



Corporation of the Town of Newmarket

By-law 2018-31

OFFICE CONSOLIDATION

This is a consolidation of the Town’s By-law to Regulate the Use, Alteration, and Occupancy of Highways Under the Jurisdiction of the Municipality in the Town of Newmarket, being By-law 2018-31, as amended by the below listed by-laws and is prepared for reference and information purposes only. The following consolidation is an electronic reproduction made available for information only. It is not an official version of By-law 2018-31. Official versions of all by-laws can be obtained from Legislative Services by calling 905-953-5300. If there are any discrepancies between this consolidation and By-law 2018-31 and listed amending by-laws the official by-laws shall prevail.

2018-54 – September 24, 2018	Sections 14.1 & 14.4

A By-law to Regulate the Use, Alteration, and Occupancy of Highways Under the Jurisdiction of the Municipality

Whereas Section 8(1) of the Municipal Act, 2001, S.S. 2001, c.25, as amended (the “Municipal Act”) provides that the powers of a municipality under any Act (as defined thereunder) 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 9 of the Municipal Act provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act; and,

Whereas Section 11(3)1 of the Municipal Act provides that a municipality may pass by-laws within the following spheres of jurisdiction: Highways, including parking and traffic on Highways; and,

Whereas Section 391(1) of the Municipal Act provides that a municipality may pass by-laws imposing fees or charges on persons for services or activities provided by the municipality or done on behalf of it; and,

Whereas Section 436(1) of the Municipal Act provides that a municipality may pass by-laws providing for the entry onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law; and,

Whereas Section 429(1) of the Municipal Act provides that a municipality may establish a system of fines for a by-law passed under the Municipal Act; and,

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

Whereas Section 446 of the Municipal Act 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 cots to the tax roll and collecting them in the same manner as taxes; and,

Whereas Section 23.1 of the Municipal Act provides that a municipality may delegate its powers and duties under the Act subject to such conditions and limits as the council of the municipality consider appropriate; and,

Whereas the Council of the Corporation of the Town of Newmarket desires to repeal and replace By-law 2015-16 with an updated road occupancy by-law;

Now therefore be it enacted by the Council of the Corporation of the Town of Newmarket as follows:

1.0 Short Title

1.1 This By-law shall be known as the “Road Occupancy By-law”.

2.0 Definitions

Alter means to change in any manner and includes excavate, disturb, restore, renovate, or repair, and “alteration” has a corresponding meaning.

Appeals Committee means the **Appeal Committee** established by the **Town**.

Applicant means a Person making application for a **Permit**.

Boulevard means the portion of the **Highway** between a property line and the boundary line of the **Roadway**.

Construction means anything done in the erection, installation, extension or material alteration, demolition, or repairs of a building, structure, or utility, or surface grading and includes landscaping.

Contractor means any **Person** alone or with others undertaking **Construction** on a **Highway**.

Damage means harm or injury to the **Boulevard** or **Roadway**, including without limitation, harm, injury, disturbance, cracking, cutting, gouging or displacement of or to the pavement, curb or sidewalk, landscaping, trees, retaining walls, municipal appurtenances, **Street Furniture** resulting from the use of the **Boulevard** or **Roadway** to occupy or perform **Construction** such that, in the sole opinion of the **Director**, the **Boulevard** or **Roadway** is not in its pre-construction condition.

Director means the Director of Public Works Services for the **Town** or designate.

Emergency means a situation that poses a threat to public health or safety and includes a disruption of services supplied by the public utilities or the **Town**.

Highway includes a common and public highway, street, avenue, parkway, drive, square, place, bridge, viaduct or trestle, or sidewalk, any part of which is intended for or used by the general public for pedestrian and/or vehicular passage and includes a **Boulevard** and **Roadway**.

Landscape or Construction Material including gravel, soil, sod, bricks, paving stones, landscaping rocks, wooden planks or boards.

Newmarket Standard means The Town of Newmarket Standards, as amended from time to time intended as guidelines for land development and Town projects to aid in providing uniform designs throughout the municipality and are to be used in conjunction with Ontario Provincial Standard Drawings (“O.P.S.D.”).

Obstruct includes encumber, **Damage**, foul, block, or **Alter**, and “obstruction” and “obstructing” have corresponding meanings.

