



A People Place, A Change of Pace
SHELBURNE
ONTARIO, CANADA

Meeting Date: Monday, October 03, 2022

To: Members of Council

From: Jennifer Willoughby, Director of Legislative Services/Clerk

Report: LS2022-19

Subject: **Road Occupancy/Road Closure By-law**

Recommendation

BE IT RESOLVED THAT Council receives report LS 2022-19 for information;

AND THAT leave be given for the reading and enacting of Bylaw #53-2022 being a bylaw to govern uses that occupy or require the temporary closure of, or otherwise affect highways within the Town of Shelburne.

Background

As a municipal road authority, the Town of Shelburne has a duty and responsibility to be an informed owner and to ensure that the roads under its jurisdiction are kept in a reasonable state of repair. The Municipal Act, 2001, states the following in regard to the Town's obligations and liabilities:

"Maintenance 44. (1) The municipality that has jurisdiction over a highway or bridge shall keep it in a state of repair that is reasonable in the circumstances, including the character and location of the highway or bridge. 2001, c. 25, s. 44(1).

Liability (2) A municipality that defaults in complying with subsection (1) is, subject to the Negligence Act, liable for all damages any person sustains because of the default. 2001, c. 25 s. 44(2).

Defense (3) Despite subsection (2), a municipality is not liable for failing to keep a highway or bridge in a reasonable state of repair if, (a) it did not know and could not reasonably have been expected to have known about the state of repair of the highway or bridge; (b) it took reasonable steps to prevent the default from arising; or (c) & Engineering at the time the cause of action arose, minimum standards established under subsection (4) applied to the highway or bridge and to the alleged default and those standards have been met. 2001, c. 25, s.44(3) ."

In order to ensure that the Town is adequately informed and exercising due diligence, a formal process is necessary for the approval of works within the Town's Road Allowances. Of particular concern is any work which may occur within the travelled portion of the roadway. It is also important to ensure that adequate and appropriate measures are implemented to ensure the safety of both road users and those carrying out the work.

Analysis

The Town of Shelburne is responsible for ensuring that:

- persons are protected from injury;
- property is protected from damage; and
- disruption is minimized for those using the road

as well as for abutting properties when work is carried out and equipment is installed on, in, over or under its roads. Part of the way the Town can provide this is through the enforcement of road occupancy permits.

A Road Occupancy Permit is required when an individual, company or contractor needs to occupy Town property such as the road, sidewalk or boulevard to conduct work or other activities. No portion of the city right-of-way can be blocked without a permit. Fines or an order to stop work may be issued for non-compliance.

Applicants must prepare and maintain a Traffic/Pedestrian Protection and Control Plan in accordance the Occupational Health and Safety Act and The Ontario Traffic Manual (OTM) Book 7.

As well, when roads need to be temporarily closed or occupied for certain special events such as parades, processions, festivals, social activities, and athletic events a permit is required.

Applicants must provide a minimum of five million dollars (\$5,000,000) inclusive liability insurance with the Town of Shelburne listed as an additional insured.

Short Form Wording

Staff will be required to apply to the Ministry of Attorney General (MAG) for short form wording in regard to the issuance of associated fines. Approvals from MAG could take months to receive before the bylaw becomes enforceable.

Policies and Implications

None at this time.

Financial Impact

Additional revenue expected as a result of permit fees.

Consultation and Communications

Municipal Law Enforcement Officer

Director, Development & Operations

Manager of Operations Parks and Facilities

Council Strategic Priorities

Council's Strategic Priorities have three Goals - Sustainable, Engaged and Livable. There are a total of 12 targets with the three Goals.

This report aligns with the sustainable goals within the targets:

Target T2 – municipal services review and evaluation

Supporting Documentation

Appendix 1 – Draft Bylaw #53-2022 Road Occupancy/Road Closure By-law

Respectfully Submitted and Prepared By:

Tami Abbott and Jennifer Willoughby, Director of Legislative Services/Clerk

Reviewed By:

Denyse Morrissey, CAO

THE CORPORATION OF THE TOWN OF SHELBURNE
BY-LAW NUMBER 53-2022

Being a by-law to govern uses that occupy or require the temporary closure of, or otherwise affect highways within the Town of Shelburne (Road and Occupancy/Road Closure By-law).

