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THE CORPORATION OF THE TOWN OF GRIMSBY

BY-LAW NO. 26-30

A BY-LAW TO REGULATE THE USE OF ANY MUNICIPAL RIGHT OF WAY IN THE TOWN OF GRIMSBY

Whereas subsection 8(1) of the *Municipal Act, 2001,* S.O. 2001, c. 25, as amended, provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

And whereas section 11(3)1. of the *Municipal Act, 2001*, authorizes a municipality to pass by-laws respecting highways, including parking and traffic on highways;

And whereas clause 23.2(1)(c) of the *Municipal Act, 2001*, permits a municipality to delegate certain legislative and quasi-judicial powers to an individual who is an Officer, employee or agent of the municipality;

And whereas subsection 23.2(4) of the *Municipal Act, 2001* limits the ability to delegate such powers to such an individual except where, in the opinion of Council of the municipality, the power being delegated is of a minor nature;

And whereas subsection 27(1) of the *Municipal Act, 2001* provides that a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway;

And whereas section 35 of the *Municipal Act, 2001* provides that a municipality may pass by-laws removing or restricting the common law right of passage by the public over a highway and the common law right of access to the highway by an owner of land abutting a highway;

And whereas section 128 of the *Municipal Act, 2001* 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 public nuisances;

And whereas subsection 391(1) of the *Municipal Act, 2001* provides that a municipality may pass by-laws imposing fees or charges on any person for services or activities provided by the municipality or done on behalf of it;

And whereas section 425 of the *Municipal Act, 2001* provides that a municipality may pass by-laws providing that a person who contravenes a by-law of the municipality is guilty of an offence;

And whereas subsection 429(1) of the *Municipal Act, 2001* provides that a municipality may establish a system of fines for a by-law passed under the Act;

And whereas subsection 436(1) of the *Municipal Act, 2001* provides that a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a by-law of the municipality is being complied with;

And whereas section 444 of the *Municipal Act, 2001* provides that a municipality may make an order to require a person to discontinue contravening a by-law and to do the work required to correct the contravention;

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And whereas section 446 of the *Municipal Act, 2001* provides that a municipality may proceed to do things at a person's expense which that person is otherwise required to do under a by-law but has failed to do and the costs incurred by a municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as taxes;

Now therefore the Council of the Corporation of the Town of Grimsby hereby enacts as follows:

1. TITLE

1.1. This By-law may be cited as the "Right of Way By-law"

2. DEFINITIONS

"Alteration or Alter" includes the actions of removing, replacing, widening, narrowing or abandoning;

"AMPS By-law" means Administrative Monetary Penalty System (AMPS) By-law 2025-53, as amended from time to time, or any successor By-law;

"Boulevard" means all parts of a municipal Right of Way, save and except the Roadway, curb, and shoulder;

"Busker" means a Person or a group of Persons who play, act, sing or otherwise perform or entertain for reward or payment;

"Council" means the Council for the Corporation of the Town of Grimsby;

"Curb Cut" or "Depressed Curb" means a curb that is cut and/or graded down from the top of the curb to the surface of an adjoining road;

"Director" means the Town's Director of Public Works or designate;

"Driveway Apron" means an access within a Right of Way facilitating or supporting vehicular travel, whether continuous, intermittent or temporary between a Roadway and a private property;

"Encroachment" means any type of vegetation, structure, building, manmade object or property of a Person which exists wholly upon or extends from a Person's private property onto Town property or Right of Way and shall include any aerial, surface, or subsurface encroachments;

"Encroachment Agreement" means an agreement prepared by the Town for execution by the Town and a Person, by which such Person is granted authorization to erect, place, or maintain an encroachment on Town property;

"Hazard" or "Hazardous" means a potential source of harm or adverse health effect on a Person or the natural environment;

"Inspector" means any employee or agent of the Town, who is authorized by the Director to carry out duties or inspect any portion of the Right of Way or adjacent private property for the purpose of this By-law;

"Municipal Infrastructure" means all physical improvements that provide roads, laneways, Boulevards, Sidewalks, Walkways, sanitary sewer, storm sewer, or water service in the Town of Grimsby;

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"Obstruct" means to block, prevent, hinder, encumber, damage, foul, stop-up or close, and **"Obstruction"** has a corresponding meaning;

"Officer" means any Person authorized by the Town to enforce By-laws and includes Municipal Law Enforcement Officers, provincial offences officers, and Niagara Regional Police Officers;

