

## THE CORPORATION OF THE TOWN OF OAKVILLE

### BY-LAW NUMBER 2024-002

A by-law to regulate the use of any municipal right of way within the Town of Oakville and to repeal By-law 2009-072, as amended, By-law 2015-105 and By-law 2012-116 and to amend By-law 2019-030, By-law 2021-038 and By-law 2022-031

**WHEREAS** it is deemed prudent to update and consolidate the Town of Oakville ("Town") Municipal Rights Of Way ("MRW") By-Law;

**WHEREAS** subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, hereinafter the ("Municipal Act, 2001") provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

**WHEREAS** section 9 of the *Municipal Act, 2001*, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act;

**WHEREAS** section 11(3)1. of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the "Municipal Act, 2001"), authorizes a municipality to pass bylaws respecting highways, including parking and traffic on highways;

**WHEREAS** subsection 23.2(1)(c) of the *Municipal Act, 2001*, permits a municipality to delegate certain legislative and quasi-judicial powers to an individual who is an officer, employee or agent of the municipality;

**WHEREAS** subsection 23.2(4) of the *Municipal Act, 2001* limits the ability to delegate such powers to such an individual except where, in the opinion of council of the municipality, the power being delegated is of a minor nature;

**WHEREAS** section 27(1) of the Municipal Act, 2001 states that a municipality may pass bylaws in respect of a highway only if it has jurisdiction over the highway;

**WHEREAS** section 35 of the Municipal Act, 2001 states that a municipality may pass bylaws 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 by an owner of land abutting a highway;

**WHEREAS** section 128 of the Municipal Act, 2001 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 public nuisances;

**WHEREAS** subsection 391(1) of the *Municipal Act, 2001*, provides that a municipality may pass by-laws imposing fees or charges on any person for services or activities provided by the municipality or done on behalf of it;

**WHEREAS** section 425 of the *Municipal Act, 2001* provides that a municipality may pass bylaws providing that a person who contravenes a bylaw of the municipality is guilty of an offence;

**WHEREAS** subsection 429 (1) of the *Municipal Act, 2001*, provides that a municipality may establish a system of fines for a by-law passed under the Act;

**WHEREAS** section 436 (1) of the *Municipal Act, 2001* provides that a municipality has the power to pass bylaws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a bylaw of the municipality is being complied with;

**WHEREAS** section 444 of the *Municipal Act, 2001*, provides that a municipality may make an order to require a person to discontinue contravening a by-law and to do the work required to correct the contravention;

**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 taxes;

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**COUNCIL ENACTS AS FOLLOWS:**

**1. Definitions**

In this by-law:

- a) **“Administrative Penalties for Non-Parking Violations and Orders By-law”** means By-law 2021-038, or successor by-laws;
- b) **“Alteration or Alter”** means the actions of removal, replacement, widening, narrowing or abandoning;
- c) **“Boulevard”** means all parts of a municipal right of way save and except the roadway, curb, and shoulder;
- d) **“Busker”** means a person or a group of persons who play, act, sing or otherwise perform or entertain for reward or payment in or upon any municipal right of way;
- e) **“Council”** means the Council for the Corporation of the Town of Oakville;
- f) **“Curb Cut”** or **“Depressed Curb”** means a curb that is cut/graded down from the top of the curb to the surface of an adjoining road;
- g) **“Director of Transportation and Engineering”** means the Town’s Director of Transportation and Engineering or designate;
- h) **“Director of Municipal Enforcement Services”** means the Town’s Director of Municipal Enforcement Services or designate;
- i) **“Director of Roads and Works”** means the Town’s Director of Roads and Works or designate;
- j) **“Driveway Apron”** means an access within a municipal right of way facilitating or supporting vehicular travel (continuous, intermittent or temporary) between the roadway and a private property;
- k) **“Encroachment”** means any type of vegetation, structure, building, man-made object or item of personal property of a person which exists wholly upon or extends from that person's premises onto Town property and shall include any aerial, surface, or subsurface encroachments;
- l) **“Encroachment Agreement”** means an agreement prepared by the Town for execution by the Town and a person, by which such person is granted authorization to erect, place, or maintain an encroachment on Town property;

