THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 46-2009

A By-law to prohibit graffiti on public and private property and to require public and private property to be kept free of graffiti.

WHEREAS the Municipal Act, 2001 S.O. 2001, c.25, Section 9, provides that Sections 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, 2001 S.O. 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 or cause public nuisances;

AND WHEREAS the opinion of Council of the Corporation of the City of Vaughan is that graffiti is a public nuisance;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF VAUGHAN ENACTS AS FOLLOWS:

DEFINITIONS

1. In this By-law:

   “Graffiti” means one or more letters, symbols, figures, etchings, scratches, inscriptions, stains howsoever made or otherwise affixed to a property that disfigure or deface a property.

   “Interior Space” includes an interior wall, ceiling, floor and any other partition that defines the interior 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 appointed by the York Regional Police Service, the Ontario Provincial Police, or the RCMP.

   “Owner” includes:
   
   i) the person having the right, title, interest or equity in the land, or his or her agent 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) a 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, 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 Vaughan.

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.

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.

3.3 The owner of a wall, fence or other structure or thing, in a highway or other public place not included in the definition of property in Section 1, shall maintain the wall, fence, or structure or thing free of graffiti.

NOTICE TO COMPLY

4.1 An officer who finds a contravention of this By-law may give written notice to the owner of the property, structure or thing, as described in Section 3, requiring immediate compliance with this By-law and/or to do work to correct the contravention of this By-law within the time period specified in the notice.

4.2 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 3rd day after it is mailed.

4.3 If there is evidence that the person in possession of the property is not the registered property owner, the notice shall be served on both the registered property owner and the person in possession of the property.

4.4 If the address of the owner is unknown, or the City is unable to effect service on the owner or occupant under Section 4.2, a placard stating the terms of the notice and placed in a conspicuous place upon the land on or near the property, structure or thing shall be deemed to be sufficient notice to the owner.

FAILURE TO COMPLY; REMOVAL BY CITY; COSTS

5.1 If an owner fails to comply with a notice given under Section 4 the City’s representatives may enter upon the lands at any reasonable time for the purposes of doing the things described in the notice.
5.2 Costs incurred by the City in doing the work required to be done by the notice may be recovered by action or adding the costs to the tax roll and collecting them in the same manner as taxes.

OFFENCES AND PENALTIES

6.1.1 A person who contravenes a provision of this By-law or fails to comply with a notice to comply made under this By-law is guilty of an offence.

6.2 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 a notice to comply made under this By-law is guilty of an offence.

6.3 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.

6.4 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.

6.5 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 “Anti-Graffiti 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 this 23rd day of March, 2009.

Linda D. Jackson, Mayor

Jeffrey A. Abrams, City Clerk