THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

BY-LAW NO. 27-2026

Being a By-Law to prohibit or regulate encroachments on public highways and other public lands within the Municipality of Port Hope

WHEREAS Council deems it necessary and desirable to regulate encroachments on Highways and other Public Lands in order to protect public safety, accessibility, pedestrian and vehicular access, municipal infrastructure, drainage, Utilities, emergency access, and the Municipality's ability to use and maintain Public Lands for public purposes; and

WHEREAS Council intends that this By-law be administered in a fair, consistent and reasonably accessible manner, having regard to applicable accessibility and human rights obligations and the need to protect public safety and municipal operations; and

WHEREAS Section 11(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended authorizes municipal councils to enact by-laws to prohibit or regulate encroachments on highways and other public lands; and

WHEREAS section 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, permits a municipality to pass by-laws providing that any person who contravenes any by-law of the municipality passed under the *Municipal Act, 2001* is guilty of an offence; and

WHEREAS section 436 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, permits a municipality to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law passed under the *Municipal Act, 2001*, or a direction or order made under such a by-law, are being complied with; and

WHEREAS subsection 444(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, permits a municipality, if satisfied that a contravention of a by-law of the municipality passed under the *Municipal Act, 2001* has occurred, to make an order requiring the person who contravened the by-law or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravening activity; and

WHEREAS subsection 445(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, permits a municipality to require that work be done pursuant to subsection 445(1) even though the facts which constitute the contravention of the by-law were present before the by-law making them a contravention came into force; and

WHEREAS subsection 446(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that if a municipality has the authority under the *Municipal Act, 2001* or any other Act, or under a by-law under the *Municipal Act, 2001* or any other Act, to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense; and

WHEREAS subsection 446(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may enter upon land at any reasonable time for the purposes of subsection 446(1); and

WHEREAS subsection 446(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, permits a municipality to recover the costs of doing a matter or thing under subsection 446(1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes; and

WHEREAS Council considered Report LLS-11-26 on March 3, 2026 and Report LLS-20-26 at its Meeting of May 19, 2026;

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

1. DEFINITIONS

1.1 For the purposes of this By-law:

a) **"Alter"** means to change an existing Encroachment in grading or substance from its original state.

b) **"Bridge"** means a public structure, and includes a bridge forming part of a Highway, or on, over, under or across which a Highway under the jurisdiction of the Municipality passes.

c) **"Clean"** means to sweep and/or flush a Highway with mechanical street cleaning equipment.

d) **"Culvert"** means a conduit or channel running either parallel or at an angle to the travelled portion of a highway, lying wholly or partly within the said Highway, or providing drainage predominately for the road surface and road base.

e) **"Ditch"** means an excavated or depressed area running parallel to the travelled portion of a Highway and being either wholly or partly within a Highway.

f) **"Easement"** means an interest in land owned by a Person other than the owner of the estate in fee simple in such land, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose, but does not include an interest created by a license.

g) **"Encroachment"** means any type of landscaping, vegetation or natural or man-made object(s) or item(s) which exist wholly or partially upon or extends from a Person’s premises onto any Public Lands, shall include both Major Encroachments and Minor Encroachments, and shall include any aerial, surface or subsurface encroachments, as hereinafter defined:

i) **“Aerial Encroachment”** – means an Encroachment that is located more than 300 mm (12 inches) above the surface of Public Lands.

ii) **“Surface Encroachment”** – means an Encroachment that is located anywhere from 300 mm (12 inches) above to 25 mm (1 inch) beneath the surface of Public Lands.

iii) **“Subsurface Encroachment”** – means an Encroachment that is located more than 25 mm (1 inch) beneath the surface of Public Lands.

h) **"Encroachment Agreement"** means an agreement executed by the Municipality and a Person or business granting authorization to erect, place, Alter or continue a Major Encroachment or, if the Director of Legal and Legislative so requires pursuant to Subsection 5.1c), a Minor Encroachment.

i) **"Encroachment Permit"** means a permit issued by the Municipality to a Person or business granting authorization to erect, place, Alter or continue a Minor Encroachment.

j) **"Expense"** means the cost of carrying out any work required under this By-law, including any applicable fees.

k) **“Foul"** means to throw, place, or deposit debris, including snow, ice, mud, gravel and airborne dust emanating from other debris, or discharge water from pools or sump pumps on a Highway.