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- m) **“Emergency”** means an unforeseen situation where immediate action must be taken to preserve the environment, public health, safety or an essential service as approved by the Director of Transportation and Engineering, the “Director of Municipal Enforcement Services or the Director of Roads and Works;
  - n) **“Graffiti”** means one or more letters, symbols, marks, pictorial representations, messages or slogans howsoever made within the municipal right of way, but does not include the following:
    - i) a sign, public notice or traffic control mark authorized by the Town, the Regional Municipality of Halton or the federal or provincial government; or
    - ii) a sign authorized pursuant to a permit issued under the Sign By-law;
  - o) **“Hazard”** or **“Hazardous”** means a potential source of harm or adverse health effect on a person;
  - p) **“Inspector”** means any employee of the Town, who is authorized by Council or a Director to enforce the by-laws of the Town and in particular who are authorized to enforce this by-law;
  - q) **“Municipal Infrastructure”** means all physical improvements that provide roads, laneways, boulevards, sidewalks, walkways, sanitary sewer, storm sewer, water service;
  - r) **“Municipal Right of Way”** means land owned by the Town as opened or unopened road allowances for the purposes of a public highway under the *Municipal Act, 2001*, but excludes Town lands owned or operated as parkland, creeks and watercourses, and related public trail systems;
  - s) **“Newspaper or Media”** shall include any publication containing news, current events, feature articles or advertising;
  - t) **“Newspaper or Media Box”** means any structure or container for the purposes of distributing newspapers or media;
  - u) **“Obstruct(ion)”** means to block, prevent, hinder, encumber, damage, foul, stop-up or close;
  - v) **“Officer”** means any person authorized by the Town to enforce by-laws and includes Municipal Law Enforcement Officers, Mobile Compliance Officers, provincial offences officers, Halton Regional Police Officers;
  - w) **“Penalty Notice”** means a notice issued pursuant to the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law;
  - x) **“Permit”** means a permit issued under this By-law;
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- y) **“Person”** means an individual, firm, company, corporation, sole proprietorship, association or partnership and includes an applicant for a permit under this By-law, as the context requires;
- z) **“Provincial Offences Act”** means Provincial Offences Act, R.S.O. 1990, c. P.33, as amended
- aa) **“Rates and Fees Schedule”** means the current annual rates and fees schedule approved by Council;
- bb) **“Roadway”** means that part of the municipal right of way that is improved, designed or ordinarily used for vehicular traffic;
- cc) **“Sidewalk”** means that part of a municipal right of way outside of the roadway that is intended for the use of pedestrians or others as specifically authorized by Council from time to time;
- dd) **“Sign By-law”** means Sign By-law 2018-153, as amended from time to time, or any successor by-law;
- ee) **“Solicit”** means to request, in person, the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using the spoken, written or printed word, a gesture or other means.
- ff) **“Special Event”** means a one-time, infrequent or non-routine occurrence, activity or group of activities planned to mark a special occasion or to achieve specific social, cultural, or economic objectives;
- gg) **“Town”** means the municipal Corporation of the Town of Oakville or the geographic area of Oakville as the context requires;
- hh) **“Utility”** means any essential service including water, sanitary sewer, storm sewer, artificial or natural gas, hydro, steam or hot water, telephone, internet or any telecommunications including cable TV and satellite services located in whole or in part within the municipal right of way;
- ii) **“Vehicle”** includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle, scooter, and any other vehicle operated drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a streetcar;
- jj) **“Walkway”** means that part of a private walkway that extends into the municipal right of way;

