

The Corporation of the City of Port Colborne

By-Law No. _____

Being a by-law to provide for regulating the maintenance and protection of the boulevards and to require owners and occupiers of land to maintain boulevards and clear snow and ice from sidewalks and roofs of buildings within the City of Port Colborne

Whereas subsection 11(2)(6) of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended (“the Act”) provides that a municipality may pass by-laws respecting the health, safety and well-being of persons; and

Whereas subsection 11(2)(8) of the Act provides that a municipality may pass by-laws respecting the protection of persons and property; and

Whereas subsection 11(3)(1) of the Act provides that a local municipality may pass by-laws regulating highways under its jurisdiction; and

Whereas subsection 27(1) of the Act grants a municipality the power to pass by-laws in respect of highways over which it has jurisdiction; and

Whereas subsection 122(1) of the Act provides that a local municipality may require the owners and occupants of buildings to remove snow and ice from the roofs of the buildings and may regulate when and how the removal shall be undertaken; and

Whereas s. 122(2) of the Act provides that a municipality may enter at any reasonable time upon land to remove snow and ice:

- a. from the roofs of unoccupied buildings; and,
- b. from private sidewalks between a highway and the main entrance of building;

Whereas s. 122(3) of the Act provides that a municipality may recover the costs of removal of snow and ice from the roofs of unoccupied buildings under s. 122(2)(a) incurred by the municipality from the owners of such buildings by action or by adding the costs to the tax roll and collecting them in the same manner as taxes; and

Whereas s. 445 of the Act provides that the municipality may make and order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of land on which the contravention occurred to do work to correct the contravention; and

Whereas s. 446 of the Act provides that where a municipality has authority under the Act or under a by-law to direct or require a person to do a thing or matter, the municipality may also provide that, in default of it being done by the person directed or required to do it, the thing or matter shall be done at the person’s expense; and

Whereas s. 181 of the *Highway Traffic Act* R.S.O. 1990, c.H.8, as amended states that no person shall deposit snow or ice on a roadway without written permission from the authority responsible for the road; and

Whereas Council of the City of Port Colborne deems it necessary to ensure that sidewalks and roofs within its jurisdiction are cleared and are free of snow and ice;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

That this by-law shall be comprised of six parts containing various sections, namely:

Part 1	Definitions
Part 2	Interpretation
Part 3	Boulevard Maintenance, Obligations and Damage
Part 4	Snow and Ice Removal from Sidewalks and Roofs
Part 5	Penalties and Enforcement
Part 6	General (Short Title, Repeal of Existing By-law & Effective Date)

Part 1

1.0 Definitions:

1.1 In this by-law:

- (a) “Adjacent sidewalk” means a public sidewalk located immediately adjacent to the front yard and/or side yard of a property;
- (b) “Apron” includes that section of a driveway contained within the highway;
- (c) “Boulevard” means the area between the curb lines, the lateral lines or the shoulder of a roadway and the adjacent property line;
- (d) “City” means the Corporation of the City of Port Colborne;
- (e) “Consecutive Winter Storm Event” means any precipitation and/or accumulation of snow or ice from the beginning of the original Winter Snow Event, and any subsequent storm events occurring within a 24-hour period of the cessation of the previous storm event;
- (f) “Director” means the City’s Director of Public Works or his or her designate;
- (g) “Highway” includes a common and public highway, common and public walkway, street, road, avenue, parkway, square, place, bridge, viaduct, trestle, or any other way open to public use, and includes the area between the lateral

property lines thereof;

