



CORPORATION OF THE TOWN OF HUNTSVILLE

BY-LAW NUMBER 2011-43

Being a By-law to regulate activity on Municipal Highways, Road Allowances and Right of Ways and to repeal By-law 92-106

WHEREAS: The *Municipal Act, S.O. 2001, Sections 27 (1), 28 (2), 62.1 (1) and (2) and 63 (1-6)* provide that a Municipality may pass a By-law regulating the use of highways within the Municipality.

AND WHEREAS: The *Highway Traffic Act, R.S.O. 1990, c. H.8., Sections 170 (15) and 180* provides Municipal authority on highways;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF HUNTSVILLE HEREBY ENACTS AS FOLLOWS:

1.0 Short Title

- 1.1 This By-law may be cited as the Highways Obstruction By-law of the Corporation of the Town of Huntsville.

2.0 Number

- 2.1 In this By-law, unless the contrary intention is indicated, words used in singular shall include the plural.

3.0 Definitions

For the purpose of interpreting the provisions in this By-law, the following definitions shall apply:

- 3.1 **"Activity"** includes the temporary occupancy of a Highway, Road Allowance or Right-of-Way for the installation, repair, replacement or improvement of works of any nature by any utility, works, contractor or person;
- 3.2 **"Aggregates"** means soil, sand, gravel and rocks;
- 3.3 **"By-law Enforcement Officer"** means a person or persons appointed or designated as such by the Council of the Corporation of the Town of Huntsville;
- 3.4 **"Contractor"** means any person, company or firm engaged in providing labour, equipment, materials or any other work or materials as necessary to complete the work described;
- 3.5 **"Deleterious Material"** means subsurface soils of an undesirable nature such as, but not limited to organic materials, highly organic silts, sensitive or ultra-sensitive clays, peat or other highly compressible soils and soils containing noxious or hazardous chemical or waste products;

- 3.6 **"Director"** means the Director of Public Works, their designate or other authorized representative;
- 3.7 **"Highway"** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles;
- 3.8 **"Motorized Vehicle"** means an automobile, a motorcycle, a motor-assisted bicycle, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor and any other vehicle propelled or driven other than by muscular power; and shall also include any unlicensed motor vehicle or any motor vehicle having missing parts, including: tires, damaged or missing tires, damaged or missing glass, deteriorated or removed metal components or anything which prevents its mechanical function;
- 3.9 **"Permit"** means an authorization granted in writing by the Director or a designated Officer of the Town pursuant to this By-law;
- 3.10 **"Proof of Insurance"** means a certified copy of a policy of insurance certificate of insurance issued by a company authorized to carry on the business of insurance in the Province of Ontario in accordance with the Insurance Act, R.S.O. 1990, c. I.8 as amended;
- 3.11 **"Right-of Way"** means the total area of the roadway, curb, shoulder, ditch and boulevard combined and/or parks and public lands;
- 3.12 **"Road Allowance(s)"** means all road allowances made by the Crown surveyors that are located in municipalities and all road allowances, highways, streets and lanes shown on a registered plan of subdivision;
- 3.13 **"Town"** means the Corporation of the Town of Huntsville;
- 3.14 **"Town of Huntsville Standards"** means the standards that are set by the Municipality and the Ontario Provincial Standards Specifications; Town of Huntsville Standards shall take precedence over the Ontario Provincial Standards Specifications;
- 3.15 **"Utility"** means a board, commission or corporation that provides works under the authority of any statute, charter, by-law or franchise;
- 3.16 **"Works"** means works supplying the general public with necessities or conveniences and includes but is not limited to works for production, supply and transmission of gas, oil, sewage, water and electric power or energy and all telephone, cable television and other telecommunications lines.

4.0 Permit for Road Occupation

- 4.1 Any person desiring to excavate, remove, alter or otherwise disturb existing Highways, Road Allowances or Right-of-Ways shall make application for permission to do so in accordance with the following conditions:
- a) An application must be filed in no less than seven (7) days in advance of any Activity;
 - b) Provide complete details of all Activity that shall include, but not be limited to the specifications outlined on the application and any attached schedules;
 - c) The Director may revoke the permit of any person who does not adhere to the specifications required.

5.0 Insurance

- 5.1 Proof of Liability Insurance as stated in the permit application.

6.0 Restoration and Reinstatement

- 6.1 The Permit holder shall be responsible for the restoration and reinstatement of all materials as per the Town of Huntsville Standards.
- 6.2 Restoration and reinstatement shall be:
- i.) The same type of material except for deleterious material, and to the same thickness as the adjoining construction when originally constructed;
 - ii.) Materials and thickness that have been approved by the Director.

7.0 Exemptions

- 7.1 Emergency work subject to the limitations in 4.00, where public safety or health or a major business interruption in works is concerned, a road activity may be carried out without regard to the prior notification provisions of this By-law.
- 7.2 Where an emergency road activity has been undertaken, the person or utility undertaking the road activity shall, on the same day the work is commenced, or if the Town offices are closed, no later than the start of the next working day, notify the Director of the following:
- a) The name of the utility or contractor undertaking the road activity;
 - b) The nature of the work;
 - c) The location of the road activity;
 - d) The reason for proceeding without obtaining a permit and without providing the require notice.
- 7.3 Within three working days; the person or utility must submit a completed application form for the work that was undertaken.
- 7.4 The Director may require any or all information to confirm the validity of an emergency activity. Should insufficient proof of an emergency be submitted the applicant may be notified in writing that they are subject to the same restrictions and penalties as no permit.
- 7.5 Town of Huntsville and District of Muskoka Public Works Departments are exempt from the permit application requirements.