"Order" means any notice of non-compliance issued under this By-law;

"Owner" means the property Owner or other Person in control of, or who has an interest in, the property abutting a Right of Way;

"Permit" means a permit issued by the Director or designate under this By-law;

"Person" means an individual, firm, company, corporation, sole proprietorship, association or partnership and includes an applicant for a permit under this By-law, as the context requires;

"Private Property" means any land that is not part of a Right of Way;

"Provincial Offences Act" means *Provincial Offences Act,* R.S.O. 1990, c. P.33, as amended

"Right of Way" means land owned by the Town as opened or unopened road allowances for the purposes of a public highway under the *Municipal Act, 2001*, but excludes Town lands owned or operated as parkland, creeks and watercourses, and related public trail systems;

"Roadway" means that part of the Right of Way that is improved, designed or ordinarily used for vehicular traffic;

"Sidewalk" means that part of a Right of Way outside of the Roadway that is intended for the use of pedestrians or others as specifically authorized by Council from time to time;

"Sign By-law" means Sign By-law 97-45, as amended from time to time, or any successor by-law;

"Solicit" means to request, in Person, the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using the spoken, written or printed word, a gesture or other means;

"Special Event" means a one-time, infrequent or non-routine occurrence, activity or group of activities planned to mark a special occasion or to achieve specific social, cultural, or economic objectives;

"Town" means The Corporation of the Town of Grimsby or the geographic area of Grimsby, as the context requires;

"Town Property" any lands owned, leased, controlled or occupied by the Town;

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"Utility" means any essential service including water, sanitary sewer, storm sewer, artificial or natural gas, hydro, steam or hot water, telephone, internet or any telecommunications including cable TV and satellite services located in whole or in part within the Right of Way;

"Vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, roadbuilding machine, bicycle, scooter, and any other vehicle operated, drawn, propelled or driven by any kind of power, including muscular power.

"Walkway" means that part of a private walkway that extends into the municipal Right of Way.

3. SCOPE

3.1. The provisions of this By-law shall apply to all highways, as defined in the *Municipal Act, 2001*, within the limits of the Town and over which the Town has jurisdiction, and shall include sidewalks on highways under the jurisdiction of the Regional Municipality of Niagara.

3.2. The Town and its employees or agents shall not be responsible for damages to a Person, thing or the environment resulting from the damaging, fouling or Obstruction of a highway by a Person or Owner and such Person or Owner shall bear all liability.

4. PROHIBITITIONS

4.1. No Person shall Obstruct any Right of Way by any means whatsoever, unless authorized by the provisions of this By-law or by any other By-law of the Town or by a Permit issued by the Town.

4.2. No Person shall, unless specifically authorized by this By-law, by a Permit issued, or by an agreement executed with the Town:

A. place equipment or materials of any kind upon or within a Right of Way;

B. temporarily close a Right of Way in whole or in part;

C. undertake any activity that negatively impacts the use and function of a Right of Way;

D. deface any structure or place graffiti within a Right of Way;

E. allow oils, chemicals or substances to be deposited or spilled on a Right of Way;

F. encumber or damage a Right of Way by any means;

G. permit or allow any materials to be transferred from private property onto or across a Right of Way by any means including natural forces;

H. Obstruct a drain, gutter, water course or culvert along or upon a Right of Way;

I. perform as a Busker in a Right of Way;

J. display or exhibit merchandise or articles of any nature or kind within a Right of Way;

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K. sell any real or Personal property or merchandise within a Right of Way;

L. Solicit within a Right of Way;

M. remove or Alter any material, equipment or device placed within a Right of Way;

N. move or construct any building or structure to be moved or constructed into, along, or across a Right of Way;

O. place or maintain any a mailbox or other receptacle intended to collect mail, parcels, or newspapers on any portion of the Right of Way;

P. install or construct a culvert within any Right of Way;

Q. construct, widen, remove or Alter any driveway or Curb Cut within a Right of Way;

R. cut into or excavate any portion of a Right of Way for the purpose of, but not limited to, installing service and Utility connections, boreholes, monitoring wells, test pits;

S. allow any part of a tree, shrub, sapling, hedge or any other plant to extend over or upon any Right of Way;

T. discharge water onto a Right of Way;

U. congregate, sit, lie or stand so as to Obstruct the free passage of either pedestrian or vehicular traffic on any Sidewalk or Roadway;

