



**City of Kingston**  
**Report to Arts, Recreation and Community Policies Committee**  
**Report Number ARCP-19-003**

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**To:** Arts, Recreation and Community Policies Committee  
**From:** Peter Huigenbos, Acting Commissioner, Community Services  
**Resource Staff:** Colin Wiginton, Cultural Director, Cultural Services Department  
**Date of Meeting:** February 28, 2019  
**Subject:** The Implications Associated with Establishing a Legal Wall  
Adjacent to Douglas Fluhrer Park

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**Executive Summary:**

The purpose of this report is to outline for Council the implications associated with establishing the City-owned retaining wall on the Rideaucrest property adjacent to Douglas Fluhrer Park as a legal graffiti wall. This report has been prepared in response to a motion passed by Council at its regularly scheduled meeting held on June 6, 2017 that directed staff to look at how that might work based on interest that have been expressed by the community and, more specifically, by representatives from the 'Friends of Kingston Inner Harbour' who successfully organized two community-led events that used the retaining wall as a place where local artists working with community members created murals.

The events organized by the 'Friends of Kingston Inner Harbour' were held in 2014 and 2017 and included a project called "On the Wall" that used the retaining wall to create murals to enliven this space adjacent to Douglas Fluhrer Park and, in some cases, to highlight the history of the area. It is as a result of this experience that representatives of the 'Friends of Kingston Inner Harbour' have expressed a desire to see the retaining wall continued to be used in a similar way to present and celebrate the work of local artists and their community.

The motion passed by Council in 2017 highlighted the fact that the use of the retaining wall in this way "can function as a viable platform for artists and the community to express itself without having a detrimental impact". This statement aligns with the Public Art Master Plan that describes temporary forms of public art, including what is called "street art", as one of five main areas of focus to be supported as part of the implementation of a public art program in Kingston.

The concept of street art is not always well understood and is often confused with graffiti, which is recognized to be illegal and destructive. Examples that have been researched by staff have shown that legal walls that are used to feature street art and mural programs offer an alternative

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form of expression that can help discourage tagging and other forms of illegal graffiti-making, while providing a space for artists and communities to express themselves freely in ways that foster urban regeneration. In order to help educate the public and to create context for establishing a legal wall that would feature street art, staff are recommending that the City of Kingston lead a ten-month pilot project to create a legal wall for street art.

Cultural Services staff will manage and monitor the pilot project that will be further supported by the development of a clear internal and external communications plan to help educate staff, stakeholders, the public and artists about the purpose and acceptable use of the legal wall. Staff will also evaluate the pilot project at its conclusion and the results will be shared with Council and also be used to assess the need to develop an Integrated Street Art Plan as a component of the City of Kingston's Public Art Master Plan and as a mechanism through which to support making legal walls more permanent.

The development of a Graffiti Management Strategy may also need to be considered at that time as an ancillary piece to help foster awareness and understanding of street art while, at the same time, mitigating the potential proliferation of graffiti. The development of an Integrated Street Art Plan and Graffiti Management Strategy would be considered next steps to be pursued at a later date but are based on an initial review of best practices employed by other municipalities that support street art as a way to add vibrancy at a neighbourhood level, on buildings, along streetscapes and within parks.

**Recommendation:**

**That** the Arts, Recreation and Community Policies Committee recommend that Council grant an exemption to Section 4.17 of Property Standards By-Law Number 2005-100 in relation to the retaining wall on the Rideaucrest Property located adjacent to Douglas Fluhrer Park to allow staff to establish and manage a legal wall that features street art as a pilot project for ten months between July 1, 2019 and April 30, 2020; and

**That** Council direct staff to report back in Q2 2020 regarding the results of the legal wall pilot project, as well as future plans related to the potential development of an Integrated Street Art Plan as an appendix to the Public Art Master Plan, and the development of a Graffiti Management Strategy as a companion piece.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY COMMISSIONER

**Peter Huigenbos, Acting Commissioner,  
Community Services**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

**Lanie Hurdle, Acting Chief  
Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Deanne Roberge, Acting Commissioner, Corporate & Emergency Services	Not required

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**Options/Discussion:**

**Background Information**

In July 2014, Council approved a [Public Art Master Plan](#) for the City of Kingston. Central to the Master Plan is a desire to position Kingston as a community that is known as a hub of creative placemaking that includes an innovative public art program that recognizes and builds on the City's diverse history, engages its community and inspires its future leaders. The Public Art Master Plan identifies five main areas of focus that includes temporary public art, street art and public art platforms. Of the five main areas of focus, this priority area is intended as a way to develop opportunities for more diverse forms of artistic expression in civic spaces, places and neighbourhoods that includes temporary installations but also street art and mural programs.

