

THE CORPORATION OF THE CITY OF ELLIOT LAKE

BY-LAW NO. 21-08

Being a by-law to prohibit the deposit of snow and ice on City highways and bridges and to repeal By-laws 67-8 and 10-9

WHEREAS, pursuant to Section 8(1) of the *Municipal Act, 2001*, S.O. 2001 c.25, municipalities have broad authority to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS, pursuant to Sections 11(2), and 11(3), of the *Municipal Act, 2001*, S.O. 2001, c.25 a lower-tier municipality may pass by-laws with respect to Health, safety and well-being of persons and highways under its jurisdiction;

AND WHEREAS, pursuant to section 27 of the *Municipal Act, 2001*, a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway;

AND WHEREAS, pursuant to section 122 (3) of the *Municipal Act, 2001*, a municipality may recover costs incurred by the municipality;

AS SUCH, the Council of The Corporation of the City of Elliot Lake ENACTS AS FOLLOWS:

DEFINITIONS

1.1 In this by law,

"boulevard" means all parts of a highway between the curb or edge of roadway and the street line, exclusive of the area covered by sidewalk.;

"City" means the municipal corporation of the City of Elliot Lake, or the geographic area within the limits of the City of Elliot Lake, as the context requires.

"By-law Enforcement Officer" means any person designated as Municipal Law Enforcement, appointed by the Council of the Corporation of the City of Elliot Lake, for the enforcement of municipal by-laws, including this By-law.

"Department Head" means the Department Head of Public Works and includes his or her authorized representative or representatives.

"highway" means a common and public highway, street, avenue, parkway, laneway, driveway, square, place, and includes any bridge, trestle, or other structure forming part of the highway, designed and intended for, or used by, the general public for the passage of vehicles and except

as otherwise provided, includes a portion of a highway and, includes the area between the lateral property lines thereof under the jurisdiction of the City. The width of a highway or street extends for 10 meters in either direction from the center line of the roadway and includes the boulevard and the sidewalk.

“owner” includes the person holding registered title to land and the person for the time being managing or receiving the rent or paying the municipal taxes on the land in question, whether on their own account or as an agent or trustee of any other person. Or, who would so receive the rent if such were let, and shall also include lessee or occupant of the land. Where the person holding registered title to the land is a condominium corporation, the owner is the corporation and not its members.

“person” includes any individual, firm., partnership, association, corporation, company or organization of any kind but does not include the City.

“public or private entrance” means an improved surface within a highway used or intended for use for vehicular or pedestrian access to and from public or private property adjacent to the highway.

“roadway” means that part of a highway that is improved, designed or intended for vehicular traffic, but does not include the shoulder;

“shoulder” means that part of a highway immediately adjacent to the roadway and having a surface which has been improved for the use of vehicles with asphalt, concrete or gravel;

“sidewalk” means all parts of a highway set aside by the City for the use of pedestrians or used by the general public for the passage of pedestrians;

“street line” A lot line dividing a lot or other area from a street. The street line is the line created where the sidewalk and property meet. If there is no sidewalk then the street line is determined to be located at 10 meters or 32.8 feet from the center line; 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.

INTERPRETATION

- 2.1** Whenever this By Law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By law with the gender applicable to the circumstances.

SNOW and ICE

- 3.1** No person shall throw, push, plow, dump or otherwise deposit any snow or ice on any highway or part thereof, by any means whatsoever, regardless of whether the snow or ice has been removed from an adjoining property, a private entrance, or a sidewalk.
- 3.2** No person shall authorize or direct the throwing, pushing, plowing, dumping or other depositing of any snow or ice on any highway or part thereof, by any means whatsoever, regardless of whether the snow or ice has been removed from an adjoining property, a private entrance or a sidewalk.
- 3.3** No person shall throw, push, plow, dump or otherwise deposit any snow or ice on any city property or part thereof, other than the boulevard, by any means whatsoever, regardless of whether the snow or ice has been removed from an adjoining property, a private entrance, or a sidewalk.
- 3.4** Despite sections 3.1, 3.2, and 3.3, if so authorized in writing by the Department Head, a person may deposit snow or ice in such location and in such manner on a sidewalk, or shoulder as authorized or directed by the Department Head.
- 3.5** No person shall move snow or ice within the highway or authorize or cause the moving of snow or ice within the highway such that snow or ice:
- i. Encroaches on the cleared portion of the roadway or the sidewalk; or,
 - ii. Encumbers the entrance to or exit from a private, or public place;
 - iii. Interferes with the safe movement of vehicular and pedestrian traffic on the highway;
 - iv. Is moved from one side of the cleared portion of the highway to the other side of the highway.

