

Report To: Mayor and Council

From: Patrick Briere, By-Law Enforcement Officer

Re: Nuisance By-Law Request.



Council will recall that at their meeting on March 25, 2013 a request from Mr. Doug Anderson, Chairman of BIA was received in regards to Council's consideration for implementation of a Nuisance By-Law. Council referred this matter to Planning & Development Executive Committee for recommendation.

Attached to this report is the original report to the Planning & Development Executive Committee and all relevant materials for your review. A copy of the By-Law is also attached.

At their meeting held on Monday October 7, 2013 the Planning & Development Executive Committee has reviewed the By-Law and is recommending that Council approve this By-Law.

Respectfully submitted

A handwritten signature in black ink, appearing to be 'P. Briere', written over a horizontal line.

Patrick Briere
By-Law Enforcement Officer

Council approval of this report will: 1) will authorize the preparation of an appropriate By-Law for signing by Mayor & Clerk.

Report

Date: September 26, 2013

To: Planning & Development Executive Committee

From: Patrick Briere, By-Law Enforcement Officer

Subject: Draft Nuisance By-Law #45/13

The Planning & Development Executive Committee will recall that Council at their meeting on March 25, 2013 received a request from Mr. Doug Anderson, Chairman of BIA in regards to Council's consideration for implementation of a Nuisance By-Law similar to The Town of Whitby's By-Law. Council referred this matter to Planning & Development Executive Committee for recommendation.

The Planning & Development Executive Committee referred this item to the Police Services Board for their input.

On May 28, 2013 the Police Services Board recommended to Council that a Public Nuisance By-Law be prepared as an additional enforcement tool for the OPP. It was noted at the Planning & Development Executive Committee meeting that a review of the OPP policy in regards to the enforcement of the Town's Municipal By-Laws is necessary, as the last review was conducted on April 10, 2008. I have spoken with CAO McCaig and Inspector Shouldice, OPP and it has been agreed that once the Nuisance By-Law was decided upon than all parties would meet to discuss OPP policy on enforcement of By-Laws.

On June 17, 2013 the Planning & Executive Committee reviewed the Police Services Board recommendation and made recommendations to Council to direct By-Law Enforcement to take all necessary steps and include the appropriate stakeholders to begin process of drafting a By-Law.

Now that all of the original steps have been completed this office is now presenting to you a DRAFT By-Law for your consideration and direction for recommendation to Council.

I have attached for your reference copies from the original report to PDEC and a copy of the DRAFT By-Law.

March 20 / 13

AGENDA ITEM #3.4

To Mayor + Council
Town of Fort Frances
with the petty vandalism
occurring throughout the
town

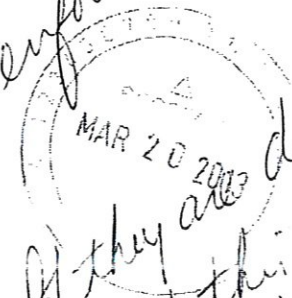
This might be a
solution or partial solution

Thank you for your
consideration

Doug Anderson
Chairman
BIA

279-9565

Police enforce
By-laws that constitute
safety violations / concerns.
Don't know if nuisance
would be enforced.



If they are down town
would this by-law be a
tool they could use
to move people
along?

WHITBY

THIS WEEK

Wednesday, March 13, 2013

metrolandmedia
Connected to your community

28
East South



Police controlled downtown Whitby.



Join us Good Friday for Dinner
OPEN FROM 4PM TILL CLOSE
843 King St. W. Oshawa
(Thornton & King) 905.725.7500
www.shrimpscocktailcafe.com

COPS have eyes on Whitby

New public nuisance bylaw won't
replace Criminal Code charges

PARVANEH PESSIAN
ppessian@durhamregion.com

WHITBY -- Durham police have a new tool in their arsenal to address unruly behaviour in highly concentrated areas of Whitby, such as the downtown.
Town council approved a public nuisance bylaw that prohibits a variety of rowdy and undesirable activities, including urinating in public, use of profane language, fighting, carrying open liquor, damaging property, littering and public intoxication.

Insurance markets, we can

Bylaw another tool for police to use in controlling downtown crime

From page 1

"In the last several years, downtown Whitby has seen a large rise in evening population and a large rise in crime and disorder that would occur when you increase the population and the consumption of alcohol," says Sergeant Ron Kapuscinski of Durham Regional Police.

