

**THE CORPORATION OF THE CITY OF WATERLOO**

**BY-LAW NUMBER 2011- 125**

Being a by-law to prohibit or regulate public nuisances within the City of Waterloo

**WHEREAS** section 128(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, (the "*Municipal Act, 2001*"), 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** section 128(2) of the *Municipal Act, 2001*, provides that the opinion of Council under section 128 of the *Municipal Act, 2001*, if arrived at in good faith, is not subject to review by any court;

**AND WHEREAS** it is the opinion of Council for The Corporation of the City of Waterloo (the "City") that the act of spitting, vomiting, urinating or defecating in public places is or could become a public nuisance;

**AND WHEREAS** it is the opinion of Council for the City that the act of knocking over mailboxes, relay boxes, newspaper boxes or a garbage or recycling container located on a highway is or could become a public nuisance;

**AND WHEREAS** it is the opinion of Council for the City that the act of emitting objectionable odours in public places is or could become a public nuisance;

**AND WHEREAS** it is the opinion of Council for the City that the act of emitting excessive amounts of smoke, dust or airborne particulate matter in public places is or could become a public nuisance;

**AND WHEREAS** it is the opinion of Council for the City that the act of dumping on public property or littering in public places is or could become a public nuisance;

**AND WHEREAS** it is the opinion of Council for the City that the act of blocking, interfering, obstructing or otherwise impeding the passage of a pedestrian on a highway or on public property is or could become a public nuisance;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF WATERLOO ENACTS AS FOLLOWS:**

1. **DEFINITIONS**

In this by-law:

**"Bodily Emission"** means to spit, vomit, urinate or defecate;

**"City"** means The Corporation of the City of Waterloo;

**"Council"** means the Council of the City;

**"Director of By-Law Enforcement"** means the Director of By-Law Enforcement for the City or his or her designate;

**"Dumping"** includes throwing, scattering, dropping, placing or otherwise depositing garbage, rubbish, refuse, yard waste, leaves or debris, except for in a garbage or recycling container intended for such use or placed in an area for waste collection, and **"Dump"** shall have a corresponding meaning;

**"Highway"** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles or persons, and includes the area between the lateral property lines thereof, including sidewalks and boulevards;

**"Littering"** includes throwing, scattering, dropping, placing or otherwise depositing garbage, rubbish, refuse or debris, except for in a garbage or recycling container intended for such use and, **"Litter"** shall have a corresponding meaning;

**"Municipal Act, 2001"** means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;

**"Municipal Law Enforcement Officer"** means a person appointed by the City as a Municipal Law Enforcement Officer pursuant to s. 15 of the *Police Services Act*, R.S.O. 1990, c. P. 15, as amended;

**"Person"** means an individual, firm, corporation, partnership, association or organization, including a charitable organization;

**"Permit"** means a permit issued by the Director of By-Law Enforcement for an exemption to section 2 (b), (e) or (f) of this by-law;

**"Police Officer"** means an officer of the Waterloo Regional Police Service;

**"Public Property"** means property owned by the City;

**"Public Place"** includes a Highway and any place to which the public has access as of right or by invitation, express or implied, which may include Public Property, and private property that is exposed to public view, but does not include a washroom facility; and,

**"Public Utility"** means a company that provides water, sewer, electricity or telephone services to the public.

## 2. PROHIBITIONS

- (a) No person shall have or cause a Bodily Emission in a Public Place.
- (b) No person shall dump on Public Property, except where permitted to do so by the City.
- (c) No person shall Litter in a Public Place.
- (d) No person shall knock over, or attempt to knock over, a Canada Post mailbox, Canada Post relay box, newspaper box or garbage or recycling container, lawfully located on a Highway.
- (e) No person shall emit, or cause to be emitted; an objectionable odour in a Public Place, except where permitted to do so by the City.
- (f) No person shall emit, or cause to be emitted, an excessive amount of smoke, dust or airborne particulate matter in a Public Place, except where permitted to do so by the City.
- (g) No person shall block, interfere, obstruct or otherwise impede the passage of any pedestrian on a Highway or on Public Property, except where permitted to do so by the City.

## 3. EXEMPTIONS

- (a) Notwithstanding section 2 of this by-law, this by-law shall not apply to any of the following:
  - (i) the City;
  - (ii) the Regional Municipality of Waterloo;
  - (iii) the Government of Ontario;
  - (iv) the Government of Canada; or,
  - (v) a Public Utility in the performance of its duties.

4. **PERMITS**

- (a) Notwithstanding any other section of this by-law, any person may apply to the Director of By-Law Enforcement, in writing, for a Permit.
- (b) When applying for a Permit, an applicant may be required by the Director of By-Law Enforcement to submit any or all of the following:
  - (i) the name and address of the applicant;
  - (ii) a description of the proposed nuisance;
  - (iii) the location at which the proposed nuisance will take place;
  - (iv) the period of time for which an exemption is sought;
  - (v) reasons why the Permit should be granted; and,
  - (vi) the applicable fee, pursuant to the City's Fees and Charges By-Law.
- (c) In considering an application for a Permit, the Director of By-Law Enforcement shall have regard to the following:
  - (i) a description of the proposed nuisance;
  - (ii) the location of where the proposed nuisance will take place;
  - (iii) the period of time for which the exemption is being sought;
  - (iv) the reasons why the applicant thinks the Permit should be granted; and,
  - (v) any applicable City by-laws or policies.
- (d) After considering the merits of a Permit application, the Director of By-Law Enforcement may:
  - (i) grant a Permit;
  - (ii) grant a Permit, subject to certain terms or conditions as deemed necessary or advisable by the Director of By-Law Enforcement; or,
  - (iii) deny the Permit.

