

CITY OF ST. CATHARINES

BY-LAW NO. 2025-048

A By-law to regulate the use of certain public property within the City of St. Catharines for the protection of persons and property and to promote the safe use and enjoyment of public spaces.

**WHEREAS** the *Municipal Act*, 2001, S.O. 2001, c. 25 (the “Municipal Act”), 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 8(1) of the Municipal Act provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the City to enhance its ability to respond to municipal issues;

**AND WHEREAS** Section 8(3) of the Municipal Act provides that a by-law may regulate or prohibit, and may require persons to do things respecting the matter;

**AND WHEREAS** Section 10(2) of the Municipal Act provides that the City may pass by-laws respecting, among other things, the health, safety and well-being of persons, and the protection of persons and property;

**AND WHEREAS** Section 11(2) of the Municipal Act provides that a lower-tier municipality may pass by-laws respecting matters including structures, public assets of the municipality, and the economic, social, and environmental well-being of the municipality;

**AND WHEREAS** Section 11(3) of the Municipal Act provides that a municipality may regulate waste management, including the collection, removal, and disposal of waste;

**AND WHEREAS** Section 125 of the Municipal Act provides that a municipality may regulate the use and installation of heating and cooking appliances and the storage of fuel for use in heating and cooking appliances;

**AND WHEREAS** Section 127 of the Municipal Act provides that a municipality may prohibit the depositing of refuse or debris on land without consent of the owner or occupant of the lands, and may define “refuse” for such purpose;

**AND WHEREAS** Section 128 of the Municipal Act provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of its council, are or could become or cause public nuisances, and further, that a municipal council's determination of what constitutes a public nuisance is not subject to review;

**AND WHEREAS** Section 425 of the Municipal Act provides that a municipality may pass by-laws stating that a person who contravenes a by-law of the municipality passed under the Municipal Act is guilty of an offence;

**AND WHEREAS** Section 444 of the Municipal Act provides that, if a municipality is satisfied that a contravention of a by-law of the municipality has occurred, it may make an order requiring the person who contravened the by-law, or who caused or permitted the contravention, to discontinue the contravening activity;

**AND WHEREAS** the City recognizes that the right to life, liberty, and security of the person under section 7 of the *Canadian Charter of Rights and Freedoms* may be engaged when individuals who are experiencing homelessness are prohibited from erecting temporary shelters in circumstances where no suitable alternative shelter is available;

**AND WHEREAS** the City seeks to balance the rights and dignity of individuals experiencing homelessness with its obligations to ensure that public spaces remain safe, accessible, and enjoyable for all members of the community;

**AND WHEREAS** the City acknowledges the importance of engaging with social services, public health, and community stakeholders in addressing the complex causes and impacts of homelessness in a manner that is compassionate, evidence-informed, and consistent with legal principles;

**NOW THEREFORE** the Council of the Corporation of the City of St. Catharines enacts as follows:

**1. TITLE**

1.1 Short title. This by-law may be cited as the “Public Space Use By-law”.

**2. DEFINITIONS**

2.1 Meaning. In this by-law, the following definitions shall apply:

“**Approved Propane Appliance**” means any propane-fueled fixture, appliance, tank, apparatus, or device that is manufactured for the purpose of heating or cooking, and that is certified or approved for use under applicable laws, regulations, or recognized safety standards. It must be assembled, installed, operated, and maintained in accordance with the manufacturer's instructions, remain in safe operating condition, include a fully functional on/off control mechanism, and must not be altered, modified, or used for any purpose other than its original intended use.

“**City**” means The Corporation of the City of St. Catharines.

“**Class I Area**” means any outdoor land, facility, or area located within the geographic boundaries of the City that is owned by, leased by, licensed to, or under the care, control, or management of the City, and that is intended for public access or municipal use, including all associated structures, surfaces, and appurtenances, but excludes Restricted Areas, and Prohibited Areas.

“**Class II Area**” means any outdoor open space, land, or facility located within the geographic boundaries of the City that is owned by, leased by, licensed to, or under the care, control, or management of the City, and that is designated, constructed, or used for a sensitive purpose, specialized function, or heightened level of safety, public health, or environmental protection. Class II Areas include, but are not limited to, highways, fire routes, and areas surrounding fire hydrants; stormwater management facilities and infrastructure; municipal easements; wellhead protection areas; municipal wells; water collection areas; watercourses; potable water sources; areas susceptible to erosion or flooding; and environmentally sensitive areas such as wetlands.

