

NUISANCE BYLAW

TOWNSHIP OF ADELAIDE METCALFE

BY-LAW NUMBER 6 of 2022

BEING A BY-LAW TO PROHIBIT AND REGULATE PUBLIC NUISANCES IN THE CORPORATION OF TOWNSHIP OF ADELAIDE METCALFE

WHEREAS the *Municipal Act, 2001*, S.O. 2001, Chapter 25, Section 8 ("**Municipal Act**") 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 the *Municipal Act*, Section 128(1) provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of the Council, are or could become or cause public nuisances;

AND WHEREAS Section 425 of the *Municipal Act*, establishes that any person who contravenes any By-law of the municipality is guilty of an offence;

AND WHEREAS Section 429 of the *Municipal Act* provides that a municipality may establish a system of fines for offences under a By-law of the municipality;

AND WHEREAS it is the opinion of the Council for the Corporation of Township of Adelaide Metcalfe that certain actions outlined in the By-law do constitute a public nuisance; and,

NOW THEREFORE the Council of the Corporation of the Township of Adelaide Metcalfe enacts as follows:

PART 1 SHORT TITLE

1. **SHORT TITLE**

This By-law may be cited as the "Nuisance By-law."

PART 2 DEFINITIONS

2. **DEFINITIONS**

In this By-law:

- 2.1 "**Business Areas**" means those areas within the municipality zoned under the Zoning By-law as follows:

- i. Corridor Commercial, Rural Commercial, Village Commercial, Hamlet Commercial (CC; RC; VC; HC; C3) Zones;
- ii. Industrial, Rural Industrial, Extractive Resource (M; RM, E) Zones;
- iii. Institutional (I) Zone;
- iv. Parks and Recreation (PR) Zone;

- 2.2 **"Carcass"** means the body or any part thereof a dead animal;
- 2.3 **"Council"** means the Council of the Corporation of Township of Adelaide Metcalfe;
- 2.4 **"Defecate"** means to discharge waste matter from the bowels;
- 2.5 **"Direct Lighting"** means light emitted directly from the lamp of the reflector or luminaire;
- 2.6 **"Disorderly Conduct"** means causing a public disturbance and, without limiting the generality of the foregoing, includes yelling, screaming, shouting, singing, and/or swearing that is likely to disturb and interfere with the reasonable enjoyment of someone else in a public place;
- 2.7 **"Dust" and "Mud"** mean any solid particulate matter which may become airborne as a result of any and all construction, landscaping, site alteration, and renovation-related activities, including but not limited to, trimming, blasting, drilling, crushing, grinding, sawing, screening, cutting, altering or moving of clay, stone rock, stucco, concrete, tile, and which may be caused by new developments and construction activities.
- 2.8 **"Fight"** means any confrontation involving violent physical contact between two or more people;
- 2.9 **"Graffiti"** means unauthorized and deliberate defacement of public or private property and includes markings, of one or more letters, symbol, marks, designs or drawings placed on any structure, place or thing, without the consent of the municipality or property owner respectively;
- 2.10 **"Highway"** has the same meaning as in the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended;
- 2.11 **"Indirect Lighting"** means light that has been reflected or has scattered off other surfaces;
- 2.12 **"Light Trespass"** means the shining of light produced by a luminaire beyond the boundaries of a property on which it is located;

- 2.13 **"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 Municipality or the property owner respectively;
- 2.14 **"Loiter"** shall mean lingering on the way or travelling indolently with frequent pauses without any apparent destination;
- 2.15 **"Luminaire"** means a complete lighting system, including a lamp or lamps enclosed in a housing complete with reflectors, etc.
- 2.16 **"Municipality"** means the Corporation of Township of Adelaide Metcalfe;
- 2.17 **"Nuisance party"** means a gathering of persons on a premises and which, by reason of the conduct of the persons in attendance, results in any one or more of the following activities occurring:
- a) Public disorderly conduct;
 - b) Public drunkenness or public intoxication;
 - c) The unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances or illegal 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;
 - h) Unlawful open burning or fireworks;
 - i) Public disturbances, including public brawls, public fights or violence;
 - j) Outdoor public urination or defecation;
 - k) Use of or entry upon a roof not intended for such occupancy;
- 2.18 **"Odour"** means an odour that continues in duration for longer than four hours, or occurs on a regular basis, and is of such strength that the odour creates a nuisance;
- 2.19 **"Officer" or "Enforcement Officer"** means:
- 1. any Police Officer; or
 - 2. a By-law Enforcement Officer, Building Inspector or Chief Building Official as appointed by the Council of the Municipality;