Officer means a Police Officer as defined under the Police Services Act, R.S.O. 1990, c. P15, as amended, an individual appointed by the **Town** as a Municipal Law Enforcement Officer pursuant to section 15 of the Police Services Act, as amended, or any other individual designated by the **Town** to enforce this **By-law**.

Order includes a Work Order, Order to Comply and Order to Discontinue.

Outdoor Patio means a designated area within a **Highway** associated with an eating establishment where food or drink is offered for sale and/or consumed, and includes any required sidewalk extensions.

Permit means a Road Occupancy Permit issued by the **Director** pursuant to **this By-law**, and any other permit as required to undertake **Construction** on the **Highway**.

Permit Holder means the **Applicant** named in a **Permit**.

Person includes a natural individual, association or organization, firm, partnership, **Contractor**, corporation, owner, agent or trustee and their heirs, executors, assigns, administrators, or other legal representatives of an individual, association or organization, firm or partnership of a **Person** to whom the context can apply according to the **By-law**.

Public Utility means a municipality, a municipal board or commission, or a corporation that provides **Utility Service** under the authority of any statute, charter, by-law or franchise.

Roadway means the part of the **Highway** that is improved, designed and ordinarily used for vehicular traffic, but does not include the **Boulevard**.

Security means cash, certified cheque, or letter of credit provided to the **Town** to secure the performance by the **Permit Holder** of all its obligations under a **Permit** and this **By-law**.

Street Furniture includes benches, garbage containers, hard rails, tables, posts, signs, any other above ground appurtenance that is owned by the **Town** and used by the public.

Town means the Municipal Corporation of the Town of Newmarket.

Utility Service means the production, transmission or supply to the public by a **Public Utility** of necessities or conveniences and includes, but is not limited to, the production, transmission and supply of gas, oil, water, electricity, sewage and storm water services, telephone service, cable television, and any other telecommunications service.

3.0 General Provisions

3.1 The **Town** maintains its right to enter onto any portion of a **Roadway** or **Boulevard** and undertake any **Construction** needed to reinstate the **Roadway** and/or **Boulevard** back to its original condition having existed prior to private alterations made with or without a **Permit**.

3.2 The **Town** is not responsible for damage, maintenance or replacement of any **Alterations** made to a **Boulevard** by a **Person**.

- 3.3 No **Person** shall **Alter**, occupy, **Obstruct** or **Damage**, cause or permit the use of any **Highway** by:
- 3.3.1 depositing, throwing, spilling, tracking, cause or permit the depositing, throwing, spilling or tracking of any material, waste or sediment onto the **Highway**;
 - 3.3.2 depositing of snow or ice on a **Roadway**, sidewalk, or onto a **Boulevard** not contiguous with the property from where the snow was moved;
 - 3.3.3 the placement of any snow or ice, or any materials or equipment, or any structures within 1.2 m, in any direction of a fire hydrant;
 - 3.3.4 **Altering** the grade on any **Boulevard** unless otherwise approved by the **Town**;
 - 3.3.5 cutting, **Altering**, extending, in any manner whatsoever of a concrete curb, open or contained culvert, culvert overpass or similar structure, or landscape feature;
 - 3.3.6 allowing the direct discharge of water from any irrigation system, sump pump or down spout onto a **Highway**;
 - 3.3.7 creating any **Obstruction** within any ditch, gutter, or watercourse on any **Highway**;
 - 3.3.8 the placement of any debris on any portion of a **Highway** except for items that are placed at the roadside and are approved collectable under the **Town's** waste management program;
 - 3.3.9 the placement of any **Landscape or Construction Material**, or bins on any portion of a **Highway**.

4.0 Specific Provisions

Road Occupancy Permit

- 4.1 No **Person** shall **Alter**, occupy, **Obstruct** or **Damage**, cause or permit the use of any **Highway** without first having obtained a **Permit**.
- 4.2 No **Person** shall undertake **Construction** on land abutting a **Highway**, which may affect the drainage of the **Highway** or require alteration of **Town** infrastructure without first having obtained a **Permit**.
- 4.3 Without limiting the generality of Section 3.0, no **Person** shall **Alter**, occupy, **Obstruct** or **Damage**, cause or permit the use of any **Highway** without having obtained a **Permit** for any of the following:
- 4.3.1 the placement of equipment or motorized equipment other than licensed motor vehicles on any portion of a **Highway**
 - 4.3.2 **Altering** or damaging any portion of a **Highway**, including but not limited to sod, trees, light poles, street signs asphalt, road sub-base, concrete curb, sidewalk or other appurtenance within the **Highway**; and
 - 4.3.3 the placement, removing or moving of any **Street Furniture** on any portion of a **Highway**.

