

The Corporation of the Township of Douro-Dummer

By-law Number 2023-XX

A By-Law to Prohibit and Regulate Certain Public Nuisances within the Township of Douro-Dummer

Whereas the Council of the Township of Douro-Dummer deems it appropriate to enact a by-law to prohibit and regulate certain public nuisances within the Township of Douro-Dummer pursuant to sections 128 and 129 of the *Municipal Act, 2001*, S.O. 2001, c. 25, ("*Municipal Act, 2001*") as amended;

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; and the protection of persons and property.

And Whereas section 444 of the *Municipal Act, 2001* authorizes municipalities to make orders requiring the person who contravened the 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;

And Whereas sections 445 and 446 of the *Municipal Act, 2001* authorize municipalities to issue work orders and in default of a work order being completed by the person directed or required to do it, the work shall be done by the Municipality at the person's expense by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

And Whereas section 128 of the Act 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 the Council of the Township of Douro-Dummer, are or could become, or cause public nuisances;

Now Therefore Be It Resolved that the Council of The Corporation of the Township of Douro-Dummer hereby enacts as follows:

Interpretation:

1. Definitions

In this By-law:

- 1.1. **By-law** means this by-law to prohibit and regulate certain nuisances within the Township of Douro-Dummer;
- 1.2. **Canada Post** means Canada Post Corporation established by the Canada Post Corporation Act, R.S.C., 1985, c. C-10;
- 1.3. **Cannabis Plant** means a plant that belongs to the genus Cannabis and, in the absence of evidence to the contrary, includes any plant described as cannabis or by a name that is commonly applied to cannabis;
- 1.4. **Clearly Audible** means sound that can be heard, and in the case where multiple sounds are heard, the most dominant sound;
- 1.5. **Cultivate, Cultivated, Cultivating or Cultivation** in respect of cannabis, means to grow, propagate or to harvest cannabis plants and includes the possession of cannabis plants;
- 1.6. **Defecate** means to discharge excrement from the human body;
- 1.7. **Fight** means any confrontation involving violent physical contact between

- two or more people;
- 1.8. **Graffiti** means one or more letters, symbols, figures, images, etchings, scratches, inscriptions, stains or other markings howsoever made or affixed to a property that disfigure, deface or otherwise mar said property;
 - 1.9. **Highway** includes a common and public highway, street, avenue parkway, driveway, fire route, square, place, bridge, part of which is intended for use 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;
 - 1.10. **Litter** means any cigarettes, paper, cardboard, bottles, glass or other such material or garbage;
 - 1.11. **Loiter** means lingering on the way, to travel indolently with frequent pauses without any apparent destination;
 - 1.12. **Municipality** means the Township of Douro-Dummer;
 - 1.13. **Nuisance** means anything that is injurious to health, indecent, offensive to any of the Senses, or results in the loss of enjoyment of normal use of property;
 - 1.14. **Nuisance Party** means a social gathering on Premises which, by reason of the conduct of the Persons in attendance, is annoying, unpleasant, indecent or offensive to the senses of another person, or otherwise interferes with the comfortable enjoyment of life and property by another person and includes but not limited to:
 - (i) disorderly conduct;
 - (ii) public drunkenness or public intoxication;
 - (iii) the unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances or illegal substances;
 - (iv) the deposit or refuse on public or private property;
 - (v) damage to or destruction of public or private property;
 - (vi) pedestrian traffic, vehicular traffic, or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
 - (vii) unreasonable noise created by yelling, shouting, hooting, whistling, singing or other vocal expression or by the use of sound amplification device that is clearly audible at a Point of Reception;
 - (viii) unlawful open burning or fireworks;
 - (ix) public disturbances, including public brawls or public fights or violence;
 - (x) outdoor public urination or defecation;
 - (xi) use or entry upon a roof not intended for such occupancy;
 - 1.15. **Owner** means the registered owner of a property and includes a property manager, occupant, tenant, or any Person who otherwise has rightful possession of or possessory control of any premises;
 - 1.16. **Officer** means a Police Officer or a Municipal Law Enforcement Officer appointed under any federal or provincial statute or regulation or Municipal by-law or any other person assigned or appointed by Council of the Municipality to administer or enforce this By-law and includes a person employed by the Municipality whose duties are to enforce this By-law;
 - 1.17. **Person** means an individual, firm, corporation, association or partnership and includes an Owner;
 - 1.18. **Point of Reception** means any point on the Premises of a Person where sound or vibration originating from other than those Premises is clearly audible to that Person, or any point in a Public Place/Public Space where sound is clearly Audible to a Person located more than 6 metre from the source of the sound.
 - 1.19. **Porta Potty** means a portable building containing a toilet;
 - 1.20. **Premises** means any Public Place/Public Space or private property in the Municipality, including but not limited to County Roads, Municipally maintained roads, fire routes, parks, parking lots, beaches, fields, yards

