

I, Olga Smith, Deputy City Clerk of The Corporation of the City of Waterloo, hereby certify this to be a true copy of By-Law No. 2010-094 of the City of Waterloo.

Olga Smith  
Olga Smith  
Date July 6, 2011

## OFFICE CONSOLIDATION to July 6, 2011

*Last amended by By-law 2011-062, June 13, 2011*

### THE CORPORATION OF THE CITY OF WATERLOO

#### BY-LAW NO. 2010-094

Being a by-law to regulate unwanted graffiti on property

**WHEREAS** section 128(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the "Act") states that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

**AND WHEREAS** section 128(2) of the Act states that the opinion of Council under section 128, if arrived at in good faith, is not subject to review by any Court;

**AND WHEREAS** it is the opinion of Council that unwanted graffiti on property is a public nuisance;

**NOW THEREFORE** the Council of The Corporation of the City of Waterloo enacts as follows:

#### **DEFINITIONS**

1. In this by-law:

"City" means The Corporation of the City of Waterloo

"Council" means the municipal council of the City;

"Graffiti" means one or more letters, symbols, marks, pictorial representations, messages or slogans howsoever made on any property, but does not include the following:

- (a) a sign, public notice, or traffic control mark authorized by the City, the Regional Municipality of Waterloo or the federal or provincial governments; or,
- (b) a sign authorized pursuant to a permit issued under the City's Sign By-Law.

**"Municipal Law Enforcement Officer"** means an individual appointed by the Council of the City pursuant to s. 15 of the *Police Services Act*, R.S.O. 1990, c. P. 15, as amended;

**"Owner"** means the registered owner, occupant or tenant of a property, or a person who, for the time being or permanently, is managing or receiving the rent from a property, whether on his or her own account or on account of an agent or trustee of any other person, or any one of the aforesaid;

**"Person"** means an individual or group of individuals, unincorporated association, sole proprietorship, partnership or corporation;

**"Police Officer"** means an officer of the Waterloo Regional Police Service; and,

**"Property"** means land that may have a building (occupied or unoccupied) on it or vacant land.

#### **GRAFFITI PROHIBITED**

2. No person shall place graffiti, or cause or permit graffiti to be placed on any property.
3. An owner shall keep their property free of graffiti.

#### **APPLICATION TO INTERIOR SPACE**

4. Section 2 does not apply to the interior space of any property.

#### **PENALTY**

5. Every person who contravenes any of the provisions of this by-law is guilty of an offence and, on conviction, is liable:
  - (a) on a first conviction, to a fine of not less than \$400.00 and not more than \$100,000.00; and,
  - (b) on a second or subsequent conviction, to a fine of not more than \$10,000.00 for each day or part of a day on which the contravention has continued after the day on which the person was first convicted.

#### **POWERS OF INSPECTION**

6. The City may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
  - (a) this by-law;

- (b) a direction or order of the City made under this by-law; or,
- (c) an order made under s. 431 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

7. For the purposes of conducting an inspection pursuant to s. 6 of this by-law, the City may, in accordance with the provisions of s. 436 of the *Act*:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any person concerning a matter related to the inspection; and,
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

#### **HINDRANCE OR OBSTRUCTION**

8. No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law.

#### **ORDER TO DISCONTINUE ACTIVITY**

9. Where the City is satisfied that a contravention of this by-law has occurred, the City may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity.

10. An order under s. 9 of this by-law shall set out:

- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
- (b) the date by which there must be compliance with the order.

11. Any person who contravenes an order under s. 9 of this by-law is guilty of an offence.

## **WORK ORDER**

12. Where the City is satisfied that a contravention of this by-law has occurred, the City may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to do work to correct the contravention.
13. An order under s. 12 of this by-law shall set out:
  - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - (b) the work to be done and the date by which the work must be done.
14. An order under s. 12 may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.
15. Any person who contravenes an order under s. 12 of this by-law is guilty of an offence.

## **REMEDIAL ACTION**

16. If a person fails to do a matter or thing, including comply with an order under this by-law, as directed or required by this by-law, the City may, in default of it being done by the person directed or required to do it, do the matter or thing at the person's expense. The City may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.
17. The costs outlined in s. 16 of this by-law shall include interest calculated at a rate of 15 per cent, calculated for the period commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.
18. The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper land registry office.

- (a) Enter upon the property and remove the graffiti from the property.
- (b) Do so at the expense of the owner of the property.
- (c) Recover the costs incurred by the City from the owner of the property by action or by adding the costs to the tax roll and collecting them in the same manner as taxes.

#### **SEVERABILITY**

19. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.

#### **COMING INTO FORCE**

20. This by-law shall come into force and effect on the day it is passed.

#### **REPEAL**

21. Any portion of the Municipal Code relating to graffiti enforcement or graffiti control is hereby repealed.

#### **SHORT TITLE**

22. This By-Law may be referred to as the "Anti-Graffiti By-Law".

#### **FEES AND CHARGES**

23. Council may, from time to time, impose fees and charges to recover its costs in relation to the administration and enforcement of this by-law.

*[Section 23 be added by By-law 2011-062, June 13, 2011]*

PASSED by the Council this 19th day of July, 2010.

"Original signed by Brenda Halloran"  
Mayor Brenda Halloran

"Original signed by Susan Greatrix"  
Clerk Susan Greatrix

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