

A by-law to regulate nuisance gatherings
within the City of Mississauga

WHEREAS sections 8, 9 and 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the “*Municipal Act, 2001*”) authorize The Corporation of the City of Mississauga to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6, 8 of subsection 11(2) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons, and the protection of persons and property;

AND WHEREAS Section 35 of the *Municipal Act, 2001* provides that a municipality may pass by-laws removing or restricting the common law right of passage by the public over a highway and the common law right of access to the highway;

AND WHEREAS Section 128 of the *Municipal Act, 2001* authorizes a municipality to prohibit and regulate public nuisances, including matters that, in the opinion of the Council of The Corporation of the City of Mississauga are or could become or cause public nuisances;

AND WHEREAS it is in the opinion of the Council of The Corporation of the City of Mississauga that certain gatherings, as defined in this By-law, are or could become or cause a public nuisance;

AND WHEREAS subsection 391 of the *Municipal Act, 2001* provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it, including costs related to administration and enforcement;

AND WHEREAS section 436 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law or an order made pursuant to the by-law;

AND WHEREAS sections 444 and 445 of the *Municipal Act, 2001*, provide that a municipality 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 and/or to do work to correct the contravention;

AND WHEREAS section 446 of the *Municipal Act, 2001* provides that a municipality may proceed to do things at a person’s expense which that person is otherwise required to do under a by-law but has failed to do and the costs incurred by a municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS on December 13, 2023, the Council for The Corporation of the City of Mississauga passed Resolution _____ approving General Committee Recommendation _____ to enact a nuisance gathering by-law to regulate nuisance gatherings within the City of Mississauga;

NOW THEREFORE the Council of The Corporation of the City of Mississauga hereby ENACTS:

PART 1: DEFINITIONS

1. For the purpose of this By-law:

“**By-law**” means this by-law to regulate Nuisance Gatherings in the City;

“**Chief of Police**” means the Chief of Peel Regional Police and includes their designate;

“City” means The Corporation of the City of Mississauga or the geographical area of the City of Mississauga as the context requires;

“Commissioner” means the Commissioner appointed by Council with administrative responsibility for the City’s Enforcement Division and includes their designate;

“Council” means the Council of the City;

“Highway” means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle and Mississauga Transitway, 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 and for greater certainty, “Highway” includes all roadways located within a City park, a municipal cemetery, a golf course and a marina;

“Nuisance Gathering” means a gathering on a Premises, which by reasons of the conduct of the Persons in attendance, results in any one or more of the following activities occurring:

- a) public disorderly conduct;
- b) public drunkenness or public intoxication;
- c) the unlawful sale, furnishing, or distribution of alcoholic beverages or controlled substances;
- d) the deposit of refuse on public or private property;
- e) damage to or destruction of public or private property;
- f) pedestrian traffic, vehicular traffic, or illegal parking that obstructs the free flow of traffic or could interfere with the ability to provide emergency services;
- g) unreasonable noise, including loud music or shouting that is of such a volume or nature that it is likely to disturb the inhabitants of the City;
- h) unlawful open burning or fireworks;
- i) public disturbances, including public brawls or public fights; or
- j) outdoor public urination or defecation;

“Officer” means a by-law enforcement officer employed by the City and/or appointed by Council to perform the duties of enforcing City by-laws, and also includes a police officer employed by the Peel Regional Police or the Ontario Provincial Police;

“Owner” means a Person who is the registered owner of a property and includes a property manager, tenant or any other Person who otherwise has rightful possession of or possessory control of any property;

“Person” means an individual, a corporation and its directors and officers, or a partnership and their heirs, executors, assignees and administrators; and

“Premises” means any public or private place in Mississauga, including but not limited to Highways, parks, parking lots, yards appurtenant to a building or dwelling or vacant lands.

PART 2: NUISANCE GATHERINGS

Restrictions and Requirements

2. No Person shall sponsor, conduct, continue, host, create, allow, cause or permit a Nuisance Gathering.
3. No Person shall attend a Nuisance Gathering.
4. No Person who, individually or jointly with others, is an Owner, shall allow, cause or permit a Nuisance Gathering on a Premises.
5. Every Person who sponsors, conducts, continues, hosts, creates, allows, causes or permits a Nuisance Gathering shall take all reasonable and lawful actions to end a Nuisance Gathering.

PART 3: ADMINISTRATION AND ENFORCEMENT

Administration

6. The Commissioner is responsible for the administration and enforcement of this By-law and may appoint delegates or assign duties to City staff under this By-law.

