THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

BY-LAW NO. 06-2025

Being a By-law to Regulate the Maintenance of Municipal Property Adjacent to Private Lots and Repeal By-law 52-97

WHEREAS it is deemed expedient to exercise the powers conferred on Council by the *Municipal Act, 2001,* S.O. 2001, c.25; and

WHEREAS section 11 (2) of the *Municipal Act, 2001,* S.O. 2001, c. 25 authorizes The Corporation of the Municipality of Port Hope to pass by-laws respecting public assets of the municipality acquired for the purpose of exercising its authority under the *Municipal Act, 2001*, or any other Act; and

WHEREAS section 11 (2) of the *Municipal Act, 2001,* S.O. 2001, c. 25 authorizes The Corporation of the Municipality of Port Hope to pass by-laws respecting social and environmental well-being of the municipality; and

WHEREAS section 11 (2) of the *Municipal Act, 2001,* S.O. 2001, c. 25 authorizes The Corporation of the Municipality of Port Hope to pass by-laws respecting the health, safety, and well-being of persons; and

WHEREAS section 11 (2) of the *Municipal Act, 2001,* S.O. 2001, c. 25 authorizes The Corporation of the Municipality of Port Hope to pass by-laws respecting protection of persons and property; and

WHEREAS section 11 (3) of the *Municipal Act, 2001,* S.O. 2001, c. 25, authorizes The Corporation of the Municipality of Port Hope to pass by-laws respecting Municipal roads; and

WHEREAS section 44(1) of the *Municipal Act, 2001,* S.O. 2001, c. 25 requires The Corporation of the Municipality or Port Hope to maintain roads under its jurisdiction in a state of repair that is reasonable in the circumstances; and

WHEREAS section 128(1) of the *Municipal Act, 2001,* S.O. 2001, c. 25 authorizes The Corporation of the Municipality of Port Hope to regulate and prohibit with respect to public nuisances; and

WHEREAS Council recognizes that owners and occupants of real property often use, maintain, and improve the boulevard area abutting such real property; and

WHEREAS Council considered Staff Report PS-03-25 at its Meeting on February 18, 2025;

NOW THEREFORE the Council of the Corporation of the Municipality of Port Hope enacts as follows:

1. Definitions

1.1 In this By-law:

(a) “Boulevard” means that part of a highway between a street line and the edge of the curb or, where there is no curb, that portion of the highway which is travelled or designed to be travelled by vehicles. A boulevard may or may not contain a sidewalk.

(b) "Boulevard Tree" shall mean any tree on a boulevard.

(c) “Building” means any structure consisting of a roof supported by walls or columns which is used or intended to be used for the shelter, accommodation or enclosure of Persons, animals, goods, chattels or equipment and includes an unoccupied building.

(d) “Director” means the Municipality’s Director, Protective Services or Director, Works and Engineering or their designate.

(e) “Highway” means a common and public highway, street, avenue, or parkway any part of which is intended for use by the general public for the passage of vehicles and includes the area between the lateral property lines including any boulevard.

(f) “Lot” means a parcel of land within the Municipality’s territorial limits which is:

i. shown as a lot or block on a registered plan of subdivision; or

ii. described in a single Transfer/Deed of Land of legal effect registered in the Land Registry Office or the Land Title Office for the Land Registry Division of Northumberland.

(g) “Municipality” means the Corporation of the Municipality of Port Hope

(h) “Officer” means each of:

i. the Municipality’s Director, Protective Services;

ii. the Municipality’s Supervisor, Municipal Law Enforcement;

iii. a Municipal Law Enforcement Officer appointed by or under the authority of a Municipal by-law to enforce a Designated By-law; and

iv. a police officer employed by a police service.

(i) “Order” means any written instruction or direction issued under Section 11.6 of this By-law by an Officer to an owner of property or other person pursuant to Sections 444(1) and 445(1) of the *Municipal Act, 2001*.

(j) “Owner” means each owner of a Lot, and includes an individual, association, firm, partnership, corporation, trustee, or agent, and their heirs, executors, or legal representatives.

(k) “Person” includes an individual, partnership, association, firm or corporation.

(l) “Sidewalk” means that part of the Highway specifically set apart for use by pedestrians, including the portion that crosses a private driveway, the portion that connects the main sidewalk to the travelled portion of the highway and the portion that connects the main sidewalk to private property.

(m) “Windrow” means a ridge of snow left behind by a snowplow at a sidewalk or driveway.

2. Snow and Ice Removal – Sidewalk

2.1 Every Owner of a Lot shall, no later than midnight of the first day after the fall of snow or any other precipitation which freezes has ended, clear away and completely remove, or cause to be cleared away and completely removed, the snow and ice, including Windrows, from any Sidewalk on any Highway in front of, alongside or at the rear of the Lot.