WHEREAS pursuant to the Municipal Act, 2001, S.O. 2001, c. 25, as amended, a municipality may pass a by-law with respect to highways within the municipality’s jurisdiction, including temporary and permanent opening and closing; and

AND WHEREAS it is necessary from time to time to temporarily close all or part of a highway in order to facilitate construction, storage, or other purposes; and

AND WHEREAS Council deems it desirable to delegate to a designated municipal employee the authority for approving the temporary closure of a highway for construction, storage, or other purposes;

NOW THEREFORE, the Council of The Corporation of the Town of Shelburne hereby enacts as follows:

1. SHORT TITLE

1.1 This by-law may be cited as the “Road Occupancy/Road Closure By-law.”

2. DEFINITIONS

2.1 In this by-law:

- a) “above ground feature” means an item that is located either wholly or partially above grade, including but not limited to, raised flower beds, posts, planters, and pillars; but does not include a tree ring;
- b) “Applicant” means the person applying for a Permit;
- c) “apron” means an area of the boulevard consisting of a hard surface leading from the travelled portion of the highway to a private driveway;
- d) “boulevard” means that portion of a highway between the travelled portion of the highway and the limit of the highway line, and shall include the reserve;
- e) “complex encroachment” means any encroachment beyond the limitation defined under a simple encroachment;
- f) “Council” means, the Council of the Town;
- g) “Designated Employee” means the Director of Development and Operations or their designate;
- h) “driveway” means that portion of a lot used to provide vehicular access from a highway to an off-street parking or loading area located on the same lot;
- i) “encroachment” means any type of vegetation, structure, building, man-made object, or items of personal property of a person which exists wholly upon, or extends from that person’s premises onto the boulevard;

- j) "expense" means the cost of carrying out the work to be done and an administrative charge as outlined in the Town of Shelburne User Fees and Charges By-law;
- k) "Event/ Parade Permit" means a permit issued for the closure of a highway for the purpose of but not limited to, parades, community walks, concerts, and street parties;
- l) "Film Location Permit" means a permit issued for the purpose of any filming activity;
- m) "good state of repair" means a descriptive term that an item, object, material, structure, etc., is capable of performing its originally designed function and that all associated parts, members and components are:
 - i. present and in working order,
 - ii. not missing, broken, or rusted,
 - iii. structurally sound, level, and plumb,
 - iv. free from deterioration and damage; and
 - v. not presenting a hazard or safety concern.
- n) "highway" means 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 and includes the area between the lateral property lines thereof;
- o) "lot line" means the same as defined in the Town of Shelburne Zoning By-law;
- p) "Officer" means a person appointed as a Municipal Law Enforcement Officer or a Police Officer in the Province of Ontario;
- q) "owner" means the registered owner of the land;
- r) "Permit" means a document as issued and authorized by the Town pursuant to this by-law, for the occupancy or closure of any highway for any purpose, or filming activities and "permit holder" means the person named in the Permit;
- s) "person" means a natural individual, and their heirs, executors, form of business association or a receiver or mortgagee in possession and includes a service company;
- t) "Principal Applicant" means the person that requires the work to be done and not the person performing the work on their behalf;
- u) "road closure" means the temporary closing of a highway;
- v) "Road Occupancy Permit" means a permit to occupy a highway;
- w) "service company" means a person providing the services of water, sewage, fuel, energy, electricity, heating and cooling, telephone, cable, and internet connections and includes the County of Dufferin, Public Utilities Provider or their agents or contractors, Bell Canada or its agents, Enbridge Gas and its agents and Rogers Cable or its agents;
- x) "simple encroachment" means an encroachment that is permitted as of right under this By-law, which may include apron widening to a defined limit, the installation of tree rings, and/or soft landscaping, and does not require works more than 30cm below grade;

- y) "Town" means The Corporation of the Town of Shelburne;
- z) "tree ring" means ornamental material defining the base of a tree;
- aa) "vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road building machine, bicycle and any vehicle drawn, propelled, or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a streetcar; and
- bb) "work" means the work described in the application for a permit or in the Permit.

