



**Clerk's Department Report
C-060/13**

TO: Mayor Comiskey and Members of Council
FROM: Marsha L. Paley, Clerk / Deputy CAO
DATE: May 9, 2013
SUBJECT: Proposed Town of Ingersoll Graffiti By-law

Recommendation:

THAT the Council for the Town of Ingersoll receives the Clerk's Department Report C-060/13 entitled Proposed Town of Ingersoll Graffiti By-Law as information;

AND FURTHER THAT the proposed Graffiti By-law, attached as Attachment 1 to Report C-060/13, be released to the public for review and comment until Friday, June 21, 2013;

AND FURTHER THAT following the public review and commenting period, the proposed Graffiti By-law be brought forward for Council's consideration at the July or August 2013 Regular Council meeting.

Background:

Due to the increase of incidences and complaints regarding graffiti within the Town, the By-Law Committee and Clerk's Dept. has been diligently working to create a graffiti by-law. The Town does not currently have a Graffiti By-law to regulate the prevention, removal or enforcement of graffiti within the Town.

The By-law Committee is compiled of several municipal experts with a wide range of knowledge and skills that have given their expert opinions, considerations and input to the draft Fence By-law over the last year. Members of the committee include the Director of Engineering, the Captain within Fire and Emergency Services and a By-law Enforcement Officer, the Community Sergeant of the Ingersoll OPP Detachment, the Town Clerk/Deputy CAO, the Deputy Clerk, the Director of Public Works, a member of Council and the President of the BIA.

At their meeting on March 26, 2013, the By-law Committee requested the following action be taken regarding a new section should be added in regard to those whom are caught are to be fined or be mandated to clean up graffiti through community service and that ICOPS be re-contacted after changes have been made

The Business Improvement Association's ("BIA") Board and the Ontario Provincial Police ("OPP") have had an opportunity to review the draft by-law and brochure since the summer of 2012. As a result of the OPP's review, they had indicated that a new brochure should not be necessary and provided copies of their Graffiti Eradication brochure. A copy of the OPP's Graffiti Eradication brochure was circulated to all downtown businesses with extra copies being

remaining with them. However, staff made the decision to move forward with the Graffiti By-law brochure as we are looking at ways of educating and preventing graffiti, not just removing it or enforcement through the proposed by-law.

Discussion:

For the purposes of the proposed by-law, graffiti means one or more letters, symbols, figures, etchings, scratches, inscriptions, stains or other markings that disfigure or deface a structure or thing, howsoever made or otherwise affixed on the structure or thing, which does not include: (a) a sign, public notice, or traffic control mark authorized by the Town; (b) a sign, public notice, or traffic control mark authorized by regional, provincial, or federal law; or, (c) a mural sign permitted in accordance with The Town of Ingersoll By-law No. 08-4432, the No Permit Sign By-law.

An initial draft by-law was prepared following a review of other municipal by-laws and anticipating the needs of Ingersoll residents regarding concerns of graffiti and restrictive enforcement activities. As noted earlier, the proposed by-law was initially taken to the BIA in June 2012 and the By-law Committee in August 2012. Any comments were discussed, with only a change being made to the amount of fines.

Unlike many other by-laws, the Graffiti By-law is designed to be part of a multi-pronged program of education, removal and enforcement. The proposed Graffiti By-law is designed to be the last step in the program while the attached information brochure is the first step. For property owners in the Town who experience graffiti, it will be important to understand the by-law. However, it will not only be the property owned that is responsible; if those committing the act is caught, they may be fined between \$500 and \$10,000 and if necessary up to \$100,000 or we are seeking to have them required to clean up the graffiti through community service. The proposed by-law identifies what is defined as graffiti and what is exempted, such as any approved mural or hoardings. It is an offense not to comply with a Town by-law. Should the Town receive a complaint regarding a possible contravention of the by-law, the property owner may be served with a notice to make modifications to bring it into compliance, in this case, the removal of the graffiti by cleaning or painting over. If a property owner does not comply with the notice, the Town may take legal action including the placement of a fine, however, Town staff would rather use this as a last resort.

As a result, the By-law Committee and Town staff are recommending that the proposed Graffiti By-law and draft Graffiti By-law brochure be released for a public review and commenting period. This will provide property owners with an opportunity to submit comments or concerns. Upon receipt of the comments, the By-law Committee will review and if necessary make changes to the proposed by-law before recommending the by-law be brought before Council for consideration of approval.

Consultation:

The proposed Town of Ingersoll Fence By-law incorporates the following:

- Research of other municipal by-laws;
- Submission to the Business Improvement Association;
- Review by the By-law Committee; and,
- Consultation with the Ontario Provincial Police.

