

THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER

BY-LAW NO. 98-003

Being a By-law for requiring the owners or occupants of buildings in the Elmvale Commercial District to clear away and remove snow and ice from the sidewalks in front or adjacent to, their buildings, vacant lots or walkways and to replace Elmvale By-law No. 79-8 (SIDEWALK SNOW CLEARING BY-LAW)

WHEREAS the Township of Springwater was incorporated under the Simcoe County Act, S.O. 1993 through the amalgamation of the Village of Elmvale with specified portions of the Township of Flos, Township of Medonte, Township of Vespra and Town of Wasaga Beach;

AND WHEREAS Section 44 of the Simcoe County Act provides that every by-law of a former municipality pertaining to an area included in a local municipality shall be deemed to be a by-law of the local municipality of which that area now forms a part and shall remain in force and effect until the earlier of the date it is amended or repealed and the 31st day of December, 1997;

AND WHEREAS the former Village of Elmvale had enacted By-law No. 79-8 to provide for the clearing of ice and snow from the sidewalks in the Commercial District;

AND WHEREAS Section 210 Paragraph 60 of the Municipal Act, R.S.O. 1990, as amended provides that by-laws may be passed by the council of local municipalities for requiring owners or occupants of any class of building in the municipality or in any defined area thereof to clear away and remove snow and ice from the sidewalks 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 Paragraph 61 of the Municipal Act, R.S.O. 1990, as amended provides that by-laws may be passed by the council of local municipalities for clearing away and removing snow and ice from the sidewalks 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;

AND WHEREAS Section 210 Paragraph 62 of the Municipal Act, R.S.O. 1990, as amended provides that by-laws may be passed by the council of local municipalities for clearing away and removing snow and ice from the sidewalks in front of, alongside or at the rear of any occupied or unoccupied building or vacant lot, or 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;

AND WHEREAS Section 220.1 of the Municipal Act, R.S.O. 1990., as amended provides that a municipality may pass by-laws imposing fees or charges on any class of person for services or activities provided or done by or on behalf of it;

AND WHEREAS the Council of The Corporation of the Township of Springwater deems it desirable and necessary to enact a By-law - Being a By-law for requiring the owners or occupants in the Elmvale Commercial District to clear away and remove snow and ice from the sidewalks in front of or adjacent to, their buildings, vacant lots or walkways and to replace Elmvale By-law No. 79-8;

NOW THEREFORE the Council of The Corporation of the Township of Springwater enacts as follows:

1. DEFINITIONS

THAT for the purpose of this By-law:

- 1.1 "Council" means the Council of The Corporation of the Township of Springwater and may include a Committee of Council appointed to deal with matters under this By-law;

- 1.2 " curb" shall include the edge of the roadway and gutters;
- 1.3 "occupant" includes a tenant of a building within the Defined Area or such other person as the owner designates for the purpose of this By-law;
- 1.4 "officer" means a Municipal Law Enforcement Officer appointed by Council or any other person appointed or designated by Council to provide law enforcement services in the Township of Springwater;
- 1.4 "owner" means the registered owner of the property as shown on the last revised Assessment Roll for Taxation purposes;
- 1.5 "person" means any human being, firm, association, partnership, private club, common, joint tenants, agent or trustee and the heirs, executors or other legal representatives of a person to whom the context can apply according to law;
- 1.6 "Public Works Superintendent" means the Public Works Superintendent appointed by the Council , or Designate;
- 1.7 "sidewalk" or "sidewalks" means that portion of a highway between the curb and any building which is set aside by the Township of Springwater for the use of pedestrians;
- 1.8 "Township" means The Corporation of the Township of Springwater;
- 1.9 "Treasurer" shall mean the Treasurer of the Township of Springwater.