The bylaw, passed by members of Whitby Council at a public meeting on March 11, was brought forward by staff as a result of concerns raised by police regarding disruptive, destructive and occasionally violent behaviour occurring in the downtown core. These problems typically take place on Thursdays, Fridays and Saturdays during the late evening and early morning hours.

Sgt. Kapuscinski says he's spoken to many residents and business owners in downtown Whitby who are fed up with the ongoing problems.

"A lot of them have been increasingly frustrated with the activity that happens in the evenings and the mess, or the incidents of vandalism, or urination or whatever that they're finding in the morning when they return to their shops or they're leaving their apartment," he says.

"So this is just an extra tool that will assist us in keeping the incidence of those type of activities down."

The new bylaw will provide officers with an enforcement option that can be used to quell unwanted behaviours that may not necessarily cross the criminal threshold. Police can now more efficiently address indiscretions by issuing a ticket under the Municipal Act that carries a monetary fine. The City of Oshawa has had a similar bylaw in place since 2009 with favourable results.

The tool is not intended to replace charges for offences under the Criminal Code, which police will continue to enforce.

"If there are people assaulting each other or doing damages and there are criminal activities going on, the police will enforce the Criminal Code," says Bob Petrie, Whitby's chief administrative officer.

"This is meant for those instances where perhaps people aren't exactly breaking the law or don't have intent to break the law, and are doing inappropriate things in public that are more of a nuisance than any Criminal Code violation."

Town staff will submit proposed fines to be enacted under the new bylaw to the Ministry of the Attorney General for approval.

Writer: cam/newsdurham

durhamregion.com

April 03/2013

To Club 88 and the patrons of Club 88

This is to advise you that if we are called one more time, ~~in the wee hours in the morning~~ because of broken windows or other disturbances we will do everything ^{that we can} to ensure that Club 88 loses its liquor license.

Also the patrons of Club 88 are asked to please refrain from urinating and peeing on the fronts of our buildings. *and ripping out flowers* *↑ Spitting*

Also the patrons of Club 88 are asked to please stop from screaming and shouting loudly in the wee hours of the morning as there are tenants who are trying to sleep. *Fighting*

If the above is not respected ~~again~~ we will do everything that we can to ensure that Club 88 loses its liquor licence. *+ one more incident occurs*

Also Club 88 and its patrons are asked to please pay the appropriate business owners for any damages ^{the} which have occurred in the last few months. *Such as broken windows, etc.*

We are sure that if the above is adhered to ~~that~~ we can all get along and the young people will have a good place to go to.

Respectfully Yours

Blair Ashman

Dylan

Ashley

Lisa Schmid

of LHR.

Melanie Logie

M. Butler

Betty Rehr
Bobbie Halliday

U. H.

Dwight Fraser

Brian Wilson

John Hudson

J. Kuimaki

Samuel

Patricia Herli

Allison Ogilvie

Ken Sander

Natalie Donaldson

Russ Joseph

D. R. Cousineau
Stan Odenjag

T. Martinson



Administration & Finance Division
Civic Centre

Operations & Facilities Division
Fifth Street & Wright Avenue
Phone: 807-274-9893
Fax: 807-274-7360

Civic Centre
320 Portage Avenue
Phone: 807-274-5323
Fax: 807-274-8479
email: town@fort-frances.com

THE TOWN OF FORT FRANCES



FORT FRANCES, ONTARIO
CANADA

Planning & Development Division
Civic Centre

Community Services Division
740 Scott Street P9A 1H8
Phone: 807-274-4561

Mailing Address:
320 Portage Avenue
Fort Frances, Ontario
P9A 3P9

www.fort-frances.com

POLICE SERVICES BOARD

June 6, 2013

Town of Fort Frances
320 Portage Avenue
Fort Frances, ON
P9A 3P9

Attention: Mayor and Council

Dear Sirs:

At the regular meeting of the Police Services Board held May 28, 2013, the following resolution was approved:

"That the Police Services Board recommend to Council that a Public Nuisance By-law be prepared as an additional tool for the OPP as part of the By-law review the OPP."

We are enclosing the by-law from the Town of Whitby as a reference.

