

The Corporation of the City of Thorold

By-law No. 45-2017

A By-law to Prohibit and Regulate Public Nuisances within the City of Thorold

Whereas Section 5(3) of the Municipal Act, 2001, c. 25, as amended (“the Municipal Act, 2001”) provides that a municipal power shall be exercised by by-law; and

Whereas Section 9 of the Municipal Act, 2001 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas Section 8 of the Municipal Act, 2001 provides that the 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 Section 10 of the Municipal Act, 2001 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 128 of the Municipal Act, 2001 provides that, without limiting Sections 9 and 10, 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 the opinion of Council under this section, if arrived at in good faith, is not subject to review by any court; and

Whereas in the opinion of Council, nuisance parties, public urination and defecation, and knocking over objects on the Highway are or could become or cause public nuisances; and

Whereas at the February 13, 2017 Town & Gown Committee meeting the Niagara Regional Police suggested enhancements be made to the Public Nuisance By-law; and

Whereas at the March 7, 2017 Thorold City Council meeting staff was directed to prepare a by-law that includes “brewfing”

Whereas on April 4, 2017 Thorold City Council approved the recommendations of Report CC2017-13 to expand the existing Public Nuisance By-law.

Now therefore, the Council of The Corporation of the City of Thorold enacts as follows:

1. Definitions:

“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;

“Chief of Police” means the Chief of Police for the Niagara Regional Police Service, or designate;

“City” means the Corporation of the City of Thorold;

“Disorderly Conduct” means a petty offense chiefly against public order and decency that falls short of an indictable misdemeanor;

“Dwelling” means a building containing one or more dwelling units;

“Fight” means any confrontation involving violent, physical contact between two or more people;

“Graffiti” means images or lettering, scratch scrawl painted or any form of marking on property that does not belong to the artist;

“Highway” includes a common and public highway, 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 and Highways shall have the corresponding meaning;

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

“Municipality” means the land within the geographic limits of the City of Thorold;

“Nuisance Party” means a social gathering on Premises within the Municipality and which, by reason of the conduct of the persons in attendance, results in any one or more of the following activities occurring so as to constitute a public nuisance whether occurring on neighbouring public or private property:

- (a) disorderly conduct;
- (b) public drunkenness or public intoxication;
- (c) the unlawful sale, furnishing or distribution of alcoholic beverages or controlled substances;
- (d) the deposit of refuse on public or private property;
- (e) damage to or destruction of public or private property;
- (f) pedestrian traffic, vehicular traffic, or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
- (g) unreasonable noise, including loud music or shouting and in accordance with the City of Thorold Noise By-law;
- (h) unlawful open burning or fireworks;
- (i) public disturbances, including public brawls or public fights;
- (j) outdoor public urination or defecation;
- (k) use of or entry upon a roof not intended for such occupancy

“Premises” means any public or private place in the Municipality, including but not limited to Highways, parks, parking lots, yards appurtenant to a building or a dwelling or vacant lands, but does not mean a building or dwelling.

“Public Place” includes a highway, sidewalk, pedestrian walkway or trail, property and any place to which the public have a right of access or by invitation, express or implied and includes private property that is exposed to public view, but does not include a washroom facility;

“Spit” means to eject phlegm, saliva, chewing tobacco, liquid or any other substance from the mouth;

“Urinate” means to discharge urine from the body;

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

2. Public Urination/Public Defecation

2(1) No person shall urinate, defecate, vomit or spit in a Public Place.

3. Mailboxes etc. on Highway

3(1) No person shall knock over or attempt to knock over a Canada Post mailbox, Canada Post relay box, newspaper box, fence, bench, blue box or garbage container or other structure or object located in a Public Place. This section

shall not apply to City and Regional employees or any person under contract with the City or the Regional Municipality of Niagara acting under the jurisdiction of the City or Region.

4. Nuisance Parties

- 4(1) No person shall sponsor, conduct, continue, host, create, attend, allow, cause or permit a Nuisance Party.
- 4(2) No person, who individually or jointly with others, is an owner, occupant, tenant or who otherwise has rightful possession of or control of any Premises, shall allow, cause or permit a Nuisance Party on the Premises under their possession or control.

5. Prohibitions

- 5(1) No person shall loiter in a Public Place.
- 5(2) No person shall participate in a fight in any Public Place.
- 5(3) No person shall mark or apply graffiti on any Public Place, including signs or private property.
- 5(4) No person shall leave, throw or deposit any bottles, glasses or materials on public or private property.
- 5(5) No owner, occupant or tenant of any premise serving alcohol, fitted with large doors or garage type doors, shall cause, permit or allow the said doors to remain open after 11:00 p.m.
- 5(6) No person shall refuse to identify themselves when requested to do so by a police officer.

6. Order to Discontinue Activity

- 6(1) Upon the order of the Chief of Police or his/her designate a Nuisance Party shall cease and all persons not residing on the Premises shall leave immediately.
- 6(2) No person shall fail to leave the Premises after having been directed to leave the Premises by an order to discontinue activity under this By-law.

7. Close of Public Highway

- 7(1) The Chief of Police, a Niagara Regional Police Officer or By-law Enforcement Officer may temporarily close any Highway thereof to public travel under this By-law where a Nuisance Party is occurring on or adjacent to the Highway by placing a notice on the Highway to be closed in accordance with the Municipal Act, 2001.
- 7(2) Where a Highway or portion of a Highway has been closed under this By-law, the common law right of passage by the public over the Highway and the common law right of access to the Highway by an owner of land abutting the Highway are restricted, as directed by the Chief of Police, a Niagara Regional Police Officer or By-law Enforcement Officer.
- 7(3) No person shall use a Highway, or portion of a Highway that has been closed under this By-law except with lawful authority or in accordance with the direction of the Chief of Police, or other officer pursuant to this section.

7(4) No person shall, without lawful authority, remove or deface any barricade, device, sign or notice placed on a Highway pursuant to this By-law.

8. Enforcement and Inspection

8(1) Every By-law Enforcement Officer and Niagara Regional Police Officer may carry out an inspection to determine whether the provisions of this By-law are being complied with and shall have the right to enter lands.

9. Penalty

9(1) Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine provided for in the Provincial Offences Act, R.S.O. 1990, c.P. 33, as amended, and the regulations made thereunder.

10. Severability

10(1) If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal, in whole or in part, the balance of the By-law, or its application in other circumstances shall not be affected and shall continue to be in full force and effect.

10(2) Nothing in this by-law relieves any person from complying with any provision of a federal or provincial regulation or municipal by-law or any requirement of a lawful permit, order or licence.

10(3) The provisions of this by-law may be enforced by a police officer or a municipal by-law enforcement officer or other individual duly appointed for the purpose of enforcing this by-law.

11. Short Title of By-law

11(1) This by-law may be referred to as the "Public Nuisance By-law"

12. This By-law shall come into force and effect on the day it is approved by the Ministry of the Attorney General.

Read a first, second and third time and finally passed by Council this 4th day of April, 2017.

A. T. (Ted) Luciani, Mayor

Donna Delvecchio, City Clerk