

The Corporation of The Township of Scugog

By-law Number 51-22

Being a by-law to Prohibit or Regulate Public Nuisances in the Township of Scugog

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 *Act*, 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) (3) of the *Act*, 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 *Act*, provides that a municipality may delegate its powers and duties under that Act;

And Whereas section 128 of the *Act*, 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 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 Scugog
Enacts as follows:

1. Definitions

- 1.1 "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;
- 1.2 "By-Law" means this by-law;
- 1.3 "Council" means the Council for the Corporation of the Township of Scugog;
- 1.4 "Director" means the Director of Development Services;
- 1.5 "Dwelling" means a Building occupied or capable of being occupied as a home, residence or sleeping place by one or more persons;
- 1.6 "Fight" means any confrontation involving violent physical contact between two or more people;

- 1.7 "Fixture" means any structure that the Township 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;
- 1.8 "Highway" means 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 or persons, whether under the jurisdiction of the Province of Ontario, the Region of Durham, or the Township of Scugog, and includes the area between the lateral property lines thereof, including sidewalks and boulevards, and highways shall have the same meaning;
- 1.9 "Litter" includes but is not limited to garbage, refuse, debris, cigarettes, paper, cardboard, plastic, glass or other such material;
- 1.10 "Loiter" means to remain or linger in an area aimlessly and for no obvious reason, and shall include sitting about or engaging in any loud or boisterous activity;
- 1.11 "Municipality" means the land within the geographic limit of the Township of Scugog;
- 1.12 "Nuisance Party" means a gathering within the Municipality and which, by reason of the actions and/or conduct of the persons in attendance results in a Public Nuisance;
- 1.13 "Occupier" means any person who is in control of any property;
- 1.14 "Owner" includes the person or persons registered as the Owner of a subject property in the most recent municipal tax records and/or on the deed in accordance with the records of the land registry office;
- 1.15 "Officer" means a Municipal Law Enforcement Officer appointed to enforce the by-laws of the Township or a police officer while in the course of his or her duties;
- 1.16 "Park" means playgrounds, beaches, outdoor swimming pools, wading pools, memorial squares, gardens, waters or any other areas owned by the Township for active or passive accessory uses and includes all recreation centres, arenas, indoor swimming pools and any other buildings, structures, facilities, erections and improvements, owned or leased by the Township, located on such lands;
- 1.17 "Pedestrian" shall mean a Person on any part of a Highway who is on foot or a Person in a wheelchair, baby carriage or any similar, legally operated, ambulatory device;
- 1.18 "Person" means a natural individual, and their heirs, executors, administrators or other legal representatives, a corporation, partnership or other form of business association or a receiver or mortgagee in possession;
- 1.19 "Property" means land, with or without improvements so affixed to the land;
- 1.20 "Public Nuisance" means actions occurring within the Municipality and which, by reason of the conduct of a person, 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, 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 of, 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) public drunkenness or intoxication;
 - (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;
 - (j) 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;
 - (k) unreasonable Noise, including loud music;
 - (l) unlawful open burning or setting off fireworks except in accordance with Township By-laws;
 - (m) public urination, defecation, spitting or vomiting in Public Place outside of allocated washroom facilities;
 - (n) use of or entry upon a roof not intended for such occupancy;
 - (o) damaging or interfering with a Fixture;
 - (p) any other activity or conduct that is disorderly or obnoxious.

1.21 "Public Place" means a place outdoors to which the public is ordinarily invited or permitted access and, for greater certainty, shall include;

- (a) highways, sidewalks, streets, any portion of a road allowance;
- (b) parking lots, swimming pools, conservation area, parks, and playgrounds, school grounds, land, remises, or Buildings owned, managed, or maintained by the Township;

- (c) yards appurtenant to a Building or Dwelling or vacant lands, but does not include a Building or Dwelling; and
- (d) privately owned land which is visible from any public or private property.

- 1.22 "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;
- 1.23 "Spit" means to eject phlegm, saliva, chewing tobacco juice, or any other substance from the mouth;
- 1.24 "Township" means The Corporation of the Township of Scugog;
- 1.25 "Unreasonable Noise" means any noise that would disturb the peace, rest, enjoyment, comfort or convenience of a reasonable person in the circumstances but does not include commonplace household or workplace sounds such as sound from furniture being moved, children playing or people engaging in conversation;
- 1.26 "Vomit" means to discharge the contents of the stomach by mouth.

