

**CORPORATION OF THE TOWNSHIP OF CHISHOLM
BY-LAW NUMBER 2019-28**

***A BY-LAW OF THE TOWNSHIP OF CHISHOLM
TO REGULATE THE USE AND CARE OF ROADS***

WHEREAS Section 11 subsection (1) of the *Municipal Act 2001*, c.25 provides that a single-tier municipality may pass By-laws respecting matters within the sphere of jurisdiction of highways, including parking and traffic on highways:

AND WHEREAS Section 27 subsection (1) of the *Municipal Act 2001*, c.25 provides that a municipality may pass By-laws in respect of highways only if it has jurisdiction over the highway;

AND WHEREAS Section 425 subsection (1) of the *Municipal Act 2001*, c.25 provides that By-laws may be passed by all municipalities and by police services boards for providing that any person who contravenes any By-law of the municipality or of the board, as the case may be, passed under this Act, is guilty of an offence;

AND WHEREAS Section 181 of the *Highway Traffic Act R.S.O. 1990*, c. H.8 provides that no person shall deposit snow or ice on a roadway without permission in writing to do so from the Ministry or the road authority responsible for the maintenance of the road;

The Council of the Corporation of the Township of Chisholm enacts as follows:

Section 1 – Definitions

In this By-law:

"Boulevard" means all parts of a highway save and except the roadway, shoulder or sidewalk;

"Township" means the municipal corporation of the Township of Chisholm or the geographic area as the context requires;

"Public Works Supervisor" means the authority over the Townships Public Works or authorized representative;

"Highway" means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway, and except as otherwise provided, includes a portion of a highway; and includes the area between the lateral property lines thereof;

"Roadway" means that part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and where a highway includes two or more separate roadways, the term "roadway" refers to any one roadway separately and not to all of the roadways collectively;

"Sidewalk" means that part of a highway set aside by the Township for the use of pedestrians; 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.

Section 2 – Interpretation

1. Headings are for reference purposes and shall not affect in any way the meaning or interpretation of the provisions of this By-law.

2. It is declared that if any section, subsection or part or parts thereof be declared by any Court of Law to be bad, illegal or ultra vires, such section, subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

3. In this By-law, a word interpreted in the singular number has a corresponding meaning when used in the plural.

Section 3 - General Prohibitions

1. No person shall, unless otherwise authorized by the provisions of this or any other By-law of the Township.

- (a) Permit oils, chemicals or substances to be deposited or spilled on a highway including such substances deposited as a result of car maintenance activities, car rust prevention measures and the spillage of rust protecting substances and the general spillage of substances from vehicles.
- (b) Deposit or cause to be deposited any snow or ice upon any portion of any road or bridge located within the territorial limits of the Township of Chisholm.
- (c) Move snow within the road allowance from one side of the cleared portion of the road allowance intended for vehicular and pedestrian traffic, to the other side of the road allowance.
- (d) Relocate snow within the road allowance in such a manner as to encroach on the cleared portion of the road allowance intended for vehicular or pedestrian traffic, or that would result in the obstruction of the normal visibility of the safe movement of vehicular and pedestrian traffic on the road allowance.
- (e) Park a vehicle in such a manner as to obstruct or hinder the snowplow or other vehicles engaged in the removal of snow during the months of January, February, March, April, May, October, November and December in each and every year in the Township of Chisholm, and any vehicle so parked or abandoned will be towed away at the owner's expense. Neither will the municipality nor any of its contractors be liable for damage caused to such unlawfully parked vehicles by equipment engaged in the removal of snow.
- (f) Encumber or damage a highway by animals, vehicles or other means.
- (g) Permit or allow any paper, hand bill, advertisement or any container, whether made of plastic, cardboard or paper, to be blown from private property onto a highway.
- (h) Obstruct and /or interfere with a culvert, drain, gutter or water course along or upon a highway.
- (i) Place a plank or other material in or over any gutter or ditch for the purposes of making a crossing except for a period of not more than 24 hours.
- (j) Walk upon, ride, drive, or load an animal, or move, drive, run or propel a vehicle upon, over or across a newly constructed sidewalk or pavement before it has been opened for use by the public.
- (k) Set or carry fire on a highway.
- (l) Throw, pile, store, or cause any material to be thrown or piled upon a highway, except for the purpose of having it immediately delivered upon adjacent premises, nor shall any person saw or split any cordwood or firewood upon a highway or being the owner of cordwood, firewood or topsoil shall deposit on any highway, or permit it to remain thereon for a longer time than is necessary for its immediate removal to the premises adjacent thereto.
- (m) Sell on the highway, without approval of the Township, any real or personal property.
- (n) Move, or cause to be moved a vehicle equipped with cleats, flanges, or tracks on its wheels, or rollers, or any of them, on or along the traveled portion of the highway, except by means of a float, trailer, or other similar device, providing that a vehicle is so equipped including a vehicle for the digging and backfilling of trenches, may be moved directly across the traveled portion of the highway, if a preventative mat has first been laid on the surface of the portion of the highway to be crossed, provided however that this paragraph shall not apply when a vehicle is operating with the written permission of the Public Works Supervisor.