(e) A Permit may be immediately revoked by the Director of By-Law Enforcement if an applicant, or any person acting on their behalf such as an agent, contractor, employee or volunteer:

- (i) provided false or misleading information on the Permit application submitted to the City;
- (ii) violates this by-law;
- (iii) violates any other City by-law or policy; or,
- (iv) violates any of the terms or conditions of a Permit.

5. **INSPECTION**

(a) The City may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (i) this by-law; or,
- (ii) an order made under s. 431 of the *Municipal Act, 2001*.

(b) For the purposes of conducting an inspection pursuant to s. 5(a) of this by-law, the City may, in accordance with the provisions of s. 436 of the *Municipal Act, 2001*:

- (i) require the production for inspection of documents or things relevant to the inspection;
- (ii) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (iii) require information from any person concerning a matter related to the inspection; and,
- (iv) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

(c) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law.

6. **ORDER TO DISCONTINUE ACTIVITY**

- (a) Where the Director of By-Law Enforcement has reasonable grounds to believe that a contravention of this by-law has occurred, the Director of By-Law Enforcement may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity.
- (b) An order under s. 6(a) of this by-law shall set out:
  - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - (ii) the date by which there must be compliance with the order.
- (c) Any person who contravenes an order under s. 6(a) of this by-law is guilty of an offence.

7. **WORK ORDER**

- (a) Where the Director of By-Law Enforcement has reasonable grounds to believe that a contravention of this by-law has occurred, the Director of By-Law Enforcement may make an order requiring the person who contravened this 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.
- (b) An order under s. 7(a) of this by-law shall set out:
  - (i) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,
  - (ii) the work to be done and the date by which the work must be done.
- (c) An order under s. 7(a) of this by-law may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.
- (d) Any person who contravenes an order under s. 7(a) of this by-law is guilty of an offence.

8. **REMEDIAL ACTION**

- (a) If a person fails to do a matter or thing, including comply with an order under this by-law, as directed or required by this by-law, the City may, in default of it being done by the person directed or required to do it, do the matter or thing at the person's expense. The City may recover the costs of doing a 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 municipal taxes.
- (b) The costs outlined in s. 8(a) of this by-law shall include interest calculated at a rate of 15 per cent per annum, calculated for the period commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.
- (c) The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper land registry office.

9. **ENFORCEMENT**

- (a) This by-law may be enforced by Municipal Law Enforcement Officers and Police Officers.

10. **PENALTIES**

- (a) Every person who contravenes any of the provisions of this by-law is guilty of an offence and pursuant to section 429 of the *Municipal Act, 2001* all contraventions of this by-law are designated as continuing offences.
- (b) Every person, excluding a corporation, who is convicted of an offence, is liable to a minimum fine of Four Hundred and Fifty Dollars (\$450.00) and a maximum fine of Twenty-Five Thousand Dollars (\$25,000.00) for the first offence and a maximum fine of Fifty Thousand Dollars (\$50,000.00) for a subsequent offence.
- (c) Every corporation who is convicted of an offence is liable to a maximum fine of Fifty Thousand Dollars (\$50,000.00) for the first offence and One Hundred Thousand Dollars (\$100,000.00) for a subsequent offence

- (d) In addition to the fine amounts set out in sections 10(b) and 10(c) of this by-law, for each day or part of a day that an offence continues, the minimum fine shall be Four Hundred Dollars (\$450.00) and the maximum fine shall be Ten Thousand Dollars (\$10,000.00). The total of all daily fines for the offence is not limited to One Hundred Thousand Dollars (\$100,000.00).

11. **FEEES AND CHARGES**

- (a) Council may impose fees and charges to recover its costs in relation to the administration and enforcement of this by-law.

12. **SHORT TITLE**

- (a) This by-law shall be known as the "Nuisance By-Law."

13. **SEVERABILITY**

- (a) If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.

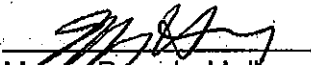
14. **REPEAL**

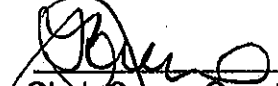
- (a) By-Laws 76-63, 05-018, 74-65, and 74-131 of the City are hereby repealed as well as all by-laws amending the same and any portions of the Municipal Code relating to the nuisances described in section 2 of this by-law.

15. **COMING INTO FORCE**

- (a) This by-law shall come into force and effect on January 1, 2012.

PASSED by Council this 07 day of November, 2011.

  
 Mayor Brenda Halloran  
 Acting Mayor, Jeff Henry

  
 Clerk Susan Greatrix

Approval	Date	Authorized By	Initials
PS/RL	Oct 31/11	Jim Ray	JR
Legal	Nov 1/11	E. Davis	ED
Financial	Oct 31/11	NA	NA