

**Consolidated Version as of March 28, 2022 – Amended by By-law No: 2015-105, 2019-030, 2021-038, 2022-031**

**THE CORPORATION OF THE TOWN OF OAKVILLE**

**BY-LAW NUMBER 2009-072**

A by-law to regulate the use of a municipal right of way.

**WHEREAS** The Corporation of the Town of Oakville has passed the following by-laws:

- (a) By-Law 1963-101, as amended, being a by-law to provide for the installation of culverts and to prohibit the obstruction of drains, ditches, water course, or culverts;
- (b) By-Law 1986-43, as amended, being a by-law respecting the placing of newspaper boxes on road allowances (the "Newspaper Box By-Law");
- (c) By-Law 1988-220, as amended, being a by-law respecting the construction, installation, widening or altering of driveways and curb cuts located on Town road allowances or other Town property (the "Driveway By-Law");
- (d) By-law 1962-69, as amended, being a by-law to control excavation on highways in the Town of Oakville (the "Roadcut By-Law");
- (e) By-law 1990-23, as amended, being a by-law respecting the use of roads and authorizing the issuing of permits for temporary occupation of roads for construction purposes (the "Temporary Street Occupation By-Law"); and
- (f) By-law 1990-93, as amended, being a by-law respecting the placing of merchandise for display on Town property (the "Merchandise Display Bylaw").

(collectively, the "Applicable By-Laws") that govern the use and occupation of a municipal right of way under its jurisdiction;

**AND WHEREAS** it is deemed prudent to update and consolidate such by-laws.

**COUNCIL ENACTS AS FOLLOWS:**

In this by-law:

"Administrative Penalties for Non-Parking Violations and Orders By-law"  
means By-law 2021-038, or successor by-laws; (**By-law 2021-038**)

"boulevard" means all parts of a municipal right of way save and except the roadway, shoulder and/or walkway;



“driveway” means an access within a municipal right of way facilitating or supporting vehicular travel (continuous, intermittent or temporary) between the roadway and a private property;

Deleted by By-law 2021-038

“Officer” means any person authorized by the Corporation of the Town of Oakville to enforce by-laws and includes Municipal Law Enforcement Officers, provincial offences officers, Halton Regional Police Officers; **(By-law 2019-030)**

“penalty notice” means a notice issued pursuant to the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law; **(By-law 2101-038)**

“person” means an individual, firm, corporation, sole proprietorship, association or partnership and includes an applicant for a permit under this By-law as the context requires; **(By-law 2019-030)**

Deleted by By-law 2021-038

Deleted by By-law 2021-038

“Town” means the municipal corporation of the Town of Oakville or the geographic area as the context requires;

“Director” means the Director of Engineering and Construction Department or authorized representative;

“Municipal Right of Way” means land owned by The Corporation of the Town of Oakville as opened or unopened road allowances for the purposes of operating a public highway under the *Municipal Act, 2001*, a public walkway, municipal services (such as a public parking lot listed with the Parking Lot By-law) or public utilities, but excludes Town lands owned or operated as parkland, creeks and watercourse, and related public trail systems;

“newspaper” shall include any publication containing news, current events, feature articles or advertising;

“roadway” means that part of the municipal right of way that is improved, designed or ordinarily used for vehicular traffic;

“walkway” means that part of a municipal right of way, outside of the roadway, set aside by the Town for the use of pedestrians or pedestrians and cyclists; and

"vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a street car;

1. No person shall, unless otherwise authorized by by-law or a permit issued by the Town in accordance with the Use of Municipal Right of Ways and Municipal Parking Lots Policy as may be amended or replaced:
  - a. place equipment or materials of any kind upon or within a municipal right of way;
  - b. close a municipal right of way in whole or in part;
  - c. undertake any activity that negatively impacts the use and function of a municipal right of way;
  - d. deface or place graffiti on any permitted features with a municipal right of way;
  - e. permit oils, chemicals or substances to be deposited or spilled on a municipal right of way including spillage of any substances from a vehicle;
  - f. encumber or damage a municipal right of way by any means;
  - g. permit or allow any materials to be transferred from private property onto or across a municipal right of way by any means including natural forces;
  - h. obstruct a drain, gutter, water course or culvert along or upon a municipal right of way;
  - i.
    - (i) cause any material to be thrown, piled or placed across or on a municipal right of way;
    - (ii) deposit snow or ice in such a manner as to obstruct access to any fire hydrant within the municipal right of way;
    - (iii) deposit snow or ice so as to interfere with the safe passage of vehicles or pedestrians within the municipal right of way; **(By-law No. 2015-105)**
  - j. display or exhibit merchandise or articles of any nature kind within a municipal right of way;

- k. solicit or sell any real or personal property or merchandise with a municipal right of way;
- l. remove or alter any material, equipment or device placed within a municipal right of way by the municipality;
- m. move or cause any building or structure to be moved into, along, or across a municipal right of way;
- n. place or maintain any box for the dispensing of newspapers on any portion of a municipal right of way;
- o. install or construct a culvert within any municipal right of way;
- p. construct, widen, remove or alter any driveway or curb cut within a municipal right of way;
- q. allow any part of a tree, shrub, sapling, hedge or any other plant to extend over or upon any municipal right of way, so as to interfere with, impede or endanger persons using the municipal right of way;
- r. construct, plant or maintain any form of garden or plant material within a municipal right of way;
- s. discharge water directly onto a municipal right of way in a manner that is deemed hazardous;
- t. congregate, sit or stand so as to obstruct the free passage of either pedestrian or vehicular traffic on any walkway or roadway regulated by this by-law;
- u. pull down, destroy, deface or in any way interfere with, any municipal infrastructure, including but not limited to, any post, surveyor's mark, bench mark, traffic sign, roadway name sign, sign board, regulatory sign, traffic signal, traffic cone, or any other traffic control device, affixed, or placed on a municipal right of way;
- v. permit any flood light to directly or indirectly illuminate a municipal right of way;
- w. bring a vehicle upon a municipal right of way unless there has been removed from the wheels thereof as completely as is reasonably practicable, all mud, clay, lime, and similar material, or any fertilizer or manure which is likely, if not removed, to cause an obstruction or



dangerous condition or nuisance in a municipal right of way or cause damage to the surface of the roadway; or

