

CORPORATION OF THE CITY OF QUINTE WEST

BY-LAW NUMBER 09-45

BEING A BY-LAW TO PREVENT THE SALE OF GRAFFITI IMPLEMENTS TO MINORS IN THE CITY OF QUINTE WEST.

WHEREAS the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, s. 8 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS the *Municipal Act*, 2001, s. 11 provides municipalities may pass by-laws respecting matters within various sphere jurisdiction including the sphere of jurisdiction of Structures, including fences and signs, and the sphere of jurisdiction of Culture, parks, recreation and heritage;

AND WHEREAS the *Municipal Act*, 2001, s. 9 provides that a by-law in relation to a sphere of jurisdiction may regulate and prohibit and as part of the power to regulate and prohibit may provide for a system of licences, permits, approvals, or registrations and impose conditions as a requirement of obtaining, continuing to hold or renewing a licence, permit, approval or registration;

AND WHEREAS the *Municipal Act*, 2001, s. 150 provides that the power to regulate and govern a business includes the power to regulate or govern the place or premises used for the business includes the persons carrying it on or engaged in it, and to regulate or govern the equipment, vehicles and other personal property used or kept for hire in connection with the carrying on or engaging in the business;

AND WHEREAS the *Municipal Act*, 2001, s. 128 provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become public nuisances;

AND WHEREAS graffiti is a matter which, in the opinion of council, is or could become, or cause a public nuisance, and the sale of spray paint, broad tipped marker pens, paint pens, and glass cutting tools and glass etching tools or instruments is a matter which in the opinion of council could cause public nuisances and city council acting in good faith has determined that their sale should be prohibited and regulated in accordance with this by-law;

AND WHEREAS the municipality is imposing certain conditions on the sale of spray paint, broad tipped marker pens, paint pens, and glass cutting tools and glass etching tools or instruments for the purpose of nuisance control;

AND WHEREAS the municipality has held a public meeting at which any person who attended had an opportunity to make representation with respect to the matter, and public notice of the meeting was given in accordance with the *Municipal Act*, 2001;

AND WHEREAS the municipality may regulate matters not specifically provided for by the *Municipal Act* or any other Act for purposes related to the health, safety and wellbeing of the inhabitants of the municipality;

NOW THEREFORE the Municipal Council of the Corporation of the City of Quinte West enacts as follows:

1. **Citation**

This by-law may be cited as the “**Graffiti Implements By-Law**” of the Corporation of the City of Quinte West.

2. **Definitions**

“**City**” means the Corporation of the City of Quinte West;

“**Graffiti Implement**” means any can of spray paint, broad tipped marker pen, paint pen, glass cutting tool, or glass etching tool or instrument;

“**Broad tipped marker pen**” means a felt-tip marker, or similar implement containing a fluid which is not water soluble with a tip that exceeds one-quarter (1/4) inch in width;

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"Paint pen" means a tube, marker, or other pen-like instrument with a tip of one quarter (1/4) inch in diameter or less that contains paint or a similar fluid and an internal paint agitator;

"Spray paint" means any aerosol container that is made or adapted for the purpose of applying paint or other substance;

"Minor" means a person who has not attained the age of 18 years;

"Property" means lands, buildings or structures, including but not limited to poles, fences, signs, floors, sidewalks, pavements, walls, and highways;

"Graffiti" means one or more letters, symbols, figures, designs, drawings, messages, slogans, etchings, scratches, inscriptions, stains or other marking that is written, marked, etched, scratched, sprayed, drawn, painted, engraved on or otherwise affixed to Property, without the authorization of the owner or occupant of the Property.

3. **Prohibited Act**

3.1 No person shall place Graffiti on Property.

3.2 No person shall cause or permit Graffiti to be placed on Property.

4. **Purchase and Furnishing to Minors Prohibited**

4.1 No person may sell, exchange, give, loan, or in any other manner, furnish or cause to be sold, exchanged, given, loaned, or furnished, any Graffiti Implement to a Minor, unless the Minor is accompanied by their parent or legal guardian. This section shall not apply to the parents or legal guardians, the employer, or the school teacher, of the Minor.

4.2 Every person who owns or operates a business selling Graffiti Implements shall place a sign in the direct view of persons responsible for accepting customer payment stating: SELLING SPRAY PAINT, BROAD TIPPED MARKER PENS, PAINT PENS, GLASS CUTTING TOOLS OR GLASS ETCHING TOOLS OR INSTRUMENTS TO PERSONS UNDER 18 YEARS OF AGE WITHOUT PARENT/LEGAL GUARDIAN ACCOMPANIMENT IS AN OFFENCE. VIOLATORS MAY BE FINED UP TO \$5000.

5. **Severability**

5.1 If any section, paragraph, sentence, or clause of this by-law is for any reason held to be unenforceable or invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this by-law.

6. **Enforcement**

6.1 The provisions of this by-law may be enforced by a Municipal Law Enforcement Officer, Police Officer, or other individual duly appointed for the purpose of enforcing this by-law.

7. **Offence**

7.1 Any person who contravenes any provision of this by-law is guilty of an offence and:

- (a) upon a first conviction is subject to a minimum fine of \$300.00 and a maximum fine of \$5,000.00;
- (b) upon a subsequent conviction is subject to a minimum fine of \$500.00 and a maximum fine of \$10,000.00.

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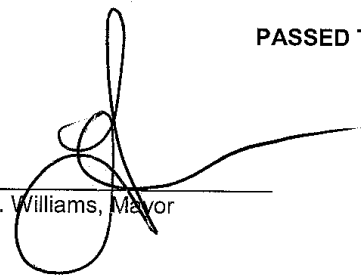
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8. **Effective Date**

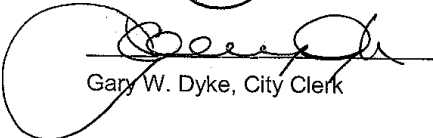
8.1 That this By-law shall take effect on May 1, 2009.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY

PASSED THIS 20TH DAY OF APRIL, 2009.



John R. Williams, Mayor



Gary W. Dyke, City Clerk