

THE CORPORATION OF THE TOWN OF SHELBURNE

BY-LAW #03-2020

Being a by-law to regulate Public Nuisances

within the Town of Shelburne

WHEREAS Section 8 (1) of the Municipal Act, 2001, S.O. 2001 c. 25, as amended (the "Municipal Act"), provides that the powers of a municipality under this Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 128 (1) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended (the "Municipal 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 it is the opinion of the Council of the Corporation of the Town of Shelburne that certain actions outlined in this by-law do constitute a Public Nuisance;

AND WHEREAS Sections 425 and 429 of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended (the "Municipal Act"), authorizes a Municipality to create offences and establish fines for offences under by- laws;

NOW THEREFORE the Council of The Corporation of the Town of Shelburne enacts as follows:

1. DEFINITIONS

In this by-law:

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

"Carcass" means the body or any part thereof of a dead animal, but does not include a carcass that has been fully processed for sale for human consumption in a place or establishment licensed and authorized to conduct such business;

"Council" means the municipal council of the Town;

"Defecate" means to discharge waste matter from the bowels;

"Disorderly Conduct" means causing a public disturbance and, without limiting the generality of the foregoing, includes yelling, screaming, shouting, and/or swearing that is likely to disturb and interferes with the reasonable enjoyment of someone else in a Public Place

"Feeding" means furnishing or making food available and shall include leaving food outdoors in such a manner as to attract or to be accessible to animals but does not include the growing of food for human consumption;

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

"Graffiti" means one or more letters, symbols, figures, images, etchings, scratches, inscriptions, stains or other markings howsoever made or affixed to a property not owned by the person making the graffiti that disfigure, deface or otherwise mar said property;

"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;

“**Litter**” 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;

“**Loitering**” means the lingering or hanging about in a Public Place with no purposeful activity or obstructing or making difficult the passage of persons in a Public Place or failing to move on after having been requested to do so;

“**Municipal Law Enforcement Officer**” means any person or persons appointed by Council to administer and enforce the provisions of this by-law;

“**Officer**” means a Municipal Law Enforcement Officer appointed by Council or a member of the Police Service that serves the Town;

“**Pedestrian-way**” means, without limiting the generality of the foregoing, any sidewalk, trail, or walkway designed for passage by pedestrians;

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

“**Premises**” means any public place or private place in the Town;

“**Public Nuisance**” means an action or activity that creates a disturbance, damages property or impacts the safety of residents of the Town and includes all activities set out in Section 2 herein;

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

“**Public Place**” means

- (a) A place outdoors to which the public is ordinarily invited or permitted access, and shall include but not be limited to sidewalks, streets, any portion of a road allowance, parking lots, swimming pools, conservation areas, trails, parks and playgrounds;
- (b) School grounds; and
- (c) Land, premises or buildings owned, managed or maintained by the Town;

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

“**Town**” means The Corporation of the Town of Shelburne”.

“**Urinate**” means to discharge urine from the body;

“**Vomit**” means to eject matter from the stomach through the mouth.

2. PROHIBITIONS

- (a) No Person shall solicit or sell or attempt to solicit or sell any items in any Public Place unless authorized to do so by the Town.
- (b) No Person shall block, interfere with or otherwise impede the passage of any pedestrian on any Town sidewalk or other Town Pedestrian-Way, or portion thereof unless authorized by the Town.
- (c) No Person shall mark or apply Graffiti on any Public Place or private property without authorization from the owner of the property to which the Graffiti is being applied.
- (d) No Person shall damage or destroy or attempt to damage or destroy any Public Property.

- (e) No Person shall Litter in any Public Place or on private property without authorization from the owner except if such litter is placed in garbage cans or in recycle boxes.
- (f) No Person shall engage in Feeding of wildlife that causes animals to congregate in a Public Place in such a manner that causes property damage.
- (g) No Person shall publicly display a Carcass.
- (h) No Person shall publicly kill or slaughter an animal.
- (i) No Person shall participate or be a spectator in a Fight in any Public Place.
- (j) No Person shall Urinate, Vomit, Spit or Defecate in a Public Place.
- (k) No Person shall commit, or cause to be committed, Disorderly Conduct in a Public Place.
- (l) No person shall Loiter in any Public Place.

3. INSPECTION

- (a) The Town 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 Town made under this by-law; or,
 - (iii) an order made under s. 431 of the Municipal Act.
- (b) For the purposes of conducting an inspection pursuant to s. 3(a) of this by-law, the Town may, in accordance with the provisions of s. 436 of the Municipal 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, an Officer who is exercising a power or performing a duty under this by-law.

4. 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.

5. ENFORCEMENT AND INSPECTION

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

6. 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.

7. COMING INTO FORCE

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

8. SHORT TITLE

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

READ A FIRST, SECOND and THIRD TIME in Open Council, and finally passed this the 13th day of January 2020.

Wade Mills, Mayor

Jennifer Willoughby, Clerk

TOWN OF SHELBURNE
PART 1 – Provincial Offences Act

By-Law # 03-2020
Public Nuisance By-Law

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Solicit or sell in a public place without authorization	2 (a)	\$ 200.00
2	Block, interfere or impede a town pedestrian way without authorization	2 (b)	\$ 200.00
3	Mark or apply graffiti on a public place	2 (c)	\$ 200.00
4	Mark or apply graffiti on private property	2 (c)	\$ 200.00
5	Deface, damage or destroy public property	2 (d)	\$ 200.00
6	Litter in a public place	2 (e)	\$ 150.00
7	Litter on private property without authorization	2 (e)	\$ 150.00
8	Feeding of wildlife	2 (f)	\$ 200.00
9	Publicly display a carcass	2 (g)	\$ 200.00
10	Publicly butcher or slaughter an animal	2 (h)	\$ 200.00
11	Participate or be a spectator in a fight in any public place	2 (i)	\$ 200.00
12	Defecate, urinate or vomit in a public place	2 (j)	\$ 200.00
13	Commit disorderly conduct in a public place	2 (k)	\$ 200.00
14	Loiter in a public place	2(l)	\$150.00
15	Hinder or obstruct an officer	3 (c)	\$300.00
NOTE: the general penalty provision for the offences listed above is section 4 (a) of bylaw XX-2020, a certified copy of which has been filed.			