

The Corporation of the Town of
New Tecumseth

By-law

Number 2022-108

“Road Use and Care By-law”

A by-law to regulate the use and care of roads in the Town of New Tecumseth

Whereas the Municipal Act, 2001, as amended, provides that the municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act;

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

Now Therefore the Council of The Corporation of the Town of New Tecumseth does hereby enact as follows:

1. Definitions

In this by-law:

“**Boulevard**” means that portion of the highway lying between the property line and the edge of the roadway.

“**Council**” means the Council of the Corporation of the Town of New Tecumseth.
“**County**” means the Corporation of the County of Simcoe.

“**Director of Public Works**” shall mean the Director of Public Works for the Corporation of the Town of New Tecumseth or their designate.

“**General Manager of Infrastructure and Development**” shall mean the General Manager of Infrastructure and Development for the Corporation of the Town of New Tecumseth or their designate.

“**Highway**” shall mean a common and public highway, under the jurisdiction of the Town 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 the Town of New Tecumseth;

“**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;

“**Settlement Area**” shall mean the Settlement Area Boundary as described in Schedules ‘B1,’ ‘B2,’ and ‘B3’ of the Town of New Tecumseth’s Official Plan as well the Zone Boundary as described in Schedules ‘D’ and ‘E’ of the Town of New Tecumseth’s Zoning By-law.

“**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;

“**Town**” shall mean the Corporation of the Town of New Tecumseth;

2. General

2.1 Short Title

This By-law shall be cited as the Use and Care of Roads By-law.

2.2 Scope

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

2.3 Application

Nothing in this by-law shall be so construed as to permit anything which by 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.

2.4 Liability

All authority conferred under this by-law is subject to the conditions 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 the Town of New Tecumseth from all such claims and actions.

2.5 Exemptions

The provisions of this by-law shall not apply to road works directly provided by the Town or under the direction of the Town.

2.6 Administration and Enforcement

The Director of Public Works is hereby authorized to administer the provisions of this by-law.

All provincial offences officers with the authority to enforce the by-laws of the Town are responsible for enforcing the provisions of this by-law.

Where notice is to be given by the Town under this by-law, it will be given by personal notices or by prepaid registered mail.

2.7 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 Public Works.

3. Municipal Authority Re: Maintenance

3.1 Snow Fences

The Director of Public Works may, at any reasonable time, enter upon land within the municipality or within an adjoining municipality and lying along any highway under its jurisdiction, including land owned by Her Majesty in right of Ontario, for the purpose of erecting and maintaining a snow fence.

3.2 Highway Name Signs

The Director of Public Works 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.

3.3 Private Roads

The Director of Public Works 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 Town has passed a By-law under Section 48 of the Municipal Act to name or change the name of the private road.

3.4 Entry on Land, Tree Trimming

The Director of Public Works may, at any reasonable time, enter upon land lying along any highway;

3.4.1 to inspect trees and conduct tests on trees; and,

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

3.5 Removal of Tree – Immediate Danger

The Director of Public Works 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.

4. Prohibited Matters

4.1 Highway – Obstructing – Encumbering – Injuring – Fouling

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

4.2 Requirement to Comply with Conditions of Lawful Authority

Every person who obtains a permit shall comply with the conditions regarding the injuring, obstruction, encumbrance, or fouling a highway.

- 4.3 **Excavation – Upon Highway – Prohibited**
No person shall make any excavation upon a highway without authorization.
- 4.4 **Structure – On – Over – Under Highway**
No person shall place, construct, or maintain any object or structure upon, under, or over a highway without authorization.
- 4.5 **Dirt – Gravel – Other Materials – Dumping – On Highway**
No person shall deposit any dirt, gravel, water, oil, chemical, refuse, or other material upon a highway without authorization.
- 4.6 **Plants – Earth – Material – Removal – From Highway**
No person shall remove any plant, earth, or material from a highway without authorization.
- 4.7 **Trees – Shrubs – Vegetation – Planting on Highway**
No person shall plant any tree, shrub, or vegetation on a highway without authorization. Despite the foregoing, the planting of grass on a boulevard is permitted.
- 4.8 **Public Nuisance – Upon Highway**
No person shall cause a public nuisance in or upon a highway, by fire, water, vapour, noise, light, or any means whatsoever.
- 4.9 **Gate – Door – Opening – Over Highway**
No person shall construct or maintain a gate or door, which opens unto or swings over a highway.
- 4.10 **Overhanging – Over Highway**
No person shall construct or maintain anything which projects into or overhangs a highway, without authorization.
- 4.11 **Public Travel – Use – Interference**
No person shall conduct any activity, which interferes with public travel or use of a highway without authorization.
- 4.12 **Municipal Infrastructure – Interference**
No person shall interfere, move, obstruct, or destroy any municipal infrastructure, including but not limited to, any post, sign, surveyor's mark, benchmark, traffic signal, streetlight, tree, or traffic cone without authorization.
- 4.13 **Sale – On Highway**
No person shall sell, display, or offer for sale any goods upon a highway without authorization.
- 4.14 **Crane – Other – Operation – Above Highway**
No person shall operate a crane, boom, or other equipment above a highway without authorization.
- 4.15 **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.
- 4.16 **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.
- 4.17 **Altering of Boulevard**
No person shall, either by themselves or by permitting others, without lawful authority, alter any boulevard.
- 4.18 **Requirement – Prevent – Mud Tracking**

