

BY-LAW

Number 2002-064

To prohibit the obstructing,
encumbering or fouling of highways
and to regulate the crossing of
curbings, sidewalks, boulevards and
parkland

WHEREAS pursuant to subsection 314 (1) of the Municipal Act, R.S.O. 1990, c.M.45, as amended, a municipal council may pass by-laws for prohibiting or regulating the obstructing, encumbering, injuring or fouling of highways or bridges;

NOW THEREFORE the Council of The Corporation of the City of Niagara Falls ENACTS as follows:

DEFINITIONS

1. In this by-law:
 - (a) "construction" means anything done in the erection, installation, extension or material alteration, demolition or repair of a building or structure and the associated works, and includes the installation of building units fabricated or moved from elsewhere and the installation of swimming pools;
 - (b) "City" means The Corporation of the City of Niagara Falls;
 - (c) "Director" means the Director of Municipal Works for The Corporation of the City of Niagara Falls, or a person designated by him;
 - (d) "highway" has the same meaning as in the Highway Traffic Act, R.S.O. 1990, c.H.4, as amended;
 - (e) "parkland" is as defined in By-law 71-57, as amended; and

- (f) "person" includes a corporation and its successors and assigns and any reference to the masculine gender in this by-law shall also be deemed to include the feminine.

OBSTRUCTION OF HIGHWAYS, DITCHES AND CULVERTS

2. (1) No person shall obstruct or foul any highway or bridge under the jurisdiction of the City by any means whatsoever.
- (2) Without limiting the generality of subsection (1), the obstruction or fouling of a highway or bridge includes:
 - (a) the building or maintaining of a fence on a highway;
 - (b) the depositing of snow or ice on a highway; and/or
 - (c) the depositing of large refuse containers or bulk containers on a highways.
3. No person shall obstruct a ditch or culvert which is upon a City highway.
4. No person shall throw, place, deposit or permit to be blown or escape from premises occupied by him, hand-bills, garbage, rubbish, the carcass of any animal, or any other refuse or waste material or material dropped from a newspaper, on any highway in the City.
5. Any person employing or using trucks, graders or loaders or other vehicles in making excavations for construction purposes, or in conveying earth, rubbish or other material from such excavations or from any other place along the public highways of the City, or in any operation involving the passage of such vehicles to and from any site, whether for construction purposes or otherwise, shall at once remove from the pavements and sidewalks, or from any public place where the same may be deposited, all earth, rubbish or other material that may fall from the wheels of or from such trucks, graders or loaders, and shall employ and keep employed a sufficient number of sweepers or workers or use such means as may be necessary to keep all such pavements and sidewalks in a clean condition and free from earth, rubbish or other material.
6. The Director may give to any such person noted in section 5 a notice in writing requiring the removal from such pavements and sidewalks of such earth, rubbish or other material within four (4) hours of receipt of the notice, and notifying such person that in default of compliance with the said notice, the City will perform the work at his expense.
7. In the event that such person does not comply with the direction in the said notice, the City may perform the work, or cause it to be done, and the cost thereof may be recovered from such person by court action, or the same may be recovered in like manner as municipal taxes.

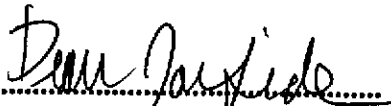
CROSSING OF CURBINGS, SIDEWALKS, BOULEVARDS & PARKLAND

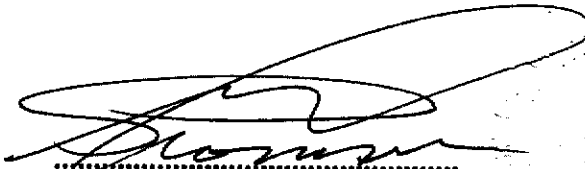
8.
 - (1) Every person owning land abutting a highway on which land he intends to carry out construction which necessitates the crossing of curbings, sidewalks, grass or paved boulevards shall submit to the Director an application in a form provided by the Director accompanied by a deposit, as determined by City Council from time to time, per linear metre of the lot on which the construction takes place where the lot abuts such curbing, sidewalk or boulevard.
 - (2) Where access to the land where construction is to take place is available only by crossing parkland, the owner of the land shall submit to the Director an application in a form provided by the Director accompanied by a deposit as determined by City Council from time to time.
 - (3) An application required by subsections (1) or (2) shall be accompanied by a non-refundable administration fee as determined by City Council from time to time.
9.
 - (1) Upon receipt of an application under subsection 8(2), the Director shall determine the location where the parkland crossing shall be permitted.
 - (2) No person shall drive construction vehicles or equipment anywhere except as designated by the Director.
10.
 - (1) The owner of the land where construction is to take place shall repair any damage to curbings, sidewalks, boulevards or parkland occasioned by a crossing to which subsections 8(1) or (2) applies.
 - (2) In the event that the said owner does not complete the repairs required by subsection (1), the City may complete the repairs and retain from the deposit required by subsections 8(1) and (2) an amount equal to the cost of the repairs.
 - (3) The owner or the occupier of lands upon which construction is taking place as set out in subsections 8(1) and (2) shall take all necessary steps to prevent building materials, waste or soil from being spilled or tracked onto the highway by vehicles or equipment going to or coming from the lands during the course of the said construction and the owner or occupier of the said lands shall reimburse the City for any costs incurred by the City in removing such building materials, waste, soil or other material.
 - (4) The City may recover its costs incurred pursuant to subsection (3) from the deposit required under subsections 8(1) and (2).
 - (5) Where the costs incurred by the City under subsections (2) and (3) exceed the amount of money deposited under subsection 8(1) and (2), the excess cost thereof may be recovered from such person by court action, or the same may be recovered in like manner as municipal taxes.

RETURN OF DEPOSIT MONEY

11. (1) When construction has been completed and the City has not incurred and will not be incurring any costs under subsections 10(2) and (3), the City shall, upon application by the person having paid the deposit required by subsections 8(1) and (2), refund the deposit to that person.
- (2) Where the costs incurred or to be incurred by the City under subsections 10(2) and (3) are less than the amount of the deposit required by subsections 8(1) and (2), the City shall, upon application by the person having paid the deposit, refund the difference to that person.
- (3) Where any money paid under subsections 8(1) and (2) remains unclaimed for a period of six (6) years, the provisions of paragraph 2(b) of section 314 of the Municipal Act, R.S.O. 1990, c.M.45, as amended, shall apply.
12. Any person who contravenes the provisions of the by-law is guilty of an offence, and upon conviction is liable to a penalty not to exceed Five Thousand Dollars (\$5,000.00).
13. By-law 77-272 and By-law 6317 are hereby repealed.
14. This By-law shall come into force and take effect on the day upon which it is finally passed.

Passed this 15th day of April, 2002.


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DEAN IORFIDA, CITY CLERK


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WAYNE THOMSON, MAYOR

First Reading: April 15, 2002
Second Reading: April 15, 2002
Third Reading: April 15, 2002