

**THE CORPORATION OF THE TOWNSHIP OF NORTH DUMFRIES
BY-LAW NUMBER 3093-19**

**BEING A BY-LAW TO REGULATE AND CONTROL OPERATIONS IN THE TOWNSHIP
OF NORTH DUMFRIES**

WHEREAS subsection 11(2) of the Municipal Act, 2001, S.O. 2001 gives the municipality the authority to pass by-Laws respecting highways;

AND WHEREAS, subsection 8(3) provides that a by-Law passed pursuant to the authority granted under section 11(1) includes the authority to prohibit or regulate, require persons to do things, provide for a system of licenses, permits, approvals or registrations and impose conditions as a requirement of obtaining, continuing to hold or renewing a license, permit, approval or registration, with respect to highways;

AND WHEREAS the Council of the Corporation of the Township of North Dumfries deems it necessary and expedient to control the use of municipal highways;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF
NORTH DUMFRIES ENACTS AS FOLLOWS:**

**Part 1
GENERAL**

1.1 Short Title

This by-law may be cited as the Road Use By-law.

1.2 Wording

In this by-law the word "shall" is mandatory and not discretionary; words in the plural include the singular; words used in the present tense include the future.

1.3 Scope

The provisions of this by-law shall apply to any common or public highway under the jurisdiction of the Corporation of North Dumfries.

1.4 Validity

If a court of competent jurisdiction declares a part or the whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-Law and the remainder shall survive and be applied and enforced in accordance with its terms to the extent possible under the law.

1.5 Application

Nothing in this by-law shall be so construed as to permit anything which by the provision of any other applicable act or regulation is prohibited. Where any conflict exists between this and any other by-law, act or regulation the more restrictive regulation or provision shall apply.

1.6 Liability –Requirements – Township Indemnified

All authority conferred under this by-law is subject to the condition that each person who exercises a right to use a highway in the manner provided is liable to any person who consequently suffers injury or loss and shall indemnify The Corporation of North Dumfries from all such claims and actions.

1.7 Exemption

The provisions of this by-law shall not apply to road works directly provided by the Township under the direction of the Director of Community Services.

1.8 Administration and Enforcement

The Director of Community Services is hereby authorized to administer the provisions of this by-law.

1.9 Requirement to Restore Highway

Any person who contravenes or permits the contravention of any regulation or prohibition of this by-law and by said action alters the condition of the highway, is required to restore the highway to its original state or condition and to the satisfaction of the Director of Community Services.

Part 2 DEFINITIONS

2.1 DEFINITIONS

In this by-law:

“Boulevard” means that portion of the highway situated between the curb line and the property line of the lot abutting the Highway, including a Driveway, but does not include a sidewalk or shoulder;

“Council” means the Council of the Corporation of North Dumfries;

“Township” means the Corporation of North Dumfries;

“Director of Community Services” shall mean the person employed to the position of Director of Community Services and any employee of the Township who acts at the direction of the Director of Community Services; including an agent of the Township acting under the direction of the Director of Community Services;

“Highway” shall mean a common and public highway, under the jurisdiction of the Township as defined in sections 28 and 29 of the Municipal Act, 2001, S.O. 2001 c 25., more particularly defined in section 26 of the Municipal Act, 2001, S.O. 2001 c 25., and includes but is not limited to any sidewalk, boulevard, roadway, road works, bridge, trestle, viaduct or other structure forming part of the highway, and, except as otherwise provided, includes any portion of a highway lying between the lateral property lines;

“Municipal Act” shall mean the Municipal Act, 2001, S.O. 2001, and all future amendments of the Municipal Act, 2001, S.O. 2001;

“Municipal Law Enforcement Officer” means a Municipal Law Enforcement Officer appointed by the Council of the Corporation of Township of North Dumfries;

“Occupant” means any person found in charge, care and control of the premises;

“Owner” shall mean: the person whose name appears as the registered owner of the property according to Registry Office records;

“Person” shall include an individual, an association, a chartered organization, a firm a partnership or a corporation;

“Property line” shall mean the boundary between the highway and the abutting land;

“Roadway” shall mean the portion of a highway which is improved for the travel of motor vehicles;

“Road works” shall mean the physical improvements which have been made to a highway including, but not limited to, pavement, curbs, signs, gutters, trees, culverts, treated and graded surfaces, walls, sidewalks, utility apparatus, ditches and swales;

“Sidewalk” shall mean any municipal walkway or road works for the accommodation of pedestrians on that portion of a highway between the property line and the edge of the

roadway

“**Utilities**” shall include infrastructures such as cables, pipelines or structures that are owned and maintained by the Township or other utility companies.

