

COMMITTEE OF THE WHOLE (WORKING SESSION) - FEBRUARY 23, 2009

GRAFFITI BY-LAW REPORT

Referred Item (Item 6, CW(WS) Report No. 5)

Committee of the Whole (Working Session), at its meeting of February 2, 2009, recommended the following:

That this matter be referred to the next Committee of the Whole (Working Session) meeting.

Report of the Commissioner of Legal and Administrative Services and City Solicitor, dated February 2, 2009:

Recommendation

The Commissioner of Legal and Administrative Services and City Solicitor, in conjunction with the Director of Enforcement Services and the Vaughan Safe City Association, recommend:

1. That the draft by-law prohibiting graffiti be enacted substantially in the form attached. (Attachment #1)

Economic Impact

Not applicable.

Communications Plan

The purpose and implementation of this by-law initiative will be communicated through a Graffiti Education Communication Strategy 2009 (Attachment #2), City website content (Attachment #3), and an information brochure (Attachment #4) and poster produced by Safe City Association.

Purpose

Graffiti reduces a sense of safety, encourages more crime, and lowers property values. Recent amendments to the *Municipal Act, 2001* allow municipalities to adequately address public nuisances such as graffiti. The attached by-law will enable enforcement staff to adequately address these issues, by requiring private property owners to quickly remove graffiti, and to charge those individuals responsible for the placement of the graffiti.

Background - Analysis and Options

- **Anti-Graffiti By-law**

Bill 130 brought significant amendments to the *Municipal Act* with respect to public nuisances. Prior to these amendments, a municipality could regulate nuisances, but only in the industrial and commercial contexts. Now, municipalities can regulate "matters that, in the opinions of council, are or could become or cause public nuisances". Municipalities such as Barrie, Cambridge, London, Milton, Mississauga, Ottawa, Oakville, Richmond Hill, and Toronto have passed anti-graffiti by-laws under this new authority.

Given these amendments, Staff are recommending that graffiti be defined as follows:

"one or more letters, symbols, figures, etchings, scratches, inscriptions, stains howsoever made or otherwise affixed to a property that disfigure or deface a property"

This definition is sufficiently broad to capture traditional forms of graffiti in addition to those unique forms of graffiti that may arise in the future. This definition is also consistent with definitions of graffiti used by other municipalities such as Toronto and Ottawa.

Section 3.1 will prohibit the placement of graffiti on property. Section 3.2 will require owners of property to maintain the property free of graffiti. Should a property owner fail to maintain the property free of graffiti, section 4.1 of the draft by-law will enable Enforcement Staff to issue a Notice to Comply. Where this Notice to Comply is not complied with in the prescribed time frame, section 5.1 will allow the City to enter upon the property at any time to remove the graffiti. Section 5.2 states that the costs of removing the graffiti may be added to the tax roll. Charges may also be laid against the property owner for failing to comply with the Notice to Comply.

Staff recognize the legitimate concerns of property owners who themselves feel victimized when their buildings are defaced through the act of graffiti. The intent of the Anti-Graffiti By-law is not to punish these property owners, who through no fault of their own have had their property vandalized. Rather, this process is meant to promote the public interest by ensuring that there is a timely removal of graffiti. In the majority of cases, property owners will share this view and voluntarily remove the graffiti without the need for City intervention.

It should be noted that other municipalities have incorporated an “art mural” exception in their respective graffiti by-laws. Some municipalities designate a wall where graffiti is permitted. Other municipalities have created a permit process which would allow the municipality to regulate the location and content of the graffiti. Creating such an exception may be viewed as condoning graffiti in general, which may lead to the proliferation of graffiti. Also, this exception may lead to Justices of the Peace improperly using the exception as grounds to acquit a person charged under the anti-graffiti by-law. Accordingly, an “art mural” exception is not recommended.

- **Role of Enforcement Services**

In June 2008, a Graffiti Working Group was created comprised of staff from Enforcement Services, Parks Department, Public Works, Building and Facilities, Corporate Communications, and York Regional Police. Through this Working Group, a process was developed for graffiti found on City property. When graffiti is found on City property, the relevant department would be responsible for taking pictures of the graffiti and collecting information such as the size and location of the graffiti. The relevant department will also be responsible for removing the graffiti from City property. This information will be put into an Incident Report form, which will in turn be forwarded to Enforcement Services. Enforcement Services will open a file for potential by-law charges and forward information relating to serious incidents of graffiti to York Regional Police. This information will become useful to York Regional Police and to the City of Vaughan if the person responsible is identified and criminal charges are laid. Should a criminal conviction result, the City may be able to recover costs associated with the graffiti removal through restitution ordered by the criminal court.

