



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Office Consolidation Public Nuisance By-law 136-2018

To Prohibit or Regulate Public Nuisances

WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (“the Act”), provides that powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS subsection 11(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS section 11(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: Economic, social and environmental well-being of the municipality; Health, safety and well-being of persons; Protection of persons and property; Structures, including fences and signs;

AND WHEREAS section 23.1 of the *Municipal Act, 2001* provides that a municipality may delegate its powers and duties under that Act;

AND WHEREAS for the purposes of subsection 23.2(4) of the *Municipal Act, 2001* it is the opinion of Council that the powers delegated pursuant to this By-law are of a minor nature;

AND WHEREAS section 128 of the *Municipal Act, 2001*, provides that, without limiting sections 9 and 11, 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 subsection 434.1 (1) of the *Municipal Act, 2001* provides that a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under this Act;

AND WHEREAS section 425 of the *Municipal Act, 2001* provides that any person who contravenes any by-law of the municipality is guilty of an offence;

AND WHEREAS section 444 of the *Municipal Act, 2001* provides that a municipality may make an order requiring a person who contravened a 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;

AND WHEREAS it is the opinion of Council that nuisance parties, public urination and defecation, knocking over objects on the Highway and are or could become or cause public nuisances;

AND WHEREAS, Council deems it appropriate to prohibit or regulate matters that are, or could become or cause public nuisances;

NOW THEREFORE the Council for The Corporation of the City of Brampton ENACTS as follows:

PART I – DEFINITIONS

1. For the purposes of this By-law,

“Building” means any permanent structure consisting of a roof supported by walls or columns that is used or intended to be used for the shelter, accommodation or enclosure of persons, animals, goods, chattels or equipment;

“By-Law” means this by-law;

“City” means The Corporation of the City of Brampton;

“Director” means the Director of Enforcement and By-law Services;

“Disorderly Conduct” means causing a public disturbance and, without limiting the generality of the foregoing, includes engaging in riotous, violent, threatening or illegal conduct, yelling, screaming, shouting, singing, swearing and interfering with the reasonable enjoyment of someone else;

“Dwelling” means a Building occupied or capable of being occupied as a home, residence or sleeping place by one or more persons;

“Fight” means any confrontation involving violent physical contact between two or more people;

“Fixture” means any structure that the Town permits to be located within a highway including a boulevard tree, utility box, newspaper vending box, bench, transit shelter, telephone box, telephone booth, transformer box or vault, telephone pole, hydro pole, streetlight, stoplight pole, recycling waste module, mailbox, street sign, a Canada Post relay mailbox, permitted signs, or a blue box, green bin or other garbage container;

“Graffiti” means one or more letters, symbols, figures, images, etchings, scratches, inscriptions, stains or other markings howsoever made or affixed to a property that disfigure, deface or otherwise mar said property;

“Highway” includes a common and public highway, street, avenue, parkway, square, place, bridge, viaduct, or trestle, designated and intended for, or used by, the general public for the passage of vehicles, and included the area between the lateral property lines thereof, including sidewalks and boulevards, and highways shall have the same meaning;

“Litter” includes cigarettes, paper, cardboard, bottles, glass or other such material or garbage;

“Loiter” shall mean lingering on the way or travelling indolently with frequent pauses without any apparent destination;

“Municipality” means the land within the geographic limit of the City of Brampton;

“Nuisance Party” means a social gathering within the Municipality and which, by reason of the conduct of the persons in attendance, results in a Public Nuisance;

“Owner” includes:

- (a) a Person who is in the registered owner of premises;
- (b) a Person who is in physical possession of premises;
- (c) 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; or
- (d) a Person occupying premises;

“Officer” means a Municipal Law Enforcement Officer appointed to enforce the by-laws of the City or a police officer while in the course of his or her duties;

“Person” means an individual, firm, corporation, partnership, association or organization, including a charitable organization;

“Public Nuisance” means actions occurring within the Municipality and which, by reason of the conduct of the person in attendance, results in one, or more, of the following activities:

- (a) soliciting, including and without limiting the generality of the foregoing,
 - (i) soliciting a person who is using, waiting to use, or departing from an automated teller machine;
 - (ii) soliciting a person who is using or waiting to use a pay telephone or a public toilet facility;
 - (iii) soliciting a person who is in or on a public transit vehicle;
 - (iv) soliciting a person who is waiting at a taxi stand or a public transit stop;
 - (v) 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;
 - (vi) while on a Highway, soliciting a person who is in a stopped, standing or parked vehicle.
- (b) loitering after having been requested by an Officer to move on;
- (c) screaming, spitting, yelling, shouting or using profane or abusive language or gestures;
- (d) participating in, or being a spectator in a fight;
- (e) carrying open liquor, except while on private property that is owned or occupied by the person who is carrying the liquor or an invited guest of the Owner;
- (f) the unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances;
- (g) remaining in or refusing to leave a Public Place after it is closed and/or when ordered to leave by an Officer;
- (h) throwing, placing or depositing any litter (except if such litter is placed in garbage cans or in recycle boxes);
- (i) defacing, damaging or vandalizing property, including by the use of graffiti;
- (j) obstructing an Officer in the course of his or her duties;
- (k) disorderly conduct;
- (l) obstructing pedestrian traffic or vehicular traffic, or parking such that the free flow of traffic is obstructed or that the ability to provide emergency services is interfered with;
- (m) unreasonable noise, including loud music;
- (n) unlawful open burning or setting off fireworks;
- (o) without Reasonable Excuse, outdoor public urination, defecation, spitting or vomiting;
- (p) use of or entry upon a roof not intended for such occupancy;
- (q) jumping, diving or leaping off or from any bridge located within the boundaries of the City;
- (r) dumping, except where permitted to do so by the City;