- appurtenant to a building or dwelling or vacant lands;
- 1.21. **Public Place/Public Space** includes a Highway, sidewalk, pedestrian walkway or trail, property and any place to which the public have an expressed or implied right of access or access as of right or by invitation, is exposed to public view, whether or not the property is owned by the person contravening the By-law, but does not include a Washroom Facility;
 - 1.22. **Senses** means a faculty by which the human body perceives an external stimulus and includes one or more of the faculties of sight, smell, hearing, taste and touch;
 - 1.23. **Spit** means to eject phlegm, saliva, chewing tobacco, juice or any other substance from the mouth;
 - 1.24. **Urinate** means to discharge urine from the human body;
 - 1.25. **Vomit** means to eject matter from the stomach through the mouth; and
 - 1.26. **Washroom Facility** means a room inside a building that is equipped with toilet facilities and includes a Porta Potty.

2. Application

- 2.1. This By-law applies to all persons, lands and properties in the Township of Douro-Dummer.
- 2.2. This By-Law shall not be interpreted as exempting any Person from the requirement to comply with any other Municipal By-Law. In the event of a conflict between the provisions of this by-law and any other Municipal by-law, the provisions which are more protective of the public assets of the Municipality, the economic, social and environmental well-being of the Municipality, the health, safety and well-being of persons in the Municipality, and persons and property in the Municipality, shall apply.

Restrictions

3. Prohibited Activity

- 3.1. No Person shall cause, create, permit or participate in a Nuisance in any Public Place/Public Space or Premises in the Township of Douro-Dummer.
- 3.2. No person shall Urinate, Defecate, Vomit or Spit in a Public Place/Public Space or Premises.
- 3.3. No person shall knock over or attempt to knock over a Canada Post mailbox, Canada Post relay box, newspaper box, recycling container, garbage container or other similar waste container, or any other structure or object, located in a Public Place/Public Space. This section shall not apply to:
 - (a) Municipal employees or any person under contract to the Municipality while performing work in the normal course of their duties; or
 - (b) Canada Post employees or any person under contract to Canada Post while performing work in the normal course of their duties.
- 3.4. No person shall cause, create or permit light from the Cultivation of cannabis plants to shine upon the land of others so as to be or to cause a Nuisance to any person or to the public generally.
- 3.5. Every owner or occupier of land shall ensure that no light from the Cultivation of cannabis plants on his or her land shines upon the land of others so as to be or to cause a Nuisance to any person or to the public generally.