3. AUTHORITY FOR APPROVING REQUESTS

- 3.1 The authority for approving requests to temporarily close all or part of a highway for the purpose of construction, storage or other purposes shall be as follows:
 - a) All partial road closures shall be approved by the Director of Development and Operations or their designate;
 - b) All total road closures for a period not exceeding thirty (30) days in duration shall be approved by the Director of Development and Operations or their designate; and
 - c) All total road closures for a period in excess of thirty (30) days in duration shall be approved by resolution of Council.
- 3.2 The authority to permanently close all or part of a highway will continue to require Council to pass a by-law, therefore.

4. GENERAL

- 4.1 No person, except the Town, or an authorized person acting in an emergency situation, shall close, occupy, obstruct, encumber, injure, or foul any highway, or any part thereof by:
 - a) construction, repair or improvement of the highway or a portion thereof or any works under, over, along, across or upon the highway;
 - b) excavation or any disturbance of the surface or the soil or material thereon;
 - c) storage of materials;
 - d) hosting parades, community walks, concerts and street parties, events, displays, sales, or other similar activities;
 - e) placing any newspaper box, tent, lean to, fence boarding, structure, or any other chattel thereon;
 - f) cutting any curb abutting private property; or
 - g) any filming activities;

without first applying for and receiving a permit.
- 4.2 Every principal applicant shall complete the required application form provided by the Town, as may be changed from time to time, in accordance with the requirements of this By-law and shall provide all information requested thereon.
- 4.3 The principal applicant shall take all reasonable measures to protect persons and property from injury or damage and shall be responsible for all losses and damage which may arise as a result of the work. Further, the principal applicant shall indemnify and hold harmless the Town and its employees from and against all

claims, demands, actions, suits, or proceedings which may be brought against or made by third parties, directly or indirectly arising, or alleged to arise out of the performance of or the failure to perform the work.

- 4.4 A road occupancy permit for the temporary closure of a highway shall be applied for at least 15 days prior to the intended date of the road closure. A road occupancy permit, for all other purposes shall be applied for at least 7 days prior to the intended date of the occupancy.
- 4.5 The Director of Development and Operations or their designate may approve or deny an application for a permit or may approve an application subject to any terms or conditions that the Director deems necessary or appropriate.
- 4.6 An Event/ Parade Permit shall be applied for at least 30 days prior to the event.
- 4.7 All subsurface road crossings are to be completed using trenchless technology techniques wherever possible. Open cut excavations across highways shall only be permitted when specifically approved by the Director of Development and Operations or their designate.
- 4.8 If during the process of any work it is necessary to alter, break or disturb in any way an existing pavement, curb, boulevard, sidewalk, or other surface within the highway, the extent of such disturbance shall be set out on the permit, and the principal applicant shall be responsible for the full restoration thereof.
- 4.9 An application for a permit shall be accompanied by the appropriate fee as set out in the Town of Shelburne User Fees and Charges By-law, unless stated otherwise.
- 4.10 The Town may revoke a permit under the following circumstances:
 - a) the permit has been issued in error by the Town;
 - b) the permit does not conform to this by-law or any other applicable regulation or legislation; or,
 - c) the permit has been issued as a result of false, mistaken, incorrect, or misleading statements, information, or undertaking on the application;
 - d) the permit holder is not operating in accordance with any or all conditions placed on the permit or complying with any of the information contained in the application.
- 4.11 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.

5. ROAD OCCUPANCY PERMITS

- 5.1 The Town will not issue a Road Occupancy Permit for the storage of any vehicle on a highway;
- 5.2 The application for the Road Occupancy Permit shall be made in the name of the principal applicant, and not in the name of any agent for the principal applicant.
- 5.3 The Principal Applicant shall:
 - a) Notify the Dufferin OPP detachment, the County of Dufferin Emergency Medical Services, the County of Dufferin Waste and Recycling Collection, the Shelburne and District Fire Department, the Town of Shelburne Development and Operations Department, any person operating a public transportation service or school bus service and any person whose business or installations may be affected by the closure or occupancy, of the commencement and termination of the said closure or occupancy, and shall comply with all conditions of the permit, as specified thereon;

