

THE CORPORATION OF THE TOWN OF HANOVER

BY-LAW NO. 3218-22

A By-law to regulate Streets and Boulevards in the Town of Hanover.

WHEREAS Section 8(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, ("*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;

AND 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 Act;

AND WHEREAS Section 11 (3)1 of the *Municipal Act, 2001*, provides that a municipality may pass by-laws within the following sphere of jurisdiction: Highways, including parking and traffic on Highways;

WHEREAS Section 27 of the *Municipal Act, 2001*, as amended authorizes the Councils of local municipalities to pass by-laws in respect of a highway over which it has jurisdiction;

AND WHEREAS Section 63 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a bylaw may prohibit or regulate the placing or standing of an object on or near a highway and may provide for the removal and impounding or restraining and immobilizing of any object placed or standing on or near a highway;

AND WHEREAS Section 127 of the *Municipal Act, 2001* S.O. 2001, c.25 as amended authorizes municipalities to pass by-laws for requiring the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse and debris from the land, not including buildings and to regulate when and how such matters shall be done and to prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land and to define "refuse" for the purpose of the by-law.

AND WHEREAS Section 128 (1) of the *Municipal Act, 2001* S.O. 2001, c.25 as amended authorizes municipalities 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 Section 391 (1) of the *Municipal Act, 2001*, S.O. 2001 c. 25 states that section 11 authorizes a municipality to impose fees or charges on persons, for services or activities provided or done by the municipality;

AND WHEREAS Section 425 of the *Municipal Act* , 2001 S.O. 2001, c.25 as amended permits a municipality to pass bylaws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

AND 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;

AND WHEREAS Section 446 of the *Municipal Act, 2001* S.O. 2001, c.25 provides that where a Council has the authority to direct or require by By-law or otherwise that any matter or thing be done, the council may by the same or by another By-law direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at the person's expense, and the municipality may recover the expense incurred in doing it by action or the same be recovered in like manner as municipal taxes;

AND WHEREAS the Council of the Corporation of the Town of Hanover deems it expedient to pass a by-law to regulate and control use of streets and boulevards within the Town of Hanover;

NOW THEREFORE the Municipal Council of the Corporation of the Town of Hanover hereby enacts as follows:

1. DEFINITIONS

"Boulevard" means that part of the highway between the roadway and the property lines of the lots abutting the highway and includes the shoulder but does not include a sidewalk, if any;

"Corner" means the point of intersection of curbs or edges of the highway used for vehicular traffic;

"Costs" means all monetary expenses incurred by the Town during and throughout the process of any remedial work, including interest and may include an administrative surcharge amount as determined by the Town's Fees and Charges By-law.

"Council" means the Council of The Corporation of the Town of Hanover;

"Curb" means the edge of a travelled portion of the roadway;

"Easement" means an interest in land owned by another person, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose, but does not include an interest created by a license;

"Encroachment" means any device, equipment, object, structure or vegetation that is located on, over, along, across, under or in a street, or any portion thereof, but excluding any vegetation planted or any device, equipment, object, or structure installed and maintained by the Town.

"Highway or Street" includes a common and public highway, street, avenue, public lane, parkway, alley, driveway, square, place, bridge, viaduct or trestle, and 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

"Indoor Furniture" shall mean and include any furniture intended for and made of such material that would require the furniture be sheltered from the natural elements such as rain and snow and shall include but not be limited to items such as couches, sofas, love seats, fabric covered chairs, pillows and cushions, mattresses and box springs

"Municipality" means the Corporation of the Town of Hanover;

"Municipally Owned Lands" shall mean the property owned or maintained by the Corporation of the Town of Hanover shown on the last revised assessment roll and shall include all municipal road allowances and rights of way.

"Owner" includes,

- a) the person who is the registered owner of a property; and
- b) the person for the time being managing or receiving the rent of the property whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the land or premises were let;

"Person" - Means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and their heirs, executors, or other legal representatives of a person to whom the context can apply according to law.

"Refuse" shall mean any article, thing, matter, substance or effluent that: has been cast aside, discharged or abandoned or; is discarded from its usual and intended use; or is used up, in whole or in part, or expended or worn out in whole or in part;

"Sidewalk" means that portion of a highway between the curb line or lateral lines of a roadway and the adjacent property line that is designed and intended for the use of pedestrians;

"Street Line" means the limit of the street or road allowance and is the dividing line between a lot and the street or road.

