

The Corporation of the City of Thorold

By-law No. 30-2019

A by-law to prevent unsightliness of property by prohibiting graffiti on property and requiring that property be kept free of graffiti.

Whereas the Municipal Act, 2001, S.O. c. 25 Section 8, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues; and

Whereas the Municipal Act, 2001 S.O. c. 25 Section 128, provides 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 the opinion of Council of the City of Thorold is that graffiti is a public nuisance; and

Whereas Council directed staff at its meeting of January 15, 2019 to investigate a remedy to the graffiti issue; and

Whereas Council was presented with report PDS2019-02 recommending the adoption of the subject by-law; and

Whereas the Council of the City of Thorold deems it advisable to enact such a by-law.

Now therefore, the Council of The Corporation of the City of Thorold enacts as follows:

SECTION 1 - DEFINITIONS

In this By-law:

"Graffiti" means one or more letters, symbols, numbers, figures, etchings, scratches, inscriptions, pictorial representations or other markings howsoever made or otherwise affixed to a property that disfigure or deface a property, but does not include:

- i. a sign pursuant to the City's sign by-law;
- ii. a sign, public notice or traffic control mark authorized by the City; and
- iii. a sign, public notice or traffic control mark authorized by regional, provincial or federal law;

"Interior Space" means any space that is not visible from a highway or other public space;

"Officer" means any person or persons appointed by Council to administer and enforce the provisions of this By-law and includes his or her designates and shall include a police officer;

"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;

"Property" means a building, structure, or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property.

"Public Place" means a place to which the public has access, as of right or by invitation, expressed or implied.

“City” means the Corporation of the City of Thorold.

SECTION 2 - APPLICATION TO INTERIOR SPACE

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

SECTION 3 - GRAFFITI PROHIBITED

3.1 No person shall place, or cause, or permit graffiti to be placed on any property

3.2 The owner of a property shall maintain the property free of graffiti.

SECTION 4 – ORDER TO DISCONTINUE ACTIVITY

4.1 An officer who finds a contravention of this By-law 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.

4.2 An order under S. 4.1 of this by-law shall set out:

- i. reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
- ii. the date by which there must be compliance with the order.

4.3 Any person who contravenes an order under S. 4.1 of this by-law is guilty of an offence.

4.4. The order may be served personally on the person to whom it is directed or by registered mail to the last known address of the person, in which case it shall be deemed to have been given on the 7th day after it is mailed.

SECTION 5 – WORK ORDER

5.1 An officer who is satisfied that a contravention of this by-law has occurred 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.

5.2 An order under S. 5.1 of this by-law shall set out:

- i. reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred;
- ii. the required action to rectify the contravention; and
- iii. the date by which compliance must be achieved.

5.3 An order under S. 5.1 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.

5.4 Any person who contravenes an order under S. 5.1 of this by-law is guilty of an offence.

5.5 The order may be served personally on the person to whom it is directed or by registered mail to the last known address of the person, in which case it shall be deemed to have been given on the 7th day after it is mailed.

SECTION 6 – POWERS OF INSPECTION

6.1 An Officer may enter on land at any reasonable time for carrying out an inspection to determine whether the following are being complied with:

- i. this by-law;
 - ii. a direction or order of the City made under this by-law; or,
 - iii. an order made under S. 431 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 6.2 For the purpose of conducting an inspection pursuant to S. 6.1 of this by-law, the City may, in accordance with the provisions of S. 436 of the Act:
- i. require the production for inspection of documents or things relevant to the inspection;
 - ii. inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - iii. require the information from any person concerning a matter related to the inspection; and
 - iv. 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.

SECTION 7 - FAILURE TO COMPLY; REMOVAL BY CITY; COSTS

- 7.1 If any person fails to comply with an order given under Sections 4 or 5, the City's representatives may enter upon the lands at any reasonable time for the purposes of doing the things described in the order.
- 7.2 Costs incurred by the City in doing the work required to be done by the order may be recovered by action or adding the costs to the tax roll and collecting them in the same manner as taxes.

SECTION 8 - OFFENCES AND PENALTIES

- 8.1 A person who contravenes a provision of this By-law or fails to comply with an order to comply made under this By-law is guilty of an offence.
- 8.2 Every director or officer of a corporation who knowingly concurs in the contravention of a provision of this By-law or fails to comply with an order to comply made under this By-law is guilty of an offence.
- 8.3 A person who is convicted of an offence is liable on first conviction to a fine of not less than \$400 and not more than \$20,000, and is liable on subsequent convictions to a fine of not less than \$400 and not more than \$50,000
- 8.4 A corporation that is convicted of an offence is liable on first conviction to a fine of not less than \$400 and not more than \$50,000, and is liable on subsequent convictions to a fine of no less than \$400 and not more than \$100,000.
- 8.5 In addition to the fines in sections 6.3 and 6.4, a person convicted of a subsequent offence is liable to a fine not more than \$1,000 for each day or part of the day on which the contravention has continued after the day on which the person was first convicted.

TITLE

7. This By-law may be referred to as the "Graffiti Management By-law".

EFFECTIVE DATE

8. This By-law comes into force and effect on the date enacted by City Council.

Read a first, second and third time and finally passed by Council this 5th day of March, 2019.

Terry Ugolini, Mayor

Donna Delvecchio, City Clerk