Part 3 MUNICIPAL AUTHORITY RE MAINTENANCE AND ENFORCEMENT

3.1 Highway Name Signs

Pursuant to S. 61 of the Municipal Act, 2001, S.O. 2001, c.25, the Director of Community Services may at any reasonable time enter upon land lying along a highway to install and maintain a sign setting out the name of a highway.

3.2 Private Roads

Pursuant to S. 61 of the Municipal Act, 2001, S.O. 2001, c.25, the Director of Community Services may, at any reasonable time, enter upon land lying along a private road to install and maintain a sign setting out the name of the road if the Township has passed a By-law under section 48 of the Municipal Act to name or change the name of the private road.

3.3 Entry on Land, Tree Trimming

Pursuant to section 62(1) of the Municipal Act, 2001, S.O. 2001, c.25, the Director of Community Services may, at any reasonable time, enter upon land lying along any highway,

3.3.1 to inspect trees and conduct tests on trees; and

3.3.2 to remove decayed, damaged or dangerous trees or branches of trees if, in the opinion of the Director of Community Services, the trees or branches pose a danger to the health or safety of any person using the highway.

3.4 Removal of Tree – Immediate Danger

The Director of Community Services may remove a decayed, damaged or dangerous tree or branch of a tree immediately and without notice to the owner of the land upon which the tree is located if, in the opinion of the employee or agent, the tree or branch poses an immediate danger to the health or safety of any person using the highway.

Part 4 PROHIBITED MATTERS

4.1 Highway – Obstructing – Encumbering – Injuring – Fouling

No person shall, either by himself or by permitting others, without lawful authority, obstruct, encumber, injure, or foul or cause or permit the obstruction, encumbering, injuring or fouling of any highway.

4.2 Requirement to Comply with Conditions of Lawful Authority

No person, either by himself or by permitting others, shall fail to comply with the conditions of any lawful authority, to injure, obstruct, encumber, or foul a highway.

4.3 Excavation – Upon Highway – Prohibited

No person shall, without lawful authority, make any excavation upon a highway.

4.4 Structure – On – Over – Under Highway

No person shall, either by himself or by permitting others, without lawful authority, place, construct, or maintain any object or structure upon, under or over a highway.

4.5 Dirt – Gravel – Other Materials – Dumping – On Highway

No person shall, either by himself or by permitting others, without lawful authority, deposit any dirt, gravel, water, or other material upon a highway.

4.6 Plants – Earth – Material – Removal – From Highway No person shall, either by himself or by permitting others, without lawful authority, remove any plant, earth or material from a highway.

4.7 Trees – Shrubs – Vegetation – Planting On Highway

No person shall, either by himself or by permitting others, without lawful authority, plant any tree, shrub or vegetation on a highway. Despite the foregoing, the planting of grass on a boulevard is permitted.

4.8 Public Nuisance – Upon Highway

No person shall, either by himself or by permitting others without lawful authority, cause a public nuisance in or upon a highway, by fire, water, vapour, noise or any means whatsoever.

4.9 Gate – Door – Opening – Over Highway

No person shall, either by himself or by permitting others, without lawful authority, construct or maintain a gate or door, which opens or swings over a highway.

4.10 Overhanging – Over Highway

No person shall, either by himself or by permitting others, without lawful authority construct or maintain anything which projects into or overhangs a highway.

4.11 Public Travel – Use – Interference

No person shall, either by himself or by permitting others, without lawful authority, conduct any activity, which interferes with public travel or use of a highway.

4.12 Sale – On Highway – On Vacant Land Adjacent to

No person shall, either by himself or by permitting others, without lawful authority, sell, display or offer for sale any goods upon a highway.

4.13 Crane – Other – Operation – Above Highway

No person shall, either by himself or by permitting others, without lawful authority, operate a crane, boom or other equipment above a highway.

4.14 Snow – Ice – Deposit – On Road – Sidewalk – Prohibited

No person shall deposit, or cause to be deposited, snow or ice upon a sidewalk or the roadway.

4.15 Snow – Ice – Removal – To Boulevard – Prohibited

No person shall move, or cause to be moved, snow or ice from privately-owned lands to a boulevard.

4.16 Altering of Boulevard

No person shall either by himself or by permitting other, without lawful authority, alter any boulevard.

4.17 Requirements – Prevent – Mud Tracking

No person shall permit waste, soil or other materials to be spilled or tracked onto a highway. The Director of Community Services may require that the owner or occupant of land take all necessary steps to prevent waste, soil, or other materials from being spilled or tracked onto the public highways from abutting land, and may require the owner or occupant of the land which is the source of the waste, soil or other materials, to remove any waste, soil or other materials from the highway.

