



THE CORPORATION OF THE TOWNSHIP OF DAWN-EUPHEMIA

BY-LAW 2022-03

Being a By-Law to Prohibit the Obstruction of Highways and Altering of Roadside Ditches

WHEREAS Section 8(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

WHEREAS Section 27 (1) of the Municipal Act, 2001, provides that a municipality may pass by-laws in respect of a highway only if it has jurisdiction of the highway;

WHEREAS Section 391(1) of the Municipal Act, 2001, provides that a municipality may impose fees or charges on any Person for services or activities provided by the municipality or done on behalf of it;

WHEREAS Section 446(1) of the Municipal Act, 2001, provides that if a municipality has the authority under this or any other Act or under a by-law under this 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;

WHEREAS Section 446(3) provides that the municipality may recover the costs of doing a matter or thing under subsection (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;

WHEREAS Section 15 of the Police Services Act authorizes the Municipality to appoint persons to enforce the by-laws of the Municipality and that such persons are peace officers for the purpose of enforcing municipal by-laws;

WHEREAS Section 425(1) of the Municipal Act, 2001 provides that a Municipality may pass by-laws providing that a person who contravenes a by-law is guilty of an offence;

NOW THEREFORE the Council of the Corporation of The Township of Dawn-Euphemia enacts as follows:

1. DEFINITIONS

Costs/Expenses

"Costs/Expenses" means all costs and/or expenses (including labour, materials and disbursements) incurred by the Municipality in enforcing this By-Law (which also includes, but not limited to, the Enforcement Officer's time, preparation and issuance of Notice(s), site visits, drafting correspondence, costs of the service of Servant/Agent/Contractor retained to assist the Municipality in doing so), and any other action taken to bring the Land into compliance with this By-law.

Council

“Council” shall mean the Council of The Corporation of The Township of Dawn-Euphemia;

Ditch

“Ditch” means a natural or artificial watercourse ranging from a depression, or swale, to an open channel that conveys storm water runoff from both public and private properties. The primary purpose for a roadside ditch is to drain the road surface, road base and sub-grade as well as the surface drainage of the boulevard.

Enforcement Officer

“Enforcement Officer” means a Provincial Offences Officer as that term is defined in the Provincial Offences Act, R.S.O. 1990, c. P.33 and means any service provider who has been contracted or engaged to carry out the works necessary to bring property into compliance with this By-Law and includes paid duty police officers, security personnel, property estimators, professional engineers, qualified tradespeople, and municipal employees including the Public Works Superintendent (and/or alternate), and any such other person appointed by the Municipality to enforce this By-Law;

Highway

“Highway” shall mean all allowances for roads made by Crown surveyors, all highways laid out or established under the authority of any statute, all roads on which public money has been spent for opening them or on which statute labour has been usually performed (including, given, forced or trespass roads), all roads dedicated by the owner of the land to public use, and includes the road allowance being the portions of the highway allowance as laid out between the outer boundaries thereof and the actual travelled portion thereof; all alterations and deviations of and all bridges over any such allowances for road, highway or road, except in so far as they have been stopped up according to law;

Municipality

“Municipality” shall mean The Corporation of the Township of Dawn-Euphemia;

Obstruct(ion)

“Obstruction” shall mean a thing that impedes or prevents passage; an obstacle or blockage; obstruct, encumber, damage or foul;

Owner

“Owner” includes the legal owner(s), lessee(s), tenant and/or occupant(s) of the Land;

Public Works Superintendent

“Public Works Superintendent” shall mean the Public Works Superintendent (or alternate) employed by the Township of Dawn-Euphemia;

Refuse

“Refuse” means any article, thing, matter, substance or effluent that has been cast aside, discharged or abandoned or is discarded from its usual and intended use or is used up, in whole or in part, or expended or worn out in whole or in part, and such waste does not cease to be refuse by reason that it may be commercially saleable or recyclable;

Vehicle

“Vehicle” shall mean an automobile, truck, motor home, motorcycle, motor vehicle, trailer, boat, motorized snow vehicle, mechanical equipment and/or any other vehicle drawn, propelled or driven by any kind of power including agricultural equipment;

Vehicle, Inoperative, Derelict, Abandoned

“Motor Vehicle Inoperative, Derelict, Abandoned” means a Vehicle which is in state of advanced disrepair having missing or damaged parts or deteriorated body conditions that render it inoperative, and includes a Vehicle that has been evidently abandoned and left in a state of apparent disuse, regardless of whether it is either operable or inoperable or licensed or unlicensed for operation.

2. ADMINISTRATION

This By-Law is administered and enforced by the Municipality and any person or Enforcement Officer appointed by the Municipality to administer this By-Law and/or any part thereof.