2.2 If, after removing the snow and ice from the Sidewalk, any portion of the Sidewalk remains or becomes slippery from any cause, the Owner shall immediately and as often as necessary apply or cause to be applied sand, salt or some other suitable material on the Sidewalk so as to completely cover the slippery surface.

2.3 Sections 2.1 and 2.2 do not apply to an Owner for whom the Municipality has undertaken the responsibility to clear away and completely remove snow and ice from a Sidewalk in front of, alongside or at the rear of the Owner’s Lot.

3. Snow and Ice Removal – Building

3.1 Every Owner of a Building in such close proximity to a Sidewalk or a Highway that snow or ice may fall or flow upon the Sidewalk or Highway must, whenever snow or ice accumulates upon any portion of the Building to such an extent that it is likely to fall or flow onto the Sidewalk or Highway shall clear away and remove, or cause to be cleared away and removed, the snow and ice.

3.2 Every Owner shall take proper care and precaution for the warning and safety of pedestrian and vehicular traffic during the removal of snow and ice from the Owner's Building.

4. Snow and Ice Removal by Municipality

4.1 Where an Owner has not cleared away and completely removed snow and ice from a Sidewalk on a Highway in front of, alongside or at the rear of the Owner's Lot pursuant to this By-law, the Director may, without notice to any Owner, cause the snow and ice to be removed at each Owner's expense. Without limitation, the Director may retain such Persons to assist in completing the snow and ice removal as the Director determines appropriate.

4.2 Each Owner is jointly and severally liable to the Municipality for all costs incurred in any way related to the removal of snow and ice for the purposes of section 4.1 including, without limitation, interest calculated at the rate one point two five percent (1.25%) per month, for the period commencing on the day that the cost was incurred and ending on the day that all costs, including the interest, are paid in full.

4.3 The Municipality's costs and the interest thereon of the snow and ice removal may be added to the tax roll and collected in the same manner as property taxes.

4.4 The amount of the costs and interest constitute a lien on the Lot or the land on which the Building is situated upon registration in the proper land registry office of a notice of lien.

5. Boulevard Maintenance

5.1 Every Owner or occupant of property shall maintain the Boulevard abutting their property by;

(a) keeping grass and weeds trimmed to a height of no more than 10 cm

(b) ensuring that other than a Boulevard Tree, no grass, weeds, bushes, shrubs, or other objects encroach onto or grow over the sidewalk or roadway;

(c) ensuring that nothing other than a Boulevard Tree impedes access to a fire hydrant;

(d) ensuring that nothing other than a Boulevard Tree impedes access to or interferes with the proper use or functioning of any infrastructure;

(e) keeping it free of brush, noxious weeds, and invasive plants; and

(f) keeping it in a tidy condition and free of litter, debris, or an accumulation of leaves.

6. Boulevard Trees

6.1 No Person shall:

(a) injure a Boulevard Tree;

(b) injure or cut the roots of a Boulevard Tree;

(c) cut down, prune or trim a Boulevard Tree;

(d) use any pesticide or herbicide anywhere on a Boulevard including on a Boulevard Tree or plant;

(e) dig, excavate, or plant anything other than grass within 1 metre of a Boulevard Tree;

(f) dig by any method other than hand-digging within the dripline of the Boulevard Tree;

(g) place anything in direct contact with the trunk of a boulevard tree above the existing grade of a Boulevard;

(h) place any soil, mulch, stones, rock, or other object directly against the trunk of a Boulevard Tree above the existing grade of a Boulevard; or

(i) plant a tree on a Boulevard without authorization of the Municipality.

6.2 On a Boulevard abutting their property, no Owner or occupant of property shall without authorization of the Municipality:

(a) permit a Boulevard Tree to be injured;

(b) permit the injury or cutting of roots of a Boulevard Tree;

(c) permit a Boulevard Tree to be cut down, pruned, or trimmed;

(d) permit use of any pesticide or herbicide anywhere including on a Boulevard Tree or plant;

(e) permit any Person to dig, excavate, or plant anything other than grass within 1 metre of a Boulevard Tree;

(f) permit digging by any method other than hand-digging within the dripline of the Boulevard Tree;

(g) place or permit anything in direct contact with the trunk of a Boulevard Tree above the existing grade of a Boulevard;

(h) place, or permit any soil, mulch, stones, rock, or other object directly against the trunk of a Boulevard Tree above the existing grade of a Boulevard; or

(i) permit plant a tree on a Boulevard without authorization of the Municipality.

