

The Corporation of the Town of Essex

By-Law Number 1194

Being a by-law to regulate public loitering and nuisance within the Town of Essex

Whereas Section 10(2) 5 of The Municipal Act, S.O. 2001, c.25, as amended, authorizes Council to pass by-laws respecting the economic, social and environmental well-being of the municipality;

And Whereas Section 10(2) 6 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorizes Council to pass by-laws respecting the health, safety and well-being of persons;

And Whereas Section 128(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that 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 the Council of the Corporation deems it necessary and expedient to pass a by-law to regulate loitering within the Town of Essex;

Now therefore the Council of The Corporation of the Town of Essex hereby enacts as follows:

1. **Definitions:**

For purposes of this by-law, the following definitions are provided:

- **"Corporation"** means The Corporation for the Town of Essex;
- **"Council"** means the Council of The Corporation of the Town of Essex;
- **"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;
- **"Loiter"** means to linger or hang around in a public place or business where one has no particular or legal purpose. Any person shall be deemed to be loitering within the meaning of this by-law when he or she is standing or sitting on any highway including, but without limiting the generality of the foregoing, any sidewalk located thereon

or within three feet of any highway, and fails to move when requested to do so by an Officer;

- **"Officer"** means a Municipal By-Law Enforcement Officer appointed by the Council of the Town of Essex, or any authorized member of the Essex Ontario Provincial Police;
- **"Pedestrian"** means a person travelling on foot;
- **"Person"** means a natural person;
- **"Public Place"** means an indoor or outdoor area, whether privately or publicly owned, to which the public have access by right or by invitation, expressed or implied, whether by payment of money or not, but not a place when used exclusively by one or more individuals for a private gathering or other personal purpose;
- **"Sidewalk"** means that portion of a street as is set aside by the Town for the use of pedestrians;
- **"Town of Essex"** refers to the municipal boundaries of The Corporation of the Town of Essex; and
- **"Warning"** means a statement advising a person to cease or stop an undesirable course of action. Failure to heed a warning typically results in more formal punishment.

2. **General Provisions:**

- a) No person, either by himself/herself or with other persons, in the Town of Essex shall:
 - loiter upon any sidewalk or segment thereof so as to impede the movement of any other pedestrian;
 - loiter on any part of any highway or public place;
 - use any highway or sidewalk so as to obstruct or impede access to the front of the entrance to any premises, unless permission is granted by the owner of the premises or by the Corporation, for a special event;
 - loiter on any property owned by the Corporation.
- b) No person shall loiter upon or within a public place within the Town of Essex.

3. **Enforcement:**

When an Officer finds any person(s) loitering, contrary to this by-law, he/she may verbally direct such person(s) to cease such loitering and move on, and any such person so directed shall forthwith cease such loitering and move on. No prosecution shall be commenced for a contravention of this by-law unless a warning has first been given.

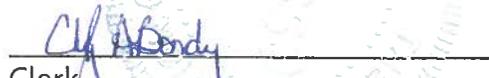
4. **Penalty:**

Every person who contravenes any provisions of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act.

Read a first, a second and a third time and finally passed this 14th day of January, 2013.



Mayor



Clerk