

THE CORPORATION OF THE CITY OF WELLAND  
BY-LAW NUMBER 2008-185

BEING A BY-LAW REQUIRING PROPERTY OWNERS TO CLEAR SNOW AND ICE FROM THE PUBLIC SIDEWALK ADJACENT TO THEIR PROPERTY WITHIN TWENTY FOUR HOURS OF THE SUBSTANTIAL END OF A SNOWFALL OR PRECIPITATION EVENT

WHEREAS Section 11 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended provides that by-laws may be passed by a lower-tier municipality;

AND WHEREAS Sections 8 and 9 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended provides for the interpretation and scope of by-law making powers;

AND WHEREAS Section 55.(1) of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended provides that a lower municipality has jurisdiction over sidewalks of an upper tier municipality;

AND WHEREAS Section 128 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances;

AND WHEREAS Section 446 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended provides that where a municipality has the authority by any Act or by-law 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 so, the matter or thing shall be done at the person's expense and the municipality may recover the costs of doing the matter or thing from the person required to do it, by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS it is the desire of the Council of the Corporation of the City of Welland to regulate snow and ice removal from public sidewalks with a view to ensuring the safety of the public in respect to the public use of such sidewalks;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF WELLAND ENACTS AS FOLLOWS:

**SECTION 1    SHORT TITLE**

1.1.            This by-law may be cited as "The Sidewalk Snow Clearing By-law".

**SECTION 2    SCOPE**

2.1.1.        The provisions of this by-law shall be applicable on all lands and properties within the limits of the Corporation of the City of Welland.

2.1.2.        Council may, by way of resolution, grant exemptions from this by-law without amending the by-law.

**SECTION 3    DEFINITIONS**

In this by-law,

3.1.            "City" means the Corporation of the City of Welland.

- 3.2. "Council" means the Council of the Corporation of the City of Welland.
- 3.3. "Municipal Law Enforcement Officer" means a person appointed by the City for enforcement of its regulatory by-laws, or any person appointed or otherwise delegated the authority of administration and enforcement of this by-law.
- 3.4. "Owner" means the property owner or other person in control of, or who has an interest, as an owner/tenant, in the property adjacent to a public sidewalk.
- 3.5. "Public Sidewalk" means the municipal sidewalk, improved for the use of pedestrians, located on a road allowance or street, owned by the City or the Region, adjacent to a property, and includes a sidewalk used by the public along a road allowance, if the sidewalk is, for whatever reason, located partially or wholly off the road allowance.
- 3.6. "Region" means The Regional Municipality of Niagara.
- 3.7. "Street" means a highway, road, or other public right-of-way as defined by the Highway Traffic Act and the Municipal Act but does not include a private lane or an unopened road allowance.

#### **SECTION 4 GENERAL PROVISIONS**

- 4.1. General Regulations Applicable
- 4.1.1. Every owner of property shall remove fallen snow and ice from the public sidewalk adjacent to their property no later than 24 hours after the substantial end of a snowfall or precipitation event, or the substantial end of a series of consecutive snowfalls or precipitation.
- 4.1.2. No person shall place or deposit snow or ice upon a public sidewalk.
- 4.1.3. No person shall place or deposit snow or ice on, or immediately adjacent to a fire hydrant, or in any manner that obstructs access to the fire hydrant.
- 4.1.4. No person shall place or deposit snow or ice on the traveled portion of a highway in a manner that obstructs vehicular travel.
- 4.1.5. No person shall place or deposit snow or ice in a manner that interferes with the intended operation of any public utility, traffic control, fire route, building health/safety system, municipal street, or municipal water/sewer system.
- 4.2. Exemptions
- 4.2.1. The City and Region need not comply with Sections 4.1.2. through 4.1.5., in the course of street and highway snow clearing operations for the immediate benefit of the public.
- 4.2.2. Section 4.1.1. does not apply if a significant amount of snow or ice, as determined by a Municipal Law Enforcement Officer, is placed or deposited upon the sidewalk by the City, Region or person other than the owner.

#### **SECTION 5 SNOW AND ICE REMOVAL BY CITY**

- 5.1. Where an owner is in contravention of any provision of this by-law, the City, or a Municipal Law Enforcement Officer, in addition to any other action, may send notice to the owner, requiring compliance with this by-law. In the event that a notice is sent and the matter in the notice is not remedied to conform with the provisions of this by-law within the time period set out in the notice, the City, its employees, agent or contractor may enter upon any land and carry out the work required to comply with this by-law, and may recover the costs in accordance with Section 446 of the Municipal Act.
- 5.2. Any notice given under this by-law may be given by ordinary mail or hand delivery to the address of the subject property, or to the address of the owner according to the last revised Assessment Roll of the subject property, or the notice may be posted at the subject property, and such service shall be deemed good and sufficient service.
- 5.3. Notwithstanding Section 5.1., the City, its employees, agent or contractor may, without notice, perform any work necessary to comply with this by-law where there is an immediate danger or threat to public safety, and recover costs as in Section 5.1.
- 5.4. Any thing removed by this Section may be deposited elsewhere on the subject property.

#### **SECTION 6 ADMINISTRATION, ENFORCEMENT AND RIGHT OF ACCESS**

- 6.1. This by-law shall be administered and enforced by the City, a Municipal Law Enforcement Officer or any person appointed or otherwise delegated the authority of administration and enforcement.
- 6.2. The Municipal Law Enforcement Officer may enter upon and within and inspect any land, property, building or structure at any time to determine if any Section of this by-law is complied with, or to determine if any condition, direction or order issued pursuant to this by-law or the Municipal Act, or any court has been complied with.
- 6.3. The Municipal Law Enforcement Officer shall have inspection powers described in Section 436 of the Municipal Act, 2001.
- 6.4. No person shall obstruct or hinder, or attempt to obstruct or hinder, a Municipal Law Enforcement Officer, in the exercise of a power or the performance of a duty under this by-law.
- 6.5. No person shall refuse to produce any documents or things required by a Municipal Law Enforcement Officer under Section 6.3., and every person shall assist any entry, inspection, examination, or inquiry by a Municipal Law Enforcement Officer.
- 6.6. No person shall knowingly furnish false information in any form to the City or Municipal Law Enforcement Officer with respect to this by-law.

#### **SECTION 7 OFFENCES AND PENALTIES**

- 7.1. A person is guilty of an offence if the person,
- (a) fails to comply with an order, direction, or other requirement under this by-law, or
  - (b) contravenes this by-law.

- 7.2. A director or officer of a corporation who knowingly concurs in the contravention of this by-law by the corporation is guilty of an offence.
- 7.3. A person who is convicted of an offence under this by-law is liable to a fine of not more than \$10,000 for a first offence, and to a fine of not more than \$20,000 for a subsequent offence, where there has been a previous conviction under this by-law.
- 7.4. A person who is convicted of a continuing offence under this by-law is liable to a fine of not more than \$10,000 for each day or part of a day that the offence continues.

**SECTION 8 VALIDITY**

- 8.1. Should any Section, clause or provision of this by-law be held by a court of competent jurisdiction to be invalid, the validity of the remainder of the by-law shall not be affected.

**SECTION 9 EFFECTIVE DATE**

- 9.1. This by-law shall come into force and take effect on the date of passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED BY COUNCIL THIS 25TH DAY OF NOVEMBER, 2008.

\_\_\_\_\_ MAYOR

\_\_\_\_\_ CLERK