

The Corporation of the Township of Selwyn

By-law Number 2022-041

A By-law to Prohibit or Regulate the Use, Obstructing, Encumbering, Injury or Fouling of Municipal Properties in the Township of Selwyn

Whereas Section 11(2)(6), of the Municipal Act, 2001, as amended, provides that municipalities may pass By-laws with respect to the health, safety and well-being of persons; and

Whereas Section 11(3)(1), of the Municipal Act, 2001, as amended, provides that municipalities may pass By-laws with respect to the highways, including parking and traffic on highways; and

Whereas Section 11(3)(6), of the Municipal Act, 2001, as amended, provides that municipalities may pass By-laws with respect to the drainage and flood control; and

Whereas Section 63(1), of the Municipal Act, 2001, as amended, provides that, where a municipality has passed a By-law for prohibiting or regulating the placing, stopping, standing or parking of an object or vehicle on or near a highway, municipalities may provide for the removal of any such object or vehicle; and

Whereas the Ontario Municipal Act, 2001, S.O. 2001, c. 25, Section 5.3, as amended, states that a municipal power shall be exercised by By-law unless the municipality is specifically authorized to do otherwise;

Now Therefore, the Council of the Corporation of Selwyn hereby enacts as follows:

1. Definitions:

For the purpose of this By-law:

- a) "Boulevard" - means that part of the highway between the curb or edge of the roadway and the street line, and in the case of divided highways, that area between the centre curbs thereof.
- b) "Bridge" - means a public bridge, and includes a bridge forming part of a highway or on, over or across which a highway passes.
- c) "By-law Enforcement Officer" - is a bylaw enforcement employee or agent of the municipality, charged with the enforcement of non-criminal By-laws, rules, laws, codes or regulations enacted by the municipality.
- d) "Highway" - includes a common and public highway, including, but not limited to, allowances for roads made by the Crown Surveyors and roads dedicated by the owner of such land to public use, 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.
- e) "Municipality" - shall mean the Corporation of the Township of Selwyn.
- f) "Owner" - means the registered owner or party on the tax roll of the Municipality or the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used.

- g) "Person" - shall mean any individual, partnership, corporation, business entity, or club to whom the context can apply according to law.
- h) "Manager of Public Works" - means the person in charge of Municipal roads and thoroughfares in the Municipality, or his designate representative or inspector.
- i) "Sidewalk" - shall mean a usually paved walkway designated for pedestrian traffic.

2. Municipal Requirements when Conducting Private Works on Municipal Lands:

- a) No person shall conduct work, including occupy, break, excavate, dig up, tear up or remove any portion of any highway or boulevard, or any planking, curbing, pavement or road structure of any sort, forming the surface of any highway or make any excavation in or under a highway, or boulevard for the purpose of building or otherwise, unless the person obtains written permission in advance from the Manager of Public Works and also provides notification to the Manager of Public Works 48 hours before commencement of authorized work.
- b) No person shall place any hard surfacing such as asphalt materials, unistone, concrete, etc., on to a new or existing entrance located on a highway or boulevard without obtaining written permission in advance from the Manager of Public Works.
- c) No person, when they employ or use trucks or other vehicles for conveying materials of any kind to or from a construction site or for making excavations for building or other purposes, shall deposit any earth, rubbish or other materials onto a portion of a highway.
- d) Persons or their employers or contractors shall immediately remove from highways and boulevards any earth, rubbish or other materials, which may have fallen from the box or wheels of such trucks or vehicles.

3. Encumbering Highway:

- a) No person shall obstruct, encumber, injure or foul any highway under the jurisdiction of the municipality.
- b) No person shall erect, place, stop, stand or park any structure, object or vehicle on or near a highway or boulevard which may cause obstruction to or interference with public travel, or the clearing of snow, or any other operations involving Municipal work forces.
- c) No person shall plant or cause to be planted a tree or a shrub on a highway unless such person has obtained approval from the Manager of Public Works.

4. Deposit of Materials/Snow:

- a) No person shall throw, place, deposit or allow to be deposited by any means whatsoever on any highway or lands within the said Municipality any materials, including, but not limited to, building material, dirt, filth, glass, handbills, paper or other rubbish, refuse or garbage, or the carcass of any animal.
- b) No person shall place, cause, or allow to be placed, any snow or ice from private property or from a boulevard onto the sidewalk, or traveled portion

of any highway within the Municipality.

- c) In case of default of compliance with the foregoing, the Municipality through its officers, or any person acting under the jurisdiction of any Municipal officer, may clear and remove such materials, snow and ice, and the expense incurred in so doing may be recovered by action, or the amount may be entered into the tax collector's rolls and recovered in like manner as municipal taxes.

5. Drainage Course Restrictions:

- a) No person shall place any obstruction, or obstruct or cause to be obstructed or alter the drainage course of any ditch, gutter or watercourse on any highway or lands within the Municipal boundary.
- b) No person shall construct or lay any pipe or drain leading onto or into any such highway or ditch or culvert for purposes of draining water, or other harmful effluent, including sewage, in such a way as to cause a nuisance or be harmful.

6. Municipal Authority to Remove:

- a) The Manager of Public Works and/or By-law Enforcement Officer, or their designate, may require the removal of any obstruction placed on or near the highway or boulevard by notice in writing to the person by whom the same are or were so built, maintained, placed or deposited, and if such demand for such removal is not complied within the stipulated time, the Manager of Public Works and/or By-law Enforcement Officer, or their designate, may cause the same to be removed and may charge the cost of such removal to the person aforesaid and the same may be collected by process of law or the amount may be entered into the tax collector's rolls and recovered in like manner as municipal taxes.
- b) The Manager of Public Works and/or Bylaw Enforcement Officer, or their designate, may, in accordance with the provisions of Section 63(1) the Municipal Act, provide for the removal and impounding or restraining and immobilizing of any object or vehicle placed, stopped, standing or parked on or near a highway in contravention of this By-law.

7. Penalties and Enforcement

- a) Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction, is liable to a fine of not more than the maximum fine under the Provincial Offences Act.
- b) Any person who contravenes any provision of this By-law will be responsible for the inspection fees or costs incurred by the Township related to the administration and enforcement of the By-law in accordance with the Township's current Tariff of Fees By-law; and
- c) That any unpaid fees and charges related to contraventions of the By-law shall be added to the tax roll and collected in the same manner as unpaid municipal taxes.
- d) This By-law may be enforced by a Police Officer, Municipal Law Enforcement Officer, Provincial Offences Officer, By-law Enforcement Officer or any other person or agency appointed by the Council of the Township of Selwyn.

8. General

- a) Should any section, subsection, clause, paragraph, or provision of this By-

law be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as whole or any part thereof, other than the provision so declared to be invalid.

- b) All references made to "him" or "his" within the By-law will be applied to all genders.
- c) That By-law 2008-011 of the former Township of Smith-Ennismore-Lakefield be repealed in its entirety.

Read a first, second and third time and finally passed this 10 day of May 2022.

Original Signed

Andy Mitchell, Mayor

Corporate Seal

Original Signed

Angela Chittick, Clerk