Use of a Boulevard or Roadway

4.4 No **Person** shall in relation to a **Boulevard** or **Roadway**:

- 4.4.1 create or establish vehicle access to a property across a **Boulevard** without approval of the **Director**.
- 4.4.2 construct a driveway apron crossing the **Boulevard** at width greater than the curb cut at the street-line and greater than the width of the driveway, as permitted under the applicable Zoning By-law.
- 4.4.3 construct, install or place any raised curb, retaining wall or similar feature, fence, post, light post, rock(s), decorative wall, or landscape feature within 0.5 m of a sidewalk.
- 4.4.4 place, deposit or plant any object, which in the opinion of the **Town** may impede the **Town's** ability to maintain the **Boulevard** or **Roadway**, or create a hazard.
- 4.4.5 place, deposit or plant any object, or create any visual **Obstruction** on any portion of the **Boulevard** or **Roadway**.
- 4.4.6 leave an excavation open or unattended without first securing the excavation with appropriate safety measures and barricades, and warning or cautionary signage.
- 4.4.7 erect or maintain, without permission of the **Town**, scaffolding needed to facilitate **Construction** on any portion of the **Boulevard** or **Roadway**.

5.0 Exemptions

5.1 Any **Person** or **Public Utility** will not require a **Permit** from the **Town** where:

- 5.1.1 the **Highway** is under the jurisdictional authority of the Regional Municipality of York, Registered Condominium Corporations, or is an unassumed land under the care and control of a developer.
- 5.1.2 a road closure has been authorized by the **Town** and no alteration to the **Highway** is needed.
- 5.1.3 **Emergency** repairs are required.
- 5.1.4 an **Outdoor Patio** has been authorized by the **Town**.

5.2 Notwithstanding the exemptions listed in Section 5.1, every **Person** or **Public Utility** shall comply with the requirements of the Ministry of Transportation Traffic Control Manual for Roadway Operations as amended or replaced from time to time.

5.3 Subject to Section 5.1, when **Public Utilities** must complete work relating to an **Emergency**, the **Public Utility** shall immediately notify the **Town**, and on the next working day obtain a **Permit**, as required by this **By-law**.

5.4 The provisions of this **By-law** do not apply to a motor vehicle legally parked, licensed and operable pursuant to the regulations of the Highway Traffic Act, R.S.O. 1990, c. H. 8, as amended.

5.5 The provisions of this **By-law** do not apply to activities undertaken by any police force, fire department, paramedic or ambulance service in the course of their regular duties.

6.0 Administration

Permit Administration

- 6.1 A **Person** who applies for a **Permit** under this **By-law** shall:
- 6.1.1 complete an application for the **Permit** on the forms as provided by the **Director**;
 - 6.1.2 submit the application along with the applicable fees and charges as provided for in the **Town's Fees & Charges By-law**; and,
 - 6.1.3 provide any documentation, deposit or **Security**, and insurance certificate(s), as required by the **Director** as prerequisites and requirements for the issuance of the **Permit**.
- 6.2 The issuance of a **Permit** under this **By-law** does not relieve any **Person** from the necessity of acquiring any other license or permit, or complying with any other applicable laws, by-laws, regulations, and requirements of other governmental authorities.
- 6.3 A **Permit** is the property of the **Town** and is not transferable unless otherwise authorized by the **Director**.
- 6.4 Every **Applicant** shall post with the **Town** the required deposit or security, by way of certified cheque, debit card, or letter of credit, in a form satisfactory to the **Town**. If deemed necessary by the **Director**, the deposit or security shall be held by the **Town** for a period of up to one year following the completion of **Construction**.

