

GENERAL

Chapter 467 PUBLIC NUISANCES

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WHEREAS, *the Municipal Act, 2001, S.O. 2001, c. 25, section 8, provides that the powers of a municipality 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 *the Municipal Act, 2001, S.O. 2001, c. 25, section 9, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;*

AND WHEREAS, *the Municipal Act, S.O. 2001, c. 25, section 127, provides that Council may prohibit the depositing of refuse or debris on the land without the consent of the owner or occupant of the land;*

AND WHEREAS, *the Municipal Act, S.O. 2001, c. 25, section 128, 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, *Council of The Corporation of The City of Kitchener is of the opinion that the activities listed in the definition of "nuisance" herein constitute public nuisances.*

Article 1 INTERPRETATION

467.1.1 City - defined

"City" shall mean The Corporation of The City of Kitchener.

467.1.2 Nuisance - defined

"nuisance" shall mean any action or activity that creates a disturbance to residents of the municipality and shall include activities such as spitting, defecating, urinating, fighting, swearing, using profane or obscene language, impeding or molesting persons, obstructing the movement of persons, and damaging, defacing or vandalizing property.

467.1.3 Public place - defined

"public place" shall mean:

- (a) a place outdoors to which the public is ordinarily invited or permitted access and, for greater certainty, shall include sidewalks, streets, any portion of a road allowance, parking lots, swimming pools, conservation areas, parks, and playgrounds;
- (b) school grounds; and
- (c) land, premises, or buildings owned, managed, or maintained by the City.

Article 2 GENERAL PROVISIONS

467.2.1 Public nuisance - prohibited

No person shall cause, create, or permit a nuisance in a public place.

467.2.2 Garbage - other - dumping - unauthorized - prohibited

No person shall throw, drop, place, or otherwise deposit garbage, paper, plastic or paper products, cans, rubbish, or other debris on any property unless authorized by the owner or occupant of the property.

467.2.3 Waste - recyclables - collection - disturbing - prohibited

No person shall disturb, remove or scatter collectable waste or recyclable waste after it has been placed for waste collection without the permission of the owner of the premises where the waste was generated.

467.2.4 Waste - on City property - disturb - prohibited

No person shall disturb, remove, or scatter any material placed in a garbage can or other receptacle for refuse or recyclables on any land owned, managed or maintained by the City.

467.2.5 Pedestrians - interference - impeding - prohibiting

No person shall block, interfere with or otherwise impede the passage of any pedestrian on any sidewalk or other pedestrian-way, or portion thereof without lawful excuse or authorization of either the City or the Regional Municipality of Waterloo.

467.2.6 Enforcement - authorized persons designated

The provisions of this Chapter may be enforced by a By-law Enforcement Officer, Municipal Law Enforcement Officer, Police Officer, or other individual duly appointed for the purpose of enforcing this Chapter. By-law 2007-233, 10 December, 2007.

467.2.7 Exception - police officer - on duty

A police officer shall be exempt from the provisions of this Chapter as necessary to perform their work as a police officer. A person acting under the direction of a police officer and for police purposes shall be exempt from the provisions of this Chapter as necessary to follow such direction. By-law 2008-155, 15 September, 2008.

Article 3 ENFORCEMENT

467.3.1 Fine for contravention

Every person who contravenes any provision of this Chapter is guilty of an offence and is liable, upon conviction, to a fine not exceeding Five Thousand Dollars (\$5000), exclusive of costs, pursuant to the *Provincial Offences Act*.

467.3.2 Severability

Each and every of the provisions of this Chapter is severable and if any provision of this Chapter should for any reason be declared invalid by any court, it is the intention and desire of this Council that each and every of the then remaining provisions hereof shall remain in full force and effect. By-law 2007-233, 10 December, 2007.