- 3.6. Outdoor lighting and indoor lighting from the Cultivation of cannabis plants that can be seen outdoors shall be operated, placed and maintained, or have a barrier placed and maintained, so as to prevent or block direct illumination of the interior of a building on adjoining land or lands regardless of whether a building has or may have a barrier, shades, drapes or other interior window coverings.
- 3.7. No person shall cause, create or permit the emission of an odour from the Cultivation of cannabis plants so as to be or to cause a Nuisance to any person or to the public generally.
- 3.8. Every owner or occupier of land shall ensure that no emission of an odour from the Cultivation of cannabis plants on his or her land is or causes a Nuisance to any person or to the public generally.
- 3.9. No person shall loiter in a Public Place/Public Space or Premises.
- 3.10. No one person shall participate in a fight in any Public Place/Public Space or Premises.
- 3.11. No person shall refuse to identify themselves when requested to do so by a police officer or a municipal by-law enforcement officer.
- 3.12. No person shall interfere with another Person's use and enjoyment of a Public Space/Public Place by using abusive or insulting language as a personal invective, directed at either an individual or identifiable group.
- 3.13. No person shall mark or apply, or cause, or permit graffiti to be placed on any property.
- 3.14. No person shall mark or apply graffiti on any Public Place/Public Space or Premises.
- 3.15. The Owner shall maintain the Owner's property free of graffiti.
- 3.16. No person shall leave, throw or deposit any bottles, glasses or other materials on public or private property.
- 3.17. No person shall sponsor, conduct, continue, host, create, attend, allow, cause or permit a Nuisance Party.
- 3.18. 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.
- 3.19. Every person who sponsors, conducts, continues, hosts, creates, allows, causes or permits a Nuisance Party shall take all reasonable and lawful actions to end a Nuisance Party.

Enforcement

4. Enforcement

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

- 4.2. If an Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who contravened the 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.
- 4.3. An order under section 4.2 shall set out:
 - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - (b) the date or dates by which there must be compliance with the order.
- 4.4. If an Officer is satisfied that a contravention of this By-law has occurred, he or she may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred, to do work to correct the contravention.
- 4.5. An order under section 4.4 shall set out:
 - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred;
 - (b) the work to be completed;
 - (c) and the date by which the work must be complete.
- 4.6. An order under section 4.4 may require work to be done even though the facts which constitute the contravention of the By-law were present before the By-law making them a contravention came into force.
- 4.7. An order made under sections 4.2 or 4.4 may be served personally or by registered mail to the last known address of:
 - (a) the person who caused, created or permitted the offence; and
 - (b) the owner or occupier of the lands where the contravention occurred.
- 4.8. Where an owner or occupier of the land on which the contravention occurred, who has been served with an order and fails to comply with the order, then an Officer, or any authorized agent on behalf of the Municipality may enter on the land at any reasonable time and complete the work required to bring the land into compliance with the provisions of this By-law as set out in the order.
- 4.9. Where the work required to bring the land into compliance with the By-law has been performed by or for the Municipality, the costs incurred in doing the work may be collected by action or the costs may be added to the tax roll for the land and collected in the same manner as taxes.
- 4.10. 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 or an order made under this By-law is being complied with.
- 4.11. 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 purpose of the inspection.

4.12. Where an officer has reasonable grounds to believe that an offence under this By-Law has been committed by a Person, the Officer may require the name, address and proof of identity of that Person.

4.13. 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. Offence and Penalty

5.1. Any person or corporation who contravenes any provision of this By-law or who fails to comply with an order made under this By-law or who obstructs or attempts to obstruct an Officer in carrying out their duties under this By-law is guilty of an offence and could be subject to a fine.

6. Continuing Offence

6.1. Each day or a part of a day that a contravention of this By-law continues is deemed to be a continuing offence in accordance with section 429 of the Municipal Act, 2001, as amended.

Miscellaneous

7. Severability

7.1. Where a court of competent jurisdiction declares any provision of this By-law invalid, or to be of no force or effect, the provision shall be deemed conclusively to be severable from the By-law and every other provision of this By-law shall be applied and enforced in accordance with its terms to the extent possible according to law.

8. Short Title

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

9. Effective Date

10.1 That this By-law shall come into force and take effect on the date of its final passing.

Read a first, second and third time and passed this xx day of XXXX, 2023.