"Street or Road" - means a highway as defined by the *Highway Traffic Act, R.S.O. 1990*, as amended from time to time, and the *Municipal Act, R.S.O. 2001*, as amended from time to time; and means a public street or road for vehicles which affords the principal means of access to abutting lots, but does not include a lane or private right-of-way or unopened road allowance.

"Town" means the Corporation of the Town of Hanover;

"Yard Waste" includes any organic waste that can be composted, usually composed of refuse from gardens, such as grass clippings or leaves, and domestic or industrial kitchen wastes.

2. SHORT TITLE

The short title of this bylaw is the "Streets By-Law".

3. SCOPE

This By-law law applies to all municipally owned lands under the jurisdiction of the Town of Hanover pursuant to the provisions of the *Municipal Act, S.O. 2001, c. 25*

4. PROVISIONS WITHIN THE PUBLIC RIGHT-OF WAY

4. (1) No person shall without lawful authority, obstruct any highway without first having obtained written consent from the Town of Hanover.

(2) Without limiting the generality of subsection 4(1), no person shall without lawful authority obstruct a highway and the obstruction of a highway includes any one or more of the following:

- (a) Depositing of snow or ice on the portion of a highway normally used for pedestrian or vehicular traffic, including right-of-way;
- (b) Relocation of snow from a highway or private property to the portions of a highway normally used for pedestrian or vehicular traffic;
- (c) Cutting, altering, extending, in any manner whatsoever of a concrete curb, open or contained culvert, culvert overpass, or similar structure or landscape without having first applied for and obtained the appropriate written consent to do so from the Town;
- (d) Throwing, placing, or depositing of dirt, glass, handbills, paper or other refuse, or any debris determined to be a hazard, nuisance, or interference with municipal operations upon a street, except in accordance with the Waste Collection By-law.
- (e) Excavation, removal, or damage to any portion of a highway, including sod, trees, light poles, street signs, or other objects within the highway without the written consent to do so from the Town;
- (f) Placement of leaves, grass clippings, and debris from private property to the portions of the highway normally used for pedestrian or vehicular traffic;
- (g) Placing or depositing of sporting equipment, including but not limited to basketball nets, hockey nets, soccer nets, skateboard ramps, and bicycle ramps, on a highway;
- (h) Placing or depositing of any kind of furniture or fencing on a highway.
- (i) Conduct any activity which interferes with public travel or use of, sidewalks or traffic control devices, snow removal operations, or access to fire hydrants
- (j) Place, construct, alter, or maintain any object or structure upon, under or over a street.
- (k) Install, erect, place, or maintain on any boulevard which is protruding, sharp, dangerous in any way, or which may otherwise injure a person.
- (l) Remove or alter any earth, material, plant, tree or concrete curb or sidewalk from a boulevard.
- (m) Cause nuisance in or upon a street, by fire, water, vapor, dust, noise or any means whatsoever.

5. HAZARDOUS CONDITION

If an officer determines that an obstruction of a highway is, or may create, a hazardous condition to the safety of any person using the highway, the officer may take any action necessary to have the obstruction immediately removed and the highway repaired, if

necessary, and all the costs incurred by the Town in undertaking this work shall be expenses owed to the Town by the owner, occupant and/or contractor of the property from which the obstruction comes from, relates to, or was created for.

6. USE OF CONTRACTOR AND RECOVERY OF EXPENSES

(1) The Town may retain the services of a contractor to carry out any of the work that the Town may carry out under this By-law.

(2) All expenses incurred by the Town in connection with the enforcement of this By-law shall be paid to the Town by the person owing those expenses and may be collected in the same manner as property taxes by adding the expenses to the tax roll of the property from which the obstruction of the highway or maintenance of the boulevard relates.

7. INSPECTION

An officer acting under this By-law may, at any reasonable time, enter on to property, and inspect any property, including all buildings and structures thereon, to determine any one of the following:

- (a) Whether there is compliance with this By-law.
- (b) Whether the conditions for a permit issued, or written approval received by the Town under this By-law are adhered to.
- (c) Whether there is compliance with any order made pursuant to this By-law.

8. REBUTTABLE PRESUMPTION

(1) An owner or occupant shall be presumed to have created, caused, allowed, permitted, or continued a highway or boulevard obstruction that has occurred on Town property abutting owner or occupant's property, which presumption may be rebutted by evidence to the contrary on a balance of probabilities.

