

THE CORPORATION OF THE TOWNSHIP OF BROCK

BY-LAW NUMBER 3117-2022

BEING A BY-LAW TO PROHIBIT OR REGULATE PUBLIC NUISANCES

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 for The Corporation of the Township of Brock 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 “Dwelling” means a Building occupied or capable of being occupied as a home, residence or sleeping place by one or more persons.
- 1.3 “Fight” means any confrontation involving violent physical contact between two or more persons.
- 1.4 “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.
- 1.5 “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 and includes the area between the lateral property lines thereof.
- 1.6 “Litter” includes but is not limited to discarded garbage, refuse, debris, cigarettes, paper, cardboard, plastic, glass or other such material.
- 1.7 “Loiter” shall mean lingering on the way or travelling indolently with frequent

pauses without any apparent destination.

- 1.8 "Municipality" means the land within the geographic limit of the Township of Brock.
- 1.9 "Nuisance Party" means a gathering within the Municipality and which, by reason of the actions and/or conduct of persons in attendance results in a Public Nuisance.
- 1.10 "Occupier" means any Person who is in control of any Property.
- 1.11 "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.
- 1.12 "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.
- 1.13 "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.
- 1.14 "Property" means land, with or without improvements so affixed to the land.
- 1.15 "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:
 - 1.15.1 Soliciting, including and without limiting the generality of the foregoing:
 - a) soliciting a Person who is using, waiting to use, or departing from an automated teller machine.
 - b) soliciting a Person who is using or waiting to use a pay telephone or a public toilet facility.
 - c) soliciting a Person who is in or on a public transit vehicle.
 - d) soliciting a Person who is waiting at a taxi stand or a public transit stop.
 - e) soliciting a Person who is in the process of getting in, out, on or off a vehicle or who is in a parking lot.
 - f) while on a Highway, soliciting a Person who is in a stopped, standing or parked vehicle.
 - 1.15.2 loitering after having been requested by an Officer to move on.
 - 1.15.3 screaming, yelling, shouting or using profane or abusive language or gestures.
 - 1.15.4 participating in or being a spectator of a Fight.
 - 1.15.5 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.
 - 1.15.6 public drunkenness or intoxication.
 - 1.15.7 remaining in or refusing to leave a Public Place after it is closed and/or when ordered to leave by an Officer.
 - 1.15.8 throwing, placing or depositing any Litter (except if such Litter is placed in a garbage or recycling receptacle).
 - 1.15.9 defacing, damaging or vandalizing Property.
 - 1.15.10 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

- 1.15.11 unreasonable Noise, including loud music.
 - 1.15.12 unlawful open burning or discharging fireworks except in accordance with Township By-laws.
 - 1.15.13 public urination, defecation, Spitting or Vomiting in a Public Place outside of allocated washroom facilities.
 - 1.15.14 use of or entry upon a roof not intended for such occupancy.
 - 1.15.15 damaging or interfering with a Fixture.
 - 1.15.16 emitting or causing or permitting to be emitted an objectionable odour, except where permitted to do so by the Township.
 - 1.15.17 emitting or causing or permitting to be emitted an excessive amount of smoke, dust or airborne particulate matter, except where permitted to do so by the Township.
 - 1.15.18 installing, using, positioning or permitting to be installed, used or positioned any lighting so as to cause any impairment of use or enjoyment of a neighbouring Property.
 - 1.15.19 discharging, or causing or permitting the discharge of any water or liquid, from swimming pools, hot tubs, wading pools or ornamental ponds to drain or migrate onto adjacent Property.
 - 1.15.20 discharging, or causing or permitting the discharge of any sump pump directly onto any neighbouring Property.
 - 1.15.21 any other activity or conduct that is disorderly or obnoxious.
- 1.16 "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, premises, 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.
 - d) privately owned land which is visible from any public or private Property.
- 1.17 "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.
- 1.18 "Spit" means to eject phlegm, saliva, chewing tobacco juice, or any other substance from the mouth.
- 1.19 "Township" means The Corporation of the Township of Brock.
- 1.20 "Unreasonable Noise" means any excessive, frequent, or unusually loud sound that disturbs the peace, comfort or repose of the inhabitants of the Township.
- 1.21 "Vomit" means to discharge the contents of the stomach by mouth.

2. ORDERS

- 2.1 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.

2.2 An order under this section shall identify:

- a) the location where the contravention occurred.
- b) the reasonable particulars of the contravention.
- c) the date and time by which there must be compliance with the order.

2.3 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. PROHIBITIONS

3.1 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.

3.2 No Person, including an Owner or Occupier of Property, shall hold, sponsor, conduct, continue, host, create, attend, allow, cause, or permit a Nuisance Party.

3.3 Every Person, including an Owner or Occupier of Property, shall comply with an order issued under the authority of this By-law.

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.
- 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 An Officer may inform a Person of the provisions of this By-law and request compliance therewith.

4.5 Where an Officer has reasonable grounds to believe that an offence under this By-law has been committed, the Officer may require the name, address and proof of identity of that Person and that person shall supply such information.

4.6 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 Every person who contravenes or fails to comply with any of the provisions of this by-law is guilty of an offence, and pursuant to section 429 of the Municipal Act, 2001, is liable to a maximum penalty of \$10,000.00 (ten thousand dollars) and a minimum penalty of not less than \$350.00 (three hundred and fifty dollars).

5.2. Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences

Act, R.S.O. 1990, Chapter P.33, as amended.

- 5.3 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.
 - b) requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

- 5.4 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. INTERPRETATION AND SEVERABILITY

- 6.1 Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in Section 1 of this By-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.
- 6.2 Wherever a word defined in Section 1 of this By-law is used in the form of a noun, verb, adverb or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case. All words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law requires otherwise.
- 6.3 If a court of competent jurisdiction declares any provision or part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

7. REBUTTABLE PRESUMPTION

- 7.1 An Owner shall be presumed to have created, caused, allowed, permitted or continued a Public Nuisance that has occurred on the Owner's Property, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

8. SHORT TITLE

- 8.1 This By-law may be referred to as the "Public Nuisance By-law".

ENACTED and PASSED this 25th day of April 2022

John Grant, Mayor

Fernando Lamanna, Clerk/Deputy CAO