Within the Public Art Master Plan, street art is defined as an urban art form that appears on walls, sidewalks and roadways and that is sanctioned and permitted. It is distinct from graffiti that is not sanctioned or permitted and is understood to be an illegal form of vandalism that is destructive. The Master Plan also referenced the fact that graffiti management was out of scope and that it requires the support and involvement of stakeholders outside of the Cultural Services Department, and even the City of Kingston, to address. Subsequent research has also shown that street art plans in other municipalities often get developed alongside graffiti management plans that include multiple city departments and community partners and would seem to be a good practice to follow in a Kingston context.

Presently, any artist, group or organization in Kingston that wishes to create street art must apply for an exemption to Property Standards By-Law Number 2005-100, and specifically Section 4.17, which states "written slogans and graffiti on the exterior of any building, wall, fence or structure shall be prohibited including painted or chalked titles or messages." This was the approach taken by the 'Friends of Kingston Inner Harbour' in 2014 and again in 2017 when they organized "On the Wall" as part of a larger celebration of the arts in and around Douglas Fluhrer Park. The "On the Wall" project was intended to feature street art as an example of placemaking at a local level and the participating artists were given a week to paint sections of the retaining wall adjacent to the Park. In both years, the project was deemed to be a success and led to a request by representatives from the 'Friends of Kingston Inner Harbour' to establish the retaining wall as a legal graffiti wall on a permanent basis.

On June 6, 2017, Council passed a motion directing staff to look at the implications of establishing the retaining wall adjacent to Douglas Fluhrer Park as a legal graffiti wall. Staff have since consulted with the 'Friends of Kingston Inner Harbour' to discuss the idea and they have also looked at best practices in other municipalities across Canada. Staff have also met with colleagues from other City departments and external stakeholders to tap into their expertise and to gather input related to the creation of a legal wall. This research has flagged the need to consider that the City of Kingston could establish a legal wall for street art using the retaining wall located adjacent to Douglas Fluhrer Park but that it should be done on a temporary basis in order to assess its success.

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### **Proposed Operation of a Legal Wall**

Staff within the Cultural Services Department have met with internal and external stakeholders to determine the feasibility of establishing a legal wall using the existing retaining wall located adjacent to Douglas Fluhrer Park and have considered the location, set up and maintenance, environmental protection and costs. Staff have also completed an initial review of best practices related to legal walls in other municipalities and have used that information to develop rules, regulations and procedures that would apply to this pilot project. Cultural Services staff will manage and monitor the pilot project with input and support provided by other departments that have been actively consulted.

The location of the existing retaining wall (Exhibit A) and the proposed operating hours of the legal wall would be daily, during daylight hours, for six months from July 1, 2019 to April 30, 2020. This timeframe takes into consideration the fact that Douglas Fluhrer Park itself is an active turtle nesting site every spring, and especially from May through to mid-June. Only standard paints, including aerosols, will be allowed to be used and lead-based paints will be prohibited. Artists will be responsible for keeping the area clean, which includes removing all paint and supplies from the park. The legal wall will be self-regulated and content will be removed only if it is determined to be gang related, offensive or is evidence of hate crime tags. Cultural Services staff will work to ensure that adjacent properties are not negatively impacted by this pilot project and will manage graffiti removal as needed with the advice and support of other departments, such as Public Works.

City staff will create procedures to ensure the retaining wall and surrounding park area is maintained and safe for all who use it. On-site signage will be prominently displayed as a way to communicate the necessary rules and regulations, including information regarding operating hours, permissible paints, artist responsibilities and safe paint disposal instructions, as well as contact information specific to the pilot project or to report an issue. Staff will also develop a communications plan targeted toward residents and specifically park users, residences in the vicinity of the park, local property owners and artists to promote the proper use of the legal wall. Staff will also develop an internal communication plan for various departments to provide education regarding the temporary rules and regulations of the legal wall and to ensure people who violate these are dealt with appropriately.

The plan is that staff will monitor the legal wall on a bi-weekly basis and photo-document how it is being used. Staff will evaluate the success of the pilot project based on the level of artist engagement, public perception, adherence to the rules of the legal wall, and will endeavour to survey park users, local residents and property owners to gather their feedback related to the pilot project. Staff will also put procedures in place to address issues that may arise through a complaint-based process.

