

**THE CORPORATION OF THE CITY OF ELLIOT LAKE**

***B*Y-LAW NO. 20-19**

Being a by-law to promote and regulate physical distancing during the Covid-19 Emergency

(Office Consolidation 20-35)

**WHEREAS** the World Health Organization has declared a worldwide pandemic regarding the Novel Coronavirus 19 ("COVID-19 pandemic");

**AND WHEREAS** on March 17, 2020 a Declaration of Emergency was made by the Province of Ontario pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9 (the "*Emergency Management Act*") related to COVID-19;

**AND WHEREAS** section 4 of the *Emergency Management Act* provides that the head of council of a municipality may declare that an emergency exists in the municipality or in any part thereof and may take such action and make such orders as he or she considers necessary and are not contrary to law to implement the emergency plan of the municipality and to protect property and the health, safety and welfare of the inhabitants of the emergency area;

**AND WHEREAS** on April 4, 2020 The Corporation of the City of Elliot Lake declared an emergency pursuant to section 4 of the *Emergency Management Act*;

**AND WHEREAS** on March 27, 2020 the Province of Ontario granted power to municipal law enforcement officers to enforce Orders issued by the Province under the *Emergency Management Act*;

**AND WHEREAS** The Corporation of the City of Elliot Lake considers it desirable to enact regulation to support the intent and purpose of the Provincial Orders made under the *Emergency Management Act* in order to protect the health and safety of the citizens of the City of Elliot Lake, by prohibiting certain activities and regulating physical distancing during the COVID-19 Emergency;

**AND WHEREAS** subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, ("*Municipal Act, 2001*") provides that the powers of a municipality 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 *Municipal Act, 2001* 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) 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; and Protection of persons and property, including consumer protection;

**AND WHEREAS** without limiting sections 9 and 11 of the *Municipal Act, 2001*, a local municipality may prohibit and regulate matters such as dangerous places, public nuisances and business hours and closures, as well as regulate and govern real and personal property used for by a business and the person carrying it on or engaged in it.

**AND WHEREAS** section 425 of the *Municipal Act, 2001* provides that any person who contravenes any by-law of the municipality is guilty of an offence;

**AND WHEREAS** section 444 of the *Municipal Act, 2001* 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 Head of Council of the Corporation of the City of Elliot Lake

**ORDERS AS FOLLOWS:**

**PART 1 -TITLE, INTERPRETATION AND SEVERABILITY**

1. This by-law may be referred to as the "Elliot Lake COVID-19 Emergency Measures By-law".

**PART II - DEFINITIONS**

2. For the purposes of this By-law,

**"By-law"** means this By-law;

**"City"** means The Corporation of the City of Elliot Lake;

**"COVID-19 Emergency"** means the period of time commencing upon the date of passing of this By-law until the declaration of emergency made by the Head of Council under sections 4 of the *Emergency Management Act* in relation to the COVID-19 pandemic has been terminated.

**"Emergency Management Act"** means the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E. 9

**"Head of Council"** means the Mayor of the City;

**"Municipal Act, 2001"** means the *Municipal Act, 2001*, S.O. 2001, c. 25

"**Officer**" means a Municipal Law Enforcement Officer appointed pursuant to Schedule B of this By-law or police officer;

"**Person**" or any expression referring to a person, means an individual of any age;

"**Provincial Offences Act**" means the *Provincial Offences Act*, R.S.O. 1990, c.p. 33

"**Public Property**" means any land, premises or buildings owned, managed, or maintained by the City and, for greater certainty, shall include highways, sidewalks, streets, any portion of a road allowance, parking lots, swimming pools, recreation centers, parks and playgrounds.

### **PART III - OFFENCES**

3. Every Person shall comply with Schedule "A" to this By-law during the COVID-19 Emergency.

4. An offence under section 5 of this By-law may constitute a multiple offence as defined in section 429(5) of the *Municipal Act, 2001*.

### **PART IV- ENFORCEMENT AND INSPECTION**

5. The provisions of this By-law may be enforced by an Officer.

6. 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 complied with.

7. 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; and
- (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.

8. 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, including refusing to identify themselves when requested to do so by an Officer.

### **PART V- ORDERS**

9. An Officer may order to a Person to leave any Public Property or business as a result of a contravention of this By-law.

10. An order under this section may be given verbally or in writing.

11. An order in writing 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; and
- (d) shall be served personally to the Person to whom it is directed, or served by

Registered Mail to the Person which shall be deemed to be on the fifth day after mailing.

## **PART VI - PENALTIES**

12. (1) Every Person who contravenes any provision of this By-law, including failing to comply with an order made under this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act* and the *Municipal Act, 2001*.