- (s) knocking over, or attempting to knock over, a Canada Post mailbox, Canada Post relay box, newspaper box or garbage or recycling container;
- (t) permitting, or causing to be emitted; an objectionable odour, except where permitted to do so by the City;
- (u) permitting, or causing to be emitted, an excessive amount of smoke, dust or airborne particulate matter, except where permitted to do so by the City;
- (v) any other activity or conduct that is disorderly or obnoxious;
- (w) distributing, displaying or discarding any handbill, notice, circular, advertisement, promotional item or sample;
- (x) being in possession of or use any Weapon as defined by Section 2 of the *Criminal Code of Canada*.
- (y) entering or loitering in any washroom or change-room or behaving in such a manner as to be objectionable to another person using, or in the vicinity of, said washroom or change-room;

“Public Place” means

- (a) a place outdoors to which the public is ordinarily invited or permitted access and, for greater certainty, shall include Highways, sidewalks, streets, any portion of a road allowance, parking lots, swimming pools, conservation area, parks, and playgrounds;
- (b) school grounds;
- (c) land, premises, or Buildings owned, managed, or maintained by the Municipality;
- (d) yards appurtenant to a Building or Dwelling or vacant lands, but does not include a Building or Dwelling; and
- (e) privately owned land which is visible from any public or private property.

“Reasonable Excuse” means

- (a) the contravention of this By-law must be inevitable, unavoidable and afford no reason or opportunity for an alternative course of action that does not contravene this By-law; or
- (b) where the contravention of this By-law is the consequence of illness, the person did not contemplate, or acting reasonably ought not to have contemplated, that the person's actions would likely cause the illness or give rise to the contravention of this By-law;

“Solicit” means to request, in person, the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using spoken, written or printed word; a gesture or other means;

“Spit” means to eject phlegm, saliva, chewing tobacco juice, or any other substance from the mouth;

“Vomit” means to discharge the contents of the stomach by mouth.

PART II – PROHIBITIONS

2. No Person shall cause, create or permit a Public Nuisance.
3. No Person shall hold, sponsor, conduct, continue, host, create, attend, allow, cause or permit a Nuisance Party.

PART III – ORDERS

4. If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an order requiring the Person who contravened this By-law or who caused or permitted the contravention or the Owner of the land on which the contravention occurred to discontinue the Public Nuisance or Nuisance Party.

5. An order under this Part shall identify:
 - (1) the location where the contravention occurred;
 - (2) the reasonable particulars of the contravention; and
 - (3) the date and time by which there must be compliance with the order.
6. An order under this section may be given verbally or in writing. An order in writing shall be served personally to the Person to whom it is directed, or served by Registered Mail to the Owner(s) using the specified address identified for tax billing by the City of Brampton. Service by Registered Mail is deemed to be on the fifth day after mailing.

PART IV – ENFORCEMENT AND INSPECTION

7. The provisions of this By-law may be enforced by an Officer.
8. An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether any provision of this By-law is being complied with.
9. For the purposes of conducting an inspection pursuant to this By-law, an Officer may:
 - (1) require the production for inspection of documents or things relevant to the inspection;
 - (2) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (3) require information from any person concerning a matter related to the inspection; and
 - (4) 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.
10. No Person shall prevent, hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this By-law, including refusing to identify themselves when requested to do so by an Officer.

PART V – PENALTIES

11.
 - (1) Every Person who contravenes any provision of this By-law, including failing to comply with an order made under this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended (the "*Provincial Offences Act*") and the *Municipal Act, 2001*.
 - (2) A director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended (the "*Provincial Offences Act*") and the *Municipal Act, 2001*.
 - (3) Any Person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable, pursuant to the *Municipal Act, 2001*, to the following fines:

- (a) the minimum fine for an offence is \$500 and the maximum fine for an offence is \$100,000;
 - (b) in the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all daily fines for the offence is not limited to \$100,000; and
 - (c) in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000.
- (4) If a Person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction, may make an order:
- (a) prohibiting the continuation or repetition of the offence by the Person convicted; and
 - (b) requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.
12. (1) Where a Person fails to pay any part of a fine for a contravention of this By-law and the fine is due and payable under section 66 of the *Provincial Offences Act*, including any extension of time to pay the fine provided under that section, the City Treasurer, or the Treasurer's delegate may give the Person a written notice specifying the amount of the fine payable and the final date on which it is payable, which date shall not be less than 21 days after the date of the notice.
- (2) If any part of a fine or a contravention of this By-law remains unpaid after the final date specified in the notice provided under this section, the outstanding fine is deemed to be unpaid taxes pursuant to section 351 of the *Municipal Act, 2001*.

PART VI – TITLE, INTERPRETATION AND SEVERABILITY

13. This By-law may be referred to as the "Public Nuisance By-law".
14. (1) Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in Part I of this By-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.
- (2) Wherever a word defined in Part I of this By-law is used in the form of a noun, verb, adverb or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case.
- (3) All words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law requires otherwise.
15. If a court of competent jurisdiction declares any provision or part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

PART VII – FORCE AND EFFECT

16. This By-law shall come into force and effect on the date that it is passed.

ENACTED and PASSED this 27th day of June, 2018.

THE CORPORATION OF THE CITY OF BRAMPTON

Original signed by:
Linda Jeffrey – Mayor
Peter Fay – City Clerk