

THE CORPORATION OF THE MUNICIPALITY OF WEST NIPISSING

BY-LAW 2013/72

BEING A BY-LAW TO REGULATE NUISANCES ON BOULEVARDS, HIGHWAYS AND PEDESTRIAN WALKWAYS

WHEREAS pursuant to the *Municipal Act, S.O. 2001, c. 128 (1)*, as amended, a 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 pursuant to the *Municipal Act, S.O. 2001, c. 27 (1)*, as amended, a municipality may pass a by-law in respect to Highways, as herein described, over which the municipality has jurisdiction;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF WEST NIPISSING ENACTS AS FOLLOWS:

PART 1 DEFINITIONS

1.1 In this By-law:

- (a) **“Boulevard”** means the area of the Highway between the edge of the pavement or curb of the Roadway and adjacent Property line of the Highway, including ditches.
- (b) **“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.
- (c) **“Municipality”** means the Corporation of the Municipality of West Nipissing.
- (d) **“Nuisance”** means a state of condition or a circumstance that affects or may affect the amenity of a neighbourhood or the safety, health and welfare of people in the neighbourhood.
- (e) **“Occupier”** means any person who is in control of any Property.
- (f) **“Owner”** includes the person or persons identified in the most recent tax roll as the owner of the subject Property.
- (g) **“Pedestrian Walkway”** means a municipally-owned path/sidewalk for the use of pedestrians.
- (h) **“Property”** means land, with or without improvements so affixed to the land.
- (i) **“Public Place”** includes any place where the public has access as of right or by invitation, expressed or implied or on private property that is exposed to public view.
- (j) **“Roadway”** means a portion of a Highway improved for use for vehicular traffic.
- (k) **“Sight Line”** means a clear line of vision between conflicting motorists, cyclists and pedestrians that allows sufficient time for safe maneuvers to be made without significantly affecting the conflicting traffic.

PART 2 HIGHWAYS, BOULEVARDS AND PEDESTRIAN WALKWAYS

2.1 Every Owner or Occupier of Property shall maintain every Highway, Boulevard and Pedestrian Walkway abutting onto his or her Property in a clean, tidy and well-kept condition and, without limiting the generality of the foregoing, shall:

- (a) Remove any accumulation of rubbish or discarded material.
- (b) Keep grass and weeds cut or trimmed to a maximum height of 15 cm.
- (c) Keep landscaping and trees from encroaching over a Highway, Boulevard, gravel shoulder or Pedestrian Walkway so as not to interfere with a Sight Line or safe passage.

2.2 No person shall:

- (a) Injure, damage, interfere with or encumber any tree, shrub, plant, bush or hedge on any Highway, Boulevard or Pedestrian Walkway and shall notify the municipality of any tree, shrub, plant or bush which is in a state which may pose a threat to persons or Property.
- (b) Leave for any extended period of time any basketball net, hockey net, skateboard ramp or other play structure on any Highway, Boulevard or Pedestrian Walkway, or utilize any play structure in such a manner as to interfere with or obstruct safe passage.
- (c) Rake, blow or place leaves on any Highway, Boulevard or Pedestrian Walkway except in an approved yard waste bag pursuant to the Waste Management By-law.
- (d) Dispose of any vegetation cuttings, rubbish, discarded materials or any liquid or solid waste on any Highway, Boulevard or Pedestrian Walkway or in any drainage facility.
- (e) Permanently mark, deface or damage any curb or part of a Highway, Boulevard or Pedestrian Walkway.
- (f) Willfully urinate, defecate or vomit on a Highway, Boulevard or Pedestrian Walkway.

2.3 If a person fails to comply with a provision of this Part 2, the Municipality may, with its servants or agent from time to time and in a reasonable manner, enter upon the Property and affect such compliance at the expense of the defaulting person, and shall have the right to recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as taxes.

PART 3 PENALTY

3.1 Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable :

- (i) First contravention shall consist of a written warning by the Clerk or by such other person as designated by the Clerk to perform such duty.
- (ii) Each subsequent contravention is liable to a fine as provided for by s.61 of the *Provincial Offences Act* R.S.O., 1990, c. P.33 as shown in the Set Fine Schedule "A" attached hereto.

PART 4 ENFORCEMENT

4.1 The provisions of this by-law shall be enforced by the West Nipissing Police Service or by any agent authorized to do so by the Council of the Corporation of the Municipality of West Nipissing.