4.18 Vehicles – Crossing – Sidewalks

Where any person undertakes or causes to be undertaken any crossing of curbing, sidewalk, or boulevard by vehicles delivering or removing materials from abutting land, the owner or occupier of said abutting land can be held liable for the cost of repairing any damage to the highway, sidewalk, curbing, boulevard, ditches or culverts, or to any water service box caused by the crossing thereof of such vehicles, or for the cost of removing any material, waste, or soil which is tracked or spilled onto the highway by said vehicles.

Part 5
REMOVAL OF OBSTRUCTIONS

5.1 Projections – Over Highway – Unlawful – Removal By Owner

Any structure or thing which projects into or over a highway without lawful authority shall be removed by the owner of the land in connection with which it exists.

5.2 Fence – Structure – Obstructing Travel – Removal

Any fence, barricade or other thing on or near a highway without lawful authority, which obstructs a highway or interferes with a sight line or safe public travel on it, shall be removed by the person by whom the same has been built, maintained, placed or deposited.

5.3 Application To Court – Removal Of Obstructions Adjacent To Highway

Pursuant to section 62.1 of the Municipal Act, 2001, S.O. 2001, c.25, the Director of Community Services may apply to a judge of the Superior Court of Justice for an order requiring the owner of land lying along a highway to remove or alter any vegetation, building or object on the land that may obstruct the vision of pedestrians or drivers of vehicles on the highway, cause the drifting or accumulation of snow or harm the highway if the municipality is unable to enter into an agreement with the owner of the land to alter or remove the vegetation, building or object from the land.

5.4 Impounding Of Objects On Highway

Pursuant to section 63 of the Municipal Act, 2001, S.O. 2001, c.25, any object on a highway in contravention of this By-law may be removed, impounded, restrained or immobilized and subsection 170 (15) of the Highway Traffic Act applies, and the Township may, at any reasonable time, enter upon land near a highway for this purpose. Pursuant to subsection 63(4) of the Municipal Act, 2001, S.O. 2001, c.25, if the removed object or vehicle, other than a motor vehicle, is used to sell anything on or near a highway and the object or vehicle is not claimed by the owner within 60 days after its removal, it becomes the property of the municipality and may be sold and the proceeds shall form part of the general funds of the municipality.

5.5 Impounding Perishable Items

Pursuant to section 63 (5) of the Municipal Act, 2001, S.O. 2001, c.25, any perishable object or vehicle removed from the highway is the property of the municipality upon being moved from the highway and may be destroyed or given to a charitable institution, except a perishable object that comes into the possession of a police force in the circumstances described in section 132 of the Police Services Act.

Part 6
PERMITTED ACTIVITIES

6.1 Grass Area – Abutting Highway – Planting – Maintenance

An owner of land abutting a highway may at his or her own expense maintain any adjacent boulevard.

6.2 Lawful – Signs

It shall be lawful for a person to affix, alter, or otherwise display a sign if permitted by and displayed in accordance to the provisions set in the Township By-laws regulating signs.

6.3 Highway Use – Authorized – Statute – By-law – Agreement

It shall be lawful for use to be made of a highway pursuant to permission granted under a statute, by the Council under a By-law, resolution or agreement, or as may be authorized in writing by the Director of Community Services, or under the authority of a Township permit.

Part 7
TEMPORARY CLOSING – HIGHWAY

7.1 Authorized Temporary Closing of a Highway

For the purposes of this By-law, the temporary closing of a highway includes:

7.1.1 The temporary closing of any highway or portion of a highway for any period

during the construction, repairing, improvement or maintenance of such highway or portion thereof or any works under, over, along, across or upon such highway or portion thereof

7.1.2 The temporary closing of any highway or portion of a highway for such social, recreational, community, athletic or cinematographic purposes, or combination of such purposes, subject to such conditions as may be imposed;

7.1.3 The temporary closing of any highway or portion of a highway for any period due to emergency situations arising from inclement weather, motor vehicle accidents, fire, or other situations when a police order is issued to close the highway or portion thereof.

7.2 Highway Closing – Authority

Pursuant to Section 23.2 of the Municipal Act, 2001, S.O. 2001, c. 25, Council hereby delegates to the Director of Community Services, the authority to close a highway or portion of a highway for such purposes as cited in 7.1.1, 7.1.2 and 7.1.3 of this By-law, for such a period of time as is deemed appropriate and subject to such conditions as deemed appropriate.