No person shall permit waste, soil, filth, earth, ashes, manure, leaves, refuse, or other materials to be spilled, tracked, or otherwise deposited onto a highway.

The Director or Public Works may require that the owner or occupant of land take all necessary steps to prevent waste, soil, filth, earth, ashes, manure, leaves, refuse, 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, filth, earth, ashes, manure, leaves, refuse, or other materials, to remove any waste, soil, or other materials from the highway.

4.19 Vehicles – Crossing – Sidewalks

Where any person undertakes or causes to be undertaken any crossing of curbing, sidewalk, or boulevard by vehicles delivering or removing material 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, culverts, or to any public infrastructure 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.

5. Removal of Obstructions

5.1 Projects – 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 or occupant of the land in connection with which it exists.

5.2 Fence – Structure – Obstructing Travel – Removal by Person

Any fence, barricade, or other thing on or near a highway without lawful authority, which obstructs a highway or interferes with a sightline 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 Removal of Obstruction on or over a Highway by the Town

In the event of a contravention of sections 5.1 or 5.2 above, or in the event of an emergency, the Director of Public Works may remove any item, structure, or material placed or deposited on or over a highway contrary to this by-law; and send a notice by registered mail to the Owner or person responsible for the item, structure, or material that the object has been removed at the Owner's or person's expense.

5.4 Application to Court – Removal of Obstructions Adjacent to Highway

The Director of Public Works 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 or 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.

5.5 Impounding of Objects on Highway

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 Town may, at any reasonable time, enter upon land near a highway for this purpose.

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.

5.6 Impounding Perishable Items

Any perishable object or vehicle removed from the highway is the property of the municipality upon being moved from the highway any 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.

6. Permitted Activities

6.1 Grass Area – Abutting Highway – Planting – Maintenance

An Owner of land within a Settlement Area abutting a highway shall at their own expense, maintain any adjacent boulevard, and shall cut and maintain the grass area to a height not exceeding 300mm.

6.2 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 Public Works, or under the authority of a Town permit.

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 a 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 purpose, or combination of such purpose, subject to such conditions as may be imposed; and,

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 Public Works, the authority to close a highway or portion of a highway for such purposes 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 Public Works shall not temporarily close a highway until the group, organization, association, individual, or corporation requesting the said closing has signed an agreement indemnifying the Town, and has provided a certificate of public liability insurance coverage, with a minimum liability limit amount of five million dollars (\$5,000,000.00) per occurrence, naming the Town as an additional insured and endorsed to provide 30 day notification to the Town of any alteration, revocation, cancellation, or reduction in the coverage.

8. Enforcement

8.1 Enforcement

Town Municipal Law Enforcement Officers and police officers of the Nottawasaga detachment of the Ontario Provincial Police are hereby authorized to enforce the provisions of this By-law.

8.2 Power of Entry Re: Inspection

Any employee, officer, or agent of the Town or member of the Ontario Provincial Police 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 Town 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 their direction.

8.3 Inspection Powers

Any employee, officer, or agent of the Town or member of the Ontario Provincial Police, 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; and,

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

Where the Town is satisfied that a contravention of this By-law has occurred, the Town 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

Where the Town is satisfied that a contravention of this By-law has occurred, the Town 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 through 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

In the event of default of any person to do anything required to be done by that person under this By-law, an employee or agent of the Town who may be accompanied by any person under their 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 Town may recover the expense by action or by adding the costs to the tax roll and collecting in the 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.

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 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.

10. Validity and Severability

If any section, clause, or provision of this by-law, including anything contained in the schedules hereto, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the by-law as a whole or any part thereof other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention that all remaining sections, clauses and provisions of the by-law shall remain in full force and effect, notwithstanding that one or more provisions thereof shall have been declared to be invalid.

11. Enactment

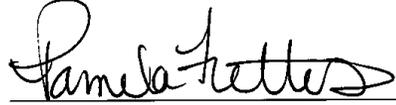
11.1 Effective Date

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 3rd day of
October 2022



Mayor



Clerk