

THE CORPORATION OF THE CITY OF WATERLOO

BY-LAW NO. 09- 156

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

**WHEREAS** Section 8(1) the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the "Act"), states that the powers of a municipality under the Act or any other act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

**AND WHEREAS** Section 8(2) of the Act states that, in the event of ambiguity in whether or not a municipality has the authority under this or any other Act to pass a by-law or to take any other action, the ambiguity shall be resolved so as to include, rather than exclude, powers the municipality had on the day before this Act came into force;

**AND WHEREAS** Section 210(60) the *Municipal Act*, R.S.O. 1990, c. M.45 (the "Old Act") states that by-laws may be passed by the councils of local municipalities for requiring the owners or occupants of any designated class of building in the municipality, or any defined area thereof, to clear away and remove snow and ice from the roofs of such buildings and for requiring the owners or occupants of any designated class of building in the municipality or any designated area thereof to clear away and remove snow and ice from the sidewalks on the highways in front of, alongside or at the rear of such buildings and for regulating when and the manner in which the same shall be done;

**AND WHEREAS** Section 210(61) of the Old Act states that by-laws may be passed by the councils of local municipalities for clearing away and removing snow and ice from the roofs of any designated class of unoccupied buildings in the municipality or any designated area thereof and for clearing away and removing snow and ice from the sidewalks on the highways in front of, alongside or at the rear of any designated class of unoccupied buildings or vacant lands at the expense of the owners and for collecting or recovering the expenses incurred in so doing in the manner provided by section 326 of the Old Act;

**AND WHEREAS** Section 210(62) of the Old Act states that by-laws may be passed by the councils of local municipalities for clearing away and removing snow and ice from the sidewalks on any highway or part of a highway or any class thereof in front of, alongside or at the rear of any occupied or unoccupied building or vacant lot, or any class thereof, at the expense of the owners, and for collecting or recovering the expenses incurred in so doing in any manner including the manner provided by section 326 of the Old Act;

**AND WHEREAS** Section 210(63) of the Old Act states that by-laws may be passed by the councils of local municipalities, despite sections 210(60) and 210(62) of the Old Act, for providing for the clearing away and removal of snow and ice at the expense of the municipality from the sidewalks on the highways in front of, alongside or at the rear of buildings owned or occupied by any class or classes of persons, and from those portions of walkways between the highways or the public sidewalks on highways, as the case may be, and the lowest step of the principal place of entrance of such buildings;

**AND WHEREAS** Section 11(2)(6) of the Act provides that a municipality may pass by-laws respecting the health, safety and well-being of persons;

**AND WHEREAS** Section 11(3)(1) of the Act provides that a municipality may pass by-laws respecting highways, including parking and traffic on highways;

**AND WHEREAS** Section 44(9) of the Act states that, except in case of gross negligence, a municipality is not liable for a personal injury caused by snow or ice on a sidewalk;

**AND WHEREAS** Section 122(1) of the Act states that, without limiting sections 9, 10 and 11 of the Act, 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;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF WATERLOO ENACTS AS FOLLOWS:**

#### **DEFINITIONS**

1. In this by-law:

"building" means:

- (a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;
- (b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto; or,
- (c) structures designated in Ontario Regulation 350/06, as amended, also known as the Building Code.

"City" means The Corporation of the City of Waterloo;

"Council" means the municipal council of the City;

"highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle; any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof, which is under the jurisdiction of the City;

"ice" means the solid form of water, produced by freezing;

"Municipal Law Enforcement Officer" means an individual appointed by the Council of the City pursuant to s. 15 of the *Police Services Act, R.S.O. 1990, c. P. 15*, as amended;

"owner" means the registered owner, occupant or tenant of a property, or a person who, for the time being or permanently, is managing or receiving the rent from a property, whether on his or her own account or on account of an agent or trustee of any other person, or any one of the aforesaid;

"person" means an individual or group of individuals, unincorporated association, sole proprietorship, partnership or corporation;

"Police Officer" means an officer of the Waterloo Regional Police Service;

"property" means land that may have a building (occupied or unoccupied) on it or vacant land;

"roof" means the external upper covering of a building;

"sidewalk" means that part of the highway meant for pedestrian use, typically indicated by some sort of concrete or paved walkway; and,

"snow" includes precipitation in the form of ice crystals, mainly of intricately branched, hexagonal form and often agglomerated into snowflakes, formed directly from the freezing of the water vapour in the air.