9. ORDERS

9.1 HIGHWAYS

(1) If an officer determines that an obstruction of a highway exists, the officer may issue an order requiring the owner, occupant and/or contractor of the property from which the obstruction comes from, relates to, or was created for, to discontinue causing the obstruction and to remove the obstruction and repair, as necessary, at the expense of the owner, occupant and/or contractor, the highway so that the highway is brought back to its former condition prior to the obstruction.

(2) Every person who fails to comply with an order made under section 9.1 is guilty of an offence.

9.2 BOULEVARDS

(1) If an officer determines that an owner or occupant of a property has altered or failed to maintain a boulevard that abuts the owner's property, the officer may issue an order requiring the owner or occupant to maintain the boulevard in accordance with this By-law or obtain written permission for the work done on the boulevard.

(2) Every person who fails to comply with an order made under section 9.2 is guilty of an offence.

10. WORK ORDER

Where the order described in subsection 9.1 is not complied with within the time period stipulated therein, the Town may remove the obstruction and repair, as necessary, the highway and all the costs incurred by the Town in undertaking this work shall be expenses owed to the Town by the owner, occupant and/or contractor of property from which the obstruction comes from, relates to, or was created for.

Where an order under subsection 9.2 is not complied with within the time period stipulated therein, the Town may carry out, or cause to be carried out, any work necessary to maintain the boulevard in accordance with this By-law, and all the costs incurred by the Town in undertaking this work shall be expenses owed to the Town by the owner or occupant of the property.

11. WORK DONE BY THE TOWN

The Town may recover its costs of remedying a violation of this By-law by invoicing the owner, by initiating court proceedings or by adding the costs, including interest, to the tax roll in the same manner as municipal taxes in accordance with section 446 of the *Municipal Act, 2001* and the exercise of any one remedy shall not preclude the exercise of any other available remedy.

The Town may charge a fee for inspection and administration services pursuant to the Town's Fees and Charges By-law.

12. EXEMPTIONS

Section 4.1 of this By-law shall not apply:

- (1) To an obstruction on a highway where the obstruction is permitted under a valid and binding encroachment agreement or permit between a person and the Town.
- (2) To any sign for which the owner has received written consent to place on property owned by the Town.

13. ADMINISTRATION AND ENFORCEMENT

13.1 Unless specified otherwise in this bylaw, the Town may, without notice, remove, impound, restrain or immobilize any object, article, vehicle or thing that is placed, stopped, standing or parking on, in or near a street contrary to the provisions of this bylaw.

13.2 If a person is found to have contravened any of the provisions of this by-law, the Town may issue a notice or fine, to the person to remedy the contravention setting out the reasonable particulars of the contravention, the location of the land on which the contravention occurred, and the date by which there must be compliance with the notice.

13.3 Every person to whom a notice is issued under this by-law shall comply with the notice within the time set in the notice. Failure to comply with notice may also result in a fine.

13.4 Where any act or thing required to be done in accordance with this by-law is not done, the Town may cause the matter or thing to be done and shall recover the costs of so doing by adding the costs to the tax roll of the property and collecting them in the same manner and with the same priority as municipal taxes.

13.5 Where any act or thing required to be done in accordance with this by-law is not done, the Town may cause the matter or thing to be done and shall recover the costs of so doing by adding the costs to the tax roll of the property of the person named in the said notice and collecting such costs in the same manner and with the same priority as municipal taxes.

13.6 Every person who contravenes any provision of this bylaw is guilty of an offence as provided for in subsection 429(t) of the *Municipal Act, 2001*, and all such offences are designated as continuing offences as provided for in subsection 429(2)(a) of the Act.

13.7 A person who is convicted of an offence under this bylaw is liable, for each day or part of a day that the offence continues, to a minimum fine of \$500.00 and a maximum fine of \$10,000.00 and the total of all daily fines for the offence is not limited to \$100,000.00 as provided for in subsection 429(3) 1. of the Act.

13.8 When a person has been convicted of an offence under this bylaw, the Superior Court of Justice, or any court of competent jurisdiction, thereafter may, in addition to any penalty imposed on the person convicted, issue an order:

- (a) prohibiting the continuation or repetition of the offence by the person convicted; and,
- (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate,

13.9 Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act, R.S.O. 1990, Chapter P.33*, as amended.