With respect to graffiti on private properties, Enforcement Staff will be enforcing on both a complaint and proactive basis. Enforcement Staff will undertake inspections and issue Notices to Comply directing that graffiti be removed within a specified time frame. In appropriate circumstances, by-law charges might also result. Again, the purpose of this strategy is to promote the public interest, and not punish the property owner. Staff would assist the community, neighborhood groups, and agencies in supplying information to assist with their graffiti removal endeavors.

- **Communications Strategy**

Should Council wish, Corporate Communications will update the City website to include information relating to graffiti. Proposed website content is attached as Attachment #2.

In addition, Corporate Communications has developed a general public education strategy relating to graffiti (Attachment #3). Brochures (Attachment #4) and posters will be left in all City facilities, schools and libraries to raise community awareness. These brochures and posters were provided by the Vaughan Safe City Association, at no cost to the City.

Relationship to Vaughan Vision 20/20 Strategic Plan

This report is consistent with and supports the Vaughan Vision goal of ensuring that the City of Vaughan is a safe and attractive community.

Regional Implications

Properties under the control of the Region would be impacted by this By-law as it is anticipated that the By-law would apply to all property within the City of Vaughan. Staff have worked with York Regional Police on the Working Group.

Conclusion

Amendments to the *Municipal Act, 2001* allow municipalities to pass anti-graffiti by-laws. The attached draft by-law will give City staff the ability to remove graffiti from both City and private property in a timely manner. The draft by-law will also enable enforcement services to charge those individuals who are caught placing graffiti on property. These new tools will promote a greater sense of community safety and respect for property.

Attachments

1. Draft Anti-Graffiti By-law
2. Graffiti Public Education Communications Strategy 2009
3. Proposed City website content
4. Graffiti Brochure

Report prepared by:

Rick Girard
Managing Supervisor

Danny Di Pasquale
Supervisor of Enforcement Services

Respectfully submitted,

Janice Atwood-Petkovski
Commissioner of Legal and Administrative Services and City Solicitor

BY-LAW NUMBER -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 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

9. This By-law may be referred to as the "Anti-Graffiti By-law".

EFFECTIVE DATE

10. 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 day of , 2009.

GRAFFITI PUBLIC EDUCATION COMMUNICATIONS STRATEGY 2009

OBJECTIVES

1. Achieve public understanding of the nature and impact of graffiti
2. Give citizens the information they need to deal with graffiti
3. Communicate relationship to Vision 2020 (e.g. Safe City)
4. Communicate the rationale for, and scope of, the City's proposed graffiti bylaw.

TARGET AUDIENCES

External –

Residents
Ratepayers' Associations
Community Groups
Media
Business Community
Other levels of government
Schools

Internal –

City staff

KEY MESSAGES

1. Graffiti hurts everyone. (Sub-messages: It costs home-owners and businesses. It results in lost investment. It threatens tourism. It reduces quality of life.)
2. Public education and the City bylaw will help prevent the spread of graffiti.
3. Every citizen is part of the solution to graffiti.

OVERVIEW

1. A communication plan is required to support the City's introduction of a draft bylaw. That plan should focus on public education.
2. That campaign should benefit from other municipalities' experience. A common element of their approaches is a focus on prevention. Preventing graffiti is the proven, pragmatic approach to resolving it.
3. There is an issues management component to communications. The proposed bylaw not only prohibits individuals from placing graffiti on any property, but property owners, tenants and

occupants of any property would be required to keep their property free of graffiti. This requirement may raise questions about costs of criminal behavior being imposed on residents.

4. Communicating that the ultimate goal is to eliminate existing graffiti and prevent its recurrence is important since that will be the focus of the City's long-term campaign.
5. Communicate that this is a community effort. The City will have a bylaw enforcement officer but without engagement of the community it will fail.
6. Communicate to high school students that the City appreciates and supports artistic expression of youth, but the graffiti we are targeting is not art since it is imposed on the property of others.