## 2. Prohibitions

- 2.1 No person shall obstruct any municipal right of way by any means whatsoever, unless authorized by the provisions of this By-law or by any other by-law of the Town or by a permit issued by the Town.
- 2.2 No person shall, unless specifically authorized by this By-law or by a permit issued by the Town:
- a) place equipment or materials of any kind upon or within a municipal right of way;
  - b) close a municipal right of way in whole or in part;
  - c) undertake any activity that negatively impacts the use and function of a municipal right of way;
  - d) deface any structure or place graffiti within a municipal right of way;
  - e) permit or allow oils, chemicals or substances to be deposited or spilled on a municipal right of way;
  - f) encumber or damage a municipal right of way by any means;
  - g) permit or allow any materials to be transferred from private property onto or across a municipal right of way by any means including natural forces;
  - h) obstruct a drain, gutter, water course or culvert along or upon a municipal right of way;
  - i) cause any material to be thrown, piled or placed across or on a municipal right of way including;
    - (i) to deposit snow or ice in such a manner as to obstruct access to any fire hydrant within the municipal right of way;and
    - (ii) to deposit snow or ice so as to interfere with the safe passage of vehicles or pedestrians within the municipal right of way;
  - j) perform as a busker in a municipal right of way;
  - k) display or exhibit merchandise or articles of any nature or kind within a municipal right of way;
  - l) sell any real or personal property or merchandise within a municipal right of way;
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- m) solicit within a municipal right of way;
- n) remove or alter any material, equipment or device placed within a municipal right of way;
- o) move or cause any building or structure to be moved into, along, or across a municipal right of way;
- p) place or maintain any newspaper box on any portion of a municipal right of way;
- q) install or construct a culvert within any municipal right of way;
- r) construct, widen, remove or alter any driveway or curb cut within a municipal right of way;
- s) cut into or excavate any portion of a municipal right of way for the purpose of, but not limited to, installing service and utility connections, boreholes, monitoring wells, test pits;
- t) allow any part of a tree, shrub, sapling, hedge or any other plant to extend over or upon any municipal right of way;
- u) discharge water directly onto a municipal right of way, except for the purpose of discharging water from a swimming pool or a sump pump;
- v) congregate, sit, lie or stand so as to obstruct the free passage of either pedestrian or vehicular traffic on any sidewalk or roadway;
- w) pull down, destroy, deface or in any way interfere with, any municipal infrastructure, including but not limited to, any post, surveyor's mark, benchmark, traffic sign, roadway name sign, sign board, regulatory sign, traffic signal, traffic cone, or any other traffic control device, affixed, or placed on a municipal right of way;
- x) permit any flood light to directly or indirectly illuminate a municipal right of way;
- y) bring a vehicle upon a municipal right of way unless there has been removed from the wheels thereof as completely as is reasonably practicable, all mud, clay, lime, and similar material, or any fertilizer or manure; or
- z) load a vehicle or drive the same so as to permit or cause the contents thereof to fall, spill or be deposited upon or cause damage to a municipal right of way.

- 2.3 No owner or operator of a parking garage, parking lot, used car lot, automobile service station or mechanical car wash shall permit water used for washing or cleaning a motor vehicle to escape upon, overflow or run across or upon a municipal right of way.

### **3. Exemptions**

- 3.1 The prohibitions contained in this By-law do not apply to:
- a) an employee or an agent of the Town when engaged in the proper delivery of a municipal service;
  - b) the Regional Municipality of Halton, their agents and employees, and persons and organizations authorized by them in writing, from depositing material upon, or excavating, any municipal right of way within the Town, in the course of emergency work, providing that all appropriate safety precautions are employed and that the municipal right of way is rehabilitated to the satisfaction of the Director of Transportation and Engineering once the work is complete;
  - c) any sign that is erected or displayed in compliance with the Town's Sign By-law 2018-153, as amended from time to time; or
  - d) boulevard gardens installed and maintained by a property owner in the boulevard immediately abutting the owner's property in accordance with the Town's Boulevard Gardening Procedure, as amended from time to time.
- 3.2 Notwithstanding subsection 2.2 r) of this By-law, a driveway within an unassumed plan of subdivision may be constructed in accordance with the approved plans for that subdivision; and
- 3.3 Notwithstanding subsection 2.2 r) of this By-law, an owner of a driveway apron is required and permitted to perform routine maintenance on the portion of their driveway apron that is permitted within the municipal right of way, so as to maintain it in good and safe condition.