Yours truly

for Glenn Witherspoon
Vice-Chair

GW/elh
Encl.

Administration & Finance Division
Civic Centre

Operations & Facilities Division
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8 April 2013



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Fort Frances, Ontario
P9A 3P9

www.fort-frances.com

Loreen Holt, Secretary
Town of Fort Frances Police Services Board
1628 Colonization Road W.
Fort Frances, ON P9A 2V1

Dear Loreen,

Subject: Memorandum Received April 3, 2013 from Blair Anderson addressed to Club 88
& its Patrons

I have attached a copy of a memorandum the Town received from Blair Anderson, addressed to Club 88 and its patrons, signed by a number of persons.

This is being forwarded because of the nature of the complaint(s) embodied in the memorandum and for any further action deemed appropriate in the circumstances by the Police Services Board.

Yours truly,

ADMINISTRATION AND FINANCE DIVISION

Glenn W. Treftlin, A.M.C.T.

Town Clerk

Enclosures (1)

GT

cc: Blair Anderson

Administration & Finance Division
Civic Centre

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THE TOWN OF FORT FRANCES



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Fort Frances, Ontario
P9A 3P9

www.fort-frances.com

March 27, 2013

Business Improvement Area Board
of Management
Attn: Doug Anderson, Chairperson
c/o Shelley Wepruk, Board Secretary
335 Scott Street
Fort Frances, Ontario
P9A 1H1

Dear Sir:

At their meeting March 25, 2013, Council referred the request dated March 20, 2013 from D. Anderson, Chair Business Improvement Area Board of Management re: Consideration of a Public Nuisance By-Law to Planning and Development Executive Committee for recommendation.

By copy of this letter, your request has been referred as directed.

Please direct any questions you may have to Ms. Faye Flatt, Municipal Planner/Planning and Development Executive Committee Secretary and/or Mr. M. McCaig, CAO, at 274-5323.

Yours very truly,

ADMINISTRATION & FINANCE DIVISION

Kathryn M. Lawson, Deputy Clerk

/kl

c.c. Planning and Development Executive Committee
Attn: F. Flatt, Municipal Planner/Executive Committee Secretary
M. McCaig, CAO (att'd)

TOWN OF FORT FRANCES

BY-LAW No. 45/13

Being a by-law to prohibit and abate nuisances within the Town of Fort Frances.

WHEREAS the Municipal Act 2001, S.O. c.25 as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority and that it may do so by by-law;

AND WHEREAS section 128(1) of the Municipal Act, 2001 provides that a local 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 section 128(2) of the Municipal Act, 2001 states that Council's determination of what constitutes a nuisance, where arrived at in good faith, is not subject to review;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF FORT FRANCES HEREBY ENACTS AS FOLLOWS:

PART I – Interpretation

Definitions

1. In this by-law:

- (a) **“Defecate”** means to discharge excrement from the human body;
- (b) **“Fixture”** means any structure that the Town permits to be located within a highway and/or any public place including but limited to, trees, utility boxes, benches, telephone boxes, telephone booths, transformer boxes, telephone poles, hydro poles, street lights, traffic control poles, traffic control components, recycling waste modules, mailboxes, street signs, a Canada Post relay mailbox, permitted signs, a blue box, or other garbage container, cemetery markers and monuments, or any equipment located in a park.
- (c) **“Highway”** means a common and public highway (whether assumed or unassumed) and includes any street, avenue, parkway, driveway, square, place, any part of which is intended for or used by the general public for the passage of vehicles or persons, and includes the area between lateral property lines thereof, including sidewalks and boulevards;
- (d) **“Littering”** means throwing, dropping, placing or otherwise depositing or permitting to be deposited any garbage, paper, plastic, paper products, plastic products, cans, bottles, rubbish or other debris or objects on public or private property, unless otherwise so authorized by the property owner or the Town of Fort Frances Waste Management by-law;
- (e) **“Loitering”** means to remain or linger in a public place without due cause;