l) **"Highway"** includes a common and public highway, street, sidewalk, boulevard, avenue, parkway, lane, alley, square, place, driveway, bridge, viaduct, trestle and any other structure incidental thereto which is under the jurisdiction of the Municipality, any part of which is intended for or used by the general public for the passage of Vehicles, including the boulevard and all of the area between the lateral property lines thereof.

m) **“Land Disturbance"** means any man-made change to the land surface through construction activities, including, without limiting the foregoing, removal of trees and/or vegetation, excavating, trenching, filling, grading, sodding and landscaping.

n) **"Major Encroachment"** means any building, structure and/or attachment to a building or structure that was inadvertently and partially erected on or over a Highway or other Public Lands and existing in such condition as of the date of enactment of this By-Law, and, in the opinion of the Director of Works and Engineering or Director of Legal or Legislative Services, cannot be easily removed without significant impact on the remaining building or structure. Examples include but are not limited to garages, retaining walls, decks, garden sheds, building attachments such as signs, awnings, cornices, air conditioners and any other projections beyond the main wall of a building or structure.

o) **"Minor Encroachment"** means any item encroaching upon Public Lands which can be easily removed or relocated and the Public Lands restored as required by the Municipality. Examples include but are not limited to landscaping, fences, driveway widenings, driveway culvert installations, bulk items placed on Public Lands, items that encroach for a short duration of time, and Vehicle/equipment access across Public Lands.

p) **"Mud Mat"** means an area of 100 mm clear crushed stone at least 6 metres in width, 20 metres in length and 150 mm in depth, designed to strip mud off Vehicle tires prior to said Vehicles entering onto a Highway.

q) **“Municipal Access Agreement”** means an agreement between the Utility Companies and the Municipality to receive consent to construct its equipment within the Right of Ways (ROWs) and the Municipality is

willing to grant the Company a non-exclusive right to access and use the ROWs; provided that such use will not unduly interfere with the public use and enjoyment of the ROWs, nor any rights or privileges previously conferred or conferred after the effective date by the Municipality on Third Parties to use or access the ROWs.

r) **“Municipal Law Enforcement Officer”** means a Person employed by the Municipality to enforce the Municipality’s By-laws.

s) **“Municipality”** means The Corporation of the Municipality of Port Hope.

t) **"Notice"** means any notice, order, direction, decision or other communication given by the Municipality pursuant to this By-law and may be delivered personally, sent by prepaid registered mail, sent by electronic mail where an electronic mail address has been provided to the Municipality by the recipient, posted in a conspicuous place on the subject lands, or provided by any other method reasonably calculated to bring the Notice to the attention of the recipient.

Unless otherwise provided in this By-law, a Notice shall be deemed to have been given:

i. at the time of personal delivery;
ii. if sent by prepaid registered mail, on the third business day after mailing;
iii. if sent by electronic mail, on the day sent, unless sent after 5:00 p.m., in which case it shall be deemed sent on the next business day; and
iv. if posted on the subject lands, on the day of posting.

Where the Municipality is advised that a Person requires communication accommodation, the Municipality may provide Notice in an alternate format or by an alternate method, where practicable.

u) **"Owner"** includes a Person in whom land or any interest therein is vested and shall also include a lessee or occupant of land.

v) **"Person"** includes a natural individual, their estate trustee or other legal personal representative, a firm or business entity or club, incorporated group or organization, federal or provincial government, crown agents, school boards and regional municipalities, a partnership, an employee or agent of a firm, business entity, corporation or partnership and any other form of business association to which the context can apply according to law.

w) **"Private Property"** means a parcel of land owned by any Person other than the Municipality, the Regional, Provincial or Federal Government, a Crown Corporation, or a Utility or Railway Company, and includes all buildings and structures thereon.

x) **"Public Lands"** means lands owned by the Municipality, including, without limiting the foregoing, any Highway, thoroughfare, way, pedestrian Bridge, park, woodland, greenbelt, bed of a body of water, storm water management facility, open space, cemetery, road, street, avenue, parkway, lane, alley, squire, place, viaduct or trestle, including any surface, grassed area, boulevard, Ditch, curb, gutter and sidewalk and all parts thereof, but does not include property owned by the Regional, Provincial or Federal Government, a Crown Corporation, or a Utility or Railway Company.