- (h) “Maintenance” means the action required to sustain a boulevard including but not limited to cutting, watering, removing debris or repairing damage to any driveway located within the boulevard area;
- (i) “Landscape Material” means crushed stone, sand, gravel or turf grass;
- (j) “Officer” means a person appointed for the purpose of enforcing by-laws of the Municipality, and it includes any Municipal Law Enforcement Officer appointed by the City of Port Colborne, and any employee designated by the Director, any police constable who is a member of the Niagara Regional Police Service or the Ontario Provincial Police Service;
- (k) “Owner” means the lawful owner of property, a lessee, tenant, mortgagee in possession of property, or occupant of property;
- (l) “Person” includes an individual, association, firm, corporation (with the exception of the Corporation of the City of Port Colborne), partnership, sole proprietorship, trust, organization, trustee, agent;
- (m) “Region” means the Regional Municipality of Niagara;
- (n) “Roadway” means the portion of a highway that is improved, designed, or ordinarily used for vehicular traffic, and includes a curb and shoulder;
- (o) “Sidewalk” shall mean that portion of the highway that is intended for the use of pedestrians and which surface is finished with concrete or asphalt;
- (p) “Snow Clearing” means reducing the snow on the sidewalk to a depth less than or equal to 8cm (3 in) with a minimum width of 1m (3’3”);
- (q) “Traffic Control Device” means a sign, lane, meter, marking, space, barrier or device painted or erected to guide, regulate, warn, direct, restrict, control or prohibit traffic;
- (r) “Turf grass” means a perennial strand of plant that can form turf and withstand mowing, traffic and/or wear;
- (s) “Utilities” includes infrastructures such as cables, pipelines or structures that are owned and maintained by the City, Region, a municipality, or other utility companies;
- (t) “Winter Storm Event” – refers to any precipitation and/or accumulation of snow, including blowing snow or ice;
- (u) “Written Permission” includes an encroachment permit, or a municipal

consent permit issued by the City of Port Colborne;

Part 2

2.0 Interpretation

- 2.1 The provisions of this by-law apply to the entire City.
- 2.2 Unless otherwise specified, references in this by-law to parts, sections, subsections, clauses and schedules are references to parts, sections, subsections, clauses and schedules in this by-law.
- 2.3 References in this by-law to any statute or statutory provision include references to that statute or statutory provision as it may from time to time be amended, extended, or re-enacted.
- 2.4 This by-law shall be read with all changes in gender or number as the context requires.
- 2.5 References in this by-law to items in the plural include the singular, and references to the singular include the plural, as applicable.
- 2.6 The words “include”, “includes” or “including” are not to be read or interpreted as limiting the words, phrases or descriptions that precede it.
- 2.7 If a court of competent jurisdiction declares any section, or any part of any section of this by-law to be invalid or to be of no force or effect, it is the intention of the City that every other provision of this by-law be applied and enforced in accordance with its terms to the extent possible according to law.
- 2.8 This by-law and the provisions contained within are intended to be complementary to other by-laws passed by Council and in the event that any other applicable law requires a higher standard than the provisions contained in this by-law, the higher standard shall apply.

Part 3

3.0 Boulevard Maintenance, Obligations and Damage

General Maintenance

- 3.1 Every person or owner of a property shall maintain the adjacent boulevard free from objects and materials.
- 3.2 Every person or owner of a property shall ensure snow deposited and garbage and recycling set out does not restrict, or in a manner that may restrict, the sight lines of pedestrians, cyclists, drivers of motor vehicles on sidewalks, driveways, roadways, highways or any traffic control device

- 3.3 Every person or owner of a property shall ensure that any snow deposited does not obstruct fire hydrants, waterboxes or mailboxes.
- 3.4 Every person or owner of a property shall ensure all objects and materials located on private property are not located within 0.45 metres of the sidewalk, unless it is Landscape Material and is flush to the sidewalk.

Grass

- 3.5 No person shall permit Turf Grass to exceed a height of 15 centimeters, on a boulevard abutting his or her real property. Unless exempted or directed by the Director in writing.

Alteration of Boulevard

- 3.6 No person shall alter an area of the boulevard abutting his or her real property.

Exception – Waste Collection

- 3.7 The provisions of section 3.1 do not apply to anything on a boulevard that is permitted under the Regional Municipality of Niagara Waste Collection By-Law (2017-56) as amended.

Exception – Snow

- 3.8 The provisions of section 3.1 do not apply to snow that is deposited from clearing adjacent sidewalks, driveways, and aprons, subject to section 4.4(b).

Exception - Grass

- 3.9 The provisions of section 3.4 do not apply to property that is being used for agricultural purposes.

Damage to Boulevard by Person

- 3.10 No person shall damage, construct or re-construct a sidewalk, curb, apron driveway, boulevard, culvert, ditch, or signage without the written permission of the Director.
- 3.11 For the purposes of Section 3.6, a “person” shall not include the City, the Region, a utility, or a contractor hired by the City, Region, or utility.

