

**THE CORPORATION OF THE TOWN OF GANANOQUE  
BY-LAW 2010-44**

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**BEING A BY-LAW OF THE TOWN OF GANANOQUE TO PROHIBIT THE PLACEMENT OF GRAFFITI ON PROPERTY AND TO REQUIRE PROPERTY BE KEPT FREE OF GRAFFITI. (ANTI-GRAFFITI BY-LAW).**

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**WHEREAS** the Municipal Act, SO. 2001, c.25, Section 9, provides that Section 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable municipalities to govern their affairs, as they consider appropriate and, (b) enhance their ability to respond to municipal issues;

**AND WHEREAS** the Municipal Act, SO. 2001, 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 public nuisances;

**AND WHEREAS** the Municipal Act, SO. 2001, c.25 sections 435 and 436 authorizes a municipal employee, officer, or agent of the municipality or a member of the police force of the municipality to enter onto a property, at a reasonable hour, for the purpose of enforcing a municipality's bylaw and direction or order; a condition of a licence issued under a bylaw; and an additional order to discontinue or remedy under section 431 of the Act;

**AND WHEREAS** the Municipal Act, SO. 2001, c.25 section 444 through section 446 provides that if a municipality is satisfied that a contravention of a by-law of the municipality passed under the Municipal Act has occurred, the municipality may make an order requiring the person who contravened the 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 by issuing an order, and to specify the conditions under which the infraction is to be corrected, and if not correct may enter onto the property to remedy the infraction at the owner's expense and may add the costs to the Collector's Roll and collect in the same manner as taxes;

**AND WHEREAS** the opinion of Council of the Town of Gananoque is that graffiti is a public nuisance;

**NOW THEREFORE** be it resolved that the Council for The Corporation of the Town of Gananoque enacts as follows:

## 1. DEFINITIONS

For the purpose of this Bylaw:

**"Town"** shall mean the Corporation of the Town of Gananoque.

**"Graffiti"** shall mean 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 of the following:

- a) A sign, public notice, or traffic control mark authorized by the Town;
- b) A sign or mural authorized pursuant to a permit issued under the Town Sign By-Law;
- c) A sign, public notice, or traffic control mark authorized by regional, Provincial, or Federal law.

**"Mural"** 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 Town of Gananoque to enforce the provisions of this bylaw;

**"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, tenant, or occupant of the property who, under the terms of a lease, is required to repair and maintain the property;
- c) Registered owner of 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 vehicles, mobile buildings, mobile structures including out-buildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property.

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

**2. GRAFFITI PROHIBITED**

- a. No person shall place graffiti, or cause or permit graffiti to be placed on any property.
- b. The owner shall keep the property free of graffiti.

**3. INTERIOR SPACE**

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

**4. ORDER TO COMPLY**

- a. An officer who finds a contravention of this by-law may give a written order to the owner of the property requiring compliance with this by-law within the time period specified in the order but no sooner than fourteen (14) calendar days after the notice is given.
- b. An officer shall reserve the right, depending on the nature of the graffiti, to issue an order to the effect that the graffiti be covered immediately or within a specified period of time as specified in the order.
- c. The order 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 fourteenth day after it was mailed.
- d. If there is evidence that the owner in possession of the property is not the registered owner of the property, the order shall be served on both the registered owner of the property and the owner in possession of the property.
- e. 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.

**5. FAILURE TO COMPLY - REMOVAL OF GRAFFITI**

- a. In addition to the penalty imposed upon conviction for violation of this by-law and notwithstanding that no prosecution may have been brought for such violation, the Town may enter upon the lands at any reasonable time for the purposes of carrying out the work described in the order.

- b. Costs incurred by the Town in doing the work required to be done by the order may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- c. Costs shall include actual costs plus an administration fee as set out in the General Fees and Rates bylaw.

**6. OFFENCES AND PENALTIES**

- a. Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided in the Provincial Offences Act.
- b. When a person has been convicted of an offence under this by-law, the Ontario Court of Justice, or 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.

**7. TITLE**

- a. This by-law may be referred to as the "Anti-Graffiti By-law".

**8. EFFECTIVE DATE**


- a. This by-law comes into force and effect on the date of passing.

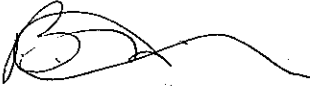
**READ A FIRST AND SECOND TIME** this 06<sup>th</sup> day of July, 2010.

  
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Mayor, James Garrah

  
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Clerk, Bonnie Dingwall

**READ A THIRD TIME** passed, signed, and sealed with the corporate seal this 20<sup>th</sup> day of July, 2010.

  
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Mayor, James Garrah

  
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Clerk, Bonnie Dingwall