ACTION STEPS

ACTIVITY	DESCRIPTION	DATES
Media	Investigate placement of a series of articles to be done by Vaughan Citizen, other local papers on graffiti (might look at impact from several perspectives, business, home-owners, high school students, and focus on public education, prevention, eradication and enforcement as key themes.	After bylaw is passed
Website content	Brochure, poster, FAQs on graffiti bylaw and need for it, reasons for graffiti, who does it, why they do it, how to get rid of it, what you can do	Finalize in January 2009
Printed materials	Distribution of brochures to every household in Vaughan Anti-graffiti posters and brochures at community centres, libraries, schools	Jan.17-19 Circulation after household distribution
Other media opportunities	Formal announcement of public education campaign with media advisory, news release	Committee of Whole on Feb.2

ACTIVITY	DESCRIPTION	DATES
Other communications opportunities	VIBE article to build employee awareness of the issue and supply key messages on bylaw (note: 40% of staff live in Vaughan)	February 2 2009
	Short summary article for VBEC E-Blast and Vaughan Business Link to explain bylaw to business, direct them to website, get them involved in preventative approach	February 2009
	Periodic high school visits by Mayor/Councillors with anti-graffiti messages (one of several topics)	Winter 2009
	Engagement of Youth Councillor and Cabinet via speaking engagements at high schools (young people talking to young people works)	Winter/Spring 2009
	Enforcement officers appear in late elementary/high school, perhaps in tandem with Youth Councillor/Cabinet members	Winter/Spring 2009
	Chamber of Commerce speaking engagement by Mayor/Councillor DiVona on subject in context of Safe City/quality of life	Winter 2009
	Library anti-graffiti campaign (posters, brochure, guest speakers)	Winter/Spring 2009
	Put out a notice to City staff who work outdoors to advise the Bylaw enforcement department when they spot graffiti	When bylaw passed
	Beautification Day for all of Vaughan to include eradication of graffiti (include businesses, schools, community groups). Tie into Hosting of 2009 Communities in Bloom conference.	Summer 2009
City Update e-newsletter piece on bylaw/public education	February 2009	

PERFORMANCE MEASUREMENTS

Monitor media coverage
Track website visits
Track telephone inquiries

KEY MEDIA CONTACTS

Local papers

Regional papers

TV, radio



A Primer on Graffiti Types

Graffiti has many faces. Here's how to recognize the different types:

Hip Hop (the most common types)

Tag: A “tag” is often difficult to read and is applied using one colour. The scribble acts as a kind of nickname or persona that is consistent to the tagger. The purpose of tagging is for one to leave their mark or to stake their territory.

Throw Up: A “throw up” is quite similar to a tag, the only difference is that it is applied using two or three colours and has a more three-dimensional (3D) appearance.

Piece: A “piece” or masterpiece is a more elaborate version of the throw up. It is often larger in size, multi-coloured, multi-dimensional and artistic.

Slap Tags: A “slap tag” is a small sticker that has been previously tagged and is applied quickly and easily to a surface.

Folk Epigraphy

“Folk epigraphy” is a type of “rite of passage” messaging system, for example “Jane loves Billy” or “I was here”. This type of graffiti often has a focused audience, is non-intrusive, transient and has a limited recurrence.

Latrinalia

This type refers to graffiti that is applied in washrooms/latrines. Often this takes shape as limericks or rhymes, and sometimes as slander.

Scratchiti

This is a type of graffiti that has been scratched into a surface instead of being applied by paint, crayon or marker.

Stencil

Stencil graffiti is associated with stencil art. It is meant to communicate an idea or emotion.

Gang

Gangs use graffiti to establish a symbol of unity, demarcate boundaries, memorialize or for recruitment. Easier to read than hip hop. Sometimes makes threats, extortion, or shows disrespect to other gangs.

Backgrounder on Graffiti

What is Graffiti?

The anti-graffiti bylaw of the City is focused on graffiti writing, drawing or symbols applied to any surface without proper consent. This costs tens of thousands of dollars for municipalities across Canada. Graffiti vandals use a variety of media or materials to deface both public and private property such as spray paint, crayons/oil sticks and markers/ and permanent ink.

What is the Proactive Approach to Controlling Graffiti?

BE PREVENTATIVE

- **Clean and maintain your property**
 - ✓ Rid your property of litter
 - ✓ Encourage your neighbours to do the same
 - ✓ A littered environment invites graffiti
- **Landscape your property.**
 - ✓ Plant shrubs, ivy or vines in front of blank walls.
 - ✓ This is attractive and discourages vandalism
- **Install lighting on your property**
 - ✓ Install lighting that has a motion detector, high enough that it is out of reach
 - ✓ Graffiti vandals prefer the darkness

BE PREPARED

- **Have graffiti remover on hand.**
 - ✓ Add a can of spray remover to your supplies
 - ✓ Having it on hand ensures prompt removal
- **Know the colour of your walls**
 - ✓ Keep a record of the paint colour of exterior walls
 - ✓ This will allow you to purchase more paint to cover graffiti

BE PROMPT

- **Report the graffiti on your property**
 - ✓ Call the police so that it may be photographed/catalogued
 - ✓ This ensures a history goes with the offender to court
- **Remove the graffiti on your property**
 - ✓ This is the most effective way of preventing more

acts of graffiti vandalism.