- b) For road closures, formally notify all individual residents, organizations and businesses affected by the closure at least ten (10) days prior to the proposed closure. In addition, formally notify all individual residents, organizations and businesses affected by the closure of any closure extension(s) and the termination of the road closure;
- c) For road closures, cause to be provided signs along all approaches with the details of the closure including road name, dates of closure and contact information of the applicant. Signs must be in place a minimum of ten (10) days prior to the intended commencement of the road closure and in a location approved by the Director of Development and Operations or their designate;
- d) When required by the Director of Development and Operations or their designate, provide a traffic management plan and detour route, for Town approval, in accordance with Book 7, Ontario Traffic Manual as amended;
- e) Cause to be provided all signs, barricades, traffic control devices, flag persons, and the use or operation of other persons and equipment as required for the proper and safe movement and control of pedestrians and traffic in the area, prior to the commencement of and at the location of the closure or occupancy;
- f) File with the Town, a liability insurance certificate for a minimum amount of \$5,000,000.00 in a form approved by the Town, naming the Town as an additional insured;
- g) When required by the Director of Development and Operations or their designate, provide security in a form, and amount acceptable to the Director of Development and Operations or their designate;
- h) Ensure that access for emergency vehicles, to all public and private properties, is available at any and all times;
- i) Cause to be maintained vehicular and pedestrian access, including pedestrians with special needs, access to all public and private properties at all times and shall keep such access free and clear of all mud, debris, and other materials;
- j) Not place or store or permit the placement or storage of any material or storage bin on a highway where it creates a real or potential hazard for pedestrians or vehicles;
- k) Follow all requirements of Federal, Provincial and Municipal Health and Safety Regulations, Acts and By-laws;
- l) Post a copy of the Road Occupancy Permit at the work site in a visible location and shall, if required, produce the permit at the request of an Officer or by Town staff;
- m) Identify the existence and location of all underground and aboveground utilities at or adjacent to the work site and protect those utilities from damage during the work;
- n) Expeditiously carry out completion of all work;
- o) Not permit storage bins, moving pods, material, or any equipment to occupy the travelled portion of a highway or any portion of the grass boulevard area abutting private property between November 1 and April 30 of each year;
- p) Be responsible for the repairs of any nature to all disturbed areas for a period of two years from the date of completion of the work;

- q) Assume all liability for any resulting maintenance and/or required permanent repairs, to the work which shall be carried out to the satisfaction of the Town all at the cost of the principal applicant. Upon final approval and acceptance of the work, the Town shall assume any further maintenance or repair of the work;
 - r) In the event the work cannot be carried out within the time set out in the Road Occupancy Permit, notify the Town of the additional time required and the reason therefore, and shall obtain an extension of the permit, at no charge, upon the approval by the Director of Development and Operations or their designate;
 - s) Comply with all conditions as outlined on the Road Occupancy Permit and all requirements of the most current version of the Ontario Traffic Manual; and
 - t) Repair all damaged areas of the highway no later than 5 business days from the completion of the work;
 - u) Not place or store or permit the placement or storage of bins, moving pods, equipment, materials on the travelled portion of a highway if the area is designated as a no stopping or no parking zone.
- 5.4 Where a service company occupies or closes a highway as a result of an emergency, a formal application for a permit shall be made on the next business day unless the Director of Development and Operations or their designate agrees that such an application is not necessary.

6. EVENT / PARADE PERMITS

- 6.1 The application for an Event/Parade Permit shall be submitted to the Town's Director of Development and Operations or their designate, whose decision is final on any submission.
- 6.2 The applicant applying for an Event/ Parade Permit shall:
- a) Receive approval from the Ministry of Transportation (MTO) in regard to the use of the highways under the jurisdiction of the MTO within the Town's boundaries prior to applying for an Event/Parade Permit with the Town; or
 - b) Receive approval from the County of Dufferin in regard to the use of the highways under the jurisdiction of the County within the Town's boundaries prior to applying for an Event/ Parade Permit with the Town;
 - c) Make satisfactory arrangements with the Dufferin OPP Detachment; and
 - d) Restore the highway to the same condition or better as existed prior to the holding of the said event/parade.
- 6.3 The applicant shall contact the Director of Development and Operations or their designate, to arrange for the pick-up of all traffic barriers. It is the applicant's responsibility to erect the barriers. The applicant shall assume all costs of repairing or replacing any damaged or missing traffic barriers.
- 6.4 The applicant must file with the Town, a liability insurance certificate for a minimum amount of \$5,000,000.00 in a form approved by the Town, naming the Town as an additional insured.
- 6.5 If the Town has not received a copy of the liability insurance certificate 14 days prior to the event, the applicant will be contacted, and if a copy of the liability insurance certificate is not available, the Event/ Parade Permit will be revoked.
- 6.6 The Town may place any conditions it deems appropriate on any Event / Parade Permit.