7.0 Permit Conditions

- 7.1 A **Permit Holder** shall comply or ensure compliance with all provisions and conditions of the **Permit** and this **By-law**.
- 7.2 A **Permit Holder** shall provide and maintain a contact phone number by which the **Director** or an **Officer** may reach the **Permit Holder** at all times.
- 7.3 Every **Permit Holder** shall forthwith rectify damage, and shall reinstate the **Highway**, to its original condition, to the satisfaction of the **Director**.
- 7.4 Every **Permit Holder** shall provide all signs, barricades, traffic control devices, flag persons, and other persons and equipment required by the **Director** prior to the commencement of, and for the duration of, the use and occupancy of the **Highway**.
- 7.5 Every **Permit Holder** shall maintain or provide alternate access to all private and public properties for the duration of the use and occupancy of the **Highway** and to keep such access free and clear of all mud, debris and other materials.
- 7.6 Every **Permit Holder** shall agree to hold harmless, indemnify and defend the **Town**, its elected officials employees and agents, from and against any action, claim, loss, damage, cost or expense arising directly or indirectly as a result of the issuance of a **Permit** to the **Permit Holder**.

- 7.7 Every **Permit Holder** shall notify the police, emergency medical services, the fire department, any public transportation service or school bus service, and any property owner or occupant whose access to their property may be affected by the use and occupancy of the **Highway**.
- 7.8 A **Permit** shall become void if the work or activity authorized by the **Permit** is not commenced within sixty (60) calendar days of the date that the **Permit** is issued, and a new **Permit** shall be required if the work or activity is to proceed.
- 7.9 In the event the permitted work or activity cannot be completed within the time set out in the **Permit**, the **Permit Holder** must notify the **Director** of the additional required time and the reasons therefor, and shall request an extension of the **Permit** which extension may be granted at the discretion of the **Director** who may impose additional conditions upon the **Permit**.
- 7.10 Every **Permit Holder** shall effect all repairs and make all improvements to the **Highway** as may be deemed necessary by the **Director** to reinstate the **Highway** to the **Newmarket Standard**.
- 7.11 Every **Permit Holder** shall effect all repairs to real and personal property adjacent to the **Highway** that has been damaged or destroyed in the course of the use and occupancy of the **Highway** as may be necessary to restore it to its pre-occupancy condition to the satisfaction of the **Director**.
- 7.12 **Town** or the **Public Utility**, as the case may be, shall have the sole right to determine who, at the expense of the **Permit Holder**, may carry out any necessary repairs to any **Highway** or **Utility Service** that has been damaged by a **Permit Holder**
- 7.13 In the event that a **Permit Holder** fails to undertake any work required by the **Director** within such time as may be specified by the **Director** by way of notice, the **Director** may arrange for the work to be done by the **Town** or a third party, at the **Permit Holder's** expense.
- 7.14 Upon the final restoration of the **Highway** to the satisfaction of the **Director** the **Town** shall:
- (a) assume responsibility for maintaining the **Highway**, and any further maintenance or repair works; and,
 - (b) release the **Security** or the remaining balance thereof to the **Permit Holder** upon written request by the **Permit Holder**.

8.0 Issuance of a Permit

- 8.1 The **Director** shall refuse to issue a **Permit** where:
- (a) the application is incomplete;
 - (b) the **Permit** fee has not been paid;
 - (c) the requisite insurance(s) has not been provided;
 - (d) **Security** has not been provided; or
 - (e) a 24 hour emergency contact telephone number has not been provided.
- 8.2 The **Director** may refuse to issue a **Permit** where:

- (a) the **Applicant** or their agent or **Contractor** has/have violated the conditions of any previously issued **Permits**;
- (b) the **Applicant** or their agent or **Contractor** has/have previously committed an offence under this **By-law**;
- (c) the **Applicant** has failed to reimburse the **Town's** costs and expenses incurred for repairs under or in the administration of any previously issued **Permit**;
- (d) the **Applicant** proposes to **Alter** or **Damage** a **Highway** which was constructed, reconstructed or resurfaced within the previous five (5) years; or
- (e) there exists such other reason(s) as the **Director** may deem appropriate and which reasons shall be delivered in writing to the **Applicant** upon request.