y) **"Right-of-Way (ROW)"** means a Person's legal right, established by usage or by contract, to pass through grounds or property owned by another Person.

z) **"Scrape"** means to remove mud, dirt and/or debris from a Highway by either hand operation or construction equipment.

aa) **"Unauthorized Encroachment"** means any Encroachment onto the municipal Right-of Way or municipal Easement that is not authorized by Encroachment Permit, Encroachment Agreement or this By-law.

bb) **"Utility"** means a water works, sewage works, electrical energy works, communication works, streetlighting or natural gas works, and their respective collection and distribution systems in, under and upon a Highway.

cc) **"Vehicle"** includes, without limitation, a motor vehicle, trailer, traction engine, farm tractor, road building machine, bicycle and/or any vehicle drawn, propelled or driven by any kind of power, including muscular power.

2. PROHIBITIONS

2.1 Encroachments Prohibited

a) No Person shall erect, place, maintain, or cause to be erected, placed, or maintained an Encroachment of any kind on any Public Lands or on any Easement in favour of the Municipality without an Encroachment Agreement or an Encroachment Permit.

b) No person shall Alter or cause to be Altered an Encroachment of any kind on any Public Lands or on any Easement in favour of the Municipality except where permitted to do so in accordance with this By-law.

c)

i) No Person shall construct, reconstruct, or cause to be constructed or reconstructed any vehicular or pedestrian access to any Private Property from the travelled portion of a Highway without obtaining an Encroachment Permit therefor from the Municipality.

ii) No Person shall install or cause to be installed any driveway Culvert or driveway curb cut on a Highway without first obtaining an Encroachment Permit from the Municipality.

iii) No Person shall erect or maintain any structure, fence, tree, hedge or shrub on any Highway without first obtaining an Encroachment Permit therefor, which permit shall not be issued if it can reasonably be anticipated, in the opinion of the Director of Works and Engineering, Director of Legal and Legislative Services or designate, that such structure, fence, tree, hedge or shrub will obstruct or impede sight lines or block access to any Utility. Notwithstanding the issuance of an Encroachment Permit therefor, any such structures, fences, trees, hedges or shrubs shall be the sole responsibility of the Owner of the lands abutting the portion of the Highway containing such structures, fences, trees, hedges or shrubs, and such Owner shall bear all risk associated with such Encroachment, and shall remove them at his or her own Expense upon receiving Notice from the Municipality requiring such removal.

d) No Person shall break, excavate, dig up, tear up or remove soil, planking, sidewalk, curbing, pavement or any road structure forming the surface or any part of a Highway (including, without limitation, a boulevard on the Highway) for any purpose whatsoever unless they first obtains an Encroachment Permit or Municipal Access Agreement from the Municipality.

e) No Person shall erect or maintain, without first obtaining an Encroachment Agreement, a structure, garage, retaining wall, pool structure or projection of any kind beyond the main walls of a building if such structure, garage, retaining wall, pool structure or projection will encroach upon a Highway. Without restricting the generality of the foregoing, “projections” shall include air conditioners, cornices, eaves, awnings, containers, awning covers, sills, brackets and other similar obstructions extending beyond the main walls of a building.

f) No Person shall remove any barricade or sign or enter upon or use any Highway or part thereof which has been closed to traffic by the Municipality.

g) Nothing in this By-law shall prevent the Municipality from Altering, opening, closing or otherwise using any Highway for any civic purpose.

h) Prior to commencing a Land Disturbance on Private Property, an Owner shall construct a Mud Mat or take alternative measures approved by the Municipality to prevent the Fouling of Public Lands.

i) No Person shall Foul any Highway within the Municipality.

j) During a Land Disturbance on Private Property, the Owner thereof shall:

    i) Scrape any Highway or Bridge that has been Fouled at least once per day and Clean same at least once per week, or more frequently if required by the Municipality.

    ii) Take the necessary action to prevent dust and dirt emanating from the Land Disturbance from blowing onto Public Lands.

    iii) Ensure that a Mud Mat is used by all Vehicles leaving the Private Property and is maintained and free of mud or dust.

