

**DECREE 75 of 2013**

**(February 22)**

**"Whereby it is promoted the artistic and responsible practice of graffiti in the city and other dispositions are dictated"**

**THE MAYOR OF BOGOTÁ, D. C.**

**In the use of its constitutional and legal faculties, especially the ones conferred by the articles 35 y 38, numerals 1 y 4 of the Law Decree 1421 of 1993, by the District Agreement of 2011,**

**And**

**CONSIDERING:**

That the article 71 of the Political Constitution of 1991 establishes that the search for knowledge and artistic expression are free.

That the article 82 of the Political Letter embodies that is a duty of the State to *"Ensure the protection of the integrity of the public space and for its destination to the communal use, which prevails over particular interest"*

That the article 5° of the 9ª Law of 1989, by which rules about urban renewal are dictated at a national level, defines public space in the following terms: *"Public space is understand as the set of public immovable goods and the architectural and natural elements of the private immovable's, that because of their nature are aimed or used for the satisfaction of collective urban needs which transcend the limits of individual interests of the inhabitants"*

That the article 18° of the Law 397 of 1997 states that the Estate, through the Culture Ministry and territorial entities, *"Will establish special stimulus and will promote creative, artistic and cultural activities, research and the strengthening of cultural expressions"*

That the Article 5° of the Law 1333 of 2009, establish that are considered as environmental infractions *" every action or omission that constitutes a violation of the norms contained in the Renewable Natural Resources Code, Decree-Law [2811](#) of 1974, in the Law [99](#) of 1993, in the Law [165](#) of 1994 and in other current environmental dispositions in which they will be modify or substituted and in the administrative acts establish by the competent environmental authority. It will be also considered as an environmental infraction the commit of an environmental damage. Environmental administrative sanctions may be applied when responsibility is constituted, notwithstanding liability within third parties.*

That the Article 21° of the District Decree 190 of 2004 –Land Management Plan, defines the system of public space in the following terms: *"Is the set of urban spaces conformed by parks, squares, pedestrian streets and sidewalks, environmental controls of main streets, underground, the facades of buildings tree lines, front gardens and other natural and constructed elements in the national legislation and its regulations.*

It is a network that addresses the main objective of ensuring the balance amongst population densities, urban activities and environmental conditions, and it is functionally integrated with the elements of the Principal Ecologic Structure, which is complemented with the goal of improving the environmental and living conditions of the city.

That according to the Article 86° of the District Agreement 79 of 2003 –Bogota's Police Code -, it is not considered as visual exterior advertisement the artistic expressions or murals, *“ as long as they do not have commercial messages or of other nature and with the conformity of the authorization of the respective competent authority”*

That the article 4° of the District Agreement 18 of 1999 assigns the Administrative Department of the Defence of Public Space, the functions of *“Formulate the politics, plans and district programs related to the defence, inspection, vigilance, regulation and control of the public space” and to “coordinate and promote with the district and local authorities the activities that promote the adequate use of the public space and that prevent its deterioration”*

That the article 90° of the district Agreement 257 of 2006 establish that the mission of the Culture, Recreation and Sports Sector is to *“ Guarantee the conditions for the affective, progressive and sustainable exercise of the rights of culture, recreation and sports of the inhabitants of the Capital district, so as to strengthen the cultural, artistic, patrimonial and sports areas”*

That the article 103° of the Agreement mentioned before states that the District Environmental Secretary has the function of an environmental authority in the Capital District *“exercise the control and vigilance of the compliance of the environmental protection rules and the use of natural resources, execute pertinent police actions , and particularly to investigate and impose sanctions to the ones that infringe such norms”, “to design and coordinate the strategies of the air quality improvement and the prevention and correction of the visual, noise and electromagnetic contamination, as well as to establish networks of the respective monitoring” and “ to formulate, execute and supervise, in coordination with competence entities, the implementation of a district environmental educational policy in conformity with the national ruling and politics of the matter in question”.*

That the Article 5 of the district Decree 189 of 2011, establish that is not to be considered as exterior visual advertisement the artistic expressions such as paintings or murals, as long as they do not have commercial messages or of other nature. Graffiti is included under the artistic expressions, as long as they do not make any reference to a brand, service or product.

