

THE CORPORATION OF THE CITY OF PORT COLBORNE

BY-LAW NO. 5383/137/09

BEING A BY-LAW TO PROVIDE FOR THE REMOVAL
OF SNOW AND ICE FROM ROOFS AND SIDEWALKS

WHEREAS the Municipal Act, S.O. 2001, c.25, as amended (the "Act"), subsection 11(3), provides, inter alia, that a lower tier municipality and an upper tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting highways;

AND WHEREAS subsection 11(4), item 1 "Highways" provides that the highway's sphere of jurisdiction is a non-exclusive assignment and therefore both the upper tier municipality and its lower tier municipalities have the power to pass by-laws under that sphere;

AND WHEREAS s. 130 of the Municipal Act, Chapter 25, S.O. 2001, provides that a municipality may regulate matters related to the health, safety, and well-being of the inhabitants of the municipality;

AND WHEREAS s. 55 of the Act provides that a lower-tier municipality in which highways are located are responsible for the maintenance of the sidewalks and have jurisdiction over that part of the highway;

AND WHEREAS s. 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 pursuant to 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;

AND WHEREAS pursuant to 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. 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:

Part I - Definitions

1. In this By-law,
 - (a) "Building" includes the lands and premises appurtenant to a building;
 - (b) "City " means the City of Port Colborne
 - (b) "Council" means the Council for the City of Port Colborne
 - (c) "Consecutive Winter Storm Event" refers to 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;
 - (d) "Curb" includes the edge of a roadway;
 - (e) "Director" means the Director of Engineering & Operations for the City, and includes his designate and successor;
 - (f) "Highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, and any part of which is intended for or used by the general public for the passages of vehicles and includes the area between the lateral property lines thereof, including sidewalks;
 - (g) "Owner" - means the owner, occupant, lessee or tenant of property or the person having control, charge or care of property;
 - (h) "Roadway" means the part of a highway that is improved, designed or ordinarily used for vehicular traffic;
 - (i) "Sidewalk" means that portion of a highway between the curb lines or the lateral lines of a roadway and the adjacent property lines specifically provided and intended for the use of pedestrians;
 - (j) "Winter Storm Event" refers to any precipitation and/or accumulation of snow, including blowing snow or ice.

Part II- General Duties, Obligations, and Prohibitions

2. 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 highways in front of, alongside or at the rear of such building, or vacant land within:
 - (a) 24 hours of the cessation of a winter storm event; or
 - (b) 24 hours of the cessation of a series of consecutive winter storm events.
3. 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 ashes, sand, salt or other suitable material in a manner as to thoroughly cover such slippery surface.
4. 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, along side 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.

5. No owner shall throw, place, bring, or deposit snow or ice:
 - (a) on or immediately adjacent to a fire hydrant, or in any manner that obstructs access to a fire hydrant;
 - (b) 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;
 - (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.
6.
 - (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 IV - Enforcement and Penalty

7. Every person who contravenes any provision of this By-law is guilty of an offence and on conviction, is liable to such penalty as provided for in the Provincial Offences Act.
8. Where an Owner fails to comply with the requirements of this By-law, the Director may give the Owner notice and direct them to comply with the By-law within 24 hours. Further, that if the Owner so directed, fails or neglects to comply with such notice, the City may, at the expiration of the time set out in such notice, cause all snow and ice to be removed and cleared from the said sidewalk or roof, at the expense of the Owner. The City may recover the expenses incurred in such removal and clearing, and any other expenses arising out of the enforcement of this By-law, in a like manner as municipal taxes.

Part V – General Provisions

Severance

9. Should a court of competent jurisdiction declare any part or whole of any provisions of this By-law to be invalid or of no force and effect, the provision or part shall be deemed to have been severed from the By-law, and it is the intention of Council that the remainder of the By-law survive and be applied and enforced in accordance with the terms to the extent possible under law.

Repeal

10. City of Port Colborne By-law 1892/11/87 is hereby repealed.

Enactment

11. This By-law shall come into force and effect on the date of its passing and enactment.

Short Title

12. The short title of this By-law is "The Snow Removal By-Law".

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 23RD DAY OF NOVEMBER, 2009.



MAYOR



CLERK