7. Prevention of Hazards and Nuisances and Restrictions on Improvements

7.1 No Owner or occupant of property shall place, permit to be placed, or permit to remain any of the following on a Boulevard abutting their property:

(a) anything that is protruding, sharp, or dangerous;

(b) anything that restricts a sightline of pedestrians, cyclists, or drivers of vehicles to an intersection, driveway, sidewalk, walkway, travel lane, or traffic control device or sign;

(c) anything that inhibits or obstructs snow removal operations or is likely to cause damage to a snow plow;

(d) where on-street parking is permitted adjacent to a Boulevard, anything that interferes with the ability of a Person to exit or open the doors of a motor vehicle parked beside the Boulevard;

(e) electrical wiring or any other electrical system;

(f) a sprinkler system, plumbing pipe, or other plumbing system;

(g) a fence;

(h) any loose stone smaller than 5 cm in diameter;

(i) any loose stone or rock larger than 10 cm in diameter;

(j) anything that is likely to overflow on to the street, sidewalk, roadway, or another Person's adjacent property;

(k) anything that voids a warranty on grass or sod installation following a road reconstruction;

(l) anything which alone or in combination with any other thing or things prevents or fails to allow sufficient space for the proper placement of waste for collection;

(m) landscaping of any type that fills in or interferes with ditches, swales, or drainage structures;

(n) landscaping or objects of any type that interfere with or prevent access to infrastructure; or

(o) any vegetable or plant intended or commonly used for human consumption.

8. Safe Zone Beside Sidewalks

8.1 The Municipality wishes to ensure that an area of 45 cm on the side of the Sidewalk closest to the roadway is kept free and clear of any hazards to pedestrians.

8.2 No Owner or occupant of property shall place, permit to be placed, or permit to remain any of the following within 45 cm of the side of a Sidewalk closest to the roadway on the Boulevard abutting their property:

(a) anything other than grass, herbaceous plants, wood chips, mulch, inorganic material, or a hard surface that is level and flush with the Sidewalk;

(b) any loose stones; or

(c) anything that is likely to cause injury to a cyclist or pedestrian riding or falling into that area.

9. Boulevard, Tree Maintenance by Municipality

9.1 Where an Owner has not maintained the Boulevard or injures, cut, or removed a Boulevard Tree, adjacent to the Owner's Lot pursuant to this By-law, the Director may, without notice to any Owner, cause a remediation at each Owner's expense. Without limitation, the Director may retain such Persons to assist in completing the remediation as the Director determines appropriate.

9.2 Each Owner is jointly and severally liable to the for all costs incurred in any way related to the remediating Boulevards and Boulevard Trees for the purposes of Section 9.1 including, without limitation, interest calculated at the rate of one point two five percent (1.25%) per month, for the period commencing on the day that the cost was incurred and ending on the day that all costs, including the interest, are paid in full.

9.3 The Municipality's costs and the interest thereon of the remediation may be added to the tax roll and collected in the same manner as property taxes.

9.4 The amount of the costs and interest constitute a lien on the Lot or the land on which the Building is situated upon registration in the proper land registry office of a notice of lien.

10. Prohibition

10.1 No Person shall move or permit to be moved snow or ice from private property onto or pile, redistribute or otherwise cause the accumulation of snow on a Sidewalk or a Highway.

10.2 No Person shall deposit or cause to be deposited snow or ice on a Boulevard that is not adjacent to his or her Lot.

10.3 No Person shall fail to clear away and completely remove or cause to be cleared away and completely removed, the snow and ice, including Windrows, from any Sidewalk on any Highway in front of, alongside or at the rear of his or her Lot by midnight of the first day after the fall of snow or any other precipitation which freezes.

10.4 No Person shall fail to immediately and as often as necessary apply or cause to be applied sand, salt or some other suitable material on any Sidewalk on any Highway in front of, alongside or at the rear of his or her Lot so as to completely cover any portion of the Sidewalk that remains or becomes slippery from any cause after removing the snow and ice from the Sidewalk.

10.5 No Person who owns a Building in such close proximity to a Sidewalk or a Highway that snow or ice may fall or flow upon the Sidewalk or the Highway shall fail to clear away and remove, or cause to be cleared away and removed, the snow and ice whenever snow or ice accumulates upon any portion of the Building to such an extent that it is likely to fall or flow onto any Sidewalk or Highway.

11. Enforcement

11.1 This By-law shall be enforced by any Officer.

11.2 An Officer may, for the purposes of an inspection under Subsection 11.2:

(a) require the production for inspection of documents or things relevant to the inspection;

(b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extract; require information in writing or otherwise as;

(c) required by an Officer from any Person concerning a matter related to the inspection; and/or

(d) alone, or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

11.3 Applicable fees for administration and enforcement activities under this By-law shall be subject to the rates and fees set out in accordance with the Municipality of Port Hope's current Fees and Charges By-law.