    iv) Not permit mud, dirt or debris to be deposited or flushed into any storm sewer or catch basin. The Owner of Private Property from which such mud, dirt or debris originates shall clean any storm sewer or catch basin that is Fouled by mud, dirt, or debris originating from such Private Property to the satisfaction of the Director of Works and Engineering or designate.

    v) Scrape or Clean any Highway or Bridge that has been Fouled within four (4) hours of receiving notification from the Municipality that such action is necessary, failing which the Municipality may take such action at the Expense of the Owner, and such Expense may be recovered in the manner provided for in Section 9.1.

k) No Person shall place any obstruction in, or cause or permit to be obstructed, any Ditch, gutter, Culvert, fire hydrant or water course on any Highway.

l) No Person shall place, erect or maintain sporting equipment on Public Lands except in a manner that does not obstruct or interfere with municipal operations, pedestrian access, vehicular traffic, sightlines, drainage, snow clearing, street sweeping or emergency access. Any placement or use of sporting equipment must be temporary and/or movable. Any sporting activity carried out on Public Lands, and any placement or use of sporting equipment on Public Lands, is undertaken at the sole risk of the Person or Persons involved. The Municipality assumes no responsibility or liability, to the fullest extent permitted by law, for any injury, loss or damage arising from such activity or equipment, and reserves the right to require the removal of such equipment at any time.

3. APPLICATIONS FOR ENCROACHMENT PERMITS AND AGREEMENTS

3.1

a) Any Person seeking to Encroach, Alter or continue an Encroachment on Public Lands or Easements in favour of the Municipality shall submit an application to the Municipality seeking permission to do so, along with payment of a non-refundable application fee in accordance with the Municipality's Fees and Charges By-law, as amended, or as may be replaced from time to time.

b) The form and content of the application(s) shall be prescribed by the Director of Legal and Legislative Services or designate and may be amended from time to time. Application materials may be made available in alternate formats or by alternate intake methods, where practicable.

c) Where an application to erect, install, Alter or continue a Minor or Major Encroachment has been approved, the Director of Legal and Legislative Services or designate, shall provide Notice to the applicant that an Encroachment Permit must be obtained and/or an Encroachment Agreement must be executed. Such Encroachment Permit or Encroachment Agreement shall be prepared by the Municipality.

d) Where an applicant fails to pay the applicable fee or fails to obtain an Encroachment Permit or execute an Encroachment Agreement within five (5) calendar days of the delivery of the Notice referred to in Subsection 3.1 c), the applicant shall be deemed to have abandoned its application, unless the Municipality grants an extension in accordance with this By-law.

e) The applicant may, at the Municipality's discretion, be required to submit a deposit to secure the cost of repairing any damage to a Highway, other Public Lands or any lands over which the Municipality has an Easement, or to any water service box or other Utility, and/or the cost of removing any building material, waste or soil which has been spilled or tracked onto the said Highway, Public Lands or Easement as a result of the applicant's construction activity. Upon completion of all required work by or to the satisfaction of the Municipality, the amount by which the sum deposited exceeds the costs of any repair or material removal shall be refunded to the applicant.

f) Any work permitted on any Highway, other Public Lands or any lands over which the Municipality has an Easement shall be done under the Municipality's direction, and the portion of the Highway, Public Lands or Easement disturbed shall be replaced, re-laid and made good to the Municipality's satisfaction by and at the Expense of the applicant or, if the applicant cannot or does not complete such works, by the Municipality at the Expense of the applicant.

g) The applicant shall provide and maintain the signage, delineation and a competent traffic control person as per the MTOs Ontario Traffic Manual 'Book #7', and shall take such further care and precaution as may be advisable for the protection and safety of the public.

h) The applicant shall not close a Highway or any part thereof without the prior approval of a Traffic Control Plan and written approval of a Road Occupancy Permit issued by the Municipality in accordance with the Municipality's Road Occupancy Permit Process.

3.2

a) Nothing in this By-law shall be construed as relieving or limiting the responsibility or liability of any Person who is granted an Encroachment Permit or who executes an Encroachment Agreement for any personal injury (including injury resulting in death) or property damage resulting from such Encroachment or from any acts or omissions of such Person and/or his/her agents, servants, employees or contractors or anyone for whom such Person is responsible in law relating to the erection, placement, alteration continuation or removal of any Encroachment.

b) The Municipality shall not in any circumstances, be responsible for the maintenance, repair, or replacement of the Unauthorized Encroachment or, notwithstanding the issuance of an Encroachment Agreement or Encroachment Permit, of any other Encroachment.

