days of the date of the order, or in the case of the Department of Transportation, within 120 days of the date of the order.

d. An owner who objects to an order to remove graffiti, pursuant to paragraph (3) of subsection c. of this section, may institute an action challenging the order before a court of competent jurisdiction within 60 days of the date of the order.

e. If a property owner does not undertake the removal of graffiti within 90 days of the date of the order, or in the case of the Department of Transportation, within 120 days of the date of the order, unless an action challenging the order to remove graffiti is still pending pursuant to subsection d. of this section, the municipality may remove the graffiti from that property and present the property owner with a detailed itemization of the costs incurred by the municipality, by certified and regular mail, for reimbursement from the property owner.

f. Whenever a municipality undertakes the removal of graffiti from any building, structure or other exposed surface, the governing body of the municipality, in addition to assessing the cost of removal as a municipal lien against the premises, may enforce the payment of such assessment, together with interest, as a debt of the owner of the property and may authorize the institution of an action at law for the collection thereof. The Superior Court shall have jurisdiction of any such action.

3. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to read as follows:

C.13:1E-217 Clean Communities Program Fund.

5. The Clean Communities Program Fund is established as a nonlapsing, revolving fund in the Department of the Treasury. The Clean Communities Program Fund shall be administered by the Department of Environmental Protection and credited, in addition to any appropriations made thereto, with all user fees imposed pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222), and any sums received as voluntary contributions from private sources. Interest received on moneys in the Clean Communities Program Fund shall be credited to the fund. Unless otherwise expressly provided by the specific appropriation thereof by the Legislature, which shall take the form of a discrete legislative appropriations act and shall not be included within the annual appropriations act, all available moneys in the Clean Communities Program Fund shall be appropriated annually solely for the following purposes and no others:

a. 10% of the estimated annual balance of the Clean Communities Program Fund shall be used for a State program of litter pickup and removal and of enforcement of litter-related laws and ordinances in State owned places and areas that are accessible to the public. Moneys in the fund may also be used by the State to abate graffiti;

b. 50% of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible municipalities with total housing units of 200 or more for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each municipality shall be solely calculated based on the proportion which the housing units of a qualifying municipality bear to the total housing units in the State. Total housing units shall be determined using the most recent federal decennial population estimates for New Jersey and its municipalities, filed in the office of the Secretary of State. Moneys in the fund may also be used by an eligible municipality to abate graffiti;

c. 30% of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible municipalities with total housing units of 200 or more for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each municipality shall be solely calculated based on the proportion which the municipal road mileage of a qualifying municipality bears to the total municipal road mileage within the State. For the purposes of this subsection, "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the Department of Transportation. Moneys in the fund may also be used by an eligible municipality to abate graffiti;

d. 10% of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible counties for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each county shall be solely calculated based on the proportion which the county road mileage of an eligible county bears to the total county road mileage within the State. For the purposes of this subsection, "county road mileage" means that road

mileage under the jurisdiction of counties, as determined by the Department of Transportation. Moneys in the fund may also be used by an eligible county to abate graffiti;

e. No eligible municipality shall receive less than \$4,000 in State aid as apportioned pursuant to subsections b. and c. of this section. A municipality or county may use up to 5% of its State aid for administrative expenses;

f. Prior to the distribution of funds pursuant to subsections a. through d. of this section:

(1) 25% of the estimated annual balance of the Clean Communities Program Fund shall be annually appropriated to the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96). These moneys shall be used by the Department of Environmental Protection for direct recycling grants to counties and municipalities, up to a maximum appropriation of \$4,000,000 per year. The moneys made available to the department from the Clean Communities Program Fund for direct recycling grants shall be annually appropriated to the State Recycling Fund until such time as an alternative funding mechanism for direct recycling grants is enacted into law; and

(2) \$300,000 of the estimated annual balance of the Clean Communities Program Fund shall be annually appropriated to the department and made available on July 1 of every year to the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior.

The organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the date on which the contract period concludes, submit a report to the Governor and the Legislature concerning its activities during the contract period and any recommendations concerning improving the program. Every eligible municipality and county shall cooperate with the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing information concerning its program of litter pickup and removal.

g. As used in this section, "graffiti" means any inscription drawn, painted or otherwise made on a bridge, building, public transportation vehicle, rock, wall, sidewalk, street or other exposed surface on public property.

The department may carry forward any unexpended balances in the Clean Communities Program Fund as of June 30 of each year.

4. This act shall take effect immediately.

Approved July 7, 2006.