9.0 Compliance

9.1 The **Director** may revoke a **Permit** at any time for any of the following:

- (a) if the **Permit Holder** and/or **Contractor** violates or permits the violation of any condition of the **Permit** or of any provision of this **By-law**;
- (b) if the **Permit Holder** and/or **Contractor** violates or permits the violation of any provision of any other law relating to the permitted work or activity;
- (c) for the existence of any condition or the doing of any act that:
 - (i) constitutes a threat to public health and safety;
 - (ii) is a nuisance; or
 - (iii) endangers life or property;
- (d) where the **Permit** has been issued on mistaken, false or misleading information; and
- (e) where the permitted work or activity is not carried out in a diligent and workmanlike manner based on the sole discretion of the **Director**.

9.2 In the event that a **Permit** has been revoked by the **Director**, the **Permit Holder** shall:

- (a) immediately cease and desist all activities for which the **Permit** was issued; and
- (b) immediately restore the **Highway** to the **Newmarket Standard** at the **Permit Holder's** sole cost and expense, failing which the **Town** may restore the **Highway** to the **Newmarket Standard** at the sole cost and expense of the **Permit Holder**, and such cost and expense shall be paid by the **Permit Holder** forthwith upon demand.

9.3 The **Director** shall have the authority to issue an **Order** to any **Person** who is **Altering, Obstructing, Damaging** or occupying any **Highway** to immediately cease and desist from such activity and/or to restore the **Highway** to the **Newmarket Standard**.

10.0 Emergency Repairs

- 10.1 Where the **Director** determines that an **Obstruction** of a **Highway** is or may create a hazardous condition to the safety of any **Person** using the **Highway**, the **Director** may take any action necessary to have the **Obstruction** immediately removed, and the **Highway** repaired, if necessary, and all costs incurred by the **Town** in undertaking this work shall be expenses owed to the **Town** by the owner, occupant and/or **Contractor** of the property from which the **Obstruction** comes from, relates to, or was created for.
- 10.2 All work done by the **Town** pursuant to Section 10.1 hereof shall be paid by the **Applicant**, owner, occupant and/or **Contractor** of the property forthwith upon demand.

11.0 Power of Entry

- 11.1 The **Town** may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) the provisions of this **By-law**;
 - (b) an **Order** issued under this **By-law**; and/or
 - (c) an **Order** made under Section 431 of the Act.
- 11.2 Where an inspection is conducted by the **Town** pursuant to Section 11.1, the person conducting the inspection 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 and extracts;
 - (c) require information from any **Person** concerning a matter related to the inspection including their name, address, phone number and identification; and/or
 - (d) alone or in conjunction with any **Person** possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 11.3 The **Town** may undertake an inspection pursuant to an **Order** issued under Section 438 of the Act.
- 11.4 The **Town's** power of entry may be exercised by an employee, **Officer** or agent of the **Town** or by a member of a police force with jurisdiction, as well by any **Person** under his or her direction.
- 11.5 No **Person** shall hinder or **Obstruct**, or attempt to hinder or **Obstruct** the **Town**, or an **Officer** from carrying out inspections of land to ensure compliance with this **By-law**.

12.0 Order and Remedial Action

- 12.1 If a **Person** and/or **Permit Holder** contravenes any of the provisions of this **By-law**, the **Director** may issue an **Order** to the **Person** and/or to the **Permit Holder** to discontinue the contravening activity. The **Order** shall set out the reasonable particulars of the contravention adequate to identify the contravention, the location of the property on which the

contravention occurred, and the date by which there must be compliance with the **Order**.

- 12.2 If a **Person** and/or **Permit Holder** has contravened a provision of this **By-law**, the **Director** may issue an **Order** to the **Person** and/or **Permit Holder** who contravened the **By-law**, and order the **Person** and/or **Permit Holder** to undertake such work to correct the contravention. The **Order** shall set out the reasonable particulars of the contravention adequate to identify the contravention; the location of the property on which the contravention occurred; and the date by which there must be compliance with the **Order**. The **Order** may also provide that if the **Person** and/or **Permit Holder** fails to correct the contravention, the **Town** may do the work to correct the contravention at the expense of the **Person** and/or the **Permit Holder**.
- 12.3 If the **Director** has issued an **Order** directing or requiring that a **Person** and/or **Permit Holder** do a matter or thing to correct a contravention of this **By-law**, and the **Person** and/or **Permit Holder** fails to correct the contravention, the **Town** may do all work necessary to correct the contravention at the expense of the **Person** and/or **Permit Holder**.
- 12.4 The **Town** may recover the cost of any corrective work in Section 12.3 from the **Person** and/or **Permit Holder** by:
- (a) legal action; and/or
 - (b) by adding the costs to the tax roll of property owned by the **Person** and/or **Permit Holder** located within the boundaries of the **Town** and collecting these costs in the same manner as property taxes; and/or
 - (c) deduct the costs for the corrective work from the **Security**.
- 12.5 Where the cost of repairing or restoring any part of the **Highway** or other municipal service exceeds the **Security** amount, the excess amount of such costs, including administrative costs, shall be a debt owing to the **Town**.
- 12.6 An **Order** may be served by:
- (a) delivering it personally to the **Permit Holder** and/or the **Person** in contravention of the by-law;
 - (b) sending it by registered mail to the last known address of the **Permit Holder** and/or the **Person** in contravention of the **By-law**, including according to the current assessment rolls;
 - (c) posting it at the site where the contravention has occurred.