3.3

a) The applicant and the holder of an Encroachment Permit or Encroachment Agreement (if such holder is not the applicant) shall be jointly and severally liable to indemnify the Municipality, its officers, employees, servants and agents, from all losses, damages, costs, expenses, claims, demands, actions, suits and other proceedings of every nature and kind arising from the erection, placement, continuation, Alteration or removal of such Encroachment.

b) The Owner of lands to which an Encroachment is appurtenant shall provide to the Municipality annually a certificate of its public liability insurance policy, in a form satisfactory to the Municipality, showing the Municipality as an additional named insured.

3.4 An Encroachment Agreement may at the Municipality's discretion be registered against title to the lands to which the Encroachment is appurtenant at the applicant's Expense.

3.5 The issuance of an Encroachment Permit or the execution of an Encroachment Agreement does not create any vested right in the Owner of the Public Lands to which the Encroachment is appurtenant or in any other Person, and the Encroachment Permit or Encroachment Agreement may be revoked in accordance with the terms set out therein or the provisions of this By-law.

3.6

a) If the Owner of lands to which an Encroachment is appurtenant desires to discontinue the Encroachment, they shall so notify the Director of Works and Engineering in writing, shall remove, fill in, and/or close up the Encroachment, and shall restore the Public Lands to their former condition at his/her own Expense.

b) If the Director of Legal or Legislative Services or the Director of Works and Engineering or their designates are at any time of the opinion that a breach of the terms and conditions attached to an Encroachment Permit or contained in an Encroachment Agreement has occurred and that the Encroachment should be discontinued, or where an Encroachment Permit or Encroachment Agreement has expired, the Director of Legal and Legislative Services or the Director of Works and Engineering or their designates may cause a Notice to be sent to the Owner advising that the Encroachment must be removed, filled in, and/or closed up and the Public Lands restored to their former condition by the Owner at his/her own Expense.

c) Where an Owner fails to comply with the Notice referred to in Subsection 3.6b) within five (5) days of the giving of the Notice, or within such longer period as may be specified by the Municipality, or fails to complete the restoration of the Public Lands within five (5) days of the removal of the Encroachment where the Owner has been given the Notice referred to in Subsection 3.6a), or within such longer period as may be specified by the Municipality, the Encroachment may be removed, filled in, and/or closed up by the Municipality and the Public Lands restored to the former condition at the expense of the Owner, and such Expense may be recovered in the manner provided for in Section 9.1. Until the Encroachment is so removed, filled in, and/or closed up and the Public Lands restored to their former condition, all expenses incurred by the Municipality in respect thereto shall continue to be the responsibility of the Owner.

4. MAILBOX INSTALLATION

4.1 No person shall install, place or build a mailbox on the Municipality's property without following any processes or procedures established by the Municipality.

5. REMOVAL OF UNAUTHORIZED ENCROACHMENTS

5.1

a) Where the Municipality or Municipality Staff becomes aware of an Unauthorized Encroachment, the Director of Works and Engineering or a Municipal Law Enforcement Officer may give Notice to the Owner to whose lands the Unauthorized Encroachment is appurtenant, requiring the Owner to forthwith remove, fill, or close up the Encroachment and to restore the Public Lands to their former condition at the Owner's Expense.

b) Where the Notice referred to in Subsection 5.1a) is not complied with within twenty-four (24) hours of the effective date of the Notice, or within such longer period as may be specified by the Municipality, the Municipality may, on behalf of the Owner, remove, fill in, or close up the Unauthorized Encroachment and restore the Public Lands to their former condition at the Expense of the Owner, and any expenses incurred by the Municipality may be recovered in the manner provided for in Section 9.1.

c) Any material or structure forming part of or attached to the Unauthorized Encroachment and removed by the Municipality may, at the Director of Works and Engineering's discretion, be deposited at the Owner's lands or relocated elsewhere to be stored for five (5) calendar days. Any Expense incurred by the Municipality in doing either of these things may be recovered in the manner provided for in Section 9.1. Any items so stored and not claimed by the Owner within the said five (5) calendar day period may be disposed of by the Municipality in such manner as it deems appropriate, without compensation to the Owner or anyone else. Any expense incurred by the Municipality in doing any of the things contemplated by this Subsection 5.1c) may be recovered in the manner provided for in Section 9.1.