7.3 Indemnification – Public Liability Insurance

The Director of Community Services shall not temporarily close a highway until the group, organization, association, individual or corporation requesting the said closing has signed an agreement indemnifying the County, and has provided a certificate of public liability insurance coverage, with a minimum liability limit amount of two million dollars (\$2,000,000.00) per occurrence, naming the Township as an additional insured and endorsed to provide 30 day notification to the Township of any alteration, revocation, cancellation or reduction in the coverage.

Part 8

ENFORCEMENT

8.1 Enforcement

Township Municipal Law Enforcement Officers and police officers of the Waterloo Regional Police Service are hereby authorized to enforce the provisions of this By-law.

8.2 Power of Entry re Inspection

Pursuant to section 435 and 436 of the Municipal Act, 2001, any employee, officer or agent of the Township or member of the Waterloo Regional Police Service may, without notice and upon producing proper identification upon request, enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether this By-law, a direction or order of the County made under this By-law, a condition of a permit issued under this By-law, or an order made under section 431 of the Municipal Act is being complied with. The person exercising the power may be accompanied by a person under his or her direction.

8.3 Inspection Powers

Any employee, officer or agent of the Township or member of the Waterloo Regional Police Service, carrying out an inspection pursuant to section 8.2 may:

8.3.1 require the production for inspection of documents or things relevant to the inspection;

8.3.2 inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

8.3.3 require information from any person concerning a matter related to the

inspection;

8.3.4 alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

8.4 Order to Discontinue

Pursuant to section 444 of the Municipal Act, 2001, where the Township is satisfied that a contravention of this By-law has occurred, the Township may make an order requiring the person who contravened the By-law or who caused or permitted the contravention, or the owner or occupant of the land on which the contravention occurred to discontinue the contravening activity.

The order shall set out:

8.4.1 the reasonable particulars of the contravention adequate to identify the contravention and the location of the land upon which the contravention occurred; and

8.4.2 the date by which there must be compliance with the order.

8.5 Offence – Contravene Order to Discontinue

No person shall contravene an order to discontinue issued pursuant to section 8.4.

8.6 Work Order

Pursuant to section 445 of the Municipal Act, 2001, where the Township is satisfied that a contravention of this By-law has occurred, the Township may make an order requiring the person who contravened the By-law or who caused or permitted the contravention, or the owner or occupant of the land on which the contravention occurred to do work to correct the contravention.

An order may require work to be done even though the facts which constitute the contravention of the By-law were present before this By-law came into force.

The order shall set out:

8.6.1 the reasonable particulars of the contravention adequate to identify the contravention and the location of the land upon which the contravention occurred; and

8.6.2 the work to be done and the date by which the work must be done.

8.7 Offence - Contravention Work Order

No person shall contravene a work order issued pursuant to section 8.6.

8.8 Remedial Action

Pursuant to Section 446 of the Municipal Act, 2001, S.O. 2001, C. 25., upon the default of any person to do anything required to be done by that person under this Bylaw, an employee or agent of the County who may be accompanied by any person under his or her direction, may enter upon land at any reasonable time and may do the work or thing required to be done, at the expense of the said person, and the Township may recover the expense by action or by adding the costs to the tax roll and collecting in same manner as property taxes.

8.9 Offence – Obstructing Officer or Inspector

No person shall hinder or obstruct, or attempt to hinder or obstruct any person who is exercising a power or performing a duty under this By-law.

Part 9

PENALTY

9.1 Fine for Contravention

Every person who contravenes any provision of this By-law and every director or officer of a corporation who knowingly concurs in the contravention of a By-law by the corporation is guilty of an offence and upon conviction is subject to a fine of not more than \$100,000.00.

9.2 Continuation – Repetition Contravention

Notwithstanding section 9.1, every person that contravenes any provision of this By-law and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence for every day or part thereof upon which such offence occurs or continues and upon conviction is liable to a fine of not more than \$10,000.00 for each day the offence continues.

9.3 Additional Order To Discontinue Or Remedy

Every person that contravenes any provision of this By-law and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and in addition to any other remedy and to any penalty imposed by the By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order, prohibiting the continuation or repetition of the offence by the person convicted.

Part 10

REPEAL – ENACTMENT


10.1 By-laws – previous

THAT all other by-laws and parts of by-laws that are inconsistent with the provisions of this by-law are hereby repealed.

10.2 Effective date

THAT this By-law comes into force and takes effect on the day of passage.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 23rd DAY OF SEPTEMBER, 2019



Susan Foxtton, Mayor



Ashley Sage, Clerk