

 <p>COBOURG</p>	<p>THE CORPORATION OF THE TOWN OF COBOURG</p> <p>BY-LAW NUMBER 048-2016</p>
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**BEING A BY-LAW TO PROHIBIT AND REGULATE PUBLIC NUISANCES
WITHIN THE TOWN OF COBOURG.**

WHEREAS pursuant to section 133 of the *Municipal Act*, S.O. 2001, c.25, as amended, provides that a municipality may enact By-laws for the health, safety and well-being of a persons and for the protection of persons and property; and

WHEREAS section 128 of the *Municipal Act*, S.O. 2001, c.25, as amended, provides that a 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.

**NOW THEREFORE BE IT RESOLVED THAT THE MUNICIPAL COUNCIL OF
THE CORPORATION OF THE TOWN OF COBOURG ENACTS AS
FOLLOWS:**

1. Definitions

"Defecate" shall mean to discharge waste matter from the bowels.

"Director" means the Town's Director, Municipal Law Enforcement and Licensing Services, or his or her designate.

"Disturbance" shall mean to disturb the peace and quiet by disorderly conduct, fighting, loitering or nuisance, and in any way obstructs the public in the exercise or enjoyment of any right that is common to all persons within the Town of Cobourg.

"Fight" shall mean any physical altercation between two or more person, whether consensual or not, that could cause a reasonable person to have concern for injury to the participants or disturbance to the public, but shall not include:

- a) A boxing match, wrestling match or other competition organized by a recognized sporting organization;
- b) A physical altercation between participants of a sporting activity, ceremonial event, historical display or educational program, under the supervision of trained officials when the officials have the authority to sanction the altercation; or
- c) A physical altercation between participants for the purposes of an authorized theatrical, film or television production.

"Highway" shall have the same meaning as in the Highway Traffic Act, R.S.O. 1990, c.H.8, as amended.

“Littering” means throwing, dropping, placing or otherwise depositing or permitting to be deposited any garbage, paper, plastic, paper products, plastic products, cans, rubbish, other debris or objects on public or private property, unless so authorized by the property owner or the County’s Waste Collection By-Law.

"Loiter" shall mean lingering on the way, to travel indolently with frequent pauses without any apparent destination.

"Municipal Law Enforcement Officer" shall mean an Officer that is appointed by the Town as a Municipal law Enforcement Officer pursuant to s.15 of the Police Services Act, R.S.O. 1990, c. P.15, as amended.

"Nuisance" includes:

- (i) soliciting, including, without limitation,
 - (1) soliciting a person who is using, waiting to use, or departing from an automated teller machine;
 - (2) soliciting a person who is using or waiting to use a pay telephone or a public toilet facility;
 - (3) soliciting a person who is waiting at a taxi stand or a public transit stop;
 - (4) soliciting a person who is in or on a public transit vehicle;
 - (5) soliciting a person who is in the process of getting in, out of, on or off a vehicle or who is in a parking lot;
 - (6) while on a roadway, solicit a person who is in or on a stopped, standing or parked vehicle.
- (ii) loitering in any public place after having been requested by an officer to move on;
- (iii) fighting, screaming, yelling or using profane or abusive language or gestures;
- (iv) carrying open liquor;
- (v) the unlawful use, sale, furnishing, or distribution of alcoholic beverages or controlled or illegal substances; (##-2024)
- (vi) obstructing, interfering with or otherwise impeding the movement of persons or vehicles;
- (vii) remaining in or refusing to leave a public place after it is closed and/or when ordered to leave by an officer;
- (viii) littering;
- (ix) defacing, damaging or vandalizing public or private property;
- (x) expectorating in a public place;
- (xi) obstructing an officer in the course of his or her duties;
- (xii) anything which is injurious to the health, or indecent, or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property; and
- (xiii) any other activity or conduct that is disorderly, annoying, unpleasant or obnoxious.

“Nuisance Gathering” means a gathering on a Premises, Public Place or Public Property, which by reasons of the conduct of the Persons in attendance results in a Nuisance occurring.

“Occupier” includes:

- a) a person who is in physical possession of premises; or
- b) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises.

“Owner” shall mean the person or persons shown on the Land Registry Office record, the records of the land at the registry office, or Municipal tax roll, as having title to the land or responsibility for it, and includes a property manager as well as the tenant and person or persons lawfully in possession of, or exercising control over, the property.

“Person” includes an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives.

“Premises” shall mean any place in the Town, including, but not limited to, Town Property.

“Police Officer” shall have the same meaning as contained in the Police Services Act.

“Public Place” includes a highway and any place to which the public has access as of right or invitation, express or implied, and private property that is exposed to public view, whether or not the property is owned by the person contravening the by-law.

“Refuse” shall mean any article, thing, matter, substance or effluent that has been cast aside, discharged or abandoned or is discarded from its usual and intended use or is used up, in whole or in part, or expended or worn out in whole or in part.

“Spit” shall mean to eject phlegm, saliva, chewing tobacco juice, or any other substance from the mouth.

“Town” shall mean the Corporation of the Town of Cobourg.

“Public Property” shall mean land owned or operated by the Town, and, without limiting the generality of the foregoing, includes every highway, vacant property, park, public square, sidewalk, pedestrian walkway or trail, and any place to which the public have access as of right or by invitation, expressed or implied, and includes any buildings, structures, and equipment or part of buildings, structures and equipment located thereon whether heretofore or hereafter erected that is exposed to public view but does not include a washroom facility.