Class II Areas also include lands and facilities intended for sensitive public recreational or personal use, or which serve vulnerable populations or essential services, including areas used by children, pets, or individuals with mobility needs, or areas subject to heightened safety requirements or a heightened expectation of quiet use and enjoyment. These include, without limitation, schools, learning centres, early childhood care centres, hospitals, long-term care facilities, playgrounds, waterparks, splash pads, wading pools, beaches, sports fields, reservable outdoor spaces, fenced off-leash dog areas, sidewalks, pathways, recreational trails, accessibility routes and ramps, entrances, exits, doorways, municipal cemeteries, community gardens, and fountains.

Class II Areas further include critical infrastructure and transportation-related structures such as bridges, hydro generation stations, electrical substations, and railway or railroad infrastructure. Class II Areas also include any other area

designated by the City in a schedule to this by-law, as well as all appurtenances associated with or located within any such area.

**“Council”** means the municipal council of The Corporation of the City of St. Catharines.

**“Nuisance”** when used in relation to a heating or incinerating device means any circumstance or impact that poses a health or life safety risk to any person or that disturbs or prevents any person from the safe use and enjoyment of a public space, such as excessive smoke, foul odours, airborne sparks or embers, or particulates.

**“Officer”** means the person, or persons, who have been designated to enforce the provisions of this by-law and includes a provincial offences officer as defined by the *Provincial Offences Act*, R.S.O. 1990, c. P.33 (the “Provincial Offences Act”).

**“Refuse”** means waste which appears to have been abandoned.

### **3. PURPOSE**

- 3.1 Intent and application. The purpose of this by-law is to regulate the use of specified public spaces within the jurisdiction of the City to ensure the protection of persons and property, promote the safe use and enjoyment of those spaces by the public, and support the City’s responsibility to maintain accessible, clean, and functional public environments. This by-law is also intended to be applied in a manner that respects the dignity and rights of all individuals, including those experiencing homelessness.

### **4. GENERAL CONDITIONS**

- 4.1 Site standards. A person shall not do any of the following in any Class I Area or Class II Area:
- 4.1.1 in any way destroy, damage, foul, injure, or impair any feature of the natural environment, real property, or any appurtenance;
  - 4.1.2 erect, or cause to be erected, or occupy any temporary structure or shelter that is affixed to the land or any appurtenance, or that is permanent, semi-permanent, or immovable in nature;
  - 4.1.3 gather, accumulate, or store household, yard, or commercial goods, building supplies, waste, or refuse, except within or upon a temporary structure or shelter not prohibited by this by-law, and in compliance with applicable laws;
  - 4.1.4 dispose of or dump household, yard, or commercial goods, building supplies, waste, or refuse, except if deposited into receptacles provided by the City for such purposes and in compliance with applicable laws;
  - 4.1.5 make unauthorized use of utilities, including but not limited to electrical, gas, or water services, or obstruct any utility owner from access and use;
  - 4.1.6 obstruct ingress to or egress from any property, access routes for emergency services, or sightlines as determined by the City;
  - 4.1.7 in any way obstruct the City, or its employees, contractors, agents, partners, representatives, or members of the public from access to and use of any Class I Area;
  - 4.1.8 ignite, maintain, or permit any fire, except for the express purpose of cooking food, and only in compliance with all applicable laws and regulations;

- 4.1.9 store any propane cylinder in an enclosed space, in direct sunlight, or near a heat source;
- 4.1.10 use any propane fixture, appliance, apparatus, or other device that uses propane as a source of fuel, other than an Approved Propane Appliance that is actively monitored by a person capable of safe assembly and use of such appliance, and capable of performing the necessary actions to control a fire and prevent its unwanted spread;
- 4.1.11 use any fixture, appliance, apparatus, or other heating, cooking, or incineration device, including an Approved Propane Appliance, in any manner that creates a Nuisance; or
- 4.1.12 participate, support, assist or be involved in any illegal activity.

