

PROPERTY MAINTENANCE

Chapter 950 ANTI-GRAFFITI

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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 Town of Richmond Hill is that graffiti is a public nuisance;

WHEREAS Council at its meeting of June 12, 2007 adopted the recommendation of Committee of the Whole at its meeting of June 6, 2007 contained in SRPD.07.042 to enact an Anti-Graffiti By-law.

Article 1 SHORT TITLE

950.1.1 Citation

This Chapter may be referred to as the “Anti-Graffiti By-law.”

Article 2 INTERPRETATION

950.2.1 Art mural - defined

“art mural” means a mural for a designated surface and location that has been deliberately implemented for the purpose of beautifying the specific location.

950.2.2 Graffiti - defined

“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, but for greater certainty, does not include:

- (a) a sign, public notice, or traffic control mark authorized by the Town;
- (b) a sign authorized pursuant to a permit issued under the Town Sign By-law [Chapter 740 Town of Richmond Hill Municipal Code];
- (c) a sign, public notice, or traffic control mark authorized by regional, provincial, or federal law; and
- (d) an art mural authorized pursuant to a permit issued under the Town Sign By-law [Chapter 740 Town of Richmond Hill Municipal Code].

950.2.3 Interior space - defined

“interior space” includes an interior wall, ceiling, floor and any other partition that defines the interior space. By-law 69-07, 12 June, 2007.

950.2.4 Officer - defined

“officer” means any person or persons appointed by the Commissioner of Planning and Development of the Town to administer and enforce the provisions of this Chapter and includes a police officer appointed by the York Regional Police Service. By-law 145-08, 14 July, 2008.

950.2.5 Owner - defined

“owner” means:

- (a) the person having the right, title, interest or equity in the land, or his or her agent authorized in writing;
- (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.

950.2.6 Property - defined

“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.

950.2.7 Public place - defined

“public place” means a place to which the public has access, as of right or by invitation, expressed or implied.

950.2.8 Town - defined

“Town” means The Corporation of the Town of Richmond Hill.

Article 3 GENERAL PROVISIONS

950.3.1 Interior space - not applicable

Article 3 does not apply to the following:

- (a) the interior space of any property.

950.3.2 Graffiti - on property - structure - highway - prohibited

No person shall place or cause or permit graffiti to be placed on any property or on a wall, fence or other structure or thing in a highway or other public place not included in the definition of property in Section 950.2.6.

950.3.3 Owner - occupant - duty to maintain - property

The owner or occupant of a property shall maintain the property free of graffiti.

950.3.4 Owner - occupant - duty to maintain - fence - structure

The owner or occupant 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 950.2.6, shall maintain the structure or thing free of graffiti.

**Article 4
ORDER TO COMPLY****950.4.1 Written order - time specified**

An officer who finds a contravention of this Chapter may give a written order to the owner or occupant of the property, structure or thing, as described in Article 3 requiring immediate compliance with this Chapter and/or to do work to correct the contravention of this Chapter within the time period specified in the order.

950.4.2 Order - served personally - registered mail

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 5th day after it is mailed.

950.4.3 Order to owner - occupant

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

950.4.4 Order - posted onsite - unable to locate owner

If the address of the owner is unknown or the Town is unable to effect service on the owner or occupant under Section 950.4.2, a placard stating the terms of the order 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.

950.4.5 Failure to comply - removal - by Town - owner expense

If an owner or occupant fails to comply with an order given under Section 950.4.1 through 950.4.4, inclusive, the Town's representatives may enter upon the lands at any reasonable time for the purposes of doing the things described in the order.

950.4.6 Cost by Town - collected as taxes

Costs incurred by the Town 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.

Article 5 ENFORCEMENT

950.5.1 Fine - for contravention

Any person who contravenes any provision of this Chapter is guilty of an offence and upon conviction is liable to a fine as provided in the *Provincial Offences Act*.

950.5.2 Failure to comply - guilty of offence

Any person who contravenes any provision of this Chapter or an order issued pursuant to Section 950.4.1 is guilty of an offence.

950.5.3 Multiple offences

Pursuant to clause 429 (2) (a) of the *Municipal Act, 2001*, c. 25 all contraventions of this Chapter or orders issued under Section 950.4.1 are designated as multiple offences and continuing offences. A multiple offence is an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of a Chapter.

950.5.4 Fines - minimum - maximum - multiple offences

On conviction of an offence under this Chapter a person is liable to a fine in accordance with section 429 of the *Municipal Act, 2001*, c. 25 and the following rules made pursuant to section 429 of the *Municipal Act, 2001*, c. 25:

- (a) the minimum fine for any offence is \$400;
- (b) the maximum fine for an offence as set out in subsections (c) and (d) below does not apply to special fines as provided for in Section 950.8.1;
- (c) in the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$400 and the maximum fine shall be \$10,000. The total of all daily fines for the offence is not limited to \$100,000; and
- (d) in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$400 and the maximum fine shall be \$10,000. The total of all fines for each included offence is not limited to \$100,000.

950.5.5 Special fines - no maximum

On conviction of an offence under this Chapter a person is liable to a special fine in accordance with clause 429(2)(d) of the *Municipal Act, 2001*, c. 25. The amount of the special fine will be the minimum fine as provided for in Section 950.5.4 to which may be added the amount of economic advantage or gain that the person has obtained or can obtain from the contravention of the Chapter and/or order issued pursuant to Section 950.4.1. Pursuant to paragraph 1 of subsection 429 (3), of the *Municipal Act, 2001*, c. 25 a special fine may exceed \$100,000.

**Article 6
ENACTMENT****950.6.1 Effective date**

This Chapter comes into force and effect on the date enacted by Town Council. By-law 69-07, 12 June, 2007.