- 6.7 Every permit holder shall follow any and all conditions at all times as outlined on the Event/Parade Permit.
- 6.8 During the event/parade the permit holder shall have the Event/Parade Permit available at all times and shall produce it for inspection at the request of an Officer or Town employee.

7. BOULEVARD LANDSCAPING

- 7.1 For the purposes of Section 7, person shall mean the registered owner of the real property immediately abutting the boulevard and applies to Residential Zones as per the Town's Zoning By-law.
- 7.2 Section 7 does not apply to the following:
- a) boulevards along County or Provincial rights-of-way or unopened road allowances;
 - b) cases where an altered boulevard has been approved by the Town through a planning process or agreement;
 - c) alterations on private property, which are governed by the Town's Zoning By-law; and
 - d) any existing By-law, policy, or procedure, including but not limited to those related to curb cutting, apron widening, driveway widening, road occupancy, fee collection, or real property agreements.
- 7.3 No person shall sod, landscape, or improve a boulevard abutting their property unless the conditions listed in section 8 are met.

8. SIMPLE ENCROACHMENT

- 8.1 Every person who allows/or permits any alterations to a boulevard shall ensure that such alterations must not:
- a) create a health or safety risk to pedestrians and/or damage to vehicular traffic as determined by the Town;
 - b) impair the ability to see pedestrians or vehicular traffic as determined by the Town;
 - c) interfere with municipal assets or utilities;
 - d) be within 0.3 m of a side or rear property line extending to transect the full depth of the boulevard;
 - e) exceed the grade of the sidewalk in all areas within 45 cm of the edge of a sidewalk;
 - f) be within 1m of a municipal tree that is less than 20 cm diameter at breast height (DBH), or 2m of a municipal tree that is greater than or equal to 20 DBH, but does not include a tree ring;
 - g) be within 1m from any utility equipment or service, stop sign or yield sign;
 - h) be within 1m from any transit stop with a concrete pad, and 3m from a transit stop without a concrete pad;
 - i) be within 3m from a fire hydrant;

- j) include river rock, loose gravel, pea gravel, loose stone, sand, etc.; and
 - k) include artificial turf, fake grass, carpeting, ice rink, etc.
- 8.2 No person shall permit vegetation, including but not limited to flowers, bushes, and shrubs, on the boulevard abutting their property that exceeds 0.6 m in height.
- 8.3 No person shall widen the apron abutting their property unless in complete compliance with the following conditions:
- a) All alterations shall comply with the conditions listed in section 8.1;
 - i) the apron does not exceed the maximum driveway width defined in the Town's Zoning By-law for that residential zone; and
 - b) Additional hardscape material added to the side of the apron shall:
 - i) not extend more than 1.8 m from the edge of the apron on the side nearest the principal entrance to the dwelling;
 - ii) not extend more than 0.6 m from the edge of the apron on the side furthest from the principal entrance to the dwelling; and
 - iii) be constructed of asphalt, concrete, or interlocking pavers.
 - c) Any additional hardscape constructed beyond the maximum permitted width of the driveway as per the Town's Zoning By-law shall be visually delineated through a change in material, a change in the colour of the material, or a change in the layout or pattern of the material.

9. TREE RINGS

- 9.1 a) No person shall allow, construct, have, and/or maintain a tree ring on any boulevard that:
- i. exceeds 15 cm above grade and/or extends more than 30 cm below grade;
 - ii. exceeds 3.0 m² total area; and
 - iii. encroaches within 45 cm of a sidewalk.
- b) No person shall alter soil levels within a tree ring to more than 15 cm above grade;
- c) All tree rings shall be maintained in a good state of repair.