- (o) Urinate or defecate on any highway.
 - (p) Remove a barricade or notice or enter upon or use a highway temporarily closed under the provisions of this or any Township By-law.
 - (q) Remove or move a barricade, sign or light placed around any excavation in a highway.
 - (r) Erect or maintain any gate or door so that the same shall open or swing outward over any part of a sidewalk or highway.
 - (s) Move or cause any building or structure to be moved into, along, or across a highway without having been approved under a Township By-law.
2. This By-law shall apply to the Township of Chisholm in its entirety.
 3. No owner or occupier of land shall allow any part of a tree, shrub, sapling, hedge or any other plant to extend over or upon any highway, so as to interfere with, impede or endanger persons using the highway.
 4. 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 highway.
 5. No person shall break, dig up, destroy or damage the sod or grass of a boulevard, or a fence, or railing erected and maintained for the protection of the boulevard.
 6. No person shall walk on the boulevard except when there is no municipal sidewalk.
 7. No person, other than the Township, shall erect a fence, construct a wall, or plant a hedge, in, over, or upon a highway.

Section 4 – Exemptions

1. The provisions of Section 3, subsection 1.b. shall not apply to an employee or an agent of the Township who is engaged in moving snow or ice.
2. The provisions of Section 3, subsection 1.h. shall not apply to fires made by plumbers, tinsmiths, welders or other tradesmen engaged in the repair or construction of a building or structure or utility situated upon or under a highway or sidewalk provided that such operations are in the charge of a competent person, and the fires are controlled to prevent discharge of any sparks or embers which may endanger any person or property.
3. Section 3 subsection 1.a. does not apply to any person putting sand or salt on the icy portions of a highway to reduce the danger of pedestrians falling, or to enable a vehicle to use a roadway.

Section 5 - Highway Name Signs, Traffic Signals & Signage

1. No person shall 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, highway name sign, sign board, regulatory sign, traffic signal, traffic cone, or any other traffic control device, affixed, or placed on a highway.

Section 6 – Lighting

1. No owner or occupier of property abutting a highway shall permit any flood light to directly or indirectly illuminate a highway without the written approval of the Public Works Supervisor. No person shall erect or place private driveway lighting, address/name posts, or reflectors on a highway without the permission of the Public Works Supervisor.

Section 7 and 8 - Powers of the Public Works Supervisor

Section 7

The Public Works Supervisor may:

1. Remove any item, structure or material placed or deposited on a highway contrary to this By-law only after the person responsible is made aware and given the opportunity to rectify the situation.

2. Send a notice by registered mail to the owner or person responsible for the item, structure or material that the object has been removed at the owner's expense.

Section 8

1. The Township may recover expenses resulting from actions taken in accordance with subsection 7(1) by action, or in like manner as municipal taxes.

Section 9 and 10 - Temporary Closing of Highways

Section 9

1. The Public Works Supervisor may temporarily close to traffic any highway by reason of any work or improvement being carried out thereon or by reason of the condition thereof and the Public Works Supervisor may cause to be erected or kept thereon, any barricade or notice warning the public that the highway is closed to traffic and no person shall enter upon or use a highway so temporarily closed.

Section 10

1. Where a highway or part of a highway is closed pursuant to Section 9, the Public Works Supervisor shall:
 - (a) provide and keep in repair a temporary alternative route for public use where possible;
 - (b) provide access to lots abutting the highway; and
 - (c) erect signs, barricades and other protective and warning devices in accordance with provincial traffic regulations.

Section 11 to 14 - Highway Cleaning and Repair

Section 11

1. The cleaning and repair of all highways shall be performed under the direction of the Public Works Supervisor.

Section 12

1. No person hauling earth, sand, stone or other substances on a highway shall so load his vehicle or drive the same as to permit or cause the contents thereof to fall, spill or be deposited on a highway.

Section 13

1. No person in charge of a vehicle shall bring the vehicle, or permit it to be brought upon a highway 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 highway or cause damage to the surface of the highway.

Section 14

1. No person hauling earth, sand, stone, or other substance shall load or drive his vehicle so as to permit damage to a highway.

Section 15 - Administration and Enforcement

1. This By-law shall be administered and enforced by the Municipal By-law Enforcement Officer of the Township.

Section 16 and 17 - Penalties

Section 16

1. Any person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine to the maximum allowable under the *Provincial Offences Act*.

Section 17

1. When a person has been convicted of an offence under this By-law; or

2. The Ontario Court (Provincial Division) of the Township of Chisholm; or
3. Any court of competent jurisdiction thereafter, may, in addition to any penalty imposed on the person convicted, issue an Order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence.

Section 20 – Repeal

1. The following by-laws or portions of By-laws are repealed:
 - (a) That By-Law 2002-09 is hereby repealed; and
 - (b) That By-Law 2014-06 is hereby repealed.

Section 21 - Short Title

This By-law may be referred to as the "Use and Care of Roads By-Law".

Enacted and passed this 12th day of November, 2019.

READ a first, second and third time and passed this 12th day of November, 2019.

Mayor, Leo Jobin

CAO Clerk-Treasurer, Jennistine Leblond