

CONSOLIDATED AS AMENDED BY BY-LAW 48-2010



**By-Law 92-2009
of The Corporation of the City of Oshawa**

being a by-law respecting the removal of snow and ice in the City of Oshawa.

NOW THEREFORE the Council of The Corporation of the City of Oshawa enacts as follows:

1. Short Title

1.1 Short Title: This by-law may be cited as the "Snow and Ice Removal By-law".

2. Definitions

2.1 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) "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.
- (c) "City" means The Corporation of the City of Oshawa.
- (d) "Director" means the City's Director, Municipal Law Enforcement and Licensing Services or his or her designate.
- (e) "Commissioner" means the City's Commissioner, Community Services or his or her designate.
- (f) "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.
- (g) "Lot" means a parcel of land within the City'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 Titles Office for the Land Registry Division of Durham
- (h) "Officer" means a Municipal Law Enforcement Officer appointed to enforce the By-laws of the City.
- (i) "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.

- (j) "Penalty Notice" means a notice given pursuant to subsection 8.2 and 8.3.
- (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 snow plow at a sidewalk or driveway.

3. Snow and Ice Removal – Sidewalk

- 3.1 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.
- 3.2 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.
- 3.3 Sections 3.1 and 3.2 do not apply to an Owner for whom the City 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.

4. Snow and Ice Removal – Building

- 4.1 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.
- 4.2 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.

5. Snow and Ice Removal by City

- 5.1 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 Commissioner may, without notice to any Owner, cause the snow and ice to be removed at each Owner's expense. Without limitation, the Commissioner may retain such Persons to assist in completing the snow and ice removal as the Commissioner determines appropriate.
- 5.2 Each Owner is jointly and severally liable to the City for all costs incurred in any way related to the removal of snow and ice for the purposes of section 5.1 including, without limitation, interest calculated at the rate of fifteen per cent (15%) 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.

- 5.3 The City'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.
- 5.4 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.

6. Prohibition

- 6.1 No Person shall move or permit to be moved snow or ice from private property onto a Sidewalk or a Highway.
- 6.2 No Person shall deposit or cause to be deposited snow or ice on a Boulevard that is not adjacent to his or her Lot.
- 6.3 No Person shall pile, redistribute or otherwise cause the accumulation of snow on a Sidewalk or Highway.
- 6.4 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.
- 6.5 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.
- 6.6 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.

7. Order to Discontinue Activity

- 7.1 Where an Officer is satisfied that a Person has contravened this By-law, the Officer may make an order requiring the Person who contravened the By-law or who caused or permitted the contravention to discontinue the contravening activity.
- 7.2 An order under subsection 7.1 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; and
 - (b) the date by which there must be compliance with the order.
- 7.3 Any Person who contravenes an order issued under subsection 7.1 is guilty of an offence.