## **5. CLASS I CONDITIONS**

- 5.1 Row-spacing. In any Class I Area where temporary structures or shelters are not prohibited by this by-law, a person shall not erect, cause to be erected, or occupy any temporary structure or shelter, except in accordance with the following conditions:
  - 5.1.1 temporary structures or shelters may only be erected in a linear (row-style) arrangement and shall not be clustered or grouped in a manner that results in compact encampments; and
  - 5.1.2 each temporary structure or shelter shall be positioned a minimum distance of 10 metres from any other temporary structure or shelter, measured from the closest exterior point of each temporary structure or shelter.
- 5.2 Structure/shelter standards. In any Class I Area where temporary structures or shelters are not prohibited by this By-law, the following site conditions shall apply:
  - 5.2.1 all temporary structures or shelters must be free-standing;
  - 5.2.2 temporary structures or shelters shall not be placed against, beneath, or attached to any building, structure, or appurtenance, and shall not be tied, secured, or fastened to any such object;
  - 5.2.3 temporary structures or shelters must be constructed of flexible, non-rigid materials (e.g., tents). The use of wooden shelters or rigid structures is strictly prohibited; and
  - 5.2.4 the maximum allowable footprint for any individual temporary structure or shelter site shall be 3 metres by 3 metres (9 square metres in total).
- 5.3 Occupation. No more than two (2) individuals may occupy a single temporary structure or shelter.
- 5.4 Transportation. Notwithstanding Section 4.1.3, each occupant may retain one (1) personal mode of transportation, limited to a bicycle, scooter, wheelchair, or assistive mobility device. The transportation device must be kept immediately adjacent to the associated temporary structure or shelter, at a distance of no more than 3 feet.
- 5.5 Abandonment. No temporary structure or shelter erected under this By-law shall be left abandoned. For the purposes of this section, a temporary structure or shelter shall be deemed abandoned if it remains unoccupied or unattended for a continuous period exceeding 72 hours. Upon such determination, the City may take appropriate steps to remove the temporary structure or shelter, along with all associated articles, possessions, and materials, in accordance with applicable procedures and any relevant provisions.

## **6. CLASS II CONDITIONS**

- 6.1 Unauthorized conduct. A person shall not engage or cause to engage in any of the following activities in a Class II Area:
- 6.1.1 erect, or cause to be erected, or occupy any temporary structure or shelter, including those of a temporary or movable nature; or
  - 6.1.2 in any way obstruct the City, or any authority having jurisdiction, or their respective employees, contractors, agents, or representatives from access to and use of the Class II Area.
- 6.2 Setbacks. Without limiting the generality of subsection (1)(a) above, which prohibits temporary structures and shelters within a Class II Area, a person must not erect, or cause to be erected, or occupy any temporary structure or shelter, including those of a temporary or movable nature, within the following distances of specified Class II Areas:
- 6.2.1 ten (10) metres of the boundary or periphery of a lake, beach, river, pond, or other watercourse;
  - 6.2.2 thirty (30) metres of any cemetery;
  - 6.2.3 thirty (30) metres of any railway or railroad infrastructure;
  - 6.2.4 fifty (50) metres of the boundary or periphery of a playground, waterpark, splash pad, sports field, or wading pool; and
  - 6.2.5 one hundred (100) metres of the boundary or periphery of a school, or childcare centre.
- 6.3 Residential setbacks. A person shall not erect, or cause to be erected, or occupy any temporary structure or shelter, including those of a temporary or movable nature, within thirty (30) meters of any residential property.

## **7. ENFORCEMENT**

- 7.1 Orders. An Officer who finds that a person has contravened or caused a contravention of a provision of this by-law may issue an order to that person:
- 7.1.1 setting out reasonable particulars of the contravention and the actions required to achieve compliance, which may include requiring the person to dismantle and remove any building, structure, or improvement that has been erected or placed in contravention of this by-law, or to take any other action necessary to remedy a breach of a general condition of this by-law;
  - 7.1.2 specifying the time period within which compliance must be achieved;
  - 7.1.3 advising that if the person fails to comply with the order within the specified time, the City may carry out the required work at the person's expense; and
  - 7.1.4 advising that failure to comply with an order issued under this section constitutes an offence under this by-law.
- 7.2 Effective date. Any notice or document required to be given under this by-law shall be in writing and shall be deemed effective when either personally delivered to the intended recipient or posted in a conspicuous location at the site to which the notice relates. In either case, the notice shall be deemed to have been received immediately upon delivery or posting.
- 7.3 Compliance with order. Every person shall comply with an Order issued pursuant to this by-law within the time provided for therein.

