



THE CORPORATION OF THE CITY OF THUNDER BAY

BY-LAW NUMBER 014-2012

A By-law to prohibit the placement of graffiti on property and to require that property be kept free of graffiti.

Recitals

1. 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;
2. In the opinion of the Council of the City of Thunder Bay, Graffiti is a public nuisance.

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS AS FOLLOWS:

Definitions

1. Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in the lettered clauses in this Section 1. Where any word appears in ordinary case, its regularly applied meaning in the English language is intended.
 - (a) “**City**” means the municipal corporation of the City of Thunder Bay or the geographic area of the City of Thunder Bay, as the context requires;
 - (b) “**Customer Service Box**” means either a publication distribution box or a Courier Drop Box;
 - (c) “**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;
 - (d) “**Manager**” means the Manager of Licensing & Enforcement in the Development Services Department of the City of Thunder Bay, or authorized designate;
 - (e) “**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, but does not include any sign permitted by the City’s sign by-law;
 - (f) “**Interior Space**” includes an interior wall, ceiling, floor and any other partition that defines the interior space generally located within a building;

- (g) “**Mural**” means a decorative mural that is painted or directly applied onto the exterior fabric of a building, and that serves as an expression of public art;
- (h) “**Officer**” means any person duly appointed to enforce the provisions of this By-law, any member of the Thunder Bay Police Service, including a municipal law enforcement officer;
- (i) “**Owner**” includes:
 - (i) the person having the right, title, interest or equity in the land, or his or her agent duly authorized in writing;
 - (ii) 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;
 - (iii) the lessee or occupant of the Property who, under the terms of a lease, is required to repair and maintain the Property;
- (j) “**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;
- (k) “**Public Space**” means a place to which the public has access, as of right or by invitation, expressed or implied.

Interpretation Rules

- 2. (a) Wherever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.
- (b) References to items in the plural include the singular, as applicable.
- (c) The words “include”, “includes”, “including”, or “included” are not to be read as limiting the phrases or descriptions that precede or follow them.
- (d) The prohibition of any activity includes the actual doing of the activity, and also the causing, permitting or allowing that activity to be done by another person, or through inaction.

Severability

3. If any section, clause or provision of this By-law, including anything contained in the schedules hereto, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the section, clause or provision so declared to be invalid, and it is hereby declared to be the intention that all the remaining sections, clauses and provisions of this By-law shall remain in full force and effect, notwithstanding that one or more provisions thereof shall have been declared to be invalid.

Exemption

4. 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.

Graffiti Prohibited

5.
 - (a) No person shall place, or cause, or permit Graffiti to be placed on Property.
 - (b) The Owner of Property shall maintain the Property free of Graffiti.
 - (c) The Owner of a wall, fence or other structure or thing located in or on a highway or a Public Space shall maintain the wall, fence or structure or thing free of Graffiti.

Verbal Notice to Comply

6.
 - (a) An Officer who finds a contravention of this By-law may give verbal notice to the Owner of the Property, structure or thing requiring compliance with this By-law, and requiring the Owner, in the interest of public safety, to do the work to correct the contravention of the By-law immediately, or within forty-eight hours of the time of the verbal notice was given.
 - (b) If the person fails to comply with the verbal notice given under this By-law, the Manager-Licensing and Enforcement, or persons acting upon his or her instructions, may enter upon the Property at any reasonable time for purposes of carrying out the work described in the verbal notice.
 - (c) Where work has been carried out by the Manager-Licensing and Enforcement, or persons acting upon his or her instructions, after the giving of verbal notice and the completion of the work, the Manager-Licensing and Enforcement shall give written notice of the work carried out to correct the contravention of this By-law in accordance with the provisions for giving written notice as set out in this By-law.

Written Notice to Comply

7. (a) As an alternative to the giving of verbal notice set out in section 6, an Officer who finds a contravention of this By-law may give written notice to the Owner of the Property, structure or thing requiring compliance with this By-law, and requiring the Owner to do the work to correct the contravention of the By-law within the time specified in the notice.
 - (b) The written notice may be served
 - (i) personally on the person to whom it is directed, or
 - (ii) by regular or registered mail to the last known address of that person, in which case, it shall be deemed to have been given on the fifth day after it was mailed or sent by registered mail, or
 - (iii) by affixing a placard stating the terms of the notice in a conspicuous place on or near the Property.
 - (c) If the person fails to comply with the written notice given under this By-law, the Manager-Licensing and Enforcement, or persons acting upon his or her instructions, may enter upon the Property at any reasonable time for purposes of carrying out the work described in the written notice.

Compliance with Notice

8. Every person receiving a verbal or written notice under this By-law shall comply with the notice.

Cost of Removal of Graffiti

9. The costs incurred by the City in doing the work required to be done by the verbal or written 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.

Mural

10. (a) Any person receiving a notice from an Officer requiring that work be performed to comply with this By-law may appeal the notice only on the grounds that the Graffiti is a Mural by filing an appeal, in writing, with the Secretary of the Property Standards Committee for The Corporation of the City of Thunder Bay within ten (10) days of the receipt of the Officer's notice to comply.

- (b) Article 7:00 of By-law 066-2088 (the Property Standards By-law) shall apply to an appeal made under this By-law, and such an appeal shall be processed pursuant to the provisions of Article 7:00.
- (c) The decision of the Property Standards Committee in respect of an appeal made under this By-law shall be final.

Property Standards By-Law

- 11. Nothing in this By-law shall prevent, prohibit or restrict the discretion of an Officer in dealing with Graffiti as a contravention under By-law 066-2088, (the Property Standards By-law).

Offences and Penalties

- 12. (a) Every person who contravenes any of the provisions of this By-law is guilty of an offence.
 - (b) Every person who interferes with an Officer in the lawful conduct of his duty in enforcing this By-law is guilty of an offence.
 - (c) 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, c. P.33, as amended.
- 13. 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.

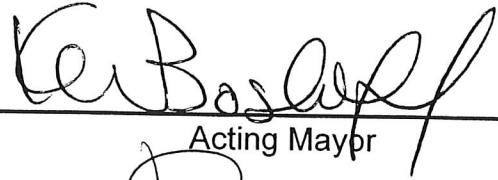
Short Title

- 14. This By-law may be referred to as the “Graffiti Management By-law”.

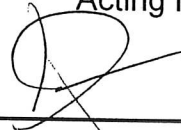
Effect

- 15. This By-law shall come into force on the date it is passed.

Enacted and passed this 28th day of May, A.D. 2012 as witnessed by the Seal of the Corporation and the hands of its proper Officers.



Acting Mayor



City Clerk

CERTIFIED TRUE COPY


Deputy City Clerk