The following table outlines the timelines associated with the legal wall pilot project that is being proposed:

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Action	Target Date
Develop guidelines, public engagement and standard operating procedures for legal wall pilot project	Q2 2019
Develop internal and external communications plan	Q2 2019
Launch legal wall pilot project	Q3 2019
Legal wall pilot project ends	April 30, 2020
Evaluation of pilot project	Q2 2020
Report to Council on results of legal wall pilot project	Q2 2020

**Next Step**

Following the completion of the legal wall pilot project, staff will report back to Council regarding the outcomes of this project, including possible next steps. It is already being anticipated that next steps may include the development of an Integrated Street Art Plan that would be appended to the Public Art Master Plan. While street art is referenced as part of the Public Art Master Plan, it is not explained in detail and needs to be more clearly articulated and supported by an implementation plan as well. Initial research has also shown it may be necessary to develop a Graffiti Management Strategy as an ancillary piece to help foster awareness of and opportunities related to street art in Kingston while, at the same time, mitigating the proliferation of illegal graffiti. It is also anticipated that the development of a Graffiti Management Strategy would involve a high level of community education, engagement and consultation with multiple City departments and community partners.

To date, staff have consulted with Downtown Kingston! BIA, Kingston Police and staff from Recreation & Leisure Services, Planning, Building & Licensing Services and Solid Waste to discuss graffiti-related issues within Kingston and to review current by-laws and policies governing property standards, signage, advertising street art and murals. As part of this process, it has already been identified that additional consultation with residents, business owners, property owners, artists and youth would be needed to create an Integrated Street Art Plan and a Graffiti Management Plan that is right for Kingston.

**An Overview of Best Practices in Other Canadian Municipalities**

In preparing this report, staff have consulted with the City of Ottawa, the City of Montreal and the City of Toronto regarding their legal walls and street art programs. Each program is uniquely tailored to specific community needs and requirements and what follows is a high level overview of these initiatives as a reference.

**City of Toronto** - Street Art Toronto (StART) is a pro-active program that treats streets as vital public spaces and aims to develop, support and increase awareness of street art and its role in generating social and economic benefits, adding beauty and character to Toronto's communities and counteracting the negative effects of graffiti vandalism. StART also assists private property owners to create murals if they encounter recurring graffiti vandalism and hosts an online artist directory of Toronto-based street artists. StART is managed as part of the City's graffiti management plan and the program values the importance of community engagement and works to ensure the projects that are created integrate well with the city ward in which they are located.

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**City of Ottawa** - The City of Ottawa has five graffiti, street art and mural related programs. Each of these programs targets a specific goal, whether that is city beautification, crime prevention or providing space for creative expression. Ottawa also offers a business improvement cost sharing program that is designed to help assist businesses that are targets for graffiti and tagging. Neighbourhoods that are heavily targeted may also apply for support through the City's crime prevention program, called 'Paint it Up', that provides funding to hire youth mural artists to create murals in highly targeted areas. This program is managed by Crime Prevention Ottawa. Ottawa also has three legal walls where mural and street artists have the opportunity to experiment with the medium. These walls are 'self-regulated' because they are in high demand but the City will step in to paint over any mural that receives a complaint.

**City of Montreal** - The City of Montreal has a multi-tiered strategy that focuses on four areas of intervention: awareness, activities, removal and reduction. The program manages a series of legal/authorized walls across the city and also supports activities and programs aimed at children and youth, and at graffiti removal. The legal walls are maintained by the facilitators of the Montreal program, who also lead all the youth based programming. The program is found in elementary schools, after school art and painting activities, educational and skills building workshops and contests. Each of these activities and programs is geared towards encouraging youth to express themselves in a legal way and to deter illegal tagging and graffiti.

**Existing Policy/By-Law:**

Section 4.17 of Property Standards By-Law Number 2005-100, which states "Written slogans and graffiti on the exterior of any building, wall, fence or structure shall be prohibited, including painted or chalked titles or messages."

**Notice Provisions:**

Not applicable

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Budget to support the implementation of the legal wall pilot project is anticipated to total approximately \$6,000, which has been included, and approved, as part of the Cultural Services Departments 2019 operating budget.

**Contacts:**

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**Other City of Kingston Staff Consulted:**

Danika Lochhead, Manager, Arts and Sector Development, Cultural Services

Julie Fossitt, Manager, Cultural Marketing, Cultural Services

Heather Roberts, Director, Solid Waste

Troy Stubinski, Operations Manager, Public Works Services

Lacricia Turner, Manager, Licensing and Enforcement, Planning, Building & Licensing Services

Neal Unsworth, Manager, Parks Development, Recreation & Leisure Services

**Other External Individuals Consulted:**

Jody Armstrong, Staff Sergeant, Kingston Police

**Exhibits Attached:**

Exhibit A     Map Showing the Location of the Existing Retaining Wall Located Adjacent to Douglas Fluhrer Park

Map Showing the Location of the Existing Retaining Wall Located Adjacent to Douglas Fluhrer Park