2. Prohibitions

- 2.1 No Person, including an Owner or Occupier of property, shall sponsor, conduct, continue, host, create, participate in, allow, cause, or permit any activity that constitutes a Public Nuisance.
- 2.2 No Person, including an Owner or Occupier of property, shall hold, sponsor, conduct, continue, host, create, attend, allow, cause, or permit a Nuisance Party.
- 2.3 No Person, including an Owner or Occupier of property, shall fail to comply with an order issued in accordance with this By-law.
- 2.4 Nothing contained in this By-law shall be construed to prohibit any person taking part in any lawful procession, demonstration, or gathering.

3. Orders

- 3.1 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 or Occupier of the land on which the contravention occurred to discontinue the Public Nuisance or Nuisance Party.
- 3.2 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) address as it appears in the most recent municipal tax records and/or on the deed in accordance with the records of the land registry office. Service by registered mail is deemed to be served on the fifth day after mailing.
- 3.3 A written order under this section shall identify:
- (a) the location where the contravention occurred;
 - (b) the reasonable particulars of the contravention; and
 - (c) the date and time by which there must be compliance with the order.

- 3.4 An officer may issue an order directing that the public nuisance cease and that all persons present at the premises where the public nuisance has been declared shall immediately leave the premises.
- 3.5 An officer may issue an order directing that the nuisance party cease and that all persons not residing at the premises where the nuisance party has been declared shall immediately leave the premises.
- 3.6 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) address as it appears in the most recent municipal tax records and/or on the deed in accordance with the records of the land registry office. Service by registered mail is deemed to be served on the fifth day after mailing.

4. Enforcement and Inspection

- 4.1 The provisions of this By-law may be enforced by an Officer.
- 4.2 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 contravened or complied with.
- 4.3 For the purposes of conducting an inspection pursuant to this By-law, an Officer may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter related to the inspection; and
 - (d) 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.
- 4.4 Where an officer has reasonable grounds to believe that an offence under this by-law has been committed by a person, then the officer may require the name, address, and proof of identity of that person.
- 4.5 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.

5. Penalties

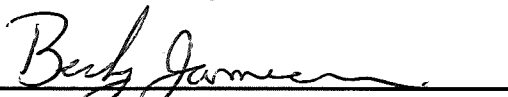
- 5.1 Any person who contravenes any provision of this By-law, including every person who fails to perform a duty imposed herein or performs an act prohibited herein is guilty of an offence and upon conviction is liable to a fine or penalty for each offence, exclusive of costs, as prescribed by the Municipal Act, S. 0. 2001, c. 25.
- 5.2 Every person who contravenes any provision of this By-law is guilty of an offence and is liable on conviction
- (a) in the case of an individual, to a fine of not less than \$350 and not more than \$10,000;
 - (b) in the case of an individual who is a director or officer of a corporation, to a fine of not less than \$500 and not more than \$25,000; and
 - (c) in the case of a corporation, to a fine of not more than \$100,000.

- 5.3 A person is guilty of a separate offence on each day that an offence under section 5.1 occurs or continues.
- 5.4 Despite the maximum fines set out in section 5.2, the court that convicts a person of an offence may increase a fine imposed on the person by an amount equal to the financial benefit that was acquired by or that accrued to the person because of the commission of the offence.
- 5.5 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.
- 5.6 Nothing in this By-law limits the Township's right or ability to enforce this By-law by any other and all legal means.
- 6. Severability**
- 6.1 If a court of competent jurisdiction should declare any section or part of a section of this By-Law to be invalid, the remainder of this By-Law shall continue in force unless the court makes an order to the contrary.
- 7. Repeal**
- 7.1 By-Law Number 103-05 is hereby repealed in its entirety.
- 8. Date Effective**
- 8.1 This By-Law shall come into full effect and force on the date of its passing by Council.

This By-law Read and Passed on the 26th day of September, 2022.



Roberta Drew, Mayor



Becky Jamieson, Clerk