

BY-LAW 2 -2023

A BY-LAW RESPECTING FLYER DISTRIBUTION IN ROTHESAY

BE IT ENACTED by the Council of the town of ROTHESAY under the authority vested in it by the Local Governance Act, SNB 2017, c 18 as follows:

1. Title

This By-law may be cited as the "**Flyer Distribution By-law**".

2. Definitions

In this By-law:

- a) "**council**" means Rothesay Town Council;
- b) "**distributor**" means any person, that distributes, permits to be distributed or causes to be distributed any flyer which promotes activities outlined in Section 3 of this By-law;
- c) "**flyer**" means any non-subscription based printed or written matter, and includes a circular, leaflet, pamphlet, paper, booklet, postcard, coupon, or any other printed or otherwise reproduced matter;
- d) "**municipality**" means the geographic area constituted as the town of Rothesay;
- e) "**newspaper**" means any newspaper or magazine of general circulation for which the occupant has paid or requested delivery;
- f) "**person**" includes a distributor, business, company, organization or corporation and the heirs, executors, administrators or other legal representatives of a person;
- g) "**residential property**" means property or part thereof used or intended to be used for residential purposes, but does not include the portion of a hotel or motel used for the purpose of lodging for the public or an apartment hotel;

3. Application

This By-law applies to any flyer distributed within the municipality that:

- a) Advertises or otherwise promotes any merchandise, product, commodity or thing;
- b) Directs attention to any business or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interests thereof; or
- c) Directs attention to or advertises any meeting, performance, exhibition or event of any kind for which an admission is charged for the purpose of commercial gain or profit.

4. General

- a) Any owner or occupier of a residential property may post a sign or notice on such residential property stating they do not wish to receive flyers.
- b) Any owner or occupier of a residential property who wishes to post a sign or notice in accordance with Section 4(a) above may:
 - i. Post a sign or notice in such form as may be provided by the Council, or
 - ii. Post a sign or notice created by the owner or occupier, provided that any such sign or notice meets the following specifications:

1. Is a minimum 22 cm (8.5 in) by 14 cm wide (5.5 in) high;
 2. Consists of lettering that is in black font on a white background; and
 3. Contains the phrase "**NO FLYERS**" in a font size of at least 72 pt in a sans-serif (plain) font type, such as Arial.
- c) A sign or notice stating the owner or occupier does not want to receive flyers shall be posted on the residence in a manner such that the sign or notice is reasonably visible to a distributor.
- d) No distributor shall distribute or cause to be distributed a flyer at or on a residential property if a sign or notice has been posted pursuant to this Section 4.
- e) Sections 4(d) and 4(h) of this By-law shall not apply to the following:
- i. Any election advertising material which is permitted to be transmitted or delivered pursuant to any applicable federal, provincial or municipal legislation or regulation;
 - ii. Newspapers delivered to paid or requested subscribers;
 - iii. Community association newsletters or newspapers that do not contain flyers;
 - iv. Information circulars produced by a federal, provincial or Rothesay or an agency of such government;
 - v. Information circulars produced by a member of Council, a member of the New Brunswick Legislative Assembly or a member of the Parliament; or
 - vi. An apartment building containing six or more dwelling units.
- f) No distributor shall distribute or cause to be distributed any flyers on residential property other than:
- i. In a mail box;
 - ii. In a mail slot;
 - iii. In a tube or other receptacle designated for this purpose; or
 - iv. On a doorstep
- g) No distributor shall distribute or cause to be distributed any flyers at or on a residential property where previously delivered flyers have not been retrieved for two consecutive weeks.
- h) No distributor shall distribute or cause to be distributed any flyers to any owner or occupant of residential property by leaving same in the owner or occupant's community mailbox where such owner or occupant has posted a sign or notice complying with this Section 4 on the residential property of the owner or occupant.

5. Offences

- a) A person who violates a provision of this By-law is guilty of an offence and is liable on conviction to a fine.
- b) The minimum fine for an offence committed under this By-law is one hundred fifty dollars (\$150) and the maximum fine for an offence committed under this By-law is two thousand one hundred dollars (\$2,100).
- c) If an offence committed under this By-law continues for more than one day:
 - i. The minimum fine that may be imposed is the minimum fine established in this By-law multiplied by the number of days during which the offence continues; and

ii. The maximum fine that may be imposed is the maximum fine established in this By-law multiplied by the number of days during which the offence continues.

6. Enforcement

- a) Every person duly appointed by Council as a By-law enforcement officer is hereby authorized to carry out any inspection that is necessary for the administration or enforcement of this By-law.
- b) Any peace officer or By-law enforcement officer is hereby authorized to take such actions, exercise such powers and perform such duties, as may be set out in this By-law, or in the *Local Governance Act* and as they may deem to be necessary to enforce any provisions of this By-law.

7. Administrative Penalties

- a) Rothesay may provide for an administrative penalty to be paid with respect to a violation of a provision of this By-law as set out in subsection 7(b).
- b) A person violating any provision of this By-law may pay to Rothesay an administrative penalty of one hundred dollars (\$100) within 45 calendar days from the date of such violation and upon such payment the person who committed the violation is not liable to be prosecuted therefore.

8. Other Offences

Nothing in this By-law exempts a person violating this By-law from charges resulting from infractions under any other Rothesay By-law.

9. Severability

- a) Where a court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall remain in force unless the Court makes an order to the contrary.

FIRST READING BY TITLE	<u>12 June</u> , 2023
SECOND READING BY TITLE	<u>10 July</u> , 2023
READ IN ITS ENTIRETY	<u>14 August</u> , 2023
THIRD READING BY TITLE AND ENACTMENT	<u>14 August</u> , 2023



Dr. Nancy Grant, Mayor



Mary Jane Banks, Town Clerk