- x. load a vehicle or drive the same so as to permit or cause the contents thereof to fall, spill or be deposited upon or cause damage to a municipal right of way.
- 1(i) This By-law is a Designated By-law under the Administrative Penalties for Non-Parking Violations and Orders By-law. **(By-law 2021-038)**
  2. Notwithstanding section 1 p. of this by-law, driveways within unassumed plans of subdivision may be constructed in accordance with the approved plans for that subdivision.
  3. Notwithstanding section 1 p. of this by-law, an owner of driveway is required and permitted to perform routine maintenance on the portion of their driveway that is permitted within the municipal right of way so as to maintain its good and safe condition.
  4. No person shall fail to comply with the terms and conditions of a permit issued by the Town in accordance with the Use of Municipal Right of Ways and Municipal Parking Lots Policy.
  5. Where the cost of repairing and restoring the municipal right of way exceeds any amount held on deposit or posted as security, the excess amount of the costs shall be a debt owing to the Town, and in addition to any other remedy available to it, the Town may recover the excess amount of the costs by action or by adding the excess amount of the costs to the tax roll of the permit holder's lands and collecting them in the same manner as taxes.
  6. No owner or operator of a parking station, parking lot, used car lot, automobile service station or mechanical car wash shall permit water used for washing or cleaning a motor vehicle to escape upon, overflow or run across or upon a municipal right of way.
  7. The prohibitions contained in this by-law do not apply to an employee or an agent of the Town when engaged in the proper delivery of a municipal service.
  8. Where an Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may issue an order to the person contravening this By-law in accordance with the provisions of the Administrative Penalties for Non-Parking Violations and Orders By-law. **(By-law 2021-038)**



9. Any person who contravenes an order under this By-law is guilty of an offence. **(By-law 2019-030)**
- 9.1. Deleted by By-law 2021-038
10. In any case where the action of a person contravenes this by-law and that action poses a danger to the public, the notice under section 11.7 need not be given and the Director may immediately take the following action: **(By-law 2019-030, 2021-038)**
- a. remove any item, structure or material placed or deposited on a municipal right of way contrary to this by-law and take any necessary steps to repair or reinstate the municipal right of way; and
  - b. send a notice to the owner or person responsible for the item, structure or material that the object has been removed at the owner or person's expense;
- 11.1 An Officer who finds or has reasonable cause to believe that a person has contravened any provision of this By-law, including any Schedules, may issue a penalty notice to the person. **(By-law 2021-038)**
- 11.2 Each person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty to the Town in the amount of \$300 or as revised in the Town's rates and fees schedule. **(By-law 2021-038)**
- 11.3 If an Officer has issued a penalty notice under subsection 11.1 of this By-law and has reasonable cause to believe that the same person has contravened the same provisions of this By-law, including any Schedules, for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Officer may issue a second penalty notice to the person. **(By-law 2021-038)**
- 11.4 Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$400 or as revised in the Town's rates and fees schedule. **(By-law 2021-038)**
- 11.5 If an Officer has issued a penalty notice under subsection 11.3 of this By-law and has reasonable cause to believe that the same person has contravened the same provision of this By-law, including any Schedules, for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Officer may issue a third or subsequent penalty notice to the person. **(By-law 2021-038)**
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- 11.6 Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$500 or as revised in the Town's rates and fees schedule. **(By-law 2021-038)**
- 11.6.1 A person who has been issued a penalty notice under this By-law may request a review of the penalty notice in accordance with the Administrative Penalties for Non-Parking Violations and Orders By-law. **(By-law 2022-031)**
- 11.7 – 11.21 Deleted by By-law 2021-038
- 11.7 Service of any penalty notice, order, or any other notice may be given as specified in the Administrative Penalties for Non-Parking Violations and Orders By-law. **(By-law 2021-038)**
- 11.8 The Director or an Officer may, at any reasonable time, enter and inspect any land to determine whether this by-law, an order issued under this bylaw, or a permit or a condition of a permit issued under this By-law is being complied with. **(By-law 2019-030, By-law 2021-038)**
- 11.9 It shall be an offence to obstruct or permit the obstruction of such inspection. **(By-law 2019-030, By-law 2021-038)**
- 12. Every person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction liable to a maximum penalty of \$25,000 for a first offence and \$50,000 for any subsequent offence.
- 13. Where a corporation is convicted of an offence under this by-law, the maximum penalty is \$50,000 for a first offence and \$100,000 for any subsequent offence.
- 14. The following by-laws, as may have been amended, are repealed on the day this by-law comes into force and effect: 1963-101, 1986-43, 1988-220, 1962-69, 1990-23, and 1990-93.
- 15. In the event that any provision or part of this By-Law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or part thereof shall be deemed to be severed from the remainder of the By-Law and all other provisions or parts thereof shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

This by-law may be cited as the "Municipal Right of Way By-Law."

PASSED this 29th day of June, 2009

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MAYOR

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CLERK