6. AUTHORITY OF DIRECTOR

6.1 The Director of Legal and Legislative Services or designate supported by the opinion of the Director of Works and Engineering or designate shall have the authority to:

a) approve or reject any application submitted for an Encroachment Permit or Encroachment Agreement, and execute such Encroachment Agreement on behalf of the Municipality;

b) revoke any Encroachment Permit or Encroachment Agreement that has been issued or entered into in error or as a result of false or misleading statements or undertakings in the application;

c) impose such terms and conditions to be included in any Encroachment Permit or Encroachment Agreement as they deem appropriate;

d) determine whether an expiring Encroachment Permit or Encroachment Agreement shall be renewed and/or extended, and the terms on which any such renewal may be granted; and

e) The Director of Legal and Legislative Services or their designate may issue any Notice required to be given under this By-law.

6.2 In making a decision under section 6.1, the Director may consider any factor deemed relevant, including:

6.3

a) public safety;
b) pedestrian access and accessibility;
c) vehicular movement, sightlines and traffic safety;
d) emergency access;
e) snow clearing, drainage, street sweeping and municipal operations;
f) the protection of Utilities and municipal infrastructure;
g) the nature, size, location, duration and permanence of the Encroachment;
h) whether the Encroachment can be safely accommodated through conditions;
i) the impact of the Encroachment on neighbouring lands or public use of Public Lands;
j) the applicant's or Owner's compliance history under this By-law; and
k) whether a request for an extension or procedural accommodation can be reasonably provided without creating or maintaining a risk described in clauses a) to f).

6.4 In administering this By-law, the Director of Legal and Legislative Services, the Director of Works and Engineering, Municipal Law Enforcement Officers, and their designates may

a) provide application, notice and compliance information in plain language or alternate formats, where practicable;
b) permit reasonable procedural modifications where necessary to facilitate accessibility or accommodation, provided that such modifications do not compromise public safety, emergency access, drainage, utility protection, or the structural integrity of Public Lands;
c) extend a timeline established by this By-law, an Encroachment Permit, an Encroachment Agreement, or a Notice, where the Municipality is satisfied that the extension is reasonable in the circumstances and will not create or prolong a danger to the public, obstruct emergency access, interfere with Utilities, or materially impair municipal operations; and
d) impose conditions on any extension or procedural modification that are necessary to protect public safety and the Municipality's interests.

6.5 Appeal of Refusal or Denial

a) Where an application for an Encroachment Permit or Encroachment Agreement is refused, the applicant may appeal the decision to the Chief Administrative Officer or designate by delivering a written notice of appeal to the Municipality within ten (10) business days of the effective date of the Notice of refusal.
b) A notice of appeal shall identify the property or location, describe the proposed Encroachment, set out the reasons for the appeal, and include any supporting information the applicant wishes the Chief Administrative Officer or designate to consider.
c) Upon receipt of a complete notice of appeal, the Chief Administrative Officer or designate may confirm, vary, or rescind the refusal, or may impose such terms and conditions as are considered appropriate, having regard to the purposes of this By-law and the considerations set out in section 6.2.
d) The decision of the Chief Administrative Officer or designate shall be provided in writing and is final.
e) The filing of an appeal does not authorize the erection, placement, alteration, or continuation of any Encroachment unless and until approval has been granted by the Municipality.
f) Nothing in this section limits the Municipality's authority to act without delay in circumstances involving danger to the public, emergency access, utilities, drainage, municipal operations, or an Unauthorized Encroachment.

6.6 Nothing in section 6.2 limits the Municipality's authority under sections 5, 7, 8, 9 or 11 where immediate action is necessary to address an Unauthorized Encroachment, a danger to the public, obstruction of emergency access, interference with Utilities, or damage to Public Lands

7. DANGER TO THE PUBLIC

7.1 If the Director of Works and Engineering or designate determines that an Encroachment is or is about to become a source of danger to the health and safety of the public, the Director of Works and Engineering or designate may:

a) give Notice to the Owner to whose lands the Encroachment is appurtenant, require the repair, removal, filling in or closing up of the

Encroachment and the restoration of the Public Lands to their former condition at the Expense of the Owner, so that the Encroachment is no longer deemed to be a source of danger or potential danger to the public in the opinion of the Director of Works and Engineering or designate; and/or

b) take such measures on behalf of the Owner, without Notice to the Owner, as the Director of Works and Engineering or designate may deem necessary to remove the danger or potential danger created by the Encroachment, at the Owner's Expense.

