

Authority: Planning and Transportation Committee Report No. 1, Clause No. 1a,  
as adopted by City of Toronto Council on February 16, 2005  
Enacted by Council: February 16, 2005

## CITY OF TORONTO

### BY-LAW No. 123-2005

#### To adopt a new City of Toronto Municipal Code Chapter 485, Graffiti.

WHEREAS under the following provisions of the *Municipal Act, 2001*, S.O. 1991, c. 25, as amended, Council may pass by-laws with respect to safety, City inhabitants' well-being and nuisance matters related to graffiti:

- (a) section 128: to 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
- (b) section 130: to regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality; and

WHEREAS the presence of graffiti on property has a detrimental impact on the use and enjoyment of property in the vicinity of the "graffitied property" and leads to urban blight as:

- (a) the presence of graffiti results in additional graffiti on the property and in other properties becoming the target of graffiti, unless the graffiti is quickly removed from the public and private property; and
- (b) entire neighbourhoods are affected and become less desirable places in which to be as the presence of graffiti promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity, fostering a sense of disrespect of the law that may result in an increase in crime and degrades the community; and

WHEREAS Council has declared its opinion, under section 128 of the *Municipal Act, 2001*, that if property (including structures or things on a highway or other public place) is not maintained free of graffiti as described in this by-law, this is a matter that is or could become or cause public nuisances; and

WHEREAS under section 425 of the *Municipal Act, 2001*, by-laws may be passed by a municipality for providing that any person who contravenes any by-law of the municipality passed under the authority of the *Municipal Act, 2001* is guilty of an offence; and

WHEREAS under section 427 of the *Municipal Act, 2001*, if a municipality has authority by by-law or otherwise to direct or require that a matter or thing be done, the municipality may, in the same or another by-law direct that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and the municipality may recover the costs of doing it by action, or the costs may be added to the tax roll and collected in the same manner as taxes;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The City of Toronto Municipal Code is amended by adding the following chapter:

**Chapter 485**

**GRAFFITI**

**§ 485-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ART MURAL** — A mural for a designated surface and location that has been deliberately implemented for the purpose of beautifying the specific location.

**GRAFFITI** — 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 an art mural.

**INTERIOR SPACE** — Includes an interior wall, ceiling, floor and any other partition that defines the interior space.

**OFFICER** — A City Employee whose duties include the enforcement of this chapter.

**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; and
- B. A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property.

**PROPERTY** — 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** — A place to which the public has access, as of right or by invitation, expressed or implied.

**§ 485-2. Application to interior space.**

This chapter does not apply to the following:

- A. An interior space of a building.

- B. An interior space of any other structure that is not otherwise visible from a highway or other public place.
- C. A thing located wholly within the interior space of a building or a structure as described in Subsection B.

**§ 485-3. Graffiti prohibited.**

- A. No person shall place or cause or permit graffiti to be placed on 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 § 485-1.
- B. The owner or occupant of property shall maintain the property free of graffiti.
- C. 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 § 485-1, shall maintain the structure or thing free of graffiti.

**§ 485-4. Notice to comply.**

- A. An officer who finds a contravention of this chapter may give written notice to the owner or occupant of the property, structure or thing, as described in § 485-3, requiring compliance with this chapter within the time period specified in the notice but no sooner than 72 hours after the notice is given.
- B. 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 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 City is unable to effect service on the owner or occupant under Subsection B, a placard stating the terms of the notice and placed in a conspicuous place upon land on or near the property, structure or thing, shall be deemed to be sufficient notice to the owner.
- E. Review of notice for art mural exemption.
  - (1) A notice, including notice by placard, given or placed under this section, shall contain the statement that the owner or occupant may, upon receipt of notice under this section, request that the issuance of the notice be reviewed by the community council on the basis that the markings are exempt as an art mural.
  - (2) The community council in Subsection E(1) shall be the community council for the geographic area in which the property, structure or thing is located.

- (3) If the property, structure or thing is located in the geographic area of more than one community council, the review request may be heard by any community council responsible for one of the geographic areas in which the property, structure or thing is located, and notice of the review request will be given to the councillor of any ward in which the property, structure or thing is located.
- (4) A request for review under Subsection E(1) shall be in writing to the Commissioner of Urban Development Services as indicated on the notice.
- (5) The request for review and any non-refundable processing fee set out in Chapter 441, Fees, must be received within the time period for compliance specified in the notice.
- (6) When a request for review as an art mural has been received along with the required processing fee under Subsection E(5), the Commissioner of Urban Development Services shall prepare a report and refer the matter to the community council for consideration and shall not take any action under this chapter until the matter has been dealt with by the community council and by Council.
- (7) An owner requesting a review of a notice, and any other interested person, shall be heard by the community council which may recommend that Council:
  - (a) Grant the exemption, with or without conditions, and cancel the notice; or
  - (b) Confirm the notice and direct that a second notice be given under this section.
- (8) Subsection E(1) does not apply to a second notice given under Subsection E(7).

**§ 485-5. Failure to comply; removal by City; costs.**

- A. If an owner or occupant fails to comply with a notice given under § 485-4A or is refused an exemption and fails to comply with the second notice given under § 485-4E(7), the Commissioner of Urban Development Services, or persons acting upon his or her instructions, may enter upon the lands at any reasonable time for the purposes of doing the things described in the notice.
- B. 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.

**§ 485-6. Offences.**

Any person who contravenes any provision of this chapter is guilty of an offence.

ENACTED AND PASSED this 16th day of February, A.D. 2005.

DAVID R. MILLER,  
Mayor

ULLI S. WATKISS  
City Clerk

(Corporate Seal)