

The Corporation of the Township of Huron-Kinloss



BY-LAW

2016-33

Being a by-law to regulate public nuisances within
the Township of Huron-Kinloss

WHEREAS section 128(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, (the "Act"), 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 Act provides that the opinion of Council under section 128 of the Act, 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 Township of Huron-Kinloss (the "Township") 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 Township 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 Township 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 Township 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 Township that the act of blocking, interfering, obstructing or otherwise impeding the passage of a pedestrian or a vehicle on a highway or on other public property is, or could become, a public nuisance;

AND WHEREAS it is the opinion of Council for the Township that disorderly conduct, such as public drunkenness or intoxication or fighting in public is, or could become, a public nuisance;

AND WHEREAS section 436 of the Act provides that a municipality may pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection; and,

AND WHEREAS section 444 of the Act 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;

NOW THEREFORE the Council of The Corporation of the Township of Huron-Kinloss enacts as follows:

1. **DEFINITIONS**

In this by-law:

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

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

“**By-Law Enforcement Officer**” means a person appointed by the Township to enforce the provisions of this by-law;

“**Council**” means the Council of the Township;

“**Disorderly Conduct**” means public drunkenness or intoxication or fighting in public;

“**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;

“**Person**” means an individual or corporation;

“**Police Officer**” means an officer of the Ontario Provincial Police;

“**Public Property**” means property owned by the Township;

“**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 an enclosed washroom facility;

“**Township**” means The Corporation of the Township of Huron-Kinloss”.

2. **PROHIBITIONS**

- (a) No person shall have, or cause, a Bodily Emission in a Public Place.
- (b) 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, located on a Highway.
- (c) 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 Township.
- (d) No person shall Dump on Public Property, except where permitted to do so by the Township.
- (e) No person shall Litter in a Public Place.
- (f) No person shall block, interfere, obstruct or otherwise impede the passage of any pedestrian or vehicle on a Highway or on other Public Property.
- (g) No person shall commit, or cause to be committed, Disorderly Conduct in a Public Place.

3. INSPECTION

- (a) The Township 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;
 - (ii) a direction or order of the Township made under this by-law; or,
 - (iii) an order made under s. 431 of the Act.
- (b) For the purposes of conducting an inspection pursuant to s. 3(a) of this by-law, the Township may, in accordance with the provisions of s. 436 of the Act:
 - (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.

4. ORDER TO DISCONTINUE ACTIVITY

- (a) Where a Police Officer or By-Law Enforcement Officer is satisfied that a contravention of this by-law has occurred, the Police Officer or By-Law Enforcement Officer 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. 4(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. 4(a) of this by-law is guilty of an offence.

5. WORK ORDER

- (a) Where the Police Officer or By-Law Enforcement is satisfied that a contravention of this by-law has occurred, the Police Officer or By-Law Enforcement Officer 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. 5(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. 5(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. 5(a) of this by-law is guilty of an offence.

6. 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 Township 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
- (b) For the purposes of section 6(a) of this by-law, the Township may enter upon land at any reasonable time.
- (c) The Township may recover the costs of doing a matter or thing under section 6(a) of this by-law 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.
- (d) The costs outlined in s. 6(c) 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 Township incurs the costs and ending on the day the costs, including the interest, are paid in full.
- (e) 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 Township shall register a discharge of the lien in the proper land registry office.

7. PENALTIES

- (a) Every person who contravenes any of the provisions of this by-law is guilty of an offence, and, upon conviction, is liable to a fine as provided for in the *Provincial Offences Act, R.S.O 1990, c. P.33*, as amended.

8. FEES AND CHARGES

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

9. ENFORCEMENT AND INSPECTION

- (a) The provisions of this by-law may be enforced by a Police Officer or By-Law Enforcement Officer.
- (b) A Police Officer or By-Law Enforcement Officer may carry out an inspection pursuant to section 3 of this by-law and/or in accordance the provisions of the Act.

10. 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.

11. COMING INTO FORCE

(a) This by-law shall come into force and effect upon its passage by Council.

12. SHORT TITLE

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

Read, Enacted, Signed and Sealed this 18th day of April, 2016.

Original Signed by Mitch Twolan
Mitch Twolan, Mayor

Original Signed by Sonya Watson
Sonya Watson, Clerk

PROVINCIAL OFFENCES ACT

Part I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2016-33 of the Township of Huron-Kinloss, attached hereto are the set fines for those offences. This Order is to take effect April 29, 2016.

Dated at London this 29th day of April 2016.



Stephen J. Fuerth
Regional Senior Justice
West Region

PART I - PROVINCIAL OFFENCES ACT

| ITEM | COLUMN 1 Short Form Wording | COLUMN 2 Provision Creating or Defining Offence (Section(s)) | COLUMN 3 Set Fine |
|------|---|---|----------------------|
| 1. | Cause bodily emission in a public place | Section 2(a) | \$250.00 |
| 2. | Engage in a prohibited activity on a highway | Section 2(b) | \$250.00 |
| 3. | Emit smoke or dust in a public place | Section 2(c) | \$250.00 |
| 4. | Dump on public property | Section 2(d) | \$250.00 |
| 5. | Litter in a public place | Section 2(e) | \$250.00 |
| 6. | Obstruct pedestrian or vehicular traffic on public property | Section 2(f) | \$250.00 |
| 7. | Commit disorderly conduct in a public place | Section 2(g) | \$250.00 |

NOTE: Penalty provision for the offences indicated above is Section 7 of By-Law 2016-33, a certified copy of which has been filed.