

# THE CORPORATION OF THE CITY OF GUELPH

## By-law Number (2006) - 18034

A By-law to prohibit the throwing, placing or depositing of waste on highways or bridges, to prohibit the fouling of any public or private property, and to regulate the crossing of curbs, sidewalks or paved boulevards, and to adopt Municipal Code Amendment #394, amending Article 1 of Chapter 264 of The Corporation of the City of Guelph's Municipal Code.

WHEREAS Paragraph 11(1)1 of the Municipal Act, 2001 provides that a single-tier municipality may pass by-laws respecting highways;

AND WHEREAS Section 127 of the Municipal Act, 2001 provides further that a local municipality may prohibit and regulate the depositing of refuse or debris on land without the consent of the owner or occupant of the land;

AND WHEREAS Section 128 of the Municipal Act, 2001 further 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 has determined that spitting, urinating or defecating outdoors on public or private property is a public nuisance;

AND WHEREAS Section 425 of the Municipal Act, 2001 provides that by-laws may be passed for providing that any person who contravenes any by-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS Section 426 of the Municipal Act, 2001 provides that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under a By-law made under that Act

### **THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF GUELPH ENACTS AS FOLLOWS:**

1. For the purpose of this By-law, the following definitions shall have the meanings set out herein:
  - a) "Boulevard" means that portion of the Highway located between the curb or shoulder of the Roadway and the lateral property line of the Highway, but does not include a Sidewalk;
  - b) "City" means The Corporation of the City of Guelph;
  - c) "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 or persons, and includes the area between the lateral property lines thereof;

- d) “Outdoors” means in any place or location that is not within a fully enclosed building or shelter;
- e) “Pedestrian Way” means that portion of the Highway designed for the passage of persons and includes that part of the road where pedestrians have priority over traffic;
- f) “Roadway” means that part of the Highway that is improved, designed and ordinarily used for vehicular traffic, but does not include the shoulder, and where a highway has two or more separate roadways, the term “roadway” refers to any one roadway separately and not to all of the roadways collectively;
- g) “Sidewalk” means that portion of the Highway that is intended or used by the general public for the passage of persons; and
- h) “Water Feature” includes rivers, lakes, streams, creeks, storm water management ponds, locks, reservoirs, estuaries, swales, man made or natural streams, man made ditches, and other geographical features containing water at some time during the year but does not include private or municipal swimming pools or decorative man made, self-contained garden ponds on private residential property.

#### Depositing of Waste on Highway Prohibited

2. Notwithstanding the provisions of any other City By-law, no person shall throw, place or deposit or permit the throwing, placing or depositing of any dirt, filth, glass, handbill, paper, wood, stone, water balloon, rubbish, refuse, waste including animal waste, or the like on any portion of a Highway in the City of Guelph, except when such item is placed or deposited on such Highway in accordance with the laws governing waste collection in the City of Guelph or otherwise with the consent of the City.

#### Fouling of Public or Private Property Prohibited

3. Without limiting Section 2, no person shall spit, urinate or defecate Outdoors on any property within the City of Guelph, including lands owned privately or by the City and for greater clarification these properties include, without limitation, any Highway, Roadway, Sidewalk, Pedestrian Way, Water Feature or Boulevard.

#### Exception

4. Section 3 of this By-law shall not apply to the use of a sewage system meeting all applicable requirements of the Building Code Act, 1992, S.O. 1992, c. 23, or O. Reg. 403/97 made under the Building Code Act, as amended from time to time or any successor thereof.

### Crossing of Curbs, Sidewalks and Paved Boulevards

5. No person erecting, altering, repairing or demolishing a building within the City of Guelph shall permit the crossing of curbs, sidewalks, or paved boulevards by vehicles delivering materials to or removing materials from abutting lands unless the owners of such lands have deposited with the City Treasurer upon application for a building permit and prior to commencement of any work, a sum of money based on \$25.00 per metre of street frontage where only sidewalk, or curb or paved boulevard exist to a maximum of \$75.00 per metre of street frontage where all three facilities exist or security to this amount as approved by the City Treasurer to meet the cost of repairing any damage to the sidewalks, curbs or paved boulevard or to any water service box or other service therein caused by the crossing thereof by such vehicles.
6. The owner of any lands on which any building is being erected, altered, repaired or demolished shall take all necessary steps to prevent building material, waste or soil from being spilled or tracked onto the public streets by vehicles going to or coming from the lands during the course of the erection, alteration, repair or demolition and shall be responsible to the Municipality for the cost of removing such building material, waste or soil and any such costs may be deducted from the deposit required to permit the crossing of any curbs, sidewalks, or paved boulevards.
7. Upon the completion of the erection, alteration, repair or demolition of the building or buildings or the lands abutting such sidewalk, curb, or paved boulevard and upon application by the person by whom the deposit was paid, the amount by which the sum deposited exceeds the cost of such repairs shall be refunded.

### Miscellaneous

8. The provisions of this By-law may be enforced by a police officer, or by any other person duly appointed by City Council for the purpose of enforcing this By-law.
9. No person shall obstruct or attempt to obstruct any person so authorized under Section 8, in enforcing any provision of this By-law, or in exercising any other power or carrying out any other duty under this By-law.
10. Without limiting Section 9,

- a) a police officer, who has reasonable grounds to believe that a person has contravened any provision of this By-law may require that person to provide identification of themselves; and
  - b) every person who is required by a police officer to provide identification under clause (a) shall identify themselves to the police officer and, for that purpose, giving their correct name, date of birth and address is sufficient identification, and failure to do so shall constitute obstruction of the police officer contrary to Section 8 of this By-law.
11. Every person who contravenes any provision of this By-law is guilty of an offence and shall upon conviction be liable to a penalty as set out in Section 61 of the Provincial Offences Act, R.S.O. 1990, Chapter P. 33, as amended from time to time, or any successor thereof.
12. By-law Numbers (1981)-10777, (1993)-14418, (1999)-15975 and (2000)-16375, and Section 1-10B(1)(u) of By-law Number (1989)-13137 are hereby repealed.
13. In the event that any Section of this By-law, or any part hereof, is found to be invalid or ultra vires for any reason, such Section or part hereof shall be deemed to be severable and all other Sections or parts of this By-law shall remain in force and effect.
14. This By-law shall come into effect on the date of approval of the set fines by the Regional Senior Justice, or July 15, 2006, whichever is earlier.
15. This By-law is hereby adopted as Municipal Code Amendment #394, amending Article 1 of Chapter 264 of The Corporation of the City of Guelph's Municipal Code.

**PASSED this FIFTEENTH day of MAY, 2006.**

Original Signed by:

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**K.M. QUARRIE – MAYOR**

Original Signed by:

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**LOIS A. GILES – CITY CLERK**