

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

**B**Y-LAW NO. 21-24

Being a by-law to prohibit or regulate public nuisances within the City of Elliot Lake

**WHEREAS** section 128 (1) of *Municipal Act, 2001, S.O. 2001. c. 25*, as amended, provides that a local municipality may prohibit and regulate public nuisances, including those matters in the opinion of Council are or could become or cause public nuisances;

**AND WHEREAS** section 128 (2) of the *Municipal Act, 2001, S.O. 2001, c. 25*, provides that the opinion of Council, if arrived in good faith, is not subject to review by any court;

**AND WHEREAS** pursuant to section 122 (3) of the *Municipal Act, 2001, S.O. 2001, c. 25*, a municipality may recover costs incurred by the municipality;

**AND WHEREAS** pursuant to section 184 (2) of the *Highway Traffic Act RSO 1990 c H.8* prohibits defacing, or removing notices or obstructions including signs, traffic control devices, lights, notices, obstruction, barricades, detour sign, gantry or sign, post lawfully on a highway;

**AND WHEREAS** pursuant to the *Ontario Regulation 326/94 of the Public Lands Act*, defines camping and camping units;

**AND WHEREAS** the City of Elliot Lake has enacted a *Public Code of Conduct* wherein inappropriate behavior is defined and prohibited;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ELLIOT LAKE ENACTS AS FOLLOWS:**

**1.1 Definitions**

In this by-law:

**“Bodily Emission”** means to spit, vomit, urinate or defecate;

**“Camp”** means to have or occupy a camping unit on land or on land covered with water or ice or both;

**“Camping Unit”** means equipment used for the purpose of outdoor accommodation and includes a tent, trailer, tent-trailer, recreational vehicle, camper-back and any watercraft equipped for overnight accommodation;

**“City”** means the Corporation of the City of Elliot Lake;

**“City Property”** means the areas defined and depicted by Schedule “A” (Urban Map) to the Zoning By-law 18-36, or as identified by the City’s Official Plan;

**“Debris”** means fragments of organic or inorganic material including but not limited to ,soil, leaves, sawdust, sand, salt, paint flakes and any other materials identified by a Municipal Enforcement Officer or their designate, as falling into this category;

**“Director”** means the Director of Clerks and Planning or their designate;

**“Dumping”** includes throwing, scattering, dropping, placing or otherwise depositing garbage, rubbish, refuse, yard waste, leaves or debris, except for in a garbage or recycling container intended for such use placed in an area for waste collection; and,

**“Dump”** shall have a corresponding meaning to **“Dumping”**;

**“Foreign Materials”** means any matter whether in solid or liquid state, that does not belong to the owner of the property on which it lays.

**“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 or the passage of vehicles or persons, and includes the area between the lateral property lines thereof, including sidewalks and boulevards;

**“Illegal Activity”** any activity that contravenes duly established federal, provincial or municipal legislation enforceable by Municipal Law Enforcement Officers;

**“Inappropriate Behavior”** includes but is not limited to:

- (a) Violence, threatening the use of violence, or inciting or attempts to incite violence;
- (b) Vandalism or damage to City Property;
- (c) Harassment, bullying, or intimidating behaviour;
- (d) Possession or mention of weapons;
- (e) Throwing of objects in a deliberate or aggressive manner;
- (f) Participating in any illegal activity while on City Property or while attending a City Event;
- (g) In contravention of any City policy, by-law, or regulation.

**“Intoxicated”** means under the influence of alcohol, drugs or any other intoxicating substance. The person must be unable to care for themselves, be dangerous to themselves or others, be causing a disturbance or refuse to leave or move along when requested.

**“Lewd”** includes being nude, exposing genital organs or anal region or is engaged in explicit sexual activity;

**“Litter”** includes throwing, scattering, dropping, placing or otherwise depositing garbage, rubbish, refuse or debris, except for in garbage or recycling container intended for such use.

**“Loitering”** means the lingering or hanging about in a public place with no purposeful activity or obstructing or making difficult the passage of persons in a public place or failing to move on after having been requested to do so.

