

The Corporation of the Municipality of West Perth

By-law 86-2017

Being a By-law to prohibit and regulate public nuisances within the Municipality of West Perth

Whereas the Municipal Act, 2001, S.O. c.25 as amended, provides that a municipality has capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority and that it may do so by by-law; and

Whereas section 128(1) of the *Municipal Act, 2001* 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;

Now therefore, the Council of The Corporation of the Municipality of West Perth enacts as follows:

1. Definitions

In this by-law,

- a. **Bodily Emission** means to spit, vomit, urinate or defecate;
- b. **Council** means the Council of the Municipality of West Perth;
- c. **Disorderly Conduct** means causing a public disturbance and, without limiting the generality of the foregoing, includes yelling, screaming, shouting, swearing and interfering with the reasonable enjoyment of someone else at a Public Place;
- d. **Fight** means any confrontation involving violent physical contact between two or more people;
- e. **Graffiti** means images or lettering scratched, scrawled, painted or any form of marking on property that does not belong to the artist;
- f. **Litter** means to throw, drop, place, or otherwise deposit or permit to be deposited any garbage, paper, plastic, paper products, plastic products, cans, rubbish, or other debris on property;
- g. **Nuisance** shall mean an activity that causes an unsafe environment, affects the wellbeing of persons or the enjoyment of a Public Place, and shall be limited to the activities described in Section 3.0 of this by-law;
- h. **Occupier** includes:
 - (a) a person who is in physical possession of premises; or
 - (b) 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;
- i. **Officer** means a Municipal Law Enforcement Officer appointed by the Municipality as a Municipal Law Enforcement Officer pursuant to s. 15 of the *Police Services Act*, R.S.O. 1990, c. P. 15, as amended, or an Ontario Provincial Police Officer;
- j. **Public Place** means land owned or operated by the Municipality, and without limiting the generality of the foregoing, includes a highway, sidewalk, trail, pedestrian-way, park, boulevard and public square owned or operated by the Municipality, and includes any buildings, structures and equipment located thereon, intended for or used by the general public;
- k. **Refuse** means 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 is used up, in whole or in part, or expended or worn out in whole or in part;
- l. **Sidewalk** means that portion of the Municipality's right-of-way that is intended or used by the general public for the passage of persons, including the boulevard; and,
- m. **Municipality** means The Corporation of the Municipality of West Perth.

2. General

- 2.1. No person shall have or cause a Bodily Emission in a Public Place.

- 2.2. 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 Municipality.
- 2.3. No person shall block, interfere with or otherwise impede the passage of any pedestrian on any Sidewalk or other Municipality pedestrian-way, or portion thereof unless authorized by the Municipality.
- 2.4. No person shall knock over, or attempt to knock over, a Canada Post mailbox, newspaper box, bench, fence, blue box or garbage container, or any other structure or object, located on any Public Place.
- 2.5. No person shall participate in a Fight in any Public Place.
- 2.6. No person shall mark or apply Graffiti on any Public Place or property without authorization from the owner of the property to which the Graffiti is being applied.
- 2.7. No person shall leave, throw or deposit any Refuse or Litter on any property without authorization from the owner.
- 2.8. No person shall engage in any type of Disorderly Conduct in any Public Place.
- 2.9. No person shall damage or destroy, or attempt to damage or destroy, any property of the Municipality.
- 2.10. Any person who owns, or is in the possession or control of, any dog which defecates on any property other than that on which it is habitually kept, shall be responsible for the immediate removal and sanitary disposal of any excrement.

3. Exemptions

- 3.1 The Clerk of the Municipality may grant an exemption to any person from any provision of this by-law and impose conditions for such exemption as may be considered reasonable and necessary, provided such exemption does not interfere with the general integrity of this by-law.
- 3.2 This by-law shall not apply to:
 - (a) The Municipality and its employees, agents or contractors carrying out their duties behalf of the Municipality;
 - (b) Any Police Officer carrying out police activities; or
 - (c) Anyone who applied for and received an exemption from the Municipality.

4. Enforcement

- 4.1 The provisions of this by-law shall be enforced by an Officer.

5. Offences and Penalties

- 5.1 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33 and/or the Municipal Act, 2001.

6. Ultra Vires

- 6.1 It is hereby declared that notwithstanding that any section of this By-law, or parts thereof, may be found by any court of law to be invalid or beyond the power of the Council to enact, such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent therefore and enacted as such.

7. Conflict

- 7.1 In the event of a conflict between any provision of this By-law and any other By-law in effect in the Municipality of West Perth or with any other law, statute or regulation applying to the Municipality, the more restrictive requirement shall apply.

8. Short Title

The short title of this by-law shall be the "Public Nuisance By-law".

9. Repeal of Existing By-laws

That By-law 68-2005 is hereby repealed.

10. Effective Date

This By-law comes into full force and effect on the date of its passing.

Read a first and second time this 16th day of October, 2017.

Read a third and final time and finally passed this 16th day of October, 2017.

Mayor Walter McKenzie

Clerk Carla Preston

The Municipality of West Perth

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Part I – Provincial Offences Act

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1.	Urinate, Defecate, Vomit or spit in a Public Place	2.1	\$300.00
2.	Solicit or sell, attempt to sell any items in any public place unless authorized by the Municipality.	2.2	\$300.00
3.	Block, interfere or impede the passage of any pedestrian on any sidewalk, pedestrian-way or portion thereof.	2.3	\$300.00
4.	Knock over or attempt to knock over a Canada Post mailbox, newspaper box, bench, fence, blue box or garbage container or any other structure or object located on any Public Place.	2.4	\$300.00
5.	Mark or apply graffiti on any Public Place or property.	2.6	\$300.00
6.	Leave, throw or deposit any Refuse or Litter on any property.	2.7	\$300.00
7.	Damage or destroy or attempt to destroy any property of the Municipality	2.9	\$300.00
8.	Non Removal and sanitary disposal of any dog excrement on property other than that on which it is habitually kept.	2.10	\$300.00

Note the general penalty provision for the offences listed above is Section 5 of By-law 86-2017, a certified copy of which has been filed, and Section 61 of the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.