



THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NUMBER 048-2016

**BEING A BY-LAW TO PROHIBIT AND REGULATE PUBLIC NUISANCES
WITHIN THE TOWN OF COBOURG.**

WHEREAS pursuant to section 133 of the *Municipal Act, S.O. 2001, c.25*, as amended, provides that a municipality may enact By-laws for the health, safety and well-being of a persons and for the protection of persons and property;

AND WHEREAS section 128 of the *Municipal Act, S.O. 2001, c.25*, as amended, provides that a 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;

NOW THEREFORE the Municipal Council of the Corporation of the Town of Cobourg hereby enacts as follows:

1.0 DEFINITIONS

“Defecate” shall mean to discharge waste matter from the bowels;

“Disturbance” shall mean to disturb the peace and quiet by disorderly conduct, fighting, loitering or nuisance, and in any way obstructs the public in the exercise or enjoyment of any right that is common to all persons within the Town of Cobourg;

“Fight” shall mean any physical altercation between two or more person, whether consensual or not, that could cause a reasonable person to have concern for injury to the participants or disturbance to the public, but shall not include:

- a. A boxing match, wrestling match or other competition organized by a recognized sporting organization;
- b. A physical altercation between participants of a sporting activity, ceremonial event, historical display or educational program, under the supervision of trained officials when the officials have the authority to sanction the altercation;
- c. A physical altercation between participants for the purposes of an authorized theatrical, film or television production.

“Highway” shall have the same meaning as in the *Highway Traffic Act, R.S.O. 1990, c.H.8* as amended;

“Loiter” shall mean lingering on the way, to travel indolently with frequent pauses without any apparent destination;

“Municipal Law Enforcement Officer” shall mean an Officer that is appointed by the Town as a Municipal law Enforcement Officer pursuant to S.15 of the *Police Services Act*, R.S.O. 1990, c. P.15, as amended;

“Nuisance” shall mean an activity that causes an unsafe environment, affects the well-being of persons or the enjoyment of a public places, and shall be limited to the activities described in Section 3 of this by-law;

“Occupier” includes:

- (a) a person who is in physical possession of premises; or
- (b) a person who has responsibility for an control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises.

“Premises” shall mean any place in the Town, including, but not limited to, Town Property;

“Police Officer” shall have the same meaning as contained in the *Police Services Act*;

“Refuse” shall mean any article, thing, matter, substance or effluent that has been cast aside, discharged or abandoned or is discarded from its usual and intended use or its used up, in whole or in part, or expended or worn out in whole or in part;

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

“Town” shall mean the Corporation of the Town of Cobourg;

“Public Property” shall mean land owned or operated by the Town, and, without limiting the generality of the foregoing, includes every highway, vacant property, park, public square, sidewalk, pedestrian walkway or trail, and any place to which the public have access as of right or by invitation, expressed or implied, and includes any buildings, structures, and equipment or part of buildings, structures and equipment located thereon whether heretofore or hereafter erected that is exposed to public view but does not include a washroom facility;

“Urinate” shall mean to discharge urine from the body;

“Vomit” shall mean to eject matter from the stomach through the mouth.

2.0 INTERPRETATION

2.1 This by-law shall not be interpreted as exempting any person from the requirement to comply with any other Town by-law. In the event of conflict between the provisions of this by-law and any other Town by-law, the provisions which are more protective of the public assets of the Town, the economic, social and environmental well-being of the Town, the health safety and well-being of persons in the Town, and persons and property in the Town shall apply.

3.0 GENERAL PROHIBITIONS

3.1 No person shall urinate, defecate, vomit or spit on public property.

3.2 No person shall engage, participate, or be a spectator in any type of disorderly conduct or fight on public property.

- 3.3 No person shall damage or destroy or attempt to damage or destroy any public property.
- 3.4 No person shall knock over or attempt to knock over a Canada Post mailbox, newspaper box, bench, fence, recycling box, organics bin, or garbage container, or any other structure or object, located on public property.
- 3.5 No person shall loiter in any public property whether signed or not.
- 3.6 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.
- 3.7 No person shall solicit or sell or attempt to solicit or sell any items, including but not limited to funds, in any public property unless authorized to do so by the Town.
- 3.8 No person shall obstruct, hinder or otherwise interfere with a Municipal Law Enforcement Officer or Police Officer while carrying out an investigation making inquiries, or performing an inspection for the purposes of enforcing this By-law.
- 3.9 No person shall engage in any type of conduct or activity in any public property when the activity is prohibited or restricted by any sign.
- 3.10 No person shall continue to engage in any type of activity prohibited by this By-law when requested to stop by a Municipal Law Enforcement Officer or Police Officer or the Occupier of a property.

4.0 PENALTIES / OFFENCES

- 4.1 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to any penalties imposed in accordance with the *Provincial Offences Act*, R.S.O 1990, and c.P.33, as amended as well as subject to the set fines set out herein Schedule "A" of this By-Law.
- 4.2 This by-law shall come into force and take effect on the date that the Regional Senior Justice of the Ontario Court of Justice approves each set fine as set out in Schedule "A" for offences under this by-law, and in accordance with the *Provincial Offences Act*, R.S.O 1990 CHAPTER P.33.

5.0 ENFORCEMENT


- 5.1 The provisions of this By-law shall be enforced by a Municipal law Enforcement Officer or a Police Officer.
- 5.2 An Officer who has reasonable grounds to believe that a person has contravened any provision of this By-law may require that person to provide identification of themselves; and
- 5.3 Every person who is required by an Officer to provide identification under Section 5.2 shall identify themselves to the Officer. Giving their correct name, date of birth and address shall constitute as being sufficient identification. Failure to do so shall constitute obstruction of the Officer as per Section 3.6 of this By-law.

6.0 SEVERABILITY

- 6.1 If any section, clause or provision of this By-law, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention of Council for the Town that all remaining sections, clauses or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof may have been declared invalid.

- 6.2 Whenever any reference is made in this By-law to statute or regulation of the Province of Ontario, such reference shall be deemed to include all subsequent amendments to such statute or regulation and all successor legislation to such legislation.

READ a first, second and third time and finally passed in Open Council this 24th day of May, 2016.


MAYOR


MUNICIPAL CLERK

SCHEDULE "A"

**The Corporation of the Town of Cobourg
By-Law No. 048-2016: A By-law to Prohibit and Regulate
Public Nuisances within the Town of Cobourg**

Part I Provincial Offences Act

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provisions creating or defining offence	COLUMN 3 Set Fine
1.	Urinate, defecate, vomit, or spit on Public Property.	Section 3.1	\$250.00
2.	Engage, participate, or spectate in disorderly conduct or fight on Public Property.	Section 3.2	\$250.00
3.	Damage or destroy or attempt to damage or destroy Public Property.	Section 3.3	\$250.00
4.	Knock over or attempt to knock over a structure or object located on Public Property.	Section 3.4	\$250.00
5.	Loiter on Public Property	Section 3.5	\$250.00
6.	Block, interfere, or impede the passage of pedestrian on a Town Sidewalk	Section 3.6	\$250.00
7.	Solicit or sell, or attempt to solicit or sell items on Public Property.	Section 3.7	\$250.00
8.	Obstruct, hinder, or interfere with an Enforcement, or Police Officer	Section 3.8	\$250.00

NOTE: The general penalty provision for the offences listed above is Section 9 of By-law #012-2016, a certified copy of which has been filed.