## **REMOVAL OF SNOW AND ICE**

2. Every owner shall remove, or cause to be removed, accumulations of snow and ice from the sidewalk(s) on the highway(s) immediately adjacent to their property within twenty-four (24) hours following such accumulation.

3. Every owner shall remove, or cause to be removed, accumulations of snow and ice from all roofs of buildings on their property, if the roof slopes directly onto a highway, within twenty-four (24) hours following such accumulation.
4. No person shall remove, or cause to be removed, any snow or ice in a manner that would damage a highway.
5. No person shall place, or cause to be placed, any snow or ice on a highway.

#### **ENFORCEMENT**

6. This by-law may be enforced by Municipal Law Enforcement Officers and Police Officers.

#### **PENALTY**

7. Every person who contravenes any of the provisions of this by-law is guilty of an offence and, on conviction, is liable:
  - (a) on a first conviction, to a fine of not less than \$250.00 and not more than \$100,000.00; and,
  - (b) on a second or subsequent conviction, to a fine of not more than \$10,000.00 for each day or part of a day on which the contravention has continued after the day on which the person was first convicted.

#### **HINDRANCE OR OBSTRUCTION**

8. No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law.

#### **POWERS OF INSPECTION**

9. The City may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
  - (a) this by-law;
  - (b) a direction or order of the City made under this by-law; or,
  - (c) an order made under s. 431 of the Act.

10. For the purposes of conducting an inspection pursuant to s. 9 of this by-law, the City may, in accordance with the provisions of s. 436 of the Act:
  - (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 extracts;
  - (c) require information from any person concerning a matter related to the inspection; and,
  - (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.

#### **ORDER TO DISCONTINUE ACTIVITY**

11. Where the City is satisfied that a contravention of this by-law has occurred, the City may make an order requiring the person who contravened this 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.
12. An order under s. 11 of this by-law 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.
13. Any person who contravenes an order under s. 11 of this by-law is guilty of an offence.

#### **WORK ORDER**

14. Where the City is satisfied that a contravention of this by-law has occurred, the City may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to do work to correct the contravention.
15. An order under s. 14 of this by-law 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 work to be done and the date by which the work must be done.
16. An order under s. 14 may require work to be done even though the facts which constitute the contravention of this by-law were present before this by-law came into force.
17. Any person who contravenes an order under s. 14 of this by-law is guilty of an offence.

#### **REMEDIAL ACTION**

18. If a person fails to do a matter or thing, including comply with an order under this by-law, as directed or required by this by-law, the City may, in default of it being done by the person directed or required to do it, do the matter or thing at the person's expense. The City may recover the costs of doing a matter or thing 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 municipal taxes.
19. The costs outlined in s. 18 of this by-law shall include interest calculated at a rate of 15 per cent, calculated for the period commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full.
20. The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper land registry office.

#### **FEES**

21. Council may, from time to time, impose fees and charges to recover its costs in relation to the administration and enforcement of this by-law.

**SEVERABILITY**

22. 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 this by-law shall be valid and shall remain in full force and effect.

**COMING INTO FORCE**

23. This by-law shall come into force on the date it is approved by Council.

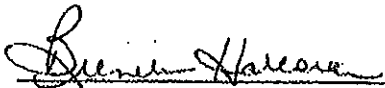
**REPEAL**

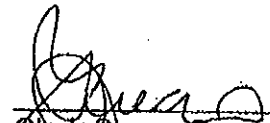
24. By-law No. 82-12 of the City is hereby repealed, as well as all by-laws amending the same, and any portions of the Municipal Code relating to snow and ice removal from sidewalks or roofs in the City, are hereby repealed.

**SHORT TITLE**

25. This by-law may be cited as the "Snow & Ice Removal By-law".

PASSED by the Council this <sup>14</sup> day of Dec., 2009

  
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Mayor Brenda Halloran

  
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Clerk Susan Greatrix

Approval	Date	Authorized By	Initials
PS/BL	Dec 8/09	Tim Benge	TB
Legal	Dec 8/09	S. Dawes	SD
Financial	Dec 9/09	N/A	JS