- 2.20 **"Owner"** means the registered owner, occupant or tenant of a property, or a person who, for the time being or permanently, is managing or receiving the rent from a property, whether on his or her own account or on account of an agent or trustee of any other person, or any one of the aforesaid or any mortgagee in possession or control of such property;
- 2.21 **"Person"** includes an individual, business, corporation, partnership, association or other legal entity;
- 2.22 **"Premises"** means any public place or private place in the Municipality;
- 2.23 **"Property"** means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, signs, mobile structures, outbuildings, railway control boxes, traffic control boxes, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property;
- 2.24 **"Public Nuisance"** means an activity or action that creates a disturbance, damages property or impacts the safety of residents of the Municipality and includes all activities set out in this By-law;
- 2.25 **"Public Place"** means:
- i. a place outdoors to which public is ordinarily invited or permitted access and, for greater certainty, shall include Highways, sidewalks, streets, any portion of a road allowance, parking lots, swimming pools, conservation area, parks and playgrounds;
 - ii. school grounds;
 - iii. land, premises, or buildings owned managed or maintained by the Municipality;
 - iv. yards appurtenant to a building or dwelling or vacant lands but does not include a building or dwelling; and
 - v. privately owned land which is visible from any public or private property
- 2.26 **"Public Authority"** means any level of Government or agency including but not limited to, Government of Canada, Government of Ontario, municipal corporations, or other institutions created by the Province of Ontario.
- 2.27 **"Public Property"** means property owned by the Municipality;

- 2.28 **"Residential Areas"** means those areas within the municipality zoned under the Zoning By-law as follows: Rural Residential; Hamlet Residential; Village Residential; Urban Residential (RR; HR; VR; UR) Zones;
- 2.29 **"Rural Areas"** means those areas within the municipality zoned under the Zoning By-law as follows:
- i. General Agricultural, Agriculture Only, Limited Agricultural (A, AO; LA) Zones;
 - ii. Surplus Dwelling (SD) Zone.
- 2.30 **"Urinate"** means to discharge urine from the body;
- 2.31 **"Zoning By-law"** means the Township of Adelaide Metcalfe Comprehensive Zoning By-law currently in effect.

PART 3 **GENERAL PROHIBITIONS**

- 3.1 No person shall Urinate or Defecate in a Public Place.
- 3.2 No person shall knock over or attempt to knock over a mailbox, newspaper box, bench, fence, recycling box, bins, garbage containers, or any other structure or object, located in a public place.
- 3.3 No person shall loiter in a public place.
- 3.4 No person shall throw, place or deposit any litter on public or private property (except in the event that such litter is placed in garbage cans or in recycle boxes).
- 3.5 No person shall participate in a fight in any public place within the Municipality.
- 3.6 No person shall engage in any type of Disorderly Conduct in any Public Place.
- 3.7 No person shall carry open alcohol or be intoxicated in any Public Place.
- 3.8 No person shall damage or destroy or attempt to damage or destroy any Public or Private Property.
- 3.9 No person shall publicly display a Carcass.

- 3.10 No person shall apply or place Graffiti or permit Graffiti to be applied or place on any property.
- 3.11 No person shall make repeated and unfounded false alarm complaints to the Municipality or an Officer such as reporting an act that is not prohibited pursuant to this Nuisance By-law.
- 3.12 No person shall engage in or permit nuisance feeding of wildlife.