**“Mischief”** means the act of one whom willfully or with the intent to mislead officers authorized to enforce of this by-law:

- (a) Destroys or damages property;
- (b) renders property dangerous, useless, inoperative or ineffective;
- (c) obstructs, interrupts or interferes with lawful use, enjoyment or operation of property;
- (d) obstructs, interrupts or interferes with any person in lawful use, enjoyment or operations of property;
- (e) makes false statement that accuses some other person of having committed an offence;
- (f) doing anything intended to cause some other person to be suspected of having committed an offence that the other person did not commit, or to divert suspicion from themselves;
- (g) reports that an offence has been committed when it has not been committed.

**“Municipal Law Enforcement Officer”** means a person appointed by the City as a Municipal Law Enforcement Officer pursuant to section 15 of the *Police Services Act, R.S.O. 1990, c. P. 15*, as amended;

**“Noxious Odour”** means an odour that is likely to disturb and interfere with the reasonable enjoyment of a **“Public Place”** by any person, including but not limited to noxious odour emitted from cannabis products.

**“Person”** means an individual, firm, corporation, partnership, association or organization, including a charitable organization;

**“Police Officer”** means an officer of the Ontario Provincial Police, or a local police service;

**“Public Property”** means property owned by the City;

**“Public Place”** includes a **“Highway”** and any place to which the public has access as of right or by invitation, express or implied, which may include Public Property, and private property that is exposed to public view, but does not include a washroom facility;

**“Public Utility”** means a company that provides water, sewer, and electricity or telecommunication services to the public; and,

**“Trespass Notice”** notification of prohibition of access whether implicit or explicit according to section 5 (1) of the *Trespass to Property Act, R.S.O. 1990, c. T. 21*;

## **2.1 PROHIBITIONS**

- i. No person shall have or cause a Bodily Emission in a Public Place.
- ii. No person shall dump on Public Property, except where permitted to do so by the City.
- iii. No person shall litter in a public place.
- iv. No person shall be intoxicated in a public place.
- v. No person shall commit a lewd act in a public place.
- vi. No person shall commit an act of mischief in a public place;
- vii. No person shall emit or cause to be emitted, an excessive amount of smoke, dust or airborne particulate matter in a public place, except where permitted to do so by the City.
- viii. No person shall emit or cause to be emitted a noxious odour that would be generally identified by a reasonable person as an objectionable odour, in a public place, except where permitted to do so by the City.
- ix. No person shall cross a municipally placed barrier or a barrier placed on private property by a person of authority in regards to that property;
- x. No person shall willfully deface, alter or remove notices, or obstructions including any sign, traffic control device, light, barricade, detour sign, gantry or sign post lawfully placed on a highway;
- xi. No person shall intentionally push, throw, or dump any debris onto private property, other than property owned by them; except, they have permission of the property owner.
- xii. No person shall trespass on property for which a Trespass Notice has been duly served, whether implicit or explicit, written or oral, to the subject thereby prohibiting access to the premises.
- xiii. No person shall permit the continuation of an offence for which they have previously been cautioned or charged.
- xiv. No person shall permit property or foreign materials to encroach on public or private property.
- xv. No person shall demonstrate Inappropriate Behavior in a public place or at a public City Event.
- xvi. No person shall camp or engage in camping activity on City Property whether for recreational purposes or otherwise, without permission. This prohibition includes but is not limited to:
  - a. Parks
  - b. Trails (walking trails, snowmobile trails, ATV trails, or otherwise)
  - c. Beach front areas
  - d. Boat Launches
- xvii. No person shall loiter in any public place.

### **3.1 REMEDIAL ACTION**

- i. If a person fails to do a matter or a thing, including comply with an order under this by-law, as directed or required by this by-law, the City may, do the matter or thing at the person's expense. The City may recover the cost of doing the matter or thing from the person required to do the matter or thing, by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.