### **4. Delegation of Authority**

- 4.1 Council hereby delegates the authority to issue or refuse to issue permits for municipal right of way activities, signs and encroachments to the Director of Transportation and Engineering or the Director of Municipal Enforcement Services, which delegation may be revoked at any time without notice.
- 4.2 Notwithstanding subsection 4.1 of this By-law:
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- a) Council, the Director of Transportation and Engineering, and the Director of Municipal Enforcement Services may exercise the authority to issue or refuse to issue permits for municipal right of way activities, signs and encroachments on municipal rights of way;
  - b) Council shall exercise the authority to issue or refuse to issue permits for municipal right of way activities, signs and encroachments on municipal rights of way where:
    - i. the Director of Transportation and Engineering or the Director of Municipal Enforcement Services refers the matter to Council; or
    - ii. any member of Council, in writing, asks the Director of Transportation and Engineering or the Director of Municipal Enforcement Services to refer a permit matter to Council.
- 4.3 In exercising delegated authority under subsections 4.1 or 4.2 or 5.1 or 5.2 to issue or refuse Permits, Council, the Director of Transportation and Engineering or the Director of Municipal Enforcement Services as the case may be, shall first be sure there are no outstanding penalties owed to the town and then consider the impact of permitting the requested municipal right of way activities, signs and encroachments on municipal rights-of-way on:
- a) public health, safety and welfare;
  - b) traffic patterns and emergency access/egress routes;
  - c) fire and emergency response times in and around the area;
  - d) municipal services, in particular transit services; and
  - e) area businesses and residents;

## 5. Permits

- 5.1 Permits for municipal right of way activities, signs and encroachments may be issued by the Director of Transportation and Engineering or the Director of Municipal Enforcement Services.
- 5.2 Any such Permits issued under section 5.1 for activities, signs and encroachments covered by the following Town Procedures shall be issued in accordance with the following Town Procedures, as amended from time to time:
  - a) Excavation and Temporary Street Occupation Permit Procedure;
  - b) Newspaper Box Permit Procedure;
  - c) Driveway Permit Procedure;
  - d) Encroachment Agreement Procedure;
  - e) Boulevard Gardening Procedure; and

- f) Any other Town Procedures that may be added from time to time under the Municipal Right of Ways By-Law and the Use of Municipal Right of Ways and Municipal Parking Lot Policy.
- 5.3 No person shall fail to comply with the terms and conditions of a permit issued in accordance with this Municipal Right of Way By-Law and any Town Procedures thereunder.
  - 5.4 The Director of Transportation and Engineering or the Director of Municipal Enforcement Services may impose terms and conditions on a permit at the time of issuance.
  - 5.5 The Director of Transportation and Engineering or the Director of Municipal Enforcement Services may issue a permit if all provisions of this By-law, any applicable Procedure and any other applicable law have been complied with.
  - 5.6 Where a sticker or other evidence of a permit issued by the Town is provided to a person by the Director of Transportation and Engineering or the Director of Municipal Enforcement Services, such proof shall be affixed to one display surface of the permitted item in a manner that is clearly visible from the street or produce a copy when required by a town inspector or municipal enforcement officer. The sticker or other evidence of a permit must be on-site for the duration of the permit.
  - 5.7 Permit fees may be collected and refunded in whole or in part pursuant to the Town's Rates & Fees schedule.
  - 5.8 The applicant for a permit under this By-law is required to provide a security deposit to the Town in accordance with the Town's applicable permit procedure.
    - a) A person undertaking work within the municipal right of way with or without a permit, causing damage to the municipal right of way or municipal infrastructure in the municipal right of way is responsible for the cost of repairing and restoring the municipal right of way or the affected municipal infrastructure in the municipal right of way.
    - b) Where the cost of repairing and restoring the municipal right of way or the affected municipal infrastructure exceeds any amount held on deposit or posted as security, the excess amount of the costs shall be a debt owing to the Town, and in addition to any other remedy available to it, the Town may recover the excess amount of the costs by action or by adding the excess amount of the costs to the tax roll of the permit holder's lands and collecting them in the same manner as taxes.
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## **6. Revocation of Permits**

- 6.1 The Director of Transportation and Engineering or the Director of Municipal Enforcement Services may revoke a permit under any of the following circumstances:
- a) where the permit has been issued in error or on the basis of false, mistaken, incorrect or misleading information or undertakings provided to the Town;
  - b) where the permit does not conform to this By-law or any conditions of approval under this By-law, or any other applicable law within the jurisdiction of the Town; or
  - c) where the permit holder is not complying with any or all conditions imposed or not complying with the terms, promises, plans or covenants contained in the application or upon which the application's approval was based.
- 6.2 Where a breach of any of the provisions of this By-law causes a permit to be revoked or withdrawn, no portion of the cost of such permit will be refundable.

## **7. Order**

- 7.1 Where an Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may issue an order to the person contravening this By-law in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.
- 7.2 Any person who contravenes an Order issued pursuant to section 7.1 of this By-law is guilty of an offence.

