

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2005-27

Being a By-law to prohibit loitering upon highways and other public places within the Town of Amherstburg

WHEREAS, pursuant to Section 130 of the *Municipal Act*, 2001, S.O. 2001, c. 25, a municipality may regulate matters not specifically provided for by this Act or any other Act for purposes related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS, the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, Section 128, authorizes a local municipality to 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 it is deemed expedient by Council to prohibit and regulate with respect to public nuisances, including such matters as loitering in a public place;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS:

In this By-law:

- a) "Corporation" means the Corporation for the Town of Amherstburg;
- b) "Council" means the Council of the Corporation of the Town of Amherstburg;
- c) "Highway" includes a common public highway, street, avenue, boulevard, parkway, lane, alley, driveway, island, roadway, square, place, thoroughfare, bridge, viaduct, trestle or way and any sidewalk, pathway or footpath, located thereon designed or intended for or used by the general public for the passage of motor vehicles;
- d) "Loiter" means to hang about; linger idly;
- e) "Officer" means a Municipal By-law Enforcement Officer appointed by the Council of the Town of Amherstburg, or any authorized member of the Town of Amherstburg Police Services;
- f) "Person" means a natural person;
- g) "Public Place" means any place to which the general public has a right to resort or has access, whether as of right or by express or implied consent of the owner of any particular property, and includes a place where the public gathers or passes to and from, any highway, street, sidewalk, lane or park, and any place of public resort or amusement;
- h) "Sidewalk" means that portion of a street as is set aside by the Town for the use of pedestrians;
- i) "Town" means the Corporation of the Town of Amherstburg.

2. GENERAL PROVISIONS:

- a) No person, either by himself/herself or with other persons, in the Town shall:
 - i. loiter upon any sidewalk or segment thereof so as to impede the movement of any other pedestrian;
 - ii. loiter on any part of any highway or public place;
 - iii. 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 Town, for a special event;
 - iv. loiter on any property owned by the Town.
- b) No person shall loiter upon or within a public place within the Town of Amherstburg.
- c) 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.

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:

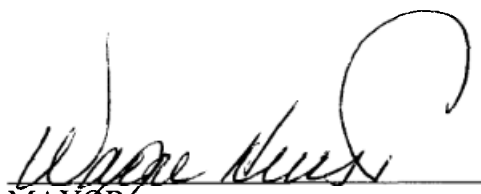
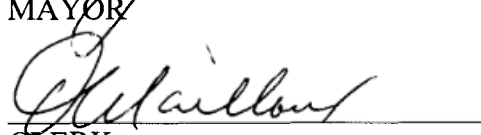
Every person who contravenes any provisions of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.

5. REPEAL:

The Town of Amherstburg By-law 2174, being a by-law to prohibit loitering in public places, passed December 10, 1990, be and the same is hereby repealed.

This By-law shall come into force and take effect on the date of final passage thereof.

Passed this 27th day of June, 2005.


MAYOR

CLERK

1st Reading: June 27, 2005

2nd Reading: June 27, 2005

3rd Reading: June 27, 2005

Certified to be a true copy of By-law
No. 2005-27 passed by Council of the
Town of Amherstburg on the 27th
day of June, 2005.

Clerk

OFFICE OF THE REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
WEST REGION

COURT HOUSE
15TH FLOOR, UNIT "G"
80 DUNDAS STREET
LONDON, ONTARIO
N6A 6B3



CABINET DU JUGE PRINCIPAL REGIONAL
COUR DE JUSTICE DE L'ONTARIO
REGION DE L'OUEST

TELEPHONE/TÉLÉPHONE (519) 660-2292
FAX/TÉLÉCOPIEUR (519) 660-3138

RECEIVED
JUL 28 2005

July 26th, 2005

Mr. David Mailloux, Clerk
Corporation of the Town of Amherstburg
PO Box 159, 271 Sandwich St S
Amherstburg ON N9V 2Z3

Dear Mr. Mailloux:

Re: Set Fines - Provincial Offences Act - Part I
By-law Number 2005-26, 2005-27 and 2005-60, of the Town of Amherstburg

Enclosed herewith are copies of Orders, and copies of schedules of set fines for the above referenced By-Law, the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

I have forwarded the original of the Order and the schedule of the set fines to the Ontario Court of Justice in Windsor, together with a certified copy of the By-law.

Yours truly,

A handwritten signature in black ink, appearing to read 'A. M. Graham'.

Alexander M. Graham
Regional Senior Justice
West Region

Enclosures
/ec

ONTARIO COURT OF JUSTICE

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2005-27 of the Town of Amherstburg, attached hereto is the set fine for those offences. This Order is to take effect July 26th, 2005.

Dated at London this 26th day of July, 2005.

A handwritten signature in black ink, appearing to read 'A. M. Graham', with a long, sweeping horizontal line extending to the right.

Alexander M. Graham
Regional Senior Justice
West Region

SET FINE SCHEDULE

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2005-27

A By-law to Prohibit Loitering upon Highways and Other Public Places Within the Town of Amherstburg

PART I Provincial Offences Act

ITEM	SHORT FORM WORDING	PROVISION CREATING OFFENCE	SET FINE
1	Loiter on sidewalk and impede movement of pedestrians	s. 2 (a)(i)	\$85.00
2	Loiter on a highway or public place	s. 2 (a)(ii)	\$85.00
3	Impede access to front entrance of a premise without authorization	s. 2 (a)(iii)	\$85.00
4	Loiter upon property owned by the Town	s. 2 (a)(iv)	\$85.00
5	Loiter on or within a public place	s. 2 (b)	\$85.00

NOTE: The general penalty provision for the offence listed above is section 4 of by-law 2005-27, a certified copy of which has been filed.