### **4.1 ENFORCEMENT**

- i. This by-law may be enforced by Municipal Law Enforcement Officers and Police Officers.
- ii. No person shall hinder or obstruct, or attempt to hinder or obstruct any person exercising a power or performing a duty under this By-law

### **4.2 REQUEST FOR IDENTIFICATION**

- i. An officer who has reasonable grounds to believe that a person has contravened any provision of this by-law may require that person to provide identification of themselves.
- ii. Every person who is required by an officer to provide identification of themselves under section 4.2 (i) shall identify themselves to the officer; giving their correct name, date of birth, and address shall constitute sufficient identification. Failure to do so shall constitute obstruction of the officer as per section 4.1 (ii) of this by-law.

### **4.3 EXEMPTION**

This by-law shall not apply to:

- i. The City and its employees, agents with authorization of the City, or contractors, carrying out their duties on behalf of the City; or,
- ii. Emergency service personnel including, police services, fire department services, EMS, and Canadian Armed Forces personnel.

### **5.1 PENALTIES**

- i. Every person who contravenes any of the provisions 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, R.S.O. 1990, Chapter P.33, as amended*.
- ii. For the purposes of Subsection 5.1 (i), each day on which a person contravenes any of the provisions of this by law shall be deemed to constitute a separate offence under this By-law.

## **6.1 SEVERABILITY and CONFLICT**

- i. If any section, subsection, part or parts of this By-law is declared by any court of law to be illegal or ultra vires, such section, subsection, paragraph, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
- ii. Nothing in this By-law relieves any Person from complying with any provision of any federal or provincial legislation or any other By-law of the City.
- iii. Where a provision of this By-law conflicts with the provisions of another By-law in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of Persons or the environmental well-being of the municipality shall prevail.

## **7.1 SHORT TITLE**

- i. This by-law shall be known as the "Nuisance By-Law."

**8.1** THAT this by-law shall come into effect on the date it is passed by the Council of the Corporation of the City of Elliot Lake.

**PASSED** this 12<sup>th</sup> day of April, 2021.

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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-21-24 which was passed in Open Council on the 12<sup>th</sup> day of April, 2021



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**N. BRAY**

**THE CORPORATION OF THE CITY OF ELLIOT LAKE**  
**SCHEDULE "A"**  
**NUISANCE BY-LAW NO. 21-24**  
**PART 1 PROVINCIAL OFFENCES ACT**  
**SET FINES**

<b>ITEM</b>	<b>SHORT FORM WORDING</b>	<b>PROVISION CREATING OR DEFINING OFFENCE</b>	<b>SET FINE</b>
1	Have or cause bodily emission	2.1 (i)	\$105.00
2	Dump on Public Property	2.1 (ii)	\$65.00
3	Litter on Public Property	2.1 (iii)	\$65.00
4	Intoxicated in a Public place	2.1 (iv)	\$65.00
5	Commit lewd act in public place	2.1 (v)	\$65.00
6	Commit mischief in public place	2.1 (vi)	\$105.00
7	Emit or cause to be emitted excessive smoke, dust or airborne particulate matter	2.1 (vii)	\$65.00
8	Emit or cause to be emitted an objectionable odour	2.1 (viii)	\$65.00
9	Cross placed barrier	2.1 (ix)	\$105.00
10	Deface or remove notice, sign or obstruction	2.1 (x)	\$65.00
11	Push, throw, dump debris onto private property	2.1 (xi)	\$65.00
12	Trespass on property	2.1 (xii)	\$55.00
13	Continue prohibited offence	2.1 (xiii)	\$105.00
14	Permit foreign material to encroach	2.1 (xiv)	\$55.00

15	Demonstrate inappropriate behavior	2.1 (xv)	\$65.00
16	Camp without permission	2.1 (xvi)	\$55.00
17	Loitering	2.1 (xvii)	\$55.00
	Hinder or obstruct enforcement	4.1 (i)	\$305.00

**Note: the general penalty provision for the offences listed above is Section 5.1 of By-law 21-24, a certified copy of which has been filed.**