

## **PROPERTY MAINTENANCE**

### **Chapter 835 GRAFFITI REGULATION**

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## Article 1 TITLE AND SCOPE

### 835.1.1 Title and scope

This Chapter shall be known and cited as the “Anti-Graffiti Chapter” and shall apply to the whole geographic limits of the City of Orillia. In the text of this Chapter, it is referred to as “this Chapter”.

## Article 2 DEFINITIONS

### 835.2.1 Graffiti - defined

“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, but excludes a mural sign placed on any property in accordance with Chapter 832 of the City’s Municipal Code.

### 835.2.2 Interior space - defined

“interior space” includes an interior wall, ceiling, floor and any other partition that defines the interior space of a property.

### 835.2.3 Officer - defined

“Officer” means a Municipal By-law Enforcement Officer or Police Officer.

### 835.2.4 Owner - defined

“owner” includes:

- (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;
- (c) a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property.

**835.2.5 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 and includes vacant property.

**835.2.6 Public place - defined**

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

**835.2.7 City - defined**

“City” means the Corporation of the City of Orillia.

**Article 3  
GENERAL PROVISIONS****835.3.1 Graffiti prohibited**

No person shall place, or cause, or permit graffiti to be placed on any property.

**835.3.2 Owner responsible for removing graffiti**

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

**835.3.3 Owner of structure or thing - highway or public place**

The owner of a wall, fence or other structure or thing, in or on a highway or other public place shall maintain the wall, fence or structure or thing free of graffiti.

**Article 4  
EXEMPTIONS****835.4.1 Graffiti exemption - interior space**

Sections 835.3.1 to 835.3.3 inclusive do not apply to the interior space on a property or to a thing located entirely within the interior space on a property.

**835.4.2 Graffiti exemption - skateboard park**

Sections 835.3.1 to 835.3.3 inclusive do not apply to the skateboard park located at Veterans' Memorial Park, provided the graffiti is not lewd or indecent.

**835.4.3 Graffiti exemption - bridge structures**

Sections 835.3.2 and 835.3.3 do not apply to the underside of bridge structures, unless the graffiti is lewd or indecent.

**Article 5  
ENFORCEMENT****835.5.1 Enforcement**

A Municipal By-law Enforcement Officer or Police Officer is hereby vested with the authority of enforcing the provisions of this Chapter.

**835.5.2 Entry and inspection**

An Officer may, at all reasonable times, enter on land including buildings and structures other than a dwelling unit, for the purpose of carrying out an inspection to determine compliance with this Chapter.

**835.5.3 Notice to Comply**

An Officer who finds a contravention of this Chapter may give written notice to the owner of the property, structure or thing 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 notice.

**835.5.4 Service of Notice to Comply - personally or Regular Mail**

The notice may be served personally on the person to whom it is directed, or by regular mail to the last known address of that person in which case service shall be deemed to have been made on the fifth day after the date of mailing.

**835.5.5 Service of Notice to Comply - registered owner**

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

**835.5.6 Service of Notice to Comply - owner unknown**

If the address of the owner is unknown or the City is unable to effect service under Section 835.5.4, 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 sufficient notice to the owner.

**835.5.7 Failure to Comply with Notice to Comply**

If the notice is not complied with, the City, by its employees, officers or agents, may enter upon the property of the owner without further notice and undertake the action described in the notice. Costs incurred by the City in doing the work required by the notice may be collected in the same manner as property taxes.

**835.5.8 Hinder or Obstruct**

No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this Chapter, or any person lawfully acting in aid of such an Officer. Without limiting the generality of the meaning of "hinder" or "obstruct", a person shall be deemed to have obstructed or hindered an Officer in the execution of their duties if he or she:

- (a) provides false information to an Officer; or
- (b) is alleged on reasonable and probable grounds to have contravened any of the provisions of this Chapter, and fails to identify themselves to an Officer upon request.

**835.5.9 Penalties**

- (a) Any person who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the *Provincial Offences Act*.
- (b) Where a section of this Chapter has been contravened, a director or officer of a corporation who knowingly concurs in the contravention is guilty of an offence.
- (c) Upon conviction, in addition to any other remedy and to any penalty imposed by this Chapter, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

**835.5.10 Validity and severability**

Every provision of this Chapter is declared severable from the remainder and if any provision of this Chapter shall be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder.

**835.5.11 Rebuttable presumption - identification**

In a prosecution for a contravention of this Chapter, evidence of identification shall be presumed to be correct and accurate, unless rebutted by evidence to the contrary.

**Adopting By-law:** 2011-102, 15 August 2011.

**By-law Amendments:** By-law 2017-14; 13 February 2017, By-law 2017-116; 11 December 2017.