That the mentioned Decree, defines visual contamination as the saturation of landscape and public space through the fixation and exposition of exterior visual advertisement (regulated or not) or by elements that impact the landscape even if they are not considered as exterior visual advertisement

That the District Agreement [482](#) of 2011 establish the norms for the graffiti practice in

the Capital District, under the framework of protection and of the public landscape of the city.

That the agreement mentioned before states that the District Administration will regulate the authorised and not authorised places for graffiti practice and will establish the educational strategies related to the compliance of the norm.

According to what was outlined before,

## **ORDERS:**

### **CHAPTER I**

#### **GENERAL DISPOSITIONS**

**Article 1º.- Object.** The object of the present Decree is to regulate the places that are not authorised for graffiti practice, establish the educational strategies related to the issue and to clarify the corrective measures that can be apply to the wrongful graffiti practice in the city, in conformity with the Agreement 482 of 2011 of the Bogotá Council.

**Paragraph.** The graffiti practice must promote and respect the principles, goals and rights enshrined in the Political Constitution as well as to respect the principle of co-responsibility, which implies the compliance of duties in the same way as the exercise of rights and freedoms.

**Article 2º.- Definitions.** For the effects of the present Decree, the following definitions are adopted::

**a) Graffiti:** Any form of temporal urban artistic and cultural expression, in which are included inscriptions, drawings, stains, illustrations, tagging or similar techniques that are made on the public space of the city, as long as they do not content commercial messages or any reference to a brand, logo, product or service.

**b) Author:** Natural or juridical person or collective that conceive and makes a graffiti.

**c) Public Space:** Set of public immovable goods and the architectural and natural elements of the private state, that because of their nature are aimed or used to the satisfaction of collective urban needs that transcend the limits of individual interests of the inhabitants

**d) Goods of Cultural Interest:** Goods of cultural interest are those that are declared as such by competent authorities, in reference to the special interest that the goods means to the community.

### **CHAPTER II**

#### **UNAUTHORIZED PLACES**

**Article 3º.- Unauthorized places**

Graffiti practice will not be permitted in the following natural or constructed surfaces

of the constitutive or complementary elements of the City's public space:

1. On the surfaces of the elements that conform the Road Subsystem of the city, as:

\* The pavement of the roads that are destined for the transit of auto motor vehicles

\* The pavement of the sidewalks and spaces for pedestrian transit.

2. On the equipment, urban furniture and road signs of the City's Transport System, such as:

1. Elements of the Public Transport system

2. The bus stops of Transmilenio and of the Integrated System of Public Transport.

3. The bike roads.

3. On the other elements or the Urban equipment such as:

1. Traffic signs, traffic lights, institutional signs

2. On the commercial carts of the metropolitan parks

3. On the commercial modules as kiosk or the ones that are given to the informal organized vendors.

4. On the modules for citizen service

5. On the modules for bike parking lots

6. On the modules for toilet services

7. On the machines of drinkable water

8. On public telephones

9. On benches

10. On bins that are located on public space

4. On the public services equipments such as:

1. On the equipments destined to the provision of public services of health, education and social well being.

2. On equipments such as cemetery and funerary services.

3. On the equipments and urban equipments of parks belonging to the city such as children playgrounds and elements related to the practice of some sports, for instance basketball boards and skating rinks, among others.

5. On the elements that conform the Principal Environmental Structure of the city, such as:

1. The Flora and Fauna district sanctuaries,

2. All city's trees

3. Forest protected areas, district ecological parks, special environmental areas and river surroundings areas.

6. In the Goods of Cultural Interest of the city, at a national and district level, in addition to monuments and structures of the city.

7. In the immovable states in which public entities provide their services whitening the city.

**Article 4°.- Faculties for prohibiting additional specific places.**

The Distrital entities that manage public space, defined under the current regulation on the matter, in an additional way of the regulations contended in the previous article, are authorised to identify and prohibit the graffiti practice on specific public space places that are under their administration.

**Paragraph** The specific prohibitions, which are additional to the general prohibition provided in the present Decree, must be settled within legal resolutions uttered by competent institutions in accordance to this article. Such resolutions must be immediately informed to the Culture Secretary, which must publish trough its mass media the constituted periodically information

**Article 5°.- Faculties to authorized temporal specific places**

Public entities are able to authorized graffiti practice in unauthorised places established in article 3° as long as it is made over an specific immovable or surface, and it is under a temporal authorization and it is done under the framework of a educational strategy which is stipulated on the Chapter III of the present Decree.