3. GENERAL PROVISIONS

- 3.1 No person shall obstruct, encumber, injure or foul any highway under the jurisdiction of the Township by any means whatsoever;
- 3.2 No person shall park, store or leave any vehicle or equipment including wrecked, dismantled, inoperative, derelict, abandoned, or unused vehicle, equipment or machinery or any part thereof or unlicensed vehicle on any highway;
- 3.3 No person shall store or leave any furnace, water or fuel tank, household furniture, refrigerator, freezer, stove, or similar appliance whether operable or inoperable, or any part thereof on any highway;
- 3.4 No person shall store or leave any lumber, timber, log, saw dust, wood chips, wood products, cement blocks, construction materials, or demolition materials on any highway;
- 3.5 No person shall install or store any fence, post, rod, rock or wire on any highway;
- 3.6 No person shall cause or permit or allow any deposit of mud, earth, manure, fertilizer, or any other agricultural by-product on any street, sidewalk or highway;
- 3.7 No person shall throw, place or deposit on a highway or cause to be thrown, placed or deposited on a highway by any means whatsoever, any earth, dirt, gravel, stone, wood, building material, bales of hay or other agricultural products, or other substance, material or object;
- 3.8 No person shall throw, place or deposit on a highway or cause to be thrown, placed or deposited on a highway by any means whatsoever any paper, containers, whether made of cardboard, paper or plastic; rubbish; refuse; litter; garbage or refuse of any kind;
- 3.9 No person shall cause or permit or allow any snow and ice to be dumped, thrown, placed, pushed or deposited onto any street, sidewalk or highway;
- 3.10 No person shall plant trees, shrubs, ornamental plants, landscape or plant agricultural crops on any highway;
- 3.11 No person shall cause an obstruction of any kind to the line sight triangle of any intersection or that could pose a potential threat or danger to the safe public travel of a highway;
- 3.12 No person shall alter, fill, pipe, or encroach roadside ditches without without the lawful written authority of the Municipality.

4. ENFORCEMENT

- 4.1 This By-Law shall be enforced by The Township of Dawn-Euphemia, the Public Works Superintendent and other such Officers appointed by Council;
- 4.2 If the Public Works Superintendent determines that an Obstruction of a Highway exists or an alteration to a roadside ditch has occurred, the Municipality may issue instruction either in writing or verbally, requiring the Owner, Occupant, and/or Contractor of the property from which the obstruction or alteration comes from, relates to, or was created for, to discontinue causing the Obstruction or alteration and to remove the Obstruction or alteration, and repair, as necessary, at the expense of the Owner, Occupant and/ or Contractor, so that the Highway and/or roadside ditch is brought back to its former condition;
- 4.3 Where the instruction described in subsection 4.2 *is not complied with* within the time period stipulated, the Municipality may remove the Obstruction or alteration, and repair as necessary, the Highway and/or roadside ditch and all the costs incurred by the Municipality in undertaking this work shall be expenses owed to the Municipality by the Owner, Occupant and/or Contractor of property from which the Obstruction comes from, relates to, or was created for;
- 4.4 If the Public Works Superintendent determines that an Obstruction of a Highway is, or may create, a hazardous condition to the safety of any Person using the Highway, the Municipality may take any immediate action necessary to have the Obstruction removed and the Highway repaired, if necessary, and all costs incurred by the Municipality in undertaking this work shall be expenses owed to the Municipality by the Owner, Occupant and/or Contractor of the property from which the Obstruction comes from, relates to, or was created for.
- 4.5 If the Public Works Superintendent determines that the alteration, infilling, pipe or encroachment of a roadside ditch is, or may create, a hazardous condition to the safety of any Person using the Highway, the Municipality may take any immediate action necessary to have the roadside ditch repaired, if necessary, and all costs incurred by the Municipality in undertaking this work shall be expenses owed to the Municipality by the Owner, Occupant and/or Contract or of the property from which the Obstruction comes from, relates to, or was created for.
- 4.6 Where an Owner has defaulted in complying with the provisions of this By-Law, the Municipality may recover all Costs/Expenses incurred in bringing the Lands into compliance from the Owner by action or by adding the Cost/Expenses to the Land's tax roll and collecting them in the same manner as property taxes as per section 446(4) of the Municipal Act, 2001, S.O. 2001, c.25, as amended.
- 4.7 Where any items are removed from the Land, the items may be immediately disposed of by the Public Works Superintendent. The Municipality shall have no liability whatsoever to any person for any reason for any items so disposed.
- 4.8 Any person who contravenes any provisions of this By-Law is guilty of an offence and on conviction is liable to a fine and such other penalty as provided for in the Provincial Offences Act, R.S.O, 1990, c.P.33. Each day that such an offence is committed, or permitted to continue, shall constitute a separate offence and may be punishable as such.

- 4.9 The court in which a conviction has been entered and any court of competent jurisdiction there after may make an order prohibiting the continuation or repetition of the offence.

5. SEVERABILITY

- 5.1 If any section or sections of this By-Law or parts thereof are found by any court to be illegal or beyond the power of the Municipality to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this By-Law shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found and this By-Law shall be enacted as such.
- 5.2 Where the provisions of any other by-laws are inconsistent with the provisions of this by-law, the provisions of this bylaw shall prevail.

6. COMMENCEMENT

This By-Law shall come into full force and effect upon passing hereof.

READ A FIRST, SECOND TIME THIS 24th DAY OF JANUARY, 2022

READ A THIRD TIME AND FINALLY PASSED THIS 24th DAY OF JANUARY, 2022.

ORIGINAL HAS BEEN SIGNED

Mayor – Alan Broad

Clerk – Donna Clermont