10. COMPLEX ENCROACHMENT AGREEMENT

- 10.1 No person shall alter the boulevard beyond the permissions granted in section 8.5 and 8.6, or encroach on the boulevard in any other way, including but not limited to the alterations outlined below, without first applying for, and obtaining, a complex encroachment agreement:
- a) electrical installations;
 - b) irrigation systems;
 - c) above grade features and/or;
 - d) alterations requiring works more than 30 cm below grade

- 10.2 A complex agreement cannot offer relief for a requirement outlined in section 8.4, 8.6 a), 8.6 b) or 8.6 d).
- 10.3 Receipt of the complex encroachment agreement application and/or fee paid to the Town shall not represent approval of the application for the issuance of a complex encroachment agreement, nor shall it obligate the town to issue such a permit.
- 10.4 The fees for the complex encroachment agreement shall be in accordance with the Town's User Fees and Charges By-law.
- 10.5 Upon approval of the complex encroachment agreement, the agreement shall endure so long as the agreement remains registered on title.
- 10.6 No person shall park outside of the permitted limits of their widened apron, as per the permitted limits listed in section 7.6, regardless of whether or not a complex encroachment agreement has been entered into.
- 10.7 No person shall damage or destroy any pipe, wire, cable, or property located on or beneath the surface of a boulevard.

11. FILM LOCATION PERMITS

- 11.1 The applicant applying for a film location permit and every permit holder shall:
- a) file with the Town, a liability insurance certificate for a minimum amount of \$5,000,000.00 in a form approved by the Town, naming the Town as an additional insured;
 - b) not close, occupy, obstruct, encumber, injure, or foul any highway, or any part thereof by without first applying for and obtaining a film location permit, upon obtaining a film location permit, the applicant shall follow all terms and conditions outlined with respect to the film location permit;
 - c) not stop traffic in any direction for longer than three-minute intervals;
 - d) provide paid duty police officers on site when traffic is stopped for any length of time, in any direction;
 - e) not cover, remove, or alter any permanent or temporary fixtures, or road signs in any way without express written approval from the Town;
 - f) when refuse collection will be interrupted as a result of the filming activities, be responsible for making alternative arrangements which are satisfactory to the Town and the affected property owners;
 - g) ensure a police escort to and from the film location for all vehicles which are part of the production, which exceed the maximum width as per the Highway Traffic Act;
 - h) be responsible for the removal of litter and restoration of the filming location and any other site used for the filming activities;
 - i) notify in writing any resident, organization or business that may or will be affected during the process of the filming; and
 - j) at all times comply with the local regulations regarding parking, restricted areas, fire hydrants, etc. unless otherwise specified by the Town.

12. POWERS OF ENTRY

- 12.1 The Town may enter on a lot at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- a) the provisions of this by-law;
 - b) an Order issued under this by-law; or
 - c) an Order made under Section 431 of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 12.2 Where an inspection is conducted by the Town, the person conducting the inspection may:
- a) require the production for inspection of documents or things relevant to the inspection; and
 - b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts; and
 - c) require information from any person concerning a matter related to the inspection including their name, address, phone number and identification; 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.
- 12.3 The Town may undertake an inspection pursuant to an Order issued under s. 438 of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.
- 12.4 The Town's power of entry may be exercised by an employee, Officer, or agent of the Town or by a member of the O.P.P., as well as by any person under his or her direction.

13. ORDERS AND REMEDIAL ACTION

- 13.1 If a person is in contravention of any of the provisions of this by-law, the Town may issue an order to the person and to the owner of the lot on which the contravention is or has occurred, to discontinue the contravening activity. The Order shall set out the reasonable particulars of the contravention adequate to identify the contravention, the location of the land on which the contravention occurred, and the date by which there must be compliance with the Order. The Order may be served in accordance with the service provisions contained in this by-law.
- 13.2 If a person has contravened a provision of this by-law, the Town may issue an Order to the person who contravened or permitted the contravention of this by-law, as well as to the owner of the lot on which the contravention occurred, to do work to correct the contravention. The Order shall set out the reasonable particulars of the contravention adequate to identify the contravention, the location of the land on which the contravention occurred, and the date by which there must be compliance with the Order. The Order may also provide that if the person or owner fails to correct the contravention, the Town may do the work to correct the contravention, including the removal of the materials or items that are related to the occupancy or encroachment of a boulevard or roadway at the expense of the person and the owner. The Order may be served in accordance with the service provisions contained in this by-law.