- 7.4 Remedy and disposition. Where a person defaults in complying with an order issued under this by-law, the City may authorize its employees, contractors, or agents to take any action, or combination of actions, necessary to bring the site into compliance with the requirements of this by-law.
- 7.5 Recovery of costs. The City may recover the costs of carrying out any work or action authorized under Section 5 from the person named in the order. Such costs shall include interest at a rate of fifteen (15) percent per annum, calculated from the date the City incurs the costs until the date the costs, including interest, are paid in full.
- 7.6 Obstruction. No person shall hinder or obstruct the Director or an Officer, who is carrying out an inspection of a site for the purpose of enforcing this by-law, nor shall any Person hinder or obstruct any employee or agent of the City directed to carry out work to bring the site into compliance with any section of this by-law.
- 7.7 Shelter availability. Unless applicable to a location within a Class II area or a setback area under Sections 6.2 or 6.3, no order requiring the removal of a building, structure, or improvement, or the vacating of a location shall be issued under this By-law unless the City has first confirmed, either directly or in coordination with its housing partners, that supported accommodation space is available for the individual concerned, and that the individual has been provided with a reasonable opportunity to accept and access that space. This includes, but is not limited to, transitional housing, temporary lodging sites, and other forms of publicly supported accommodation intended to meet the basic living needs of individuals experiencing homelessness.

This requirement shall not apply in circumstances where the continued presence of the structure, shelter, or occupant poses an immediate risk to public health or safety, or the safety of the individual concerned. In such cases, remedial action may be taken without prior confirmation of accommodation availability, provided that efforts are made to connect the individual with appropriate supports as soon as reasonably possible.

## **8. PENALTIES**

- 8.1 Offence. Any person who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the Municipal Act or the Provincial Offences Act and to any other applicable penalties.
- 8.2 Director or officer of a corporation. A director or officer of a corporation who knowingly concurs in the contravention of this by-law by the corporation, including failing to comply with an order made under this by-law, is guilty of an offence and is liable to such penalties as provided for in the Provincial Offences Act and the Municipal Act.
- 8.3 Administrative penalties. An Officer who finds that a person has contravened any provision of this by-law may issue a penalty notice pursuant to the City's Non-Parking AMPS By-law.
- 8.4 Continuing offence. Each day or part of a day that a contravention of this by-law continues shall constitute a new and separate offence.
- 8.5 Additional penalties. If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order:
- 8.5.1 prohibiting the continuation or repetition of the offence by the Person convicted; and

8.5.2 requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

**9. GENERAL**

- 9.1 Severability. If any provision or part of a provision of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 9.2 Regulatory compliance. This by-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.
- 9.3 Gender and number. In this by-law, unless the contrary intention is indicated, words used in singular shall include the plural and words used in the male gender shall include the female gender and vice versa.
- 9.4 And/or. The word “and” is an inclusive conjunction, the use of which indicates that all items or phrases in that subsection, article, or list in which it appears are permitted or required as the case may be. The word “or” is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word “or” may also be an inclusive conjunction having the same meaning as the word “and”.
- 9.5 Legislation. Any reference to legislation in this by-law includes the legislation referred to and its amendments as well as any subsequent legislation which may replace the legislation referred to, and its amendments thereto.
- 9.6 Conflict. For the purposes of administering and enforcing this By-law, in the event of any conflict between its provisions and those of any existing City by-law or policy relating to standards or use or occupation of public spaces, the provisions of this By-law shall take precedence.
- 9.7 Effective date. This by-law shall come into force on the date of passage by Council.
- 9.8 Annual Review. This by-law shall be reviewed on an annual basis. The review process will include consultation with individuals who have lived experience with homelessness, such as community engagement groups and advocacy organizations that support or represent persons experiencing homelessness. The purpose of the consultation is to assist with the by-law remaining responsive, informed, and aligned with evolving best practices in housing, public health, and human rights.

Read and passed this 29<sup>th</sup> day of April 2025.

D. D'Amico  
Acting CLERK

  
MAYOR