

CORPORATION OF THE CITY OF QUINTE WEST

BY-LAW NUMBER 09-46

BEING A BY-LAW TO PROHIBIT THE PLACEMENT OF GRAFFITI ON PROPERTY AND TO REQUIRE PROPERTY BE KEPT FREE OF GRAFFITI IN THE CITY OF QUINTE WEST.

WHEREAS the *Municipal Act*, 2001, S.O. 2001, c.25, as amended 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, in the opinion of the Council of the Corporation of the City of Quinte West, graffiti is a public nuisance;

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 Management By-Law"** of the Corporation of the City of Quinte West.

2. **Definitions**

"City" means the Corporation of the City of Quinte West;

"Customer service box" means either a publication distribution box or a courier drop box;

"Courier drop box" means an unattended box into which any member of the general public may deposit letters or parcels to be delivered by courier companies;

"Director" means the Director of Corporate Services of the City of Quinte West;

"graffiti" means one or more letters, symbols, etchings, figures, inscriptions, stains howsoever made or otherwise affixed to a property or other markings that disfigure or deface a property;

"interior space" includes an interior wall, ceiling, floor and any other partition that defines the interior space of a property;

"mural sign" means a decorative mural that is painted directly onto the exterior fabric of a building and that serves as an expression of public art;

"officer" means a police officer or municipal law enforcement officer appointed by the Council of the City of Quinte West to enforce the provisions of this by-law;

"owner" includes,

- a) the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let;
- b) the lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property;

"property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures including customer service boxes and courier drop boxes, out-buildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property.

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3. INTERPRETATION

- 3.1 This by-law includes the schedules annexed here to and the schedules are hereby declared to form part of this by-law and enact the regulation, the description or the map they contain.
- 3.2 The rules in this section apply to this by-law, unless a contrary intention is evident from the context.
- 3.3 Unless otherwise defined, the words and phrases used in this by-law have their normal and ordinary meaning.
- 3.4 This by-law is gender-neutral and, accordingly, any reference to one gender includes the other.
- 3.5 Words in the singular include the plural and words in the plural include the singular.
- 3.6 It is declared that any section, subsection or part thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
- 3.7 Headings are inserted for convenience of reference purposes only, form no part of this by-law and shall not affect in any way the meaning or interpretation of the provisions of this by-law.

4. INTERIOR SPACE

This by-law does not apply to an interior space on a property or to a thing located entirely within the interior space on a property.

5. GRAFFITI PROHIBITED

- 5.1 No person shall place or cause or permit graffiti to be placed on property.
- 5.2 No owner of property shall fail to maintain such property free of graffiti.

6. NOTICE TO COMPLY

- 6.1 An officer who finds a contravention of this by-law may give written notice to the owner of the property requiring compliance with this by-law within the time period specified in the notice but no sooner than 7 calendar days after the notice is given.
- 6.2 The notice may be served personally on the person to whom it is directed or by registered mail to the last known address of that person, in which case it shall be deemed to have been given on the third day after it was mailed.
- 6.3 If there is evidence that the owner in possession of the property is not the registered owner of the property, the notice shall be served on both the registered owner of the property and the owner in possession of the property.
- 6.4 If the address of the owner is unknown or the City is unable to effect service on the registered owner or the owner, a placard stating the terms of the notice and placed in a conspicuous place upon the land on or near the property shall be sufficient notice to the owner.

7. FAILURE TO COMPLY

No person shall fail to comply with a notice given under Section 6 of this by-law.

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8. REMOVAL OF GRAFFITI

8.1 If the owner fails to comply with a notice, the Director of By-law and Regulatory Services or persons acting upon his or her instructions, may enter upon the lands at any reasonable time for the purposes of carrying out the work described in the notice.

8.2 Costs incurred by the City in doing the work required to be done by the notice may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

9. OFFENCES AND PENALTIES

9.1 Every person who contravenes any of the provisions of this by-law is guilty of an offence.

9.2 Every person who is convicted of an offence under this by-law is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, Chapter P. 33, as amended.

9.3 When a person has been convicted of an offence under this by-law,

- (a) the Ontario Court of Justice, or
- (b) any court of competent jurisdiction thereafter, may, in addition to any other penalty imposed on the person convicted, make an order prohibiting the continuation or repetition of the offence by the person convicted.

10. 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