- 13.3 If the Town has issued an Order directing or requiring a person or an owner to do a matter or thing to correct a contravention of this by-law, and the person or the owner has failed to correct a contravention, the Town may do all work necessary to correct the contravention, including the removal of all or part of the materials or items. The Town may recover the cost of doing the matter or thing from the owner directed or required to do it by action or by adding the costs to the tax roll of the Owner and collecting them in the same manner as property taxes.
- 13.4 An Order issued under this by-law may be served personally on the Owner, or to an email address that the person has provided to the Town or posted at the address where the contravention occurred or is occurring or sent by registered mail to the last known address of the Owner, in which case it shall be deemed to have been given on the fifth calendar day after it is mailed.
- 13.5 If there is evidence that the occupant of the land is not the registered property owner, the Order shall be served on both the registered property owner and the occupant of the land.
- 13.6 Where any person has contravened any provision of this By-law, the Town may without notice affect compliance and the expense of doing so may be recovered by adding the expenses to the tax roll for such property and collect them in the same manner as taxes.
- 13.7 Where any person fails to comply with a notice issued pursuant to a requirement of this By-law, the Town, in addition to other remedies:
- a) Shall have the right to recover the expense of carrying out the work as required by the notice in the same manner as taxes.
- 13.8 The Town shall not be liable to compensate any person by reason of anything done by or on behalf of the Town under the provisions of this By-law.

14. OFFENCES AND PENALTIES

- 14.1 Every person who contravenes any provision of this, including an order issued under this by-law, is guilty of an offence and upon by-law conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.
- 14.2 If a corporation has contravened a provision of this by-law, including an order issued under this by-law, every director and officer who knowingly concurred such a contravention is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.
- 14.3 When a person has been convicted of an offence under this by-law, the Ontario Court of Justice, or any Court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, make an Order prohibiting the continuation or repetition of the offence by the person convicted.
- 14.4 Upon conviction, any fine imposed under this by-law may be collected under the authority of the Provincial Offences Act R.S.O. 1990 cP.33, as amended.
- 14.5 Municipal service fees (non-complaint inspection fees) for the administration of this by-law may be applied when a contravention has been confirmed by an Officer.
- 14.6 Pursuant to Section 398 of the Municipal Act, the Treasurer or their designate may add any part of a municipal service fee subject to Subsection 15.1 or 15.2, to the tax roll for the for any property in the Town of which all of the owners are responsible for paying the fee.
- 14.7 In the event the Town, County, Province, or any Service Company needs to perform works on a boulevard that has been altered, neither the Town, the County, Province, nor any service company shall be obligated to restore any

improvements located on any boulevard other than restoring the boulevard to sod and/or the apron to asphalt.

14.8 Should any person fail to maintain, in a good state of repair, any works permitted through this By-law or through a complex encroachment agreement, the Town may, without notice, affect changes as outlined in this By-law.

14.9 A person is guilty of an offence if the person:

- a) hinders or obstructs, or attempts to hinder or obstruct, an Officer, or any person in the exercise of a power or the performance of a duty under this By-law;
- b) makes a false or intentionally misleading recital or fact, statement or representation or produces any falsified or fictitious agreement or document; or
- c) fails to perform a duty imposed within this By-law or who performs an act prohibited herein;

15. VALIDITY

15.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law, that each and every other provision of this by-law authorized by law, be applied, and enforced in accordance with its terms to the fullest extent possible according to law.

16. PRESUMPTION

16.1 An owner of a property on which a contravention has occurred shall be presumed to have carried out or caused or permitted to be carried out the contravention, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

17. TOWN NOT LIABLE

17.1 The Town assumes no liability for property damage resulting from remedial action, remedial work undertaken with respect to any owner or property that is subject of this by-law.

18. VALIDITY AND SEVERABILITY

18.1 Should any section, subsection, clause, paragraph, or provision of this by-law be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this by-law, or of the by-law as a whole.

19. FORCE AND EFFECT

19.1 This by-law shall come into force and take effect on the day of its passing.

BY-LAW READ A FIRST, SECOND and THIRD TIME in Open Council, and enacted this 3rd day of October 2022.

Mayor

Clerk