- (f) **“Nuisance”** includes, but not limited to;
 - (i) soliciting, including, without limitation,
 - a) soliciting a person who is using, waiting to use, or departing from an automated teller machine;
 - b) soliciting a person who is using or waiting to use a pay telephone or a public toilet facility;
 - c) soliciting a person who is waiting at a taxi stand or a public transit stop;
 - d) while on a highway, soliciting a person who is in a stopped, standing or parked vehicle.
 - (ii) loitering after having been requested by an officer to move on;
 - (iii) fighting, screaming, spitting, yelling or using profane or abusive language or gestures;
 - (iv) carrying open liquor, except while on private property that is owned or occupied by the person who is carrying the liquor or an invited guest of the owner or occupant;
 - (v) remaining in or refusing to leave a public place after it is closed and/or when ordered to leave by an officer;
 - (vi) littering;
 - (vii) defacing, damaging or vandalizing public or private property;
 - (viii) obstructing an officer in the course of his or her duties;
 - (ix) being intoxicated in a public place; and
 - (x) any other activity or conduct that is disorderly or obnoxious.
- (g) **“Officer”** means a municipal law enforcement or police officer while in the course of his or her duties;
- (h) **“Person”** means an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives of the person to whom the context can apply accordingly to law;
- (i) **“Public Place”** includes a highway and any place to which the public has access as of right or invitation, express or implied, and private property that is exposed to public view, whether or not the property is owned by the person contravening the by-law;
- (j) **“Solicit”** means to request in person, the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using spoken, written or printed word, a gesture or other means;

- (k) **“Town”** means the Corporation of The Town of Fort Frances;
- (l) **“Urinate”** means to discharge urine from the human body;
- (m) **“Vehicle”** includes an automobile, motorcycle, van, truck, trailer, bus, mobile home, traction engine, farm tractor, road-building machine, bicycle, motor-assisted bicycle, motorized snow vehicle, and any other vehicle drawn, propelled or driven by any kind of power including muscular power;
- (n) **“Vomit”** means to discharge the contents of the stomach by mouth.

2. When reading and interpreting this by-law,

- (a) this by-law shall be read with all changes in gender or number as the context requires;
- (b) references in this by-law to items in the plural include singular and references to the singular include the plural, as applicable; and
- (c) the words “include”, “includes” or “including” are not to be read or interpreted as limiting the words, phrases or descriptions that precede it.

Severability

3. If a court of competent jurisdiction declares any section or any part of any section of this by-law to be invalid, or to be of no force or effect, it is the intention of the Town that every other provision of this by-law be applied and enforced in accordance with its terms to the extent possible according to law.

Conflict

4. This by-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the Town or by any government authority having jurisdiction to make such restrictions or regulations.
5. If a provision of this by-law conflicts with the provision of any applicable by-law, the provision that establishes the higher or more restrictive standard to protect the health, safety and welfare of the general public shall prevail.

Part 2 – Restrictions

Offences

6. No person shall cause, create or permit a nuisance in any public place in the Town.
7. (a) No person shall, without reasonable excuse, urinate, vomit or defecate in a public place.
- (b) For the purposes of this section, reasonable excuse means;
- (i) the contravention of this by-law must be inevitable, unavoidable and afford no reason or opportunity for an

- alternative course of action that does not contravene this by-law; or
- (ii) where the contravention of this by-law is the consequence of illness, the person did not contemplate, or acting reasonably ought not to have contemplated, that the person's actions would likely cause the illness or give rise to the contravention of this by-law.

8. No person shall knock over, attempt to knock over, deface, attempt to deface, remove, or attempt to remove or otherwise damage a fixture.

Part 3 – Enforcement

9. The provisions of this by-law may be enforced by an officer.
10. An officer may, at any reasonable time, enter upon any public place for the purpose of determining whether or not the provisions of this by-law have been complied with.
11. No person shall prevent, hinder or interfere or attempt to prevent, hinder or interfere with an officer, including refusing to identify themselves when requested to do so by an officer.

Part 4 – Penalty

Penalty

12. Every person who contravenes or fails to comply with any of the provisions of this by-law is guilty of an offence, and pursuant to section 429 of the Municipal Act, 2001, is liable to a maximum penalty of \$10,000 (ten thousand dollars) and a minimum penalty of not less than \$200.00 (two hundred dollars).

Part 5 – Enactment

Short Title

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

Effective Date

READ THREE (3) TIMES and finally passed in open Council this 15th day of October, 2013.

R. Avis, Mayor

K. Lawson, Deputy Clerk