11.4 No Person shall hinder or obstruct, nor attempt to hinder or obstruct, either directly or indirectly, an officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this By-law.

11.5 An Officer may make an Order requiring an Owner or other Person, within the time specified in the Order, to:

(a) discontinue the contravening activity; and/or

(b) do work to correct the contravention.

Such Order shall be served on the said Owner or other Person by personal delivery, posting on the land where the contravention has occurred, or regular mail to the last known address of the said Owner or other Person.

11.6 An Order under Subsection 11.6 shall set out:

(a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred;

(b) the work to be completed to rectify the contravention; and

(c) the date or dates by which the work must be completed.

11.7 Where an Owner or other Person has been issued an Order under Subsection 11.6 of this By-law:

(a) no Person shall fail to obey such an Order; and

(b) where such an Order is contravened, the Officer may, without notice to the Owner, cause the work required to correct the contravention to be performed, including, without limitation, the removal and disposal of any item or items whose presence on the land contravenes this By-law, done at the expense of the Owner or other Person. Without limitation, the Officer may retain such others to assist in completing the work as the Officer determines appropriate to be done at the expense of such Owner or other Person. Any such work shall be performed in accordance with Section 11.

11.8 Where any item is removed from the land in accordance with Section 11 such item may be immediately disposed of by the Municipality.

11.9 Upon completion of the work to correct the contravention by or on behalf of the Municipality, the Municipality shall have a lien on the land for the amount spent on the work to correct the contravention, and the amount shall be deemed to be municipal property taxes and may be added to the tax roll and collected in the same manner and with the same priority as municipal property taxes.

11.10 Where more than one Person owns land in respect of which the Municipality has incurred costs in accordance with Section 11, each Owner is jointly and severally liable to the Municipality for all such costs for the purposes of Subsection 11.10, including, without limitation, interest as per Municipal policy.

12. Offences

12.1 Every Person who contravenes any provision of this By-law, including an Order issued under this By-law, is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.

12.2 If an Order has been issued under this By-law, and the Order has not been complied with, the contravention of the Order shall be deemed to be a continuing offence for each day or part of a day that the Order is not complied with.

12.3 Each Person who is guilty of an offence under this By-law shall be subject to the following penalties:

(a) upon a first conviction, shall be liable to a fine of not less than $300 and not more than $5,000;

(b) upon a second or subsequent conviction for the same offence, to a fine of not less than $500 and not more than $10,000;

(c) upon conviction for a continuing offence, to a fine of not less than $1,000 and no more than $10,000 for each day or part of a day that the offence continues, the total of which may exceed $100,000;

(d) upon conviction of a multiple offence, for each offence included in the multiple offence, to a fine of not less than $1,000 and not more than $10,000, the total of which, not limited to $100,000

12.4 For the purpose of this By-law, “multiple offence” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.

12.5 For the purpose of this By-law, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

12.6 When a Person has been convicted of an offence under this By-law,

(a) the Ontario Court of Justice, or

(b) any Court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the Person convicted, make an Order prohibiting the continuation or repetition of the offence by the Person convicted.

12.7 No Person shall provide false information or give a false statement to an officer, employee and/or agent of the Municipality in the lawful exercise of a power or duty under this By-law.

13. Scope and Interpretation

13.1 Where the provisions of this By-law conflict with the provisions of any other by-law in force in the Municipality, the provisions that establish the higher standard to protect the health, safety and welfare of the general public shall prevail.

13.2 In the interpretation and application of the provisions of this By-law, unless otherwise stated to the contrary, the provisions shall be held to be the minimum requirements for the promotion of the health, safety and welfare of the general public.

13.3 The Municipality deems snow- and ice-covered Sidewalks, and unmaintained or altered Boulevards a nuisance that could create a health and safety hazard for the public.

13.4 In a prosecution made for a contravention of this By-law, unless reasonably demonstrated by evidence to the contrary on a balance of probabilities, an Owner of property or other Person charged with an offence under this By-law shall be presumed to have contravened or caused or permitted a contravention of this By- law or an Order made under this By-law.

14. Severability

14.1 Where a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an Order to the contrary.

15. Repeal of By-Law

15.1 By-law 52-97 and all its amendments thereto are hereby repealed.

16. Enactment

16.1 This By-law shall come into full force and effect on the day it is passed.

BYLAW READ AND PASSED in Open Council this 18th day of February, 2025.

_____
Olena Hankivsky, Mayor

_____
Shrishma Davé, Clerk