PART 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.
- 4.3 Order to Discontinue Nuisance Party Activity:
 - 1. Upon verbal or written order from an Officer, a Nuisance Party shall cease and all persons not residing on the Premises shall leave the Premises where it is occurring.
 - 2. An order under this section shall identify the location of the land on which the contravention occurred, the general particulars of the contravention, and the date and time by which there must be compliance with the order.
 - 3. 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.

PART 5
UNNECESSARY INTERFERENCE WITH USE AND ENJOYMENT OF PUBLIC PLACE

- 5.1 No Person shall, in a Public Place, unnecessarily interfere with another person's use and enjoyment of a Public Place by using abusive or insulting language.

PART 6
ODOUR PROHIBITION AND EXEMPTIONS

- 6.1 No Person or business shall conduct or permit any activity that causes an excessive or obnoxious Odour.
- 6.2 Section 6.1 of this By-law does not apply to an Odour created by any one of the following exemptions:
1. Normal farm practices as determined pursuant to the *Farming and Food Production Protection Act*;
 2. Emergency measures undertaken for the immediate health, safety, or welfare of inhabitants;
 3. An activity performed on designated agricultural land;
 4. An activity carried on in compliance with a certificate of approval or permit issued pursuant to the *Environmental Protection Act*; or,
 5. An activity carried on by the Municipality or any other level of Public Authority.

PART 7
DUST & MUD PROHIBITION AND EXEMPTIONS

- 7.1 No Person shall create or permit a Nuisance caused by Dust and/or Mud.
- 7.2 The provision contained in section 7.1 of this Nuisance By-law does not apply to a Nuisance caused by Dust and/or Mud arising out of and/or created by the following activities:
1. Emergency measures undertaken for the immediate health, safety, or welfare of inhabitants;
 2. An activity carried on in compliance with a certificate of approval or permit issued pursuant to the *Environmental Protection Act*;
 3. Normal farm practices as determined pursuant to the *Farming and Food Production Act*; or,
 4. An activity carried out by the Municipality or any other level of Public Authority.

PART 8
EXTERNAL OR INTERNAL LIGHTING PROHIBITION

- 8.1 No Direct Lighting or Indirect Lighting shall be used so that an unusual quantity or type of light creates a glare or Light Trespass upon the land of others so as to be or to cause a nuisance to the public generally or to others residing or carrying on a business or trade in the vicinity.
- 8.2 The type, location, intensity, direction and height of lighting shall be reasonably limited to the building face, parking area and locality of the site, and does not cast glare onto adjacent properties negatively impacting the use of the property.

PART 9
MUNICIPALITY EXEMPTION

9.1 **Exemption – Application Process**

Notwithstanding anything contained in this By-law, any Person may make application in writing to the Clerk of the Municipality to request an exemption from any of the provisions of this By-law for which they might be prosecuted.

9.2 **Exemption – Details of Application**

The application mentioned in Section 9.1 shall be made in writing to the Clerk of the Municipality, at least sixty (60) days prior to the proposed date of the event and shall include:

- I. The name and address of the applicant;
- II. The location of the premises where the proposed exemption is being sought;
- III. Statement of the particular provision or provisions of the By-law from which the exemption is sought;
- IV. The reasons why the exemption should be granted; and
- V. The application for exemption fees as set out in the Municipality's current Fees and Charges By-law.

9.3 **Exemption – Circulation for Public Comment**

Upon receipt of an application in writing for exemption by the Municipality, the Clerk of the Municipality shall notify the owners of lands

within the vicinity of the requested exemption, indicating the date and time on which the Clerk will consider the request for exemption. The notice will outline the details of the exemption request. The notice will request that comments or concerns about the request for exemption be in written form and addressed to the Clerk of the Municipality.

9.4 **Exemption – Appeal of Decision**

If an exemption is denied by the Clerk of the Municipality, the applicant may appeal the decision to the Municipality's Council within ten (10) business days of the written decision provided by municipal staff. The appeal must be made in writing and addressed to the Clerk of the Municipality. Council shall consider the appeal, which will be accompanied by a report from the Clerk at a regularly scheduled meeting of Council.