8. Administrative Penalties

- 8.1 Each Person who contravenes any provision of this By-law shall, when given a Penalty Notice in accordance with subsection 8.2, be liable to pay to the City an administrative penalty in the amount of \$125 for each day or part of a day on which the contravention continues.
- 8.2 An Officer who has reason to believe that a Person has contravened any provision of this By-law may give to the Person a Penalty Notice.
- 8.3 The Penalty Notice shall be given to the Person as soon as is reasonably practicable and shall include the following information:
- (a) particulars of the contravention;
 - (b) the amount of the administrative penalty;
 - (c) information respecting the process by which the Person may exercise the Person's right to appeal against the administrative penalty; and
 - (d) a statement advising that an administrative penalty will, unless cancelled or reduced pursuant to the appeal process, constitute a debt of the Person to the City.
- 8.4 No Officer may accept payment of an administrative penalty.
- 8.5 The Director may affirm the administrative penalty or extend the time to request a review of an administrative penalty.
- 8.6 The Director may cancel or reduce the administrative penalty where the Director is satisfied that doing so would maintain the general intent and purpose of this By-law and that
- (a) there is reason to doubt that the Person contravened this By-law;
 - (b) the Person took all reasonable steps to prevent the contravention; or that
 - (c) the cancellation, reduction or extension of the time for payment is necessary to relieve undue financial hardship.
- 8.7 A Person who is given a Penalty Notice may appeal to the Hearings Officer against the administrative penalty pursuant to section 9.
- 8.8 An administrative penalty that is deemed to be affirmed pursuant to subsection 9.1 or that is affirmed or reduced or in respect of which the time for payment has been extended pursuant to subsections 8.5 or 8.6 or subsection 9.6, constitutes a debt to the City of each Person to whom or to which the Penalty Notice was given.
- 8.9 Where a Person has paid an administrative penalty that is then cancelled or reduced pursuant to subsections 8.5 or 8.6 or subsection 9.6, the City shall refund the amount cancelled or reduced.
- 8.10 Where an administrative penalty is paid within fifteen (15) days after the date that it becomes due and payable, no Person to whom the Penalty Notice was given shall be liable for an offence in respect of the contravention described in the Penalty Notice.
- 8.11 Where an administrative penalty is not paid within fifteen (15) days after the date that it becomes due and payable, each Person to whom the Penalty Notice was given shall pay to the City a late payment administrative fee as from time to time prescribed by the General Fees and Charges By-law.

9. Hearings Officer

- 9.1 The following applies to appeals to the Hearings Officer:
- (a) A Person's right to appeal expires if it has not been exercised in the manner prescribed in subsection 9.2 before 4:30 p.m. on the tenth (10th) day after the Order to Discontinue Activity or the Penalty Notice is given to the Person at which time the Order to Discontinue Activity or the Penalty Notice, as applicable, is final and is not subject to review including review by any Court.
- 9.2 A right to appeal is exercised by:
- (a) giving to the Director written notice of the appeal that includes particulars of all grounds upon which the appeal is made; and by
 - (b) paying the fee from time to time prescribed by the City's General Fees and Charges By-law.
- 9.3 The Person shall be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
- 9.4 Where the Person fails to appear at the time and place scheduled for a hearing of the appeal, the Person's appeal shall be deemed to be dismissed and the Person shall pay to the City an administrative fee as from time to time prescribed by the General Fees and Charges By-law.
- 9.5 Subject to subsection 9.4, the Hearings Officer shall not decide the appeal unless the Hearings Officer has given each of the Person and the Officer an opportunity to be heard at the time and place scheduled for the hearing of the appeal.
- 9.6 The Hearings Officer may make any decision that an Officer could have made pursuant to this By-law.
- 9.7 The decision of the Hearings Officer is final and not subject to review including review by any Court.

10. Offences

- 10.1 Each Person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine of:
- (a) not less than \$300 and not more than \$5,000;
 - (b) not less than \$400 and not more than \$10,000 for a second conviction of the same offence; and
 - (c) not less than \$500 and not more than \$25,000 for a third or subsequent conviction of the same offence.

11. Notice

- 11.1 Any notice or document respecting this By-law may be given in writing in any of the following ways and is effective:
- (a) when a copy is delivered to the Person to whom it is addressed;
 - (b) on the fifth (5th) day after a copy is sent by registered mail to the Person's last known address;

- (c) upon the conclusion of the transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number; or
- (d) upon the sending of a copy by e-mail transmission to the Person's last known e-mail address.

12. General

12.1 For the purpose of section 23.2(4) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, it is the opinion of Council that the powers delegated to the Hearings Officer and to the Director pursuant to this By-law are of a minor nature.

13. Conflict

13.1 This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.

13.2 If there is a conflict between a provision of this By-law and a provision of any other City By-law, the provision that establishes the higher standard to protect the health and safety of the public and to maintain clean and tidy condition on land shall apply.

14. Severability

14.1 If any provision or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in certain circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

15. Effective Date

15.1 This By-law is effective on the date of its passing.

15.2 By-law 101-79 is hereby repealed.

By-law passed this thirtieth day of November, 2009.

Original signed by
Mayor

Original signed by
City Clerk