13.10 Any person who contravenes a provision of this by-law is guilty of an offence as set out in "Schedule A".

14. SERVICE OF DOCUMENTS

(1) Service of any document, including an order, under this By-law may be given in writing in any of the following ways and is effective:

- (a) when a copy is delivered to the person to whom it is addressed;
- (b) on the 5th day after a copy is sent by regular or registered mail to the person's last known address;
- (c) by email to the last known email address of the person to whom service is required to be made;
- (d) by placing a placard containing the terms of the document or order in a conspicuous place on the property to which the document or order relates and shall be deemed to be sufficient service on the owner

15. LIABILITY

Pursuant to Section 448 of the *Municipal Act S.O 2001, c.25*, as amended, no proceeding for damages or otherwise, shall be commenced against a member of Council or an officer, employee or agent of the municipality or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this By-law for any alleged neglect or default in the performance in good faith of the duty or authority.

16. RIGHT OF ENTRY

16.1 Pursuant to Section 435 and 436 of the *Municipal Act S.O, 2001, c.25*, as amended, an Officer may enter upon property, at any reasonable time, for the purpose of carrying out inspections of or on such property to determine whether or not the provisions of this by-law are being complied with;

16.2 In accordance with the provisions of the *Municipal Act S.O 2001, c.25*, as amended, Section 426(1), no person shall hinder, interfere with, or otherwise obstruct, either directly or indirectly, an Officer in the lawful exercise or power or duty under this by-law;

16.3 Where an authorized officer has reasonable grounds to believe that an offence has been committed by a person, the authorized officer may require the name, address and proof of identity of that person, and the person shall supply the required information.

17. SEVERABILITY

If any section of this by-law, or parts thereof, are found by a Court to be non-enforceable, such section, or parts thereof, shall be deemed to be severable, and all other sections or parts of this bylaw shall be deemed to be separate and independent there from and continue in full force and effect.

18. BYLAW REPEALED

This by-law repeals By-law Number No. 1820-02-18-91.

READ A FIRST, SECOND and THIRD TIME and FINALLY PASSED this 20th day of June, 2022.


Susan Paterson, Mayor


Vicki McDonald, Clerk

SCHEDULE ‘A’ TO BY-LAW NO. 3218-22

PART 1, PROVINCIAL OFFENCES ACT

BEING a by-law respecting the use of streets and boulevards and highway obstructions within the Town of Hanover.

| Item | Short Form Wording | Provision Creating or Defining Offence | Set Fine |
|------|--|---|----------|
| 1. | Obstruct any highway without obtaining written consent from the Town | 4(1) | \$500.00 |
| 2. | Depositing of snow or ice on a portion of a highway | 4(2)(a) | \$200.00 |
| 3. | Relocation of snow from private property to a highway | 4(2)(b) | \$200.00 |
| 4. | Cut, alter or extend a concrete curb, culvert, or similar structure or landscape without written consent from Town | 4(2)(c) | \$400.00 |
| 5. | Throw, place, or deposit dirt, glass, handbills, paper, refuse or debris on a highway | 4(2)(d) | \$400.00 |
| 6. | Excavate, remove, or damage any portion of a highway without written consent from Town | 4(2)(e)) | \$400.00 |
| 7. | Place leaves, grass clippings, and debris from private property to a highway | 4(2)(f) | \$300.00 |
| 8. | Place or deposit sporting equipment on a highway | 4(2)(g) | \$200.00 |
| 9. | Place or deposit furniture or fencing on a highway | 4(2)(h) | \$200.00 |
| 10. | Interfere with public travel/use of sidewalk/traffic control device | 4(2)(i) | \$300.00 |
| 11. | Fail to keep boulevard free from hazardous objects or materials | 4(2)(k) | \$300.00 |
| 12. | Cause nuisance in or upon a street | 4(2)(m) | \$300.00 |
| 13. | Fail to comply with an Order issued under Section 18 (1) | 9.1(2) | \$700.00 |
| 14. | Fail to comply with an Order issued under Section 19 (1) | 9.2(2) | \$700.00 |
| 15. | Obstruct, hinder or otherwise interfere with an Officer | 16.2 | \$900.00 |
| 16. | Fail to provide required information | 16.3 | \$900.00 |