Nobody Cares

It's everywhere. Spray-painted on the sides of fences, walls, utility boxes, homes. Graffiti. From the inner city to the outer suburbs. From downtown to midtown to uptown. It says one thing: nobody cares. And that creates an open invitation for littering, loitering and more graffiti.

We have crime enforcement. Why do we need an Anti-Graffiti bylaw?

York Regional Police tell us that graffiti increased by 60 % between 2007-8. While there is an existing bylaw in Vaughan dealing with defacement of property, it involves a lengthy appeal process which prevents speedy removal of graffiti. The new bylaw will help police and the City enforcement staff get rid of graffiti in a timely way.

Who's affected by the bylaw?

The Anti-Graffiti bylaw applies to both public and private property owners in the City.

How does graffiti affect the community?

In so many ways, including:

- **Reducing property values.** Graffiti-laden neighborhoods are less appealing to renters and buyers
- **Causing declining retail sales.** People tend to feel less safe where graffiti abounds and retail sales decline.
- **Reducing public enjoyment.** People experience less enjoyment of parks and other public spaces where there is unwanted graffiti.
- **Negatively impacting tourism.** Tourists generally feel unsafe in neighborhoods in which a lot of graffiti is found.
- **Affecting business negatively.** Business owners feel victimized and frustrated when their properties are tagged with graffiti.

Graffiti sends out a message that “nobody cares”.

So what else is the City doing, beyond putting a bylaw in place?

A comprehensive strategy is planned including education, prevention, eradication and enforcement. City enforcement staff have worked with York Regional Police, area municipalities and Corporate Communications to develop a public education program.

We’ll need the help of the entire community to make sure this works.

So what can I do?

If you want to report any form of graffiti, or you have questions regarding graffiti, please e-mail us at: Works@vaughan.ca or Parks@vaughan.ca.

or, call us at the **Graffiti Hotline**

- After hours Hotline - (905) 832-2281 "Press 0"
- Vandalism Hotline - (905) 879-4357

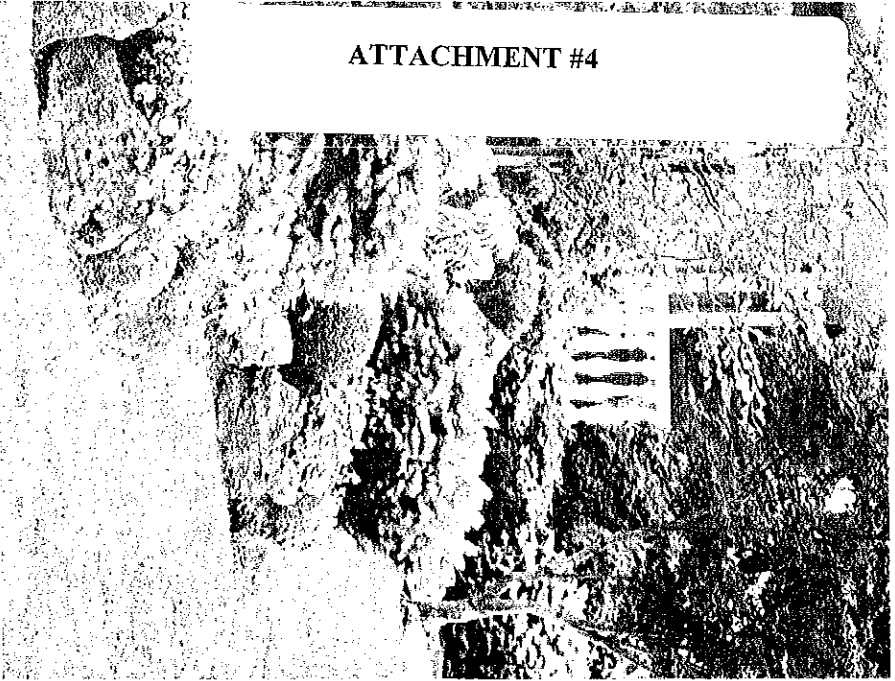
What can I do to prevent graffiti?

You should know that there are several good strategies to help prevent graffiti. One is the immediate removal of existing graffiti. Another is to use Crime Prevention through Environmental Design (CPTED) techniques. With these graffiti can be prevented both for existing buildings and during design of a development. Minimizing solid vertical surface areas, using rough surfaces and appropriate landscaping can all help.

For more information on these strategies, please check our website at www.vaughan.ca and search on graffiti.