2. REGULATIONS

- 2.1 Every owner of any building located within the Defined Area as set out on Schedule "A", attached hereto and forming part of this By-law, shall be responsible for the clearing away and removal of snow and ice from the sidewalks in front of, or adjacent to, their buildings, vacant lots or walkways from the property line to the curb.
- 2.2 In the event that snow or ice accumulates on the sidewalks overnight, every owner shall ensure that such snow or ice is cleared away or removed by not later than 10 o'clock in the forenoon, weather permitting.
- 2.3 In the event that snow or ice accumulates on the sidewalks after 10 o'clock in the forenoon, every owner shall ensure that such snow or ice is cleared away or removed not later than two hours when the snow or freezing rain has ceased falling during business hours.
- 2.4 The provisions of Section 2.2. and 2.3 shall apply on Monday through Saturday and the provisions of Section 2.1. shall only apply on Sundays when and where the adjacent business is open on that day.
- 2.5 In the event that any building within the Defined Area is not occupied by the owner, the owner shall make all necessary arrangements for the occupant, or such other person as the owner may designate, to clear away or remove the snow or ice on his behalf.
- 2.6 In the event that any building within the Defined Area is not occupied by the owner or any other person, the owner shall make all necessary arrangements for such other person as the owner may designate to clear away and remove the snow or ice on his behalf.

3. ADMINISTRATION AND ENFORCEMENT

- 3.1 In the event that an owner has not ensured that the snow or ice is cleared or removed in accordance with Section 2 above, the Township may clear away or remove such snow or ice at the owner's expense.

- 3.2 The Township may engage the services of such persons as may be required to clear away or remove any such snow or ice which has not been cleared away or removed in accordance with Section 2 above.
- 3.3 The owner of any property where the snow or ice has been cleared away by the Township under Sections 3.1. or 3.2 shall be charged a User Fee of \$100.00.
- 3.4 The Township shall invoice any User Fee charged under Section 3.3 above to the owner given in the last revised Assessment Roll for the subject property at the last known address. In the event that the owner fails to pay the invoice within 90 days, the Treasurer may add the outstanding balance to the Tax Roll and such amount shall be collected in the same manner as taxes and shall be subject to penalties and interest accordingly.
- 3.5 Council may waive, reduce or refund the User Fee where, in the opinion of Council, the owner was unable to fulfill his obligations under Section 2 of this By-law due to unusual or extenuating circumstances.
- 3.6 Council may provide a grace period during which no User Fee shall be charged for a period of up to 30 days after the passage of this By-law.

4. OFFENSES AND PENALTIES

- 4.1 Every owner who fails to clear or remove snow or ice from the sidewalk in front of his building between the curb and the building is guilty of an offense and, in addition to any other remedy set out in this By-law, may be subject to a penalty pursuant to the Provincial Offenses Act, R.S.O. 1990, Chapter P.33, as amended.
- 4.2 Every person who:
 - (a) wilfully hinders or interrupts, or causes or procures to be hindered or interrupted the Township, its officers, contractors, agents, servants, or workers in the exercise of any of the powers conferred under this By-law, or
 - (b) who contravenes any provision of this By-law.is guilty of an offence and is subject to a penalty pursuant to the Provincial Offenses Act, R.S.O. 1990, Chapter P.33, as amended.
- 4.3 The conviction of an offender upon the breach of any provisions of this By-law shall not operate as a bar to a prosecution against the same offender upon any continued or subsequent breach of any provisions of the Municipal Act, R.S.O., M.45, s.327, as amended from time to time, and shall further apply to any continued or repeated breach of this By-law.

5. GENERAL PROVISIONS

- 5.1 If any court of competent jurisdiction finds that any of the provisions of this By-law are ultra vires, or are invalid for any reason, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of the By-law which shall remain in full force and effect.
- 5.2 Where the context permits, words importing the singular also include more than one persons, parties or things of the same kind.
- 5.3 Where the context permits, words importing the masculine gender, also include female as well as male.
- 5.4 The word “May” shall be construed as permissive and the word “Shall” shall be construed as imperative.
- 5.5 This by-law shall be cited as the “Sidewalk Snow Clearing By-law” .

6. FORCE AND EFFECT

6.1 THAT this By-law shall take force and effect upon final passage hereof.

BY-LAW READ A FIRST AND SECOND TIME THIS 19TH DAY OF JANUARY, 1998.

BY-LAW READ A THIRD TIME AND FINALLY PASSED THIS 19TH DAY OF JANUARY, 1998.

THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER

Mayor Helen E. Coutts

Clerk Eleanor J. Rath