## **8. Administrative Penalties (AMPS)**

- 8.1 This By-law is a Designated By-law under the Administrative Penalties for Non-Parking Violations and Orders By-law.
- 8.2 An Officer who finds or has reasonable cause to believe that a person has contravened any provision of this By-law, including any Procedures, may issue a penalty notice to the person in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law.
- 8.3 Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Town in the amount of \$300 or as revised in the Town's Rates and Fees schedule.

- 8.4 If an Officer has issued a penalty notice under subsection 8.2 of this By-law and has reasonable cause to believe that the same person has contravened the same provisions of this By-law, including any Procedures, for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Officer may issue a second penalty notice to the person.
- 8.5 Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$400 or as revised in the Town's Rates and Fees schedule.
- 8.6 If an Officer has issued a penalty notice under subsection 8.4 of this By-law and has reasonable cause to believe that the same person has contravened the same provision of this By-law, including any Procedures, for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Officer may issue a third or subsequent penalty notice to the person.
- 8.7 Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$500 or as revised in the Town's Rates and Fees schedule.
- 8.8 A person who has been issued a penalty notice under this By-law may request a review of the penalty notice in accordance with the Administrative Penalties for Non-Parking Violations and Orders By-law.

## **9. Service of Penalty Notices and Other Notices**

- 9.1 Service of any penalty notice, order, or any other notice may be given as specified in the Administrative Penalties for Non-Parking Violations and Orders By-law.

## **10. Offence**

- 10.1 Every person who contravenes any provision of this By-law, including failing to comply with an Order made under this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act and the Municipal Act, 2001.
- 10.2 Any person who is charged with an offence under this By-law including failing to comply with an Order issued pursuant to this By-law including every director or officer of a corporation, who knowingly concurs in the contravention who is charged by the laying of an information under Part III of the Provincial Offences Act is guilty of an offence and if found guilty of the offence is liable pursuant to the Municipal Act, 2001 to the following:
- a) on a first offence, to a fine not more than \$50,000.00; and

- b) on a second offence and each subsequent offence, to a fine of not more than \$100,000.00
- 10.3 Every person who is issued a Part 1 offence notice or summons and is convicted of an offence under this By-law shall be subject to a fine, to a maximum as provided for in the Provincial Offences Act.
- 10.4 Upon conviction any fine imposed under this By-law may be collected under the authority of the Provincial Offences Act.
- 10.5 If a person is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

## **11. Inspection**

- 11.1 The Director of Transportation and Engineering or the Director of Municipal Enforcement or an Officer or an Inspector may, at any reasonable time, enter and inspect the municipal right of way to determine whether this By-law, an order issued under this By-law, or a permit or a condition of a permit issued under this By-law is being complied with.
  - 11.2 For the purposes of conducting an inspection pursuant to subsection 11.1 of this By-law, an Officer or an Inspector 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.
  - 11.3 No person shall hinder or block, or attempt to hinder or block, any person who is exercising a power or performing a duty under this By-law.
  - 11.4 Where an Officer or an Inspector has reasonable grounds to believe that an offence has been committed by a person, the Officer or the Inspector may
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require the name, address and proof of identity of that person, and the person shall supply the required information.

11.5 Any person who contravenes subsection 11.3 or 11.4 of this By-law is guilty of an offence.

## **12. Removal of Items Located in the Municipal Right of Way**

12.1 The Director of Municipal Enforcement Services or the Director of Roads and Works may pull down or remove any item located in a municipal right of way where such item:

- a) is located in contravention of this By-law; or
- b) is deemed to constitute a safety hazard.

12.2 The Director of Municipal Enforcement or the Director of Roads and Works shall return items which have been seized to the item's owner or authorized agent upon payment of the fees specified in the rates and fees schedule, provided:

- a) the item's owner has contacted the Director of Municipal Enforcement Services or the Director of Roads and Works to make an appointment for the retrieval of the item; and
- b) the item's owner or authorized agent presents acceptable government issued identification and an authorization letter, where applicable, when retrieving items.

12.3 Any item that has been seized and is not retrieved by the item's owner or authorized agent within thirty (30) days of the date of removal may be destroyed by the Director of Municipal Enforcement Services or the Director of Roads and Works.