Financial Implications:

None

Legal Implications:

None

Attachments:

Attachment 1: Proposed Ingersoll Graffiti By-law

Attachment 2: Draft Graffiti Brochure

Summary:

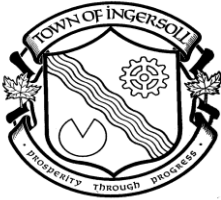
The Clerk's Department is presenting the attached proposed Graffiti By-law and draft Graffiti brochure as information to Council and residents for a six week review and commenting period. The By-law Committee will review all comments received for possible revisions to the proposed Graffiti By-law. Following this review, Council will be made aware of the comments and the Committee's response through a final report and the Graffiti By-law will be brought forward for Council's consideration at either the July or August 2013 regular Council meeting for approval.

Recommended by:

Original Signed by

Marsha L. Paley, MCIP, RPP, CMO
Clerk/Deputy CAO

Attachment 1: DRAFT Graffiti By-law



**CORPORATION OF THE TOWN OF INGERSOLL
BY-LAW NO. 13 - XXXX**

**A by-law to prohibit the placement
of graffiti on property**

WHEREAS the *Municipal Act, 2001* S.O. 2001, c.25, section 9, provides that section 8 and 11 shall be interpreted broadly so as to confer broad authority on the municipality to (a) enable the municipality to govern its affairs as it considers appropriate and (b) to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS the *Municipal Act, 2001* S.O. 2001, c.25, section 128, provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that it, in the opinion of council, are or could become or cause public nuisances;

AND WHEREAS, the opinion of the Council of the Town of Ingersoll, is that graffiti is a public nuisance;

NOW THEREFORE the Council of the Town of Ingersoll enacts as follows:

SHORT TITLE & SCOPE

1.1 TITLE

This By-law shall be known as the "Town of Ingersoll Graffiti Bylaw".

1.2 SCOPE

(a) This By-law shall act to deter and enforce instances of graffiti and regulate the removal of graffiti from private property within the geographic boundaries of the Town of Ingersoll.

1. DEFINITIONS

'Art Mural' means a mural for a designated surface and location that has been deliberately implemented for the purpose of beautifying the specific location as approved by the Town of Ingersoll;

'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;

'Customer Service Box' means a publication distribution box;

DRAFT BY-LAW

'Graffiti' means one or more letters, symbols, figures, etchings, scratches, inscriptions, stains or other markings that disfigure or deface a structure or thing, howsoever made or otherwise affixed on the structure or thing, which does not include:

- a) a sign, public notice, or traffic control mark authorized by the Town;
- b) a sign, public notice, or traffic control mark authorized by regional, provincial, or federal law;
- c) a mural sign permitted in accordance with The Town of Ingersoll By-law No. 08-4432, the No Permit Sign By-law.

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

'Mural Sign' 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 the Municipal By-Law Enforcement Officer appointed by Council of The Town of Ingersoll to enforce the provisions of this by-law;

'Owner' includes:

- a. The registered owner of the Property, or the person or the person's authorized agent in lawful control of a property;
- b. 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; and
- c. A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property.

'Property' includes 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, walls, 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.

'Town' means The Corporation of The Town of Ingersoll.

2. INTERIOR SPACE

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

3. GRAFITTI PROHIBITED

- a. No person shall place or cause or permit graffiti to be placed on property or other public place not included in the definition of property.
- b. The owner or occupant of a property or other public space not included in the definition of property shall maintain the property free of graffiti.

4. OFFENCES

- a. Any person who contravenes any provision of this by-law if guilty of an offence and upon conviction is liable to a fine as provided in the *Provincial Offences Act*.
- b. A multiple offence is an offence in respect of two or more acts or omissions each of which separately constitutes an offence.
- c. 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 and requirement to clean up graffiti as community service.

5. FINES

On conviction of an offence under this by-law, a person is liable to a fine in accordance with section 429 (1-2) of the *Municipal Act, 2001, c.25*, which state the following rules:

- a. A minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000 though a special fine may exceed \$100,000;
- b. In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. The total of all daily fines for the offence is not limited to \$100,000; and

DRAFT BY-LAW

- c. In the case of multiple offences, for each offence included in the multiple offences, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. The total of all fines for each included offence is not limited to \$100,000. An escalating fine may be established for a second and subsequent conviction for the same offence.

6. NOTICE TO COMPLY

- a. An Officer for the Town of Ingersoll who finds a contravention of this by-law may give written notice to the owner or occupant of the property or other public place not included in the definition of property, requiring compliance with this by-law within the time period specified in the notice.
- b. Written 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 third day after it is mailed.
- c. 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.
- d. If the address of the owner is unknown or the Town is unable to affect service on the registered owner or occupant under Subsection c, a placard stating the terms of the notice shall be placed in a conspicuous place upon the land on or near the property shall be deemed sufficient notice to the owner.