Damage to Boulevard by City, Region, Utility

- 3.11 If any part of a boulevard, or property located on or under a boulevard is damaged by the City, the Region, a utility, or a contractor hired by the City, Region or utility, the City, Region, utility, or contractor that caused the damage shall only be responsible for restoring turf grass on a boulevard and or granular 'M' stone within a shoulder and shall not be obligated to restore any alterations to the boulevard made by an adjacent owner.
- 3.12 Where an adjacent owner has obtained written permission/permit from the Director under section 3.1, that adjacent owner shall comply with any conditions set forth in the written permission/permit of the Director.

Part 4

4.0 Snow and Ice Removal from Sidewalks and Roofs

- 4.1 Every Owner of a building, either occupied or unoccupied, or vacant land shall clear away and remove or cause to be cleared away and removed, any snow and ice from any and all sidewalks abutting or within highways in front of, alongside or at the rear of such building, or vacant land within:
- (a) 48 hours of the cessation of a winter storm event; or
 - (b) 48 hours of the cessation of a series of consecutive winter storm events.
- 4.2 Every Owner of a building, either occupied or unoccupied, or vacant land, which fronts or abuts a highway on which there is a sidewalk, shall, whenever any part of the surface of such sidewalks has become slippery due to snow and ice which have not been completely removed, immediately upon the existence of any such slippery condition, sprinkle or cause to be sprinkled upon such portion of the sidewalk, sand, salt or other approved material in a manner as to thoroughly remediate such slippery surface.
- 4.3 Every Owner of a building, either occupied or unoccupied, that contains a roof which slopes toward a highway or a sidewalk on a highway in front of, alongside of, or at the rear of such buildings so that the snow or ice may fall from such roof causing damage to pedestrians, vehicular traffic and/or to the sidewalk or highway, shall, whenever snow or ice accumulates on the roofs or eaves, remove the same immediately, in a manner showing due care and precaution for the safety of persons and vehicular traffic.
- 4.4 No owner or person shall throw, place, bring, or deposit snow or ice:
- (a) on or adjacent to a traveled portion of the highway, or in such a manner so as to interfere with the safe passage of vehicles, or pedestrians, or obstruct the visibility of vehicle operators or pedestrians;

- (b) across a traveled portion of the highway and on a boulevard on the opposite side of such highway;
- (c) in such a manner so as to obstruct drainage to any drain or sewer;
- (d) in such a manner so as to damage any sidewalk, boulevard or curb.

4.5

- (a) No owner shall damage or allow the sidewalk, boulevard or curb to be damaged by way of the methods used to clear the snow and ice.
- (b) No owner shall use or allow to be used any vehicle to plow or remove snow wider than the sidewalk being plowed.

Part 5

5.0 Penalties and Enforcement

- 5.1 Any Police Officer, Municipal Law Enforcement Officer, or employee of the City designated by the Director for the purpose of this By-law is authorized to inform any person of the provisions of this By-law and to request compliance therewith;
- 5.2 Where anything required to be done by an owner in accordance with this by-law is not done, the City may do so and recover the cost of so doing by adding the cost to the tax roll of the real property adjoining the boulevard and collecting the cost in the same manner and with the same priority as municipal taxes.
- 5.3 Every person who contravenes a provision of this by-law is upon conviction guilty of an offence and is liable to a fine recoverable under the *Provincial Offences Act*, R.S.O., 1990, c. P. 33, as amended, or any successor legislation.
- 5.4 This By-law is designated as a by-law to which the Administrative (Non-Parking) Penalty By-Law, applies
- 5.5 Any person who contravenes any of the provisions of this By-law, when given a Penalty Notice in accordance with the City's Administrative (Non-Parking) Penalty By-Law, is liable to pay the City an administrative penalty in the amount specified in the City's Administrative (Non-Parking) Penalty By-Law, as amended from time-to-time. (Schedule F)

Part 6

6.0 General

- 6.1 This by-law may be cited as the "Boulevard & Snow Removal By-Law."

Repeal of Existing By-law

6.2 That By-law 5383/137/09, Being a By-law to Provide for the Removal of Snow and Ice from Roofs and Sidewalks, is hereby repealed.

Effective Date

6.3 This by-law shall come into force on _____, 2022.

Enacted and passed this _____ of _____, _____.

William C. Steele
Mayor

Nicole Rubli
Acting City Clerk