Getting rid of graffiti

Spray Remover	Most effective in removing graffiti on painted or smooth surfaces, such as glass, metal, plastic or vinyl
Power washing	Most effective in the removal of spraypaint on sensitive surfaces that are not painted, such as stone and cement
Anti-graffiti coatings/sealers	Most effective in providing a protective to walls, objects, making future graffiti removal easy
Paint Out	Most effective in the removal of graffiti on painted surfaces, simply match the colour of the area and cover as required
Paint Over	Most effective in the deterrance of future graffiti. Covering it with an attractive mural is an attractive way to keep vandals away.



What can I do to protect against graffiti?

- 1. remove graffiti as quickly as possible
 - 2. reduce access to roof areas
 - 3. install video surveillance for isolated areas
 - 4. restrict access to walls by planting trees, ivy, etc.
 - 5. keep graffiti remover on hand (hardware stores sell it)
- ✓ all of the above

What do I do if I spot graffiti?

- 1. if a graffiti crime's in progress call 9-1-1
- 2. to report existing graffiti call 905-879-4357
- 3. to report graffiti online email works@vaughan.ca or parks@vaughan.ca

1. if you wish to remain anonymous contact
Crime Sleepers at 1-800-222-8477
or www.1800222tips.com

**A Message from
The Vaughan Safe City Association**

"Vaughan is a safe and beautiful community. The frase Graffiti campaign has one key goal: to engage the community in keeping the city both safe and beautiful."

~ Councillor Bernie DiVona ~
Chair of the Vaughan Safe City Association

Let's keep Vaughan

beautiful
Together.

For more information on
graffiti and how to report it call
905-879-HELP (4357)

www.vaughan.ca



The City Above Toronto



Vaughan Safe City Association



The City Above Toronto



Vaughan is a beautiful community.

From Thornhill to Woodbridge, from Maple to Concord to Kleinburg, this is a city with attractive natural and man-made features.

But keeping it beautiful takes work.

Graffiti is markings that disfigure public and private property. It's a criminal act. Left unchecked, graffiti grows and grows, spoiling the community.

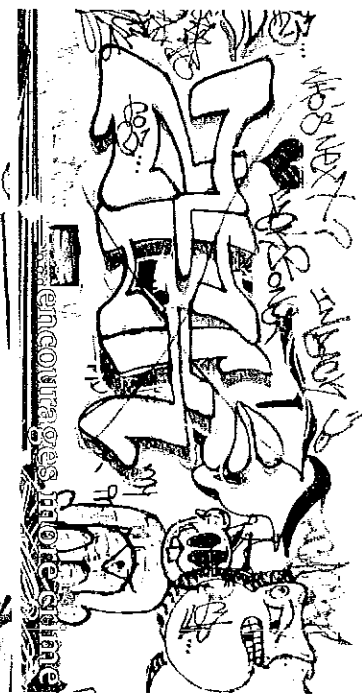
In this brochure, we invite you to review frequently asked questions and learn more about graffiti and how you can help.



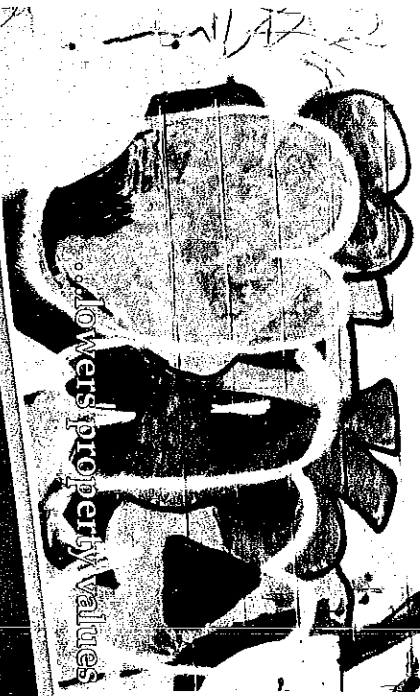
Reduces sense of safety



costs taxpayers



encourages more crime



lowers property values

What is Your Graffiti I.Q.?

Who is responsible for most graffiti?

- ✓ Young people between 12 and 21
- 2. Young people between 8 and 15
- 3. Young adults between 18 and 25

Why do they do it?

- 1. fame
- 2. rebellion
- 3. self-expression
- 4. power
- ✓ all of the above

What impact does unchecked graffiti have?

- 1. decreases sense of public safety
- 2. costs taxpayers for cleanups
- 3. threatens enjoyment of parks/public spaces
- 4. lowers property values
- ✓ all of the above

What is the City doing about graffiti?

- 1. surveying residents
- 2. launching a new bylaw in spring 2009
- 3. initiating a public education campaign
- 4. getting young people involved
- 5. publicizing a graffiti hotline
- 6. working with police on a database
- ✓ all of the above and more to come