

CITY OF KAMLOOPS

BY-LAW NO. 25-5

A BY-LAW PROVIDING FOR THE CONTROL OF GRAFFITI
WITHIN THE CITY OF KAMLOOPS

The Municipal Council of the City of Kamloops, in open meeting assembled, enacts as follows:

1. This by-law may be cited "City of Kamloops Graffiti Control By-law No. 25-5, 2007."
2. Purpose
 - 2.1 The purpose of this by-law is to regulate, prohibit, and impose requirements in relation to the protection and enhancement of the well-being of the community, specifically in relation to graffiti, and to:
 - (a) preserve and enhance the character of Kamloops' neighbourhoods and the City's aesthetic environment;
 - (b) promote a well-maintained and attractive community; and
 - (c) prevent graffiti and to promote civic responsibility by requiring that the owners and occupiers of real property remove graffiti.
3. Definitions and Interpretations
 - 3.1 In this by-law:

"BY-LAW SERVICES SUPERVISOR" means the person appointed as such from time to time by the City of Kamloops and any person delegated to assist in carrying out his/her duties under this by-law.

"CITY" means the City of Kamloops.

"COMMUNITY AND CORPORATE AFFAIRS DIRECTOR" means the person appointed as such from time to time by the City of Kamloops and any person delegated to assist in carrying out his/her duties under this by-law.

"COUNCIL" means the Municipal Council of the City of Kamloops.

"GRAFFITI" means any drawing, mural, printing or writing which is scribbled, scratched, sprayed, painted, or similarly placed directly on any surface by means of paint, chalk, ink or other substance or by chisel, hammer, stone or other device, but does not include any of the following:

 - (a) signs, notices, and traffic control devices authorized by any City by-law or provincial or federal legislation;

- (b) murals approved by the Kamloops Arts Commission in accordance with the Mural Approval Policy attached as Schedule "A" to this by-law; or
- (c) murals approved by Council in accordance with the Mural Approval Policy attached as Schedule "A" to this by-law.

"INSPECTOR" means anyone who is appointed as such from time to time by the City of Kamloops and any person delegated in carrying out his/her duties under this by-law, the By-law Services Supervisor, or the Community and Corporate Affairs Director to enter and inspect property in accordance with this by-law.

"KAMLOOPS ARTS COMMISSION" means the commission established and continued under the Kamloops Arts Commission By-law No. 35-55, 1995, as amended.

"MURAL" means any painting, drawing, sketching, or other marking that is inscribed, painted, or otherwise applied directly upon any building, structure, wall, fence, or any other surface, and that does not include any advertising content or logo.

"PUBLIC PLACE" includes every sidewalk, park, courtyard, square, walkway, building, parkade and any other area or structure open to public use and includes every right-of-way reserved for use by a railway.

- 3.2 If a division, section, subsection, sentence, clause, or phrase of this by-law is for any reason held to be invalid by the decision of a court of competent jurisdiction, it shall be severed and such decision shall not affect the validity of the remaining portions of this by-law.

4. General Provisions

- 4.1 No person shall place graffiti on a building, structure, wall, fence, or any other surface that is visible from a public place. Every person who violates this section may be served with a violation notice and shall be required to pay a fine of a minimum of \$500 to a maximum of \$2,000.
- 4.2 No owner or occupant of real property shall permit graffiti to be placed on a building, structure, wall, fence, or any other surface located on that real property, if such graffiti is visible from a public place.
- 4.3 Every owner or occupier of real property must cover or remove from that real property any graffiti present on a building, structure, wall, fence, or any other surface that is visible from a public place.

5. Inspection and Enforcement

- 5.1 The City may give written notice to an owner or occupier of real property, stating that the City will take the action at the expense of the owner or occupier if that person does not comply with Section 4.3 within 14 days of the service of the notice.

- 5.2 Where a property owner or occupier fails to comply with the notice issued by the City under Section 5.1, the City, by its workers or designate, at reasonable times and in a reasonable manner, may enter on the real property and, at the cost of the property owner, effect such work as is deemed necessary and appropriate by the City, or its designate, to take the action required by the notice.
- 5.3 If the City takes action under Section 5.2 and the costs of the action are not paid on or before December 31st in the year in which they are incurred:
- (a) they may be recovered from the person as a debt; or
 - (b) they may be collected in the same manner and with the same remedies as ordinary taxes on the real property on which the action was taken, and for the purposes of this subsection, the costs are considered to be taxes in arrears.
- 5.4 Inspectors are authorized to enter at all reasonable times and in a reasonable manner on real property to determine whether the requirements of this by-law are being observed.

6. OFFENCES AND PENALTIES

- 6.1 No person shall do any act or suffer or permit any act or thing to be done in contravention of this by-law.
- 6.2 Every person who violates any provision of this by-law, or who permits any act or thing to be done in contravention of this by-law, or who fails to do any act or thing required by this by-law, shall be deemed to have committed an offence against this by-law and:
- (a) shall be liable to a fine set out in the City of Kamloops Municipal Ticket Utilization By-law; or
 - (b) shall be liable, upon summary conviction, to the penalties provided under the *Offence Act*; or
- any combination of the above.
- 6.3 Each day that an offence against this by-law continues shall be deemed a separate and distinct offence.
- 6.4 Any penalty imposed pursuant to this by-law shall be in addition to, and not in substitution for, any other penalty or remedy imposed pursuant to any other applicable statute, law, or legislation.

READ A FIRST TIME the 3rd day of April , 2007.

READ A SECOND TIME the 3rd day of April , 2007.