13.0 Appeals

- 13.1 An **Applicant** may appeal to the **Appeals Committee**;
- a) if the **Director** refuses to issue a **Permit**. The **Applicant** may appeal within thirty (30) days from the date of receiving notice of the refusal;
 - b) if the **Director** fails to make a decision on the application. The **Applicant** may appeal within forty five (45) days after a complete application is deemed to have been received by the **Director**; or
 - c) if the **Applicant** objects to a condition in the **Permit**. The **Applicant** may appeal within thirty (30) days after the issuance of the **Permit**.

13.2 Where an **Order** has been served, the **Permit Holder** or the **Person** to whom the **Order** has been served may apply to the **Appeals Committee** to appeal the **Order** within thirty (30) days of being served with the **Order**.

14.0 Penalty Provision

14.1 Every **Person** who contravenes a provision of this **By-law**, including an **Order** issued under this **By-law**, is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

14.2 Any **Person** who is in contravention of any provision of this **By-law**, or who fails to comply with an **Order** issued under this **By-law** shall be deemed to be committing a continuing offence for each day or part of a day that the contravention remains uncorrected.

14.3 If an **Order** has been issued under this **By-law**, and the **Order** has not been complied with, the contravention of the **Order** shall be deemed to be a continuing offence for each day or part of a day that the **Order** is not complied with.

14.4 Any **Person** who is guilty of an offence under this **By-law** shall be subject to the following penalties pursuant to Part III of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended:

(a) Upon a first conviction, the minimum fine shall be \$400.00 and the maximum fine shall be \$100,000.00;

(b) Upon a second or subsequent conviction for the same offence, a fine shall be a minimum of \$500.00 and the maximum fine shall be \$100,000.00;

(c) Upon conviction for a continuing offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00 for each day or part of a day that the offence continues; and

(d) Upon conviction of a multiple offence, for each offence included in the multiple offence, the minimum fine shall be \$500.00 and the maximum fine shall be \$10,000.00.

14.5 For the purposes of this **By-law**, “multiple offences” means an offence in respect of two (2) or more acts or omissions each of which separately constitutes an offence and is a contravention of a provision of this **By-law**.

14.6 For the purposes of this **By-law**, an offence is a “second or subsequent offence” if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

14.7 Where 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 thereafter, may make an **Order** prohibiting the continuation or repetition of the offence by the **Person** convicted.

14.8 In addition to any other remedy or penalty provided by law, the court in which the conviction has been entered, or any other court of competent jurisdiction may make an **Order**:

14.8.1 prohibiting the continuation or repetition of the offence by any **Person**;

14.8.2 require the **Person** to pay a Special Fine, in addition to a Regular Fine, which fine shall eliminate any economic gain or advantage derived by the **Person** as a result of contravening this **By-law**.

15.0 Validity and Interpretation

- 15.1 Words importing the singular number shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the **By-law** requires otherwise.
- 15.2 If a court of competent jurisdiction declares any provisions of this **By-law** to be invalid or to be of no force and effect, it is the intention of Council in enacting this **By-law** that the remainder of the **By-law** shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

16.0 Repeal

- 16.1 By-law 2009-32 and 2015-16, as amended, are hereby repealed.

17.0 Force and Effect

- 17.1 This **By-law** shall come into force and effect on the date of enactment and passage.

Enacted this 28th day of May, 2018.

Tony Van Bynen, Mayor

Lisa Lyons, Town Clerk