7.2 Where the Notice referred to in Subsection 7.1a) is not complied with within the time period stipulated therein, the Municipality may repair, remove, fill in or close up the Encroachment and restore the Public Lands to their former condition at the Expense of the Owner, and any such expenses incurred by the Municipality may be recovered in the manner provided for in Section 9.1.

8. ENFORCEMENT

8.1 A Municipal Law Enforcement Officer, employee, servant or agent of the Municipality acting under this By-law may enter and inspect all lands, buildings, structures or parts thereof that are subject to this By-law at any reasonable time with or without notice at the discretion of the Municipality for the purposes of determining whether this By-law has been complied with.

8.2 If a Municipal Law Enforcement Officer, employee, agent or servant of the Municipality has determined that this By-law is not being complied with, they may issue a Notice for compliance.

8.3 No Person shall obstruct, hinder or interfere with the free access to any Encroachment of a Municipal Law Enforcement Officer, employee, servant or agent of the Municipality.

9. RECOVERY OF EXPENSES

9.1 Where an Owner fails to carry out any matter or thing that is required to be done under any provision of this By-law, the Municipality may, by its employees, servants or agents, cause such matter or thing to be done at the Owner's Expense, and the Municipality may recover all Expenses incurred by it in the course of causing such matter of thing to be done by placing such Expenses on the tax roll, to be recovered in the same manner as property taxes, as provided for in Section 446 of the *Municipal Act, 2001*, as amended.

10. NO BASIS FOR LIABILITY

10.1 Nothing in this By-law may be alleged as the basis of any claim against the Municipality for damages arising from an accident on a Highway (including, without limitation, a sidewalk on the Highway) or other Public Lands due to the presence or location thereon of an Encroachment (whether authorized or Unauthorized), or the Fouling or obstruction thereof in any other manner, nor shall same be pleaded in any action as constituting an assumption of civil liability by the Municipality.

11. PENALTY

11.1 Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended.

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

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

a) upon a first conviction, to a fine of not less than $100.00 and not more than $50,000.00;

b) upon second or subsequent conviction for the same offence, to a fine of not less than $200.00 and not more than $100,000.00;

c) upon conviction for a continuing offence, to a fine of not less than $400.00 and not more than $10,000.00 for each day or part of a day that the offence continues. The total of the daily fines may exceed $100,000.00;

d) upon conviction of a multiple offence, for each offence included in the multiple offence, to a fine of not less than $500.00 and not more than $10,000.00. The total of all fines for each included offence is not limited to $100,000.00.

11.4 For the purposes 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.

11.5 For the purposes 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.

11.6 Where the Municipality has contracted work to remedy any By-law infraction or deficiency on any Public Lands or Private Property for failing to comply with the directive of the Director of Legal and Legislative Services or designate, or the Director of Works and Engineering or designate, for non-compliance with the terms of this By-law, or for non-compliance with the terms of any Encroachment Permit or Encroachment Agreement, the Municipality shall be entitled to recover the full cost of the work, plus a 25% administration fee.

11.7 Wherever any work for which a permit is required has commenced without the authorization of a permit, an “Investigation and Administration” fee shall be paid in addition to all other applicable fees. This fee may be up to 100% on top of the fee that would otherwise be payable pursuant to this By-law, as determined by the Director of Legal and Legislative Services.

11.8 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.

11.9 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.

11.10 Every person shall comply with any Order or Notice issued under the authority of this By-law.

12. SEVERABILITY

12.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of the By-law shall be valid and shall remain in full force and effect.

13. ENACTMENT

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

BYLAW READ AND PASSED in Open Council this 19th day of May, 2026.

_____

Adam Pearson, Deputy Mayor

_____

Shrishma Davé, Clerk

In accordance with the Strong Mayor Powers legislation, Mayor Hankivsky has two days to provide written notice of their intention to consider vetoing the by-law. If no written notice is received within the two-day period, the by-law will be deemed final and in effect.