READ A THIRD TIME the 3rd day of April , 2007.

ADOPTED this 1st day of May , 2007.

MAYOR
T. LAKE

CORPORATE OFFICER
L. W. HRYCAN

MURAL APPROVAL POLICY

1 DEFINITIONS

1.1 In this Mural Policy:

"COUNCIL" means the Municipal Council of the City of Kamloops;

"MURAL" means any painting, drawing, sketching, or other marking that is inscribed, painted, or otherwise applied directly upon any building, structure, wall, fence, or any other surface, and that does not include any advertising content or logo.

"PUBLIC MURAL" means Murals which are or will be placed on City-owned property and Murals which are or will be financed in whole or in part with public funds.

"PUBLIC PLACE" includes every sidewalk, park, courtyard, square, walkway, building, parkade, and any other area or structure open to public use and includes every right-of-way reserved for use by a railway.

"PRIVATE MURAL" means Murals which are financed without public funds and which are or will be placed on private property.

"SUBMISSION" means an application for approval of a Mural, together with all documents and information required under this Mural Approval Policy.

2 SUBMISSIONS FOR APPROVAL OF MURALS

2.1 A person wishing to apply a Mural to any surface that is visible from a Public Place anywhere within the boundaries of the City of Kamloops must apply for approval as follows:

- (a) in the case of Public Murals, approval must be obtained from the Kamloops Arts Commission; and
- (b) in the case of Private Murals, approval must be obtained from Council.

3 PUBLIC MURAL APPROVAL PROCESS

3.1 The Kamloops Arts Commission will establish a Mural Subcommittee, comprised as follows:

- (a) one (1) facilitator with an arts administration background, who will serve as a non-voting member of the Mural Subcommittee;
- (b) three (3) professional artists;
- (c) one (1) member of the Arts Commission; and

- (d) one (1) community stakeholder.
- 3.2 The Mural Subcommittee will be responsible for evaluating Public Mural Submissions and making recommendations to the Kamloops Arts Commission.
- 3.3 The Mural Subcommittee will evaluate only those Public Mural Submissions which include the following documentation:
- (a) a completed application, in the form designated from time to time by the Kamloops Arts Commission;
 - (b) written permission from the owner of the property upon which the proposed Mural is to be applied;
 - (c) a projected timeline for completion of the Mural;
 - (d) a copy of the contract, if any, between the applicant and the artist(s) installing the Mural;
 - (e) a completed budget for the Mural, which identifies all funding sources;
 - (f) an itemized inventory of materials to be used for the Mural and a photograph of the existing surface on which the Mural will be applied;
 - (g) a detailed model of the proposed Mural; and
 - (h) a maintenance plan, including parties responsible for maintenance.
- 3.4 The Mural Subcommittee will evaluate Public Mural projects on the following criteria:
- (a) artistic merit;
 - (b) appropriateness of materials; and
 - (c) qualifications of the project manager or lead artist(s).
- 3.5 The Mural Subcommittee will meet once a month between February and June of every year to evaluate Public Mural Submissions. The Mural Subcommittee will forward its recommendations in respect of each Public Mural Submission to the Kamloops Arts Commission.
- 3.6 All decisions of the Kamloops Arts Commission are final; however, applicants may modify their proposed Public Murals and reapply to the Kamloops Arts Commission for approval.

4 PRIVATE MURAL APPROVAL PROCESS

4.1 Council will consider only those Private Mural Submissions which include the following documentation:

- (a) a completed application, in the form designated from time to time by the Community and Corporate Affairs Director;
- (b) written permission from the owner of the property upon which the proposed Mural is to be applied;
- (c) a projected timeline for completion of the Mural;
- (d) a copy of the contract, if any, between the applicant and the artist(s) installing the Mural;
- (e) an itemized inventory of materials to be used for the Mural and a photograph of existing surface on which the Mural will be applied;
- (f) a detailed model of the proposed Mural; and
- (g) a maintenance plan, including parties responsible for maintenance.

4.2 Council will evaluate Private Mural projects on the following criteria:

- (a) artistic merit;
- (b) appropriateness of materials; and
- (c) qualifications of the project manager or lead artist(s).

4.3 All decisions of Council are final; however, applicants may modify their proposed Private Murals and reapply to Council for approval.

Mural Application Form

This form must be attached to the Mural Submissions.

1. Date _____
2. Please indicate whether this is a Public Mural or Private Mural Application.
Public Mural Private Mural
3. Lead Organization _____

4. Contact Name/Project Coordinator _____
Phone _____ Fax _____
Email _____
Street Address _____
City _____ Prov _____ Postal Code _____
5. Funding Source _____
6. Proposed Site of Mural (legal street address) _____

7. Project Descriptions:
On a separate document, please provide particulars for the following:
 - (a) Description of proposed design;
 - (b) Materials and process to be used; and
 - (c) Name of other individuals/groups involved in Mural participation/design/implications.

I, _____, as the mural applicant, accept the decision of the Kamloops Arts Commission for a Public Mural and the decision of Council for a Private Mural.

Signature _____

Attachment Checklist

The following must be included with your application:

- (a) Mural application form.
- (b) Project description (refer to Section 7 of the Mural Application form).
- (c) Written permission, including acknowledgment of responsibilities, from property owner.
- (d) Copy of contract with the artist(s).
- (e) Timeline.
- (f) Model (identifying materials, project manager).
- (g) Photographs of site (include photo of wall surface Mural is to be installed on).
- (h) Budget of project (complete budget with identification of funding source) for Public Murals only.
- (i) Maintenance Plan (including parties responsible for maintenance).