12.4 The Town is not financially responsible for any item that has been removed from a municipal right of way in contravention of this By-law.

12.5 Where the action of a person contravenes this by-law and that action poses a danger to the public, despite section 7.1, and even if a penalty notice is issued under 8.2, the Director of Municipal Enforcement Services or the Director of Roads and Works may immediately take the following action:

- a) remove any item, structure or material placed or deposited on a municipal right of way contrary to this by-law and take any necessary steps to repair or reinstate the municipal right of way; and

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- b) send a notice to the owner or person responsible for the item, structure or material that the object has been removed at the owner or person's expense;

12.6 The Town may recover expenses resulting from actions taken in Sections 12 and 13 of this by-law by action, or in like manner as municipal taxes.

### **13. Removal of Hazardous Condition**

13.1 If an Officer or an Inspector determines that an obstruction of a municipal right of way is or may create a hazardous condition to the safety of any person using the right of way, the Officer or Inspector may take any action necessary, without notice, to have the obstruction immediately removed and the municipal right of way repaired, if necessary. All the costs incurred by the Town in undertaking this work shall be expenses owed to the Town by the owner of the property and/or the contractor from which the obstruction comes, relates to, or was created for.

13.2 Where any part of a tree, shrub, sapling, hedge or any other vegetation interferes with a traffic control signal, STOP or YIELD sign, the Town is not required to provide notice to the adjoining owner or occupier of the land before removing any portion of the tree, shrub, sapling, hedge or other vegetation that extends into the municipal right of way from the adjoining property.

### **14. Remedial Action**

14.1 If a person fails to do a matter or thing, including complying with an order under this By-law, as directed or required by this By-law, the Town may, in default of it being done by the person directed or required to do it, do the matter or thing at the person's expense. The Town may recover the costs of doing a 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 municipal taxes.

14.2 The costs outlined in subsection 14.1 of this By-law shall include interest calculated at a rate of fifteen (15) per cent per annum, calculated for the period commencing on the day the Town incurs the costs and ending the day the costs, including interest, are paid in full.

14.3 The amount of the costs, including interest, constitutes a lien on the land upon the registration of a notice of lien in the proper land registry office. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of

payment, the Town shall register a discharge of the lien in the proper land registry office.

- 14.4 Where the cost of repairing and restoring the municipal right of way exceeds any amount held on deposit or posted as security, the excess amount of the costs shall be a debt owing to the Town, and in addition to any other remedy available to it, the Town may recover the excess amount of the costs by action or by adding the excess amount of the costs to the tax roll of the permit holder's lands and collecting them in the same manner as municipal taxes.

## **15. Fees and Charges**

- 15.1 Council may, from time to time, impose fees and charges to recover costs in relation to the administration and enforcement of this By-law.

## **16. Transitional Provisions**

- 16.1 If a permit or permit renewal had been issued under the provisions of By-law 2009-072, as amended, the permit or permit renewal continues to apply for the term of that permit or permit renewal.
- 16.2 Permits or permit renewals issued after the date that this By-law comes into force must comply with the requirements of this By-law.
- 16.3 If an order or a penalty notice or a charge had been issued or laid under the provisions of By-law 2009-072, as amended, prior to the date of the passage of this by-law, the order or penalty notice or charge concerned shall continue and be dealt with in accordance with the provisions of By-Law 2009-072 as amended as existed on the day prior to the date of passage of this By-law

## **17. Severability**

- 17.1 In the event that any provision or part of this By-Law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or part thereof shall be deemed to be severed from the remainder of the By-Law and all other provisions or parts thereof shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

## **18. References**

- 18.1 References in this By-law to any legislation or by-law means as may be amended or replaced from time to time and includes any regulations thereunder.

## **19. Repeal**

19.1 By-laws 2009-072, 2015-105 and 2012-116 are hereby repealed. By-law 2019-030 is hereby amended to remove Schedule "F". By-law 2021-038 is hereby amended to remove Schedule "H". By-law 2022-031 is hereby amended to remove Schedule "H".

**20. Title**

20.1 This by-law may be cited as the "Municipal Right of Way By-Law."

**21. Effective Date**

21.1 This by-law comes into force and effect on the day it is passed.

PASSED this 18<sup>th</sup> day of November, 2024

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Rob Burton Mayor

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Vicki Tytaneck Town Clerk