(2) In addition to subsection 12(1), any Person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable, pursuant to the *Municipal Act, 2001*, to the following fines:

(a) the minimum fine for an offence is \$500 and the maximum fine for an offence is \$100,000;

(b) in the case of a continuing offence, for each day or part of a day that the offence continues, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all daily fines for the offence is not limited to \$100,000; and

(c) in the case of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500 and the maximum fine shall be \$10,000 and the total of all fines for each included offence is not limited to \$100,000.

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 prohibiting the continuation or repetition of the offence by the Person convicted.

Where a Person fails to pay any part of a fine for a contravention of this By-law and the fine is due and payable under section 66 of the *Provincial Offences Act*, including any extension of time to pay the fine provided under that section, the City Treasurer, or the Treasurer's delegate may give the Person a written notice specifying the amount of the fine payable and the final date on which it is payable, which date shall not be less than 21 days after the date of the notice.

If any part of a fine or a contravention of this By-law remains unpaid after the final date specified in the notice provided under subsection 18(1), the outstanding fine is deemed to be unpaid taxes pursuant to section 351 of the *Municipal Act, 2001*.

## **PART VII - CONFLICT**

14. In the event of conflict between this By-law and:

- (1) an order made under subsection 7.0.2 (4) or 7.1 (2) of the *Emergency Management Act*; or
- (2) any statute, regulation, rule, by-law, order or instrument of the Province of Ontario or the Government of Canada; the specific provisions of this By-law that are in conflict with the above shall be of no force and effect to the extent of the conflict.

## **PART VIII - INTERPRETATION**

15. (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 Part II of this By-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.
- (2) Wherever a word defined in this By-law is used in the form of a noun, verb, or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case.
- (3) 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.

16. 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.

## **PART IX - SCHEDULES**

17. All Schedules attached to this By-law shall form part of this By-law.

18. The Head of Council has authority to amend the Schedules attached to this By-law from time to time as deemed appropriate in order to protect the health and safety of the citizens of the City of Elliot Lake in accordance with the powers provided to the Head of Council under section 4 of the *Emergency Management Act*.

**PART X- FORCE AND EFFECT**

19. This By-law shall remain in force during the COVID-19 Emergency.

ORDERED PURSUANT TO SECTION 4 OF THE *EMERGENCY MANAGEMENT AND CIVIL PROTECTION ACT*, R.S.O. 1990, c. E.9 ON 4<sup>th</sup> day of April 2020.

**PASSED** this 4<sup>th</sup> day of April, 2020.

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**MAYOR**

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**CITY CLERK**

CERTIFICATION BY THE CLERK:

I, N. Bray, Clerk of the Corporation of the City of Elliot Lake, do hereby certify that the above is a true certified copy of By-Law-20-19 which was passed in Open Council on the 4<sup>th</sup> day of April, 2020



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N. BRAY

## **SCHEDULE "A"**

### **COVID-19 Emergency Measures**

In furtherance and support of the regulations and prohibitions imposed by the Government of Canada, the Province of Ontario, and the City of Elliot Lake in response to the COVID-19 pandemic, the following regulations are hereby established in accordance with powers granted to the Head of Council under the *Emergency Management Act* and in accordance with the powers granted to municipalities under the *Municipal Act, 2001* and:

1. Every Person shall maintain at least a 2.0 metre distance from every other Person when on Public Property, except Persons who reside together in the same premises.
2. No Person shall permit a child under the age of 16 to be less than a 2.0 metre distance from another Person when on Public Property, except Persons who reside together in the same premises.
3. No business operating during the COVID-19 Emergency shall permit any Person to be seated or to be standing inside or outside the business at a distance of less than 2.0 metre from every other Person, except Persons who reside together in the same premises.
4. No Person shall attend on the premises or use any of the following Public Property:  
(20-35)
  - (a) playgrounds and other structures in parks;
  - (b) outdoor fitness equipment
  - (e) recreation centres

## **Schedule B**

### Appointment of Municipal Law Enforcement Officers

**WHEREAS** subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that the powers of a municipality under the *Municipal Act, 2001* or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

**AND WHEREAS** section 15 of the *Police Services Act*, R.S.O. 1990, c. P .15, as amended, authorizes a municipality to appoint Municipal Law Enforcement Officers, who shall be peace officers for the purpose of enforcing municipal bylaws;

**NOW THEREFORE** the Council of The Corporation of the City of Elliot Lake **ENACTS** as follows:

1. The persons named below are hereby appointed as Municipal Law Enforcement Officers for The Corporation of the City of Elliot Lake for the purpose of enforcing the COVID-19 Emergency Measures By-law:

#### **BY-LAW ENFORCEMENT OFFICERS:**

Bruce Elliott

Kyle Best

John Thomas

Shelby Irving