Closure of Roads

7. Upon the direction of the Commissioner or the Chief of Police, an Officer may temporarily close any Highway or portion thereof to public travel where a Nuisance Gathering is occurring on or adjacent to the Highway, by placing a notice on the Highway to be closed in accordance with the *Municipal Act, 2001*.
8. Where a Highway or portion of a Highway has been closed under this By-law, the common law right of passage by the public and the common law right of access by an owner of land abutting the Highway or portion of the Highway are restricted.
9. No Person shall use a Highway, or portion of a Highway that has been temporarily closed under this By-law except with lawful authority or in accordance with the direction of an Officer.
10. No Person shall, without lawful authority, remove or deface any barricade, device, detour sign or notice placed on a Highway pursuant to this By-law.

Inspections

11. An Officer may enter upon land at any reasonable time in accordance with the *Municipal Act, 2001* for the purpose of carrying out an inspection to determine whether or not this By-law or any orders issued pursuant to this By-law are being complied with.
12. 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 purposes of the inspection.
13. No Person shall prevent, hinder, or obstruct, or attempt to hinder or obstruct, an Officer who is lawfully exercising a power or performing a duty under this By-law.

Orders

14. An Officer who finds a contravention of this By-law may make one or more orders requiring that the contravening activity be discontinued or that work be done to correct the contravention.
15. Upon an order of an Officer, every Person who is sponsoring, hosting, creating, conducting, allowing, causing or permitting a Nuisance Gathering on a specified Premises shall cease.
16. Every Person not residing on a specified Premises shall leave such Premises after having been directed to leave by an order made pursuant to this By-law.
17. An order made under this By-law shall include:
 - a) the reasonable particulars of the contravention adequate to identify the contravention and the location of the Premises on which the contravention occurred; and
 - b) the date by which there must be compliance with the order.
18. Every Person shall comply with an order made pursuant to this By-law.

19. Any order required to be given or served pursuant to this By-law is sufficiently given or served by delivering it personally to the Person to whom it is directed or sending it by registered mail to the last known address of the Person, which service shall be deemed to be five (5) days after mailing.

Remediation

20. Where a thing or matter that is required to be done is not completed by the time set out in the order, the matter or thing will be done by the City at the Person's expense and the City may recover the costs of doing the matter or thing from the Person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

PART 4: FEES

21. In addition to any remedial costs, the City may impose a fee or charge upon any Person sponsoring, conducting, continuing, hosting, creating, allowing, causing or permitting a Nuisance Gathering.
22. The amount of the fee or charge shall be the amount of administrative costs, costs of enforcement and any other costs incurred by the City in responding to and addressing the Nuisance Gathering pursuant to this By-law, as set out in the applicable City User Fees and Charges By-law.
23. Fees or charges imposed on a Person pursuant to this By-law constitute a debt of the Person to the City.

PART 5: OFFENCES AND PENALTIES

24. Every Person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in such contravention by the corporation, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, and the *Municipal Act, 2001*, as both may be amended from time to time.
25. All contraventions of any provision of this By-law are designated as continuing offences.
26. In addition to sections 24 and 25, any Person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33 and is found guilty of the offence is liable, pursuant to the *Municipal Act, 2001*, to the following fines:
- a) a minimum fine of \$500 and a maximum fine not exceeding \$100,000; and
 - b) in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine of \$500, and a maximum fine not exceeding \$10,000, and the total of all daily fines for the offence is not limited to \$100,000.
27. Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under subsection 26(a), to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law.

PART 6: APPLICATION AND INTERPRETATION

Application

28. This By-law applies to all Persons, lands and properties in the City of Mississauga.

Interpretation

29. This By-law shall not be interpreted as exempting any Person from the requirement to comply with any other City by-law. In the event of a conflict between the provisions of this By-law and any other City by-law, the provisions which are more protective of the public assets of the City, the economic, social and environmental well-being of the City, the health, safety and well-being of persons in the City, and persons and property in the City, shall apply.

PART 7: GENERAL

30. In this By-law, a reference to an Act, regulation or by-law is to that Act, regulation or bylaw as it is amended or replaced from time to time.
31. If a court of competent jurisdiction declares any provision or part of a provision of this By-law invalid, the provision or part of a provision is deemed severable from this By-law and it is the stated intention of Council that the remainder of this By-law shall continue to be in force.

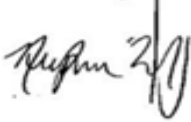
Enactment

32. This By-law shall come into force and effect on January 1, 2024.

Short Title

33. This By-law may be referred to as the "Nuisance Gathering By-law".

ENACTED and **PASSED** this _____ day of _____ 2023.

Approved by Legal Services City Solicitor City of Mississauga

Nupur Kotecha
Date: December 6, 2023
File: BL.01-23.27

MAYOR

CLERK