PART 5 EXEMPTION

5.1 Rural Agricultural and Rural Residential properties located outside the urban settlement centers of the Municipality of West Nipissing including but not limited to Cache Bay, Field, Lavigne, River Valley, Sturgeon Falls and Verner, shall be exempt from the provisions of this by-law.

PART 6 EFFECTIVE DATE

6.1 This By-law shall come into force on the date of passage by Council.

ENACTED AND PASSED THIS 17th DAY OF SEPTEMBER, 2013 AS WITNESSED BY THE SEAL OF THE CORPORATION AND THE HANDS OF ITS PROPER OFFICERS.

MAYOR

CLERK

SET FINE SCHEDULE "A"

THE CORPORATION OF THE MUNICIPALITY OF WEST NIPISSING

PART 1 PROVINCIAL OFFENCES ACT

By-law 2013/72 to Regulate Nuisances on Boulevards, Highways and Pedestrian Walkways

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 PROVISION CREATING or DEFINING OFFENCE	COLUMN 3 SET FINE
1	Fail to remove accumulation of rubbish or discarded material from Highway, Boulevard or Pedestrian Walkway	Section 2.1 (a)	\$125.00
2	Fail to cut/trim grass/weeds in excess of 15 cm. on Highway, Boulevard, or Pedestrian Walkway	Section 2.1 (b)	\$125.00
3	Landscaping encroaching over gravel shoulder, Highway, Boulevard, or Pedestrian Walkway	Section 2.1 (c)	\$125.00
4	Injure, damage, interfere or encumber any tree on Highway, Boulevard or Pedestrian Walkway	Section 2.2 (a)	\$125.00
5	Injure, damage, interfere or encumber any shrub on Highway, Boulevard or Pedestrian Walkway	Section 2.2 (a)	\$125.00
6	Injure, damage, interfere or encumber any plant on Highway, Boulevard or Pedestrian Walkway	Section 2.2 (a)	\$125.00
7	Injure, damage, interfere or encumber any bush on Highway, Boulevard or Pedestrian Walkway	Section 2.2 (a)	\$125.00
8	Injure, damage, interfere or encumber any hedge on Highway, Boulevard or Pedestrian Walkway	Section 2.2 (a)	\$125.00
9	Leave basketball net on Highway, Boulevard or Pedestrian Walkway for any extended period of time	Section 2.2 (b)	\$125.00
10	Leave hockey net on Highway, Boulevard or Pedestrian Walkway for any extended period of time	Section 2.2 (b)	\$125.00
11	Leave skateboard ramp on Highway, Boulevard or Pedestrian Walkway for any extended period of time	Section 2.2 (b)	\$125.00
12	Leave play structure net on Highway, Boulevard or Pedestrian Walkway for any extended period of time	Section 2.2 (b)	\$125.00
13	Utilize any play structure interfering with or obstructing safe passage on Highway, Boulevard or Pedestrian Walkway	Section 2.2 (b)	\$125.00
14	Rake, blow or place leaves on Highway, Boulevard or Pedestrian Walkway not in approved yard waste bag	Section 2.2 (c)	\$125.00
15	Dispose of any vegetation cuttings on Highway, Boulevard or Pedestrian Walkway	Section 2.2 (d)	\$125.00
16	Dispose of any rubbish, discarded material on Highway, Boulevard or Pedestrian Walkway	Section 2.2 (d)	\$125.00
17	Dispose of any liquid or solid waste on Highway, Boulevard or Pedestrian Walkway or in any drainage facility	Section 2.2 (d)	\$125.00
18	Permanently mark, deface or damage any curb	Section 2.2 (e)	\$125.00
19	Permanently mark, deface or damage any part of Highway, Boulevard or Pedestrian Walkway	Section 2.2 (e)	\$125.00
20	Wilfully urinate on Highway, Boulevard or Pedestrian Walkway	Section 2.2 (f)	\$125.00
21	Wilfully defecate on Highway, Boulevard or Pedestrian Walkway	Section 2.2 (f)	\$125.00
22	Wilfully vomit on Highway, Boulevard or Pedestrian Walkway	Section 2.2 (f)	\$125.00

NOTE: Penalty provision for the offences indicated above is Part 3 of By-Law No. 2013/72, a certified copy of which has been filed.