9.5 **Exemption – Breach**

Breach by the applicant of any of the terms or conditions of the exemption shall render the exemption null and void.

PART 10 **ENFORCEMENT AND INSPECTION**

- 10.1 The provisions of this By-law shall be enforced by an Officer, or another individual appointed by the Municipality for the purpose of enforcing this By-law.
- 10.2 Every Officer may carry out inspections to determine whether the provisions of this By-law are being complied with in accordance with this By-law, and the Officer shall have the right to enter lands pursuant to the provisions of the *Municipal Act*.

PART 11 **PENALTY**

- 11.1 Any 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 in the *Provincial Offences Act*, and as set out in Schedule "A", Set Fines attached hereto. All such fines shall be recovered under the *Provincial Offences Act*.
- 11.2 When a Person has been convicted of an offence under this By-law, any court of competent jurisdiction may, in addition to any penalty imposed on the Person convicted, issue an order (a) prohibiting the continuation or repetition of the offence by the person convicted; and (b) requiring the

person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

- 11.3 Prosecution under this Nuisance By-law shall not preclude any other legal actions required.

PART 12
SEVERABILITY

- 12.1 If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, 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.

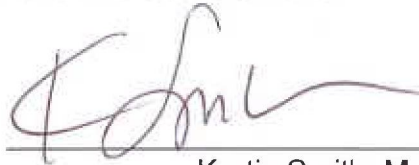
PART 13
EFFECTIVE DATE

- 13.1 This By-law shall come into force and take effect on the day of the final reading thereof except for the Short-Form Wording pursuant to Schedule "A", Set Fines, which shall subsequently come into force and take effect on the day that the Ministry of Attorney General approves it.

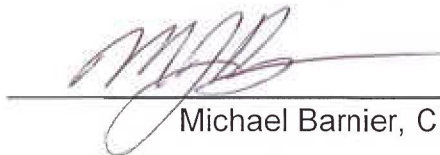
Read a first, second and third time

IN OPEN COUNCIL

This 7th day of February, 2022.



Kurtis Smith, Mayor



Michael Barnier, Clerk

**The Township of Adelaide Metcalfe - Nuisance By-Law 6 of 2022:
Part I Provincial Offences Act**

**Schedule "A"
Part 1 - Provincial Offences Act - Set Fines**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine
1.	Urinating or Defecating in a Public Place	Section 3.1	\$200.00
2.	Knocking over objects or structures located in a Public Place	Section 3.2	\$200.00
3.	Loitering in a Public Place	Section 3.3	\$200.00
4.	Littering on Public Place or Private Property	Section 3.4	\$200.00
5.	Fighting in a Public Place	Section 3.5	\$200.00
6.	Engaging in Disorderly Conduct in any Public Place	Section 3.6	\$200.00
7.	Carrying open alcohol or be intoxicated in a Public Place	Section 3.7	\$200.00
8.	Damaging or destroying or attempting to damage or destroy any Public or Private Property	Section 3.8	\$200.00
9.	Displaying a Carcass	Section 3.9	\$200.00
10.	Applying or placing Graffiti or permit Graffiti to be applied or place on any property	Section 3.10	\$200.00
11.	Filing a false complaint	Section 3.11	\$200.00
12.	Engaging in feeding of wildlife	Section 3.12	\$200.00
13.	Cause or permit a Nuisance Party	Section 4.1	\$200.00
14.	Unnecessary interference with use and enjoyment in any Public Place	Section 5.1	\$200.00
15.	Permit activity that causes an Odour	Section 6.1	\$200.00
16.	Create or permit Nuisance caused by Dust/Mud	Section 7.1	\$200.00
17.	Direct or Indirect lighting nuisance	Section 8.1	\$200.00

NOTE: The penalty provision(s) for the offence(s) indicated above is Section 11.1 of the By-law Number 6 of 2022, a certified copy of which By-law has been filed.