7.6 An encroachment permitted through a Licence of Occupation granted by the Town of Huntsville. (amended by By-law 2017-18)

8.0 Prohibitions

- 8.1 Except as provided in Section(s) 7 no person shall undertake any activity within a highway, right-of-way or road allowance within the Town of Huntsville without a permit.
- 8.2 No Person shall, on any Highway, Road Allowance or Right-of-Way:

- i.) Cause or permit dirt, debris, objects or other materials of any kind to be stored, placed or deposited whether temporarily or permanently, except for an exemption under Section 7;
 - ii.) Store or park a motor vehicle, whether temporarily or permanently; unless permitted by By-law or other legislation;
 - iii.) Remove aggregates, or vegetation.
- 8.3 No Person shall obstruct, hinder or otherwise interfere with an inspection being conducted in accordance with this By-law.
- 8.4 No Person shall obstruct, hinder or otherwise interfere with an officer or agent in the lawful exercise of their duty under this By-law.

9.0 Enforcement

- 9.1 The provisions of this by-law shall be enforced by an officer or person deemed to be an agent of the Corporation of the Town of Huntsville for the purpose of addressing unauthorized activity on Town property.
- 9.2 Any objects, materials or vehicles placed or stored on a municipal highway, road allowance or right-of-way may be removed or impounded by the Town of Huntsville at the owner's expense.

10.0 Penalties

- 10.1 Any person who contravenes any provision of this By-law is guilty of an offence and, upon conviction, is liable to a fine as provided for in the Municipal Act, 2001 or the Provincial Offences Act.
- 10.2 Any person who contravenes any provision of this By-law is guilty of an offence and, upon conviction is liable to the set fines as per attached Schedule "A".
- 10.3 The owner of a vehicle may be charged with and convicted of an offence under this By-law for which the driver of the vehicle is subject to be charged and on conviction the owner is liable to the penalty prescribed or provided for the offence, unless, at the time of the offence, the vehicle was in possession of some person other than the owner without the owner's consent.

11.0 Indemnification

- 11.1 A permit is issued subject to the condition that the permit holder shall indemnify the Town and each of its officers, agents, servants and workers from all causes of action, loss, costs or damages arising from the execution, non-execution or imperfect execution of any work authorized by this By-law whether with or without negligence on the part of the permit holder of the officers, agents, servants or workers of the permit holder.

12.0 General Provisions

- 12.1 All Schedules referred to in this By-law are deemed to be part of this By-law.

13.0 Severability and Conflict

- 13.1 If any provision or part of a provision of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

13.2 If a provision of this by-law conflicts with an Act or regulation or another by-law, the provision that is the most restrictive shall prevail.

14.0 Repeal

14.1 That By-law Number 92-106 and any amendments thereto be hereby repealed.

15.0 Commencement

15.1 This By-law shall come into force and effect on the passing thereof.

Read a **first** time this 16th day of May, 2011.

Mayor (Claude Doughty)

Clerk (Kathleen Gilchrist)

Read a **second** and **third** time and **finally passed** this 16th day of May, 2011.

Mayor (Claude Doughty)

Clerk (Kathleen Gilchrist)

CORPORATION OF THE TOWN OF HUNTSVILLE

PART I PROVINCIAL OFFENCES ACT

SCHEDULE "A" to By-law 2011-43

Municipal Highways, Road Allowances and Right of Ways

Item	Column 1 Short Form Wording	Column 2 Provision creating or defining offences	Column 3 Set Fine
1	Undertake an Activity Without Obtaining Permit	8.1	\$ 200.00
2	Storage, placement or depositing of dirt, debris, objects or other materials	8.2 i.)	\$ 300.00
3	Storage of motor vehicle(s) temporarily or permanently not permitted	8.2 ii.)	\$300.00
4	Removal of Aggregate or Vegetation	8.2 iii.)	\$ 300.00
5	Obstruct, hinder or otherwise interfere with an inspection	8.3	\$ 300.00
6	Obstruct, hinder or otherwise interfere with an officer or agent in the lawful exercise of their duty	8.4	\$ 300.00

NOTE: The general provision for the offences listed above is Section 10.0, of By-law No. 2011-43, a certified copy of which has been filed

CORPORATION OF THE TOWN OF HUNTSVILLE

PART II PROVINCIAL OFFENCES ACT

SCHEDULE "A" to By-law 2011-43

Municipal Highways, Road Allowances and Right of Ways

Item	Column 1 Short Form Wording	Column 2 Provision creating or defining offences	Column 3 Set Fine
1	Parking of Motorized Vehicle(s) Temporarily or Permanently not permitted	8.2 ii.)	\$150.00

NOTE: The general provision for the offences listed above is Section 10.0, of By-law No. 2011-43, a certified copy of which has been filed