**Article 6°.- Accompaniment and Technical Support.**

The Culture, Recreation and Sports Secretary is authorised to accompany and technically support the public entities on the identification of the places mentioned on articles 4° y 5° of this Decree.

**Article 7°.- Public Information.**

The interested citizen is able to consult with the Culture, Recreation and Sports Secretary the current resolutions and regulations about graffiti practice in unauthorised public space places.

**Article 8°.- Authorisation of the graffiti practice in a private property.** In the case that is pretended to make graffiti on an architectural element or private natural immovable that is part of the public space, there must be a previous written permission provided by the owner of the immovable.

### CHAPTER III

#### EDUCATIONAL STRATEGIES

**Article 9°.- Competent entities for adopting educational strategies.** The

Culture, Recreation and Sports Secretary and its assigned and appointed entities will be the competent institutions to develop the educational strategies for the graffiti practice. For this, if it is necessary they will facilitate the participation of the District sectors.

**Paragraph:** At a local sphere, the Local City Halls will be able to develop educational strategies over the territories in which they exercise their faculties over the territories and public spaces that correspond to their jurisdiction.

For this, they will be able to request logistic and technical support to the Culture, Recreation and Sports sector entities.

**Article 10°-. Educational Strategies.** The educational strategies for the graffiti practice in Bogota D.C, will include actions oriented to stimulate the adequate graffiti practice as an artistic and cultural expression, as well as socialization activities of the current regulations directed for both, competent entities on the matter and to graffiti authors.

**Article 11°. Authorization of places for graffiti practice according to the educational strategies.** On request made by the entities of the Culture, Recreation and Sports sector as well the Local city halls, the District entities when is required will collaborate with the provision and authorization of places for the realization of the educational strategies.

Likewise, the Culture, Recreation and sports District Secretary and the local city halls will be able to promote the articulation of the educational strategies with private assets and companies.

**Paragraph.** The educational strategies must take into account the proposals of interested social sectors, for this the Culture, Recreation and Sports District Secretary and its assigned entities will establish the pertinent participation channels.

## CHAPTER IV

### CORRECTIVE MEASURES

**Article 12°-. Sanctionatory Regime.** Graffiti practice on unauthorized places of the District Capital, will entail that the competent police authorities will apply according to the current police procedures, the following corrective measures, stated on the [1°](#), [2°](#), [3°](#), [4°](#), [5°](#) y [16°](#) numerals of the article 164 del of the 79 Agreement of 2003 -Bogotá's police code:

- 1) *Public reprimand and a commitment to comply with the citizen communal rules*
- 2) *Expulsion of a public space or open to the public, and a commitment to comply with citizen communal rules*
- 3) *Attendance to citizen communal living educational programs and a commitment to comply with citizen communal rules*
- 4) *Work towards public interest, with an environmental character, educational or humanitarian assistance and a commitment to comply with citizen communal rules*

5) *Immediate public space restoration, otherwise it must be done on a deadline no longer than 72 hours.*

6) *When the restitution of the immovable is not possible or does not happen on the mentioned deadline of 72 hours, there will be a fine corresponding to half of the current legal monthly salary.*

**Paragraph 1:** The imposition of the fine does not freed the author of its obligation to later restore the public space, as it is stated in the numeral 5 of the present article..

Particularly, in the cases that graffiti practice violates the current environmental regulations, the Environmental District Secretary will apply the procedures and sanctions established en the Law [1333](#) of 2009 and the norms that modify or substitute it.

In the case that the graffiti practice is made on Cultural Interest Goods, the sanctions established on the article [10°](#) of the Law 1185 of 2008 will be apply as well as the dispositions that rule, modify or substitute it.

**Artículo 13°-. Entry into force and repeals.** The present Decree rules from the date of its publication in the District Record and repeals the contrary dispositions.

**PUBLISH AND COMPLIE**

**Given in Bogotá, D.C., at the 22 days of the month of February of the year  
2013**

**GUSTAVO PETRO U.**

**Mayor**

**CLARISA RUIZ CORREAL**

**Culture, Recreation and Sports District Secretary**

**MARIA SUSANA MUHAMAD GONZALEZ**

**Environmental Distrital Secretary**

**ALFONSO CABRERA TOSCANO**

**Government Distrital Secretary (E)**

**NOTE: Published in the District Record 5071 on the 25° of February of 2013.**