



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 120534

Introduced May 31, 2012

Councilmember Oh

**Referred to the
Committee on Public Property and Public Works**

AN ORDINANCE

Amending Title 10 of The Philadelphia Code, entitled "Regulation of Individual Conduct and Activity," to prohibit certain activities that damage, deface, or risk damage to, public artwork or memorials, and to provide for penalties for violations of such prohibitions, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 10 of The Philadelphia Code is hereby amended to read as follows:

TITLE 10. REGULATION OF INDIVIDUAL CONDUCT AND ACTIVITY

* * *

CHAPTER 10-200. ETHNIC INTIMIDATION AND INSTITUTIONAL VANDALISM

§ 10-201. Definitions.

* * *

(2) Institutional vandalism is the intentional desecration, as defined in Section 5509 of the Crime Code (18 Pa. C.S. § 5509), vandalizing, defacing, defiling or otherwise damaging of:

(a) any church, synagogue or other communal facility regularly used for religious worship, meditation, contemplation or other related purposes;

(b) any cemetery, mortuary or other facility used for the purpose of

City of Philadelphia

BILL NO. 120534 continued

burial or memorializing the dead;

(c) any courthouse, historic monument or landmark, museum or civic shrine, including, without limitation, Philadelphia City [Hall;] *Hall*, and any public artwork or memorial including, but not limited to, public sculpture, and any military, police, firefighter or other national defense or public safety memorial.

(d) the grounds occupied by any facility set forth in subsections 2(a), 2(b) or 2(c);

(e) any property located in any facility set forth in subsections 2(a), 2(b) or 2(c).

§ 10-202. Prohibited Conduct.

(1) No person shall commit the offense of ethnic intimidation and no person shall commit the offense of institutional vandalism.

(2) No person shall display, with the intent to intimidate another person or to incite violence, in a place of employment, in a public accommodation, in a public facility, on public property or in the public right-of-way, the following symbols of virulent animus: a noose; a burning cross; or a swastika.

§ 10-203. Penalties.

(1) [The penalty for violation] *Violation* of any provision of this Chapter [is a fine of three hundred (300) dollars, except that a violation of subsection 10-202(2)] is subject to the monetary fines established for a Class III offense and imprisonment of up to ninety (90) days.

* * *

CHAPTER 10-600. PUBLIC PLACES – PROHIBITED CONDUCT

* * *

§ 10-610. Skateboarding, Rollerblading and Bicycling on Public Property.

(1) No person shall use a skateboard in any of the following areas:

(a) the area bounded by Arch street, Fifteenth street, Broad street, and John F. Kennedy boulevard (the Municipal Services Building plaza and sidewalks); or

City of Philadelphia

BILL NO. 120534 continued

(b) on public property unless use of a skateboard on such property is authorized by regulation, ordinance or statute, or is otherwise authorized by the governmental agency, department or commission responsible for such property. "Public Property" does not include public roads, highways, bicycle and/or skateboard paths, or sidewalks abutting private property. "Public Property" also shall not include Recreation Department facilities, which facilities shall be subject to the rules and regulations of the Recreation Department.

(2) No person shall use a skateboard, rollerblades or a bicycle on portions of private property, including but not limited to outdoor plazas, that are dedicated to use by the general public, where the owner of such private property has posted a notice indicating that such activity is prohibited on that property pursuant to the Philadelphia Code and that violation of the prohibition may lead to confiscation and forfeiture of skateboards, rollerblades and bicycles used on the property.

(3) *With respect to any outdoor public artwork or memorial including, but not limited to, public sculpture, and any military, police, firefighter or other national defense or public safety memorial, no person shall, while using a skateboard, rollerblades, or a bicycle, intentionally:*

(a) *come into contact with any such outdoor public artwork or memorial; or*

(b) *cause such skateboard, rollerblades, or a bicycle, to come into contact with any such outdoor public artwork or memorial.*

(4) The parent of any child under the age of eighteen (18) years who violates this Section shall also be in violation of this Section.

([4]5) Penalties.

(a) The penalty for a violation of [this Section] *subsection (1) or (2)* shall be a civil penalty of three hundred dollars (\$300), provided that the total amount of *such* civil penalties assessed against a child and his or her parents shall not exceed a total of three hundred dollars (\$300) based upon each violation by the child.

(b) *The penalty for a violation of subsection (3) shall be a fine of two thousand dollars (\$2,000), and imprisonment of up to ninety (90) days; provided as follows: (i) the total amount of fines for a violation of subsection (3) assessed against a child and his or her parents shall not exceed a total of two thousand dollars (\$2,000)*

City of Philadelphia

BILL NO. 120534 continued

based upon each violation by the child; (ii) imprisonment shall not be imposed on a minor or his or her parent.

(c) An additional penalty for a violation of this Section shall be forfeiture of any skateboard, rollerblade or bicycle used in violation of this Section, unless it is proven to the Court by a preponderance of the evidence that the defendant does not own the item and the owner did not or could not have reasonably known that the item would be used in violation of this Section. Further the total amount of any penalty assessed for each violation, taking into account the value of both the fine and forfeiture, shall not exceed three hundred dollars (\$300)[.] *with respect to a violation of subsection (1) or (2), and two thousand dollars (\$2,000) with respect to a violation of subsection (3).*

([5]6) Enforcement.

(a) Whenever a police officer has probable cause to believe a skateboard, rollerblade or bicycle was used or is being used in violation of this Section the officer may seize the item.

(b) Any person authorized to enforce ordinances may issue a ticket to any person in violation of this [Section,] *Section*.

(c) *With respect to violations of subsection (1) or (2), a ticket shall be issued pursuant to the procedures set forth in § [10-1606. Contested] 10-1606, and contested charges shall be resolved, fines shall be imposed, and payments shall be collected and processed by the Director of Finance and the Bureau of Administrative Adjudication, all pursuant to the procedures set forth in §§ 10-1604 through 10-1609. Notwithstanding the foregoing, any person to whom a ticket is issued for a violation of subsection (1) or (2) may, within eight (8) days of receipt, pay seventy-five (\$75) in lieu of contesting the violation and in lieu of any other fines or penalties. [The] Such ticket shall contain an appropriate notice to the recipient of his or her right not to contest the violation and appropriate instructions and procedures for payment, as prescribed by the Director of Finance. [Upon timely payment under this subsection, the Police Department shall make any item seized under this Section available for return to the offender, pursuant to the procedures established by the Police Department.]*

([c]d) The removal of any notice posted pursuant to subsection (2) by anyone other than the owner, or agent of the owner, of the posted property shall constitute a separate violation of this Section.

(e) *With respect to violations of subsection (3), a ticket shall be issued pursuant to the procedures set forth in § 1-112, except that the amount to be remitted pursuant to § 1-112(3) in response to a notice of violation shall be \$500.*

City of Philadelphia

BILL NO. 120534 continued

(f) Upon timely payment under subsection (b)(c) or (e), the Police Department shall make any item seized under this Section available for return to the offender, pursuant to the procedures established by the Police Department.

SECTION 2. This Ordinance shall be effective immediately.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

City of Philadelphia

BILL NO. 120534 continued