7. FAILURE TO COMPLY; REMOVAL BY TOWN; OWNER'S EXPENSE

- a. If an owner or occupant fails to comply with a notice given under Section 5, inclusive, the Town's Officer may enter upon the lands at any reasonable time for the purposes of doing the things described in the notice at the expense of the property owner.
- b. Costs incurred by the Town 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.

8. EXEMPTIONS

This by-law shall not apply to:

- a. Existing painted murals or wooden hoardings in the downtown core.

DRAFT BY-LAW

READ a first and second time in Open Council this day of 2013.

READ a third time in Open Council and passed this day of 2013.

Edward (Ted) Comiskey, Mayor

Marsha Paley, Clerk/Deputy CAO

WHAT IS BEING DONE ABOUT IT?

The Town is working in conjunction with the Ingersoll OPP detachment, the Ingersoll C.O.P.S Committee and the BIA to stop graffiti in the following ways:

EDUCATION: Raising community awareness

EMPOWERMENT: Empowering our community to stop graffiti through increased awareness and the support of our politicians and legal systems

ENFORCEMENT: Enforcing graffiti laws by laying charges where appropriate

In an effort to deal with graffiti in the Town of Ingersoll, an Anti-graffiti By-law No.13-xxxx was enacted and passed on _____. The By-law is enforceable by an Officer of the Town and allows for a fine up to \$10,000. Those caught may be fined or required to clean up graffiti through Community Service. The Town of Ingersoll wishes to deter and enforce instances of graffiti and regulate the removal of graffiti within the Town of Ingersoll.

HOW TO REPORT GRAFFITI

- o To report graffiti crime in action call the OPP at 1-888-310-1122
- o For existing graffiti on private property contact the property owner
- o For existing graffiti on commercial property contact the owner or leasor
- o For existing graffiti on Town property contact the Town Office at 519-485-0120



THE ANTI-GRAFFITI BY-LAW

BY-LAW NO. 13-XXXX

A by-law to prohibit the placement of graffiti on property

For more information please contact:

The Town Hall
Clerk's Department
130 Oxford Street, 2nd Floor
Ingersoll, ON N5C 2V5
519-485-0120
clerks@ingersoll.ca



Ingersoll

GRAFFITI

Empowering Our
Community to Stop It!



Working towards a better
Ingersoll through
community involvement.

GRAFFITI OR STREET ART?

The difference between art and graffiti is that art is done on property with the permission of the property owner. Art is a creative and productive form of expression. Graffiti is a crime.

Graffiti is writing, drawing, or symbols applied to any surface without the permission of the property owner.

To create graffiti, vandals use a variety of materials, such as automotive car paint, markers, spray paint, crayons and permanent ink. Etching surfaces is another way vandals destroy property.



Graffiti can occur anywhere, however, some of the more popular targets include:

- public and private buildings;
- mail or utility boxes;
- playground equipment;
- bridges and overpasses;
- public transit property and vehicles.

Graffiti is far from being an act of harmless self-expression; graffiti is a crime of violence against an entire community. It is an act of vandalism that has a negative impact on our community pride and identity.

HOW GRAFFITI EFFECTS OUR COMMUNITY

- Increased taxes to fund clean up
- Local property values may decrease
- Heightened fear of crime in the community
- Local economy may decline, causing small businesses to close
- Graffiti gives the impression that no one cares about the overall state of the community
- When left unattended there is almost 100% chance that additional graffiti markings will be places at the original site or in nearby locations

WHAT CAN YOU DO TO HELP?

When witnessing suspicious behaviour or graffiti crime, call the OPP immediately and provide them with descriptions of the suspects and their vehicle (if any), including the make, model, colour and licence plate number.

Some measures that you can take to avoid graffiti are to:

- Restrict access to walls by planting ivy, thorny bushes or trees
- Apply graffiti resistant coatings
- Increase lighting and visibility
- Install video surveillance



TAKING ACTION AGAINST GRAFFITI

Do not ignore graffiti. Removing graffiti is the responsibility of the property owner; however anyone can report acts of graffiti vandalism.

If graffiti occurs on your privately-owned property, the incident should be reported to the police and then removed as soon as possible. If graffiti is left for weeks or months on end then you've given over that space to the vandal. Report graffiti or clean it up as soon as you notice it.

Inform the neighbouring property owners, businesses, or the Town if you see graffiti on their property to raise awareness of these occurrences. The quick removal of graffiti is the most effective means to prevent further acts of vandalism.

Fast action increases the chance for complete removal, as the marking may not have had the chance to completely adhere to the surface.



Together we can prevent or remove graffiti and continue to be proud of our community, the place where we call home.