V. pull down, destroy, deface or in any way interfere with, any Municipal Infrastructure, including but not limited to, any post, surveyor's mark, benchmark, traffic sign, Roadway name sign, sign board, regulatory sign, traffic signal, traffic cone, or any other traffic control device, affixed, or placed on a Right of Way;

W. permit light to directly or indirectly illuminate a Right of Way;

X. bring a Vehicle upon a 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;

Y. 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 Right of Way;

Z. import, distribute or disturb any fill, soil or other material on the Right of Way;

AA. erect, move, or permit the installation of a patio or seating area on a Right of Way;

BB. cause any material to be thrown, piled or placed across or on a Right of Way including;

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i. to deposit snow, ice, or other materials in such a manner as to Obstruct access to any fire hydrant within the Right of Way;

ii. to deposit snow, ice, or other materials so as to interfere with the safe passage of Vehicles or pedestrians within the Right of Way; and

iii. to deposit snow or ice on a Roadway.

5. EXEMPTIONS

5.1. The prohibitions contained in this By-law do not apply to the Government of Canada, the Province of Ontario, the Regional Municipality of Niagara, the Town or any public utility or local board.

5.2. Nothing in this By-law shall prevent a property Owner from using a driveway entrance providing access to the property or from maintaining the lawn on a Town Boulevard adjacent to the property.

5.3. Notwithstanding subsection 4.2 Q) of this By-law, an Owner of a Driveway Apron is required and permitted to perform routine maintenance on the portion of their Driveway Apron that is permitted within the Right of Way, so as to maintain it in good and safe condition.

6. PERMIT

6.1. Permits for Right of Way activities and Encroachments may be issued by the Director.

6.2. No Person shall fail to comply with the terms and conditions of a Permit issued.

6.3. The Director may impose such terms and conditions on a Permit, including financial securities or otherwise, as may, in the Director's opinion, be reasonable and necessary to fulfil the intent of this By-law.

6.4. The Director may issue any Permit for any work required within the Right of Way, provided any applicable Procedure and any other applicable law have been complied with.

6.5. Where a Permit or other evidence of a Permit issued by the Town is provided to a Person by the Director, such proof shall be affixed to display surface of the permitted item in a manner that is clearly visible from the street or produce a copy when required by an Inspector or Officer. The sticker or other evidence of a Permit must be on-site for the duration of the Permit.

6.6. Permit fees may be collected pursuant to the Town's Fees and Charges By-law.

6.7. The Director may revoke a Permit under any of the following circumstances:

A. where the Permit has been issued in error or on the basis of false, mistaken, incorrect or misleading information or undertakings provided to the Town;

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B. where the Permit does not conform to this By-law or any conditions of approval under the Permit, or any other applicable law within the jurisdiction of the Town; or

C. where the Permit holder has not complied with any or all conditions imposed or is not complying with the terms, promises, plans or covenants contained in the application or upon which the application's approval was based.

6.8. Where a breach of any of the provisions of this By-law causes a Permit to be revoked or withdrawn, no portion of the cost of such Permit will be refundable.

6.9. The Director has the authority to close a Right of Way in whole or in part.

7. INSPECTION

7.1. The Director, an Officer, or an Inspector may, at any reasonable time, enter and inspect the Right of Way or private property to determine whether this By-law, an Order issued under this By-law, or a Permit or a condition of a Permit issued under this By-law is being complied with.

7.2. For the purposes of conducting an inspection pursuant to subsection 7.1 of this By-law, the Director, an Officer or an Inspector may:

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.

7.3. If, in the opinion of the Director, Officer or Inspector, there is doubt as to the condition of the land, structure, or other items, the Officer may Order the examination and testing of the condition by a qualified professional, at the expense of the Permit holder or Persons working within the Right of Way.

7.4. No Person shall hinder or block, or attempt to hinder or block, any Person who is exercising a power or performing a duty under this By-law.

8. ENFORCEMENT

8.1. Where an Officer has reasonable grounds to believe that a contravention of this By-law has occurred, the Officer may issue an Order to any Person who contravened or permitted the contravention of this By-law.

8.2. Any Person who fails to comply with an Order issued pursuant to section 8.1 of this By-law is guilty of an offence.

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8.3. The Order shall give reasonable particulars of the contravention(s) with this By-law and shall provide the time for compliance of the Order. If the Order is not complied with within the time prescribed in the Order, the Town may take any steps necessary to enforce the Order and bring the contraventions into compliance at the Owner's expense.