DOWNTOWN CORE

- 4.1** No owner of a private property abutting a portion of a highway listed in Schedule B shall fail to remove icicles, snow or ice from a building located in whole or in part on the owner's property, from the roof of that building, any sign, awning or other projection from that building, where the icicles, snow or ice may pose an immediate danger to the health or safety of any person using the highway abutting the owner's property, or any part thereof.
- 4.2** Subsection 4.1 shall not apply on any day which is a holiday as defined in the *Retail Business Holidays Act, R.S.O. 1990, c. R.304.3*.
- 4.3** In the event that an Owner fails to comply with its obligations in section 4.1, the City may exercise its authority to enter on certain subject properties pursuant to section 122(3) of the *Municipal Act, 2001* and the City may recover the costs under clause 122(3) incurred by the municipality from the owners of the buildings by action or by adding the costs to the tax roll and collecting them in the same manner as taxes.

ENFORCEMENT

- 5.1** This By law may be enforced by any By-law Enforcement Officer.

- 5.2 No person shall hinder or obstruct, or attempt to hinder or obstruct any person exercising a power of performing a duty under this By-law.

OFFENCE

- 6.1 Every person who contravenes any of the provisions of this By-law is guilty of an offence upon conviction is liable to a fine as provided for in the *Provincial Offences Act*.
- 6.2 For the purposes of Subsection 6.1, each day on which a person contravenes any of the provisions of this By law shall be deemed to constitute a separate offence under this By-law.
- 6.3 The making of a false or intentionally misleading statement or representation in any agreement or request for permission provided for by this By law shall be deemed to be a violation of the provisions of this By law.

SEVERABILITY / CONFLICT

- 6.4 If any section, subsection, part or parts of this By-law is declared by any court of law to be illegal or ultra vires, such section, subsection, paragraph, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such:
- i. Nothing in this By-law relieves any Person from complying with any provision of any federal or provincial legislation or any other By-law of the City.
 - ii. (3) Where a provision of this By-law conflicts with the provisions of another By-law in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of Persons or the environmental well-being of the municipality shall prevail.
- 7.1 By-Law No. 67-8 and 10-09 are hereby repealed.
- 8.1 **THAT** this by-law shall come into effect on the date it is passed by the Council of the Corporation of the City of Elliot Lake.

PASSED this 8th day of March, 2021.

MAYOR

CITY CLERK

CERTIFICATION BY THE CLERK:

I, N. Bray, Clerk of the Corporation of the City of Elliot Lake, do hereby certify
that the above is a true certified copy of By-Law-21-08 which was passed in Open
Council on the 8th day of March , 2021

A handwritten signature in blue ink that reads "Natalie Bray". The signature is written in a cursive style and is positioned above a horizontal line.

N. BRAY

THE CORPORATION OF THE CITY OF ELLIOT LAKE
SCHEDULE "A"
SNOW AND ICE BY-LAW NO. 21-08
PART 1 PROVINCIAL OFFENCES ACT
SET FINES

ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
1	Deposit snow on highway.	3.1	\$305.00
2	Deposit ice on highway.	3.1	\$305.00
3	Authorize the deposit of snow on highway.	3.2	\$305.00
4	Authorize the deposit of ice on highway	3.2	\$305.00
5	Deposit snow or ice on city property.	3.3	\$305.00
6	Move snow such that it encroaches on roadway.	3.5 (i)	305.00
7	Move snow such that it encroaches on sidewalk.	3.5 (i)	305.00
8	Move snow such that it encumbers entrance of private or public place.	3.5 (ii)	305.00
9	Move snow such that it encumbers exit of private or public place.	3.5 (ii)	305.00
10	Move snow such that it interferes with vehicular traffic.	3.5 (iii)	305.00
11	Move snow such that it interferes with pedestrian traffic.	3.5 (iii)	305.00
12	Move snow across cleared highway	3.5 (iv)	305.00
13	Fail to remove icicles, snow or ice that pose immediate danger	4.1	305.00
14	Hinder or obstruct enforcement	5.2	305.00

K. Hirsch

15	Make false statement in request for permission	6.3	305.00
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Note: the general penalty provision for the offences listed above is Section 6.1 of By-law 21-08, a certified copy of which has been filed.

K. Leach