“Urinate” shall mean to discharge urine from the body.

“Vomit” shall mean to eject matter from the stomach through the mouth.

2. Interpretation

- 2.1. This by-law shall not be interpreted as exempting any person from the requirement to comply with any other Town by-law. In the event of conflict between the provisions of this by-law and any other Town by-law, the provisions which are more protective of the public assets of the Town, the economic, social and environmental well-being of the Town, the health, safety and well-being of persons in the Town, and persons and property in the Town shall apply.

3. General Prohibitions

- 3.1. No person shall urinate, defecate, vomit or spit on public property.
- 3.2. No person shall cause, create or permit a nuisance in any public place in the Town.
- 3.3. No person shall knock over or attempt to knock over a Canada Post mailbox, newspaper box, bench, fence, recycling box, organics bin, or garbage container, or any other structure or object, located on public property.
- 3.4. No person shall engage in any type of conduct or activity in any public property when the activity is prohibited or restricted by any sign.
- 3.5. No person shall continue to engage in any type of activity prohibited by this By-law when requested to stop by a Municipal Law Enforcement Officer or Police Officer or the Occupier of a property.

4. Penalties/Offences

- 4.1. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to any penalties imposed in accordance with the Provincial Offences Act, R.S.O 1990, c.P.33, as amended as well as subject to the set fines set out herein Schedule "A" of this By-Law.
- 4.2. This by-law shall come into force and take effect on the date that the Regional Senior Justice of the Ontario Court of Justice approves each set fine as set out in Schedule "A" for offences under this by-law, and in accordance with the Provincial Offences Act, R.S.O 1990, c.P.33.
- 4.3. No Person shall fail to comply with any provision or standard of this By-law.
- 4.4. Administrative Penalty Process By-law 079-2022 applies to each administrative penalty issued pursuant to this By-law.
- 4.5. Each person who contravenes any provision of this By-law shall, upon issuance of a Penalty Notice in accordance with Administrative Penalty Process By-law 079-2022, be liable to pay to the Town an administrative penalty of:
 - a) \$175 for the remainder of the first day on which the contravention occurs; and
 - b) \$275 for each subsequent day on which the contravention continues.

Notice

- 4.6. Any notice or document respecting this By-law may be given in writing in any of the following ways and is effective:
 - a) on the date a copy is personally delivered to the Person to whom it is addressed;
 - b) on the third (3rd) day after a copy is sent by regular mail or by registered mail to the Person's last known address;

- c) upon confirmation of the successful transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number;
- d) upon sending a copy by e-mail transmission to the Person's last known e-mail address;
- e) upon a copy being posted on the door of any building or structure on the Person's last known Premises or, where no building or structure exists, on a stake erected by the Officer on the Person's last known Premises; or
- f) on the date a copy is placed on or affixed in any manner to a Person's motor vehicle.

5. Enforcement

- 5.1. The provisions of this By-law shall be enforced by a Municipal law Enforcement Officer or a Police Officer.
- 5.2. An Officer who has reasonable grounds to believe that a person has contravened any provision of this By-law may require that person to provide identification of themselves.
- 5.3. Every person who is required by an Officer to provide identification under Section 5.2 shall identify themselves to the Officer. Giving their correct name, date of birth and address shall constitute as being sufficient identification. Failure to do so shall constitute obstruction of the Officer as per Section 3.2 of this By-law.
- 5.4. Where an Officer is satisfied that a Person, Owner or Occupier has contravened or failed to comply with any provision of this By-law, the Officer may make an Order requiring the Person, Owner or Occupier who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention or to discontinue the contravening activity.
- 5.5. An Order shall set out:
 - a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - b) the date by which there must be compliance with the order.
- 5.6. Where a thing or matter that is required to be done is not completed by the time set out in the Order, the matter or thing may be done by the Town at the Person's expense and the Town may recover the costs of doing the matter or thing from the Person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.
- 5.7. Any person who contravenes an order issued under subsection 5.4 is guilty of an offence.
- 5.8. In addition to any remedial costs, the Town may impose a fee or charge upon any Person sponsoring, conducting, continuing, hosting, creating, allowing, causing, or permitting a Nuisance or Nuisance Gathering.

- 5.9. The amount of the fee or charge shall be the amount of administrative costs, costs of enforcement and any other costs incurred by the Town in responding to and addressing the Nuisance or Nuisance Gathering pursuant to this By-law, as set out in the applicable Town’s User Fees and Charges By-law.
- 5.10. Fees or charges imposed on a Person pursuant to this By-law constitute a debt of the Person to the Town.

6. **Severability**

- 6.1. If any section, clause or provision of this By-law, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention of Council for the Town that all remaining sections, clauses or provisions of this By- law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof may have been declared invalid.
- 6.2. Whenever any reference is made in this By-law to statute or regulation of the Province of Ontario, such reference shall be deemed to include all subsequent amendments to such statute or regulation and all successor legislation to such legislation.

READ and finally passed in Open Council this 24th day of May, 2016.

“Gil Brocanier”

Gil Brocanier, Mayor

“Lorraine Brace”

Lorraine Brace, Clerk