8.4. An Order may be served by being personally delivered, served by registered mail, posted on the land of the Owner, prepaid mail service, regular paid mail service, facsimile transmission, or electronic mail transmission. When an Order is sent by electronic mail it will also be sent by regular paid mail. Where no building or structure exists, the Order may be affixed to a stake erected by the Officer on the Owners land, and the Order shall be deemed to have been served at the time of posting on the land.

8.5. Where an Order is served in accordance with section 8.3 of this By-law the Order shall be deemed delivered, in the case of personal service on receipt of the Order by the addressee, in the case of electronic mail, on the same day it was sent, and by all other methods, on the fifth day following the date of sending.

9. OFFENCE

9.1. Every Person who contravenes any provision of this By-law, including failing to comply with an Order made under this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act* and the *Municipal Act, 2001*.

9.2. If a Person is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an Order prohibiting the continuation or repetition of the offence by the Person convicted.

9.3. This By-law is a Designated By-law under the AMPS By-law. Each Person who has been issued a penalty notice shall, upon issuance of the penalty notice, be liable to pay an administrative penalty found within the AMPS By-law.

9.4. Service of any penalty notice may be given as specified in the AMPS By-law.

10. REMOVAL OF ITEMS

10.1. The Director is hereby authorized to take such action as may be necessary and give direction to Town staff to pull down or remove any item located in a Right of Way that is:

A. located in contravention of this By-law; or

B. deemed to constitute a safety hazard.

10.2. The Director or Officer shall return items which have been seized to the item's Owner or authorized agent upon payment of the fees specified in the Fees and Charges By-law, provided:

A. the item's Owner has contacted the Director or Officer to make an appointment for the retrieval of the item; and

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B. the item's Owner or authorized agent presents acceptable government issued identification and an authorization letter, where applicable, when retrieving items.

10.3. Any item that has been seized and is not retrieved by the item's Owner or authorized agent within fifteen (15) days of the date of removal may be sold, used, or disposed of at the discretion of the Director or Officer.

10.4. The Town is not financially responsible for any item that has been removed from a Right of Way in contravention of this By-law.

10.5. Where the action of a Person contravenes this By-law and that action poses a danger to the public, despite section 8.1, and even if a penalty notice is issued under the AMPS By-law, the Director or Officer may immediately remove any item, structure or material placed or deposited on a Right of Way contrary to this By-law and take any necessary steps to repair or reinstate the Right of Way.

10.6. If an Officer or an Inspector determines that an Obstruction of a Right of Way is or may create a Hazardous condition to the safety of any Person using the Right of Way, the Director, Officer or Inspector may take any action necessary, without notice, to have the Obstruction immediately removed and the Right of Way repaired, if necessary. All the costs incurred by the Town in undertaking this work shall be expenses owed to the Town by the Owner of the property and/or the contractor from which the Obstruction comes, relates to, or was created for.

10.7. Where any part of a tree, shrub, sapling, hedge or any other vegetation interferes with a traffic control signal, regulatory sign, warning sign, or impacts sightlines of motorists or pedestrians, the Town is not required to provide notice to the adjoining Owner or occupier of the land before removing any portion of the tree, shrub, sapling, hedge or other vegetation that extends into the Right of Way from the adjoining property.

10.8. The Town may recover expenses resulting from actions taken in Sections 10 of this By-law by action, or in like manner as municipal taxes.

11 REMEDIAL ACTION

11.1. If a Person fails to do a matter or thing, including complying with an Order under this By-law, as directed or required by this By-law, the Town 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 Town 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.

11.2. Where it is necessary for the Town to enforce an Order under the provisions of this by-law, an applicable Administrative Fee as determined by the Fees and Charges By-law as amended from time to time shall be added to the tax roll and collected from the Owner in the same manner as municipal taxes.

11.3. The amount of the costs, including interest, constitutes a lien on the land upon the registration of a notice of lien in the proper Land Registry Office. 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

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receiving payment of all costs payable plus interest accrued to the date of payment, the Town shall register a discharge of the lien in the proper Land Registry Office.

12 FEES AND CHARGES

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

13 SEVERABILITY

13.1. 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.

14 REFERENCES

14.1. References in this By-law to any legislation or by-law means as may be amended or replaced from time to time and includes any regulations thereunder.

Read a first time, considered, and passed this 11th day of May, 2026.

J.A Jordan, Mayor

V. Steele, Town Clerk