

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW NO. 044-2009

BEING A BY-LAW TO PROHIBIT GRAFFITI ON PRIVATE PROPERTY AND TO REQUIRE OWNERS AND OCCUPIERS OF THE PROPERTY TO REMOVE GRAFFITI, AND TO REPEAL SECTIONS 1 AND 2 OF BY-LAW 102-2002

WHEREAS Section 8 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, states that a municipality may pass by-laws regulating or prohibiting certain matters;

AND WHEREAS Section 128 of the *Municipal Act, 2001* 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 or cause public nuisances;

AND WHEREAS the Council of the Corporation of the Town of Milton desires to regulate or prohibit graffiti within the Town of Milton;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MILTON HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS

1.1 In this By-law:

- (a) "*art mural*" shall mean a mural for a designated surface and location that has been deliberately implemented for the purpose of beautifying the specific location;
- (b) "*graffiti*" shall mean one or more letters, symbols, marks, etchings, pictorial representations, messages or slogans, howsoever made, that disfigures or defaces a *property*, but does not include any of the following:
 - i) a sign, public notice, or traffic control mark authorized by the *Town*;
 - ii) a sign authorized pursuant to a permit issued by the Town's *Sign By-law*;
 - iii) a sign, public notice or traffic control mark authorized by Regional, Provincial or Federal law;
 - iv) an *art mural* which has been authorized by the Town;
- (c) "*Municipal Law Enforcement Officer*" shall mean a Municipal Law Enforcement Officer as appointed by the Council of the Town of Milton;

- (d) “owner” shall mean the registered owner, occupant, tenant, person for the time being managing or receiving the rent of the 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;
- (e) “Police Officer” shall mean an officer of the Halton Regional Police Service;
- (f) “property” shall mean a building or structure or part of a building or structure and includes the lands and premises appurtenant thereto and mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected and includes vacant property, real property and personal property;
- (g) “Sign Bylaw” shall mean the *Town* by-law or by-laws regulating authorized signs by the issuance of a permit within the *Town*, as amended from time to time;
- (h) “Town” shall mean the Corporation of the Town of Milton;

2. GRAFFITI PROHIBITED

- 2.1 No person shall place or cause or permit *graffiti* to be placed on *property*.
- 2.2 The *owner* of a *property* shall keep the *property* free of *graffiti*.

3. ENFORCEMENT

- 3.1 This By-law shall be enforced by *Municipal Law Enforcement Officers*, and *Police Officers*.
- 3.2 For the purpose of ensuring compliance with this By-law, a *Municipal Law Enforcement Officer* or a *Police Officer* may, at all reasonable times, enter upon and inspect any land.
- 3.3 No person shall hinder or obstruct, or attempt to hinder or obstruct, a *Municipal Law Enforcement Officer*, or a *Police Officer* from carrying out inspections of land to ensure compliance with this By-law.

4. NOTICE OF VIOLATION

- 4.1 Where there has been a violation of this By-law, a *Municipal Law Enforcement Officer* or *Police Officer* may serve written notice upon the *owner* of the property, directing that the violation be remedied within a specified period of the delivery of such notice. In the event that the violation in the notice is not remedied within the aforesaid period of time, the *Municipal Law Enforcement Officer* may cause the violation to be remedied at the expense of the *owner*.

The *Town* shall not be responsible for any damage that may be sustained to the property of the *owner*.

- 4.2 Any notice given under this By-law may be given by regular mail or personal delivery. Delivery by regular mail shall be deemed to have been affected five (5) days after mailing.
- 4.3 The *Town* may recover its costs of remedying a violation of this By-law by invoicing the *owner*, by instituting court proceedings or by adding the cost to the tax roll in the same manner as municipal taxes. The exercise of any such remedy shall not preclude the exercise of any other available remedy.

5. REPEAL

- 5.1 Sections 1 and 2 of By-law 102-2002 are hereby repealed in their entirety. All other provisions of By-law 102-2002 shall remain in force and effect.

6. SEVERABILITY

- 6.1 When a court of competent jurisdiction declares any section or part of this By-law invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

7. PENALTY

- 7.1 Any person who violates any provisions of this By-law is guilty of an offence and shall be liable to a fine subject to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended, and be subjected to any other penalty permitted by law for each offence. Each day such violation continues shall constitute a separate offence and shall be punishable as such.

8. EFFECT

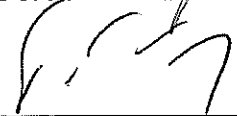
- 8.1 This by-law shall come into force and take effect on the day it is passed.

READ a FIRST, SECOND and THIRD TIME and FINALLY PASSED this 30th day of March, 2009.



Gordon A. Krantz

Mayor



Troy McHarg

Town Clerk