

**BY-LAW NUMBER 33-12**

- of -

**THE CORPORATION OF THE COUNTY OF BRANT**

To regulate and control operations on County of Brant roads

**WHEREAS** subsection 11(2) of the Municipal Act, 2001, S.O. 2001 gives the municipality the authority to pass by-Laws respecting highways;

**AND WHEREAS**, subsection 8(3) provides that a by-Law passed pursuant to the authority granted under section 11(1) includes the authority to prohibit or regulate, require *persons* to do things, provide for a system of licenses, permits, approvals or registrations and impose conditions as a requirement of obtaining, continuing to hold or renewing a license, permit, approval or registration, with respect to highways;

**AND WHEREAS** the Council of the Corporation of the County of Brant deems it necessary and expedient to control the use of municipal highways;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS** as follows.

**Part 1  
GENERAL**

**1.1 Short Title**

This by-law may be cited as the Road Use By-law.

**1.2 Wording**

In this by-law the word "shall" is mandatory and not discretionary; words in the plural include the singular; words used in the present tense include the future.

**1.3 Scope**

The provisions of this by-law shall apply to any common or public *highway* under the jurisdiction of the Corporation of the County of Brant.

**1.4 Validity**

If a court of competent jurisdiction declares a part or the whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this by-Law and the remainder shall survive and be applied and enforced in accordance with its terms to the extent possible under the law.

### **1.5 Application**

Nothing in this by-law shall be so construed as to permit anything which by the provision of any other applicable act or regulation is prohibited.

Where any conflict exists between this and any other by-law, act or regulation the more restrictive regulation or provision shall apply.

### **1.6 Liability –Requirements – County Indemnified**

All authority conferred under this by-law is subject to the condition that each *person* who exercises a right to use a *highway* in the manner provided is liable to any *person* who consequently suffers injury or loss and shall indemnify The Corporation of the County of Brant from all such claims and actions.

### **1.7 Exemption**

The provisions of this by-law shall not apply to *road works* directly provided by the *County* under the direction of the *General Manager of Public Works*.

### **1.8 Administration and Enforcement**

The *General Manager of Public Works* is hereby authorized to administer the provisions of this by-law.

### **1.9 Requirement to Restore Highway**

Any *person* who contravenes or permits the contravention of any regulation or prohibition of this by-law and by said action alters the condition of the *highway*, is required to restore the *highway* to its original state or condition and to the satisfaction of the *General Manager of Public Works*.

## **Part 2 DEFINITIONS**

### **2.1 Definitions**

In this by-law:

“**Boulevard**” means that portion of the *highway* lying between the *property line* and the edge of the *roadway*;

“**Council**” means the Council of the Corporation of the County of Brant;

“**County**” means the Corporation of the County of Brant;

**“General Manager of Public Works”** shall mean the *person* appointed by the *Council* to the position of General Manager of Public Works and any employee of the *County* who acts at the direction of the General Manager of Public Works; including an agent of the *County* acting under the direction of the General Manager of Public Works;

**“Highway”** shall mean a common and public highway, under the jurisdiction of the *County* as defined in sections 28 and 29 of the Municipal Act, 2001, S.O. 2001 c 25., more particularly defined in section 26 of the Municipal Act, 2001, S.O. 2001 c 25., and includes but is not limited to any *sidewalk, boulevard, roadway, road works, bridge, trestle, viaduct* or other structure forming part of the highway, and, except as otherwise provided, includes any portion of a highway lying between the lateral *property lines*;

**“Municipal Act”** shall mean the Municipal Act, 2001, S.O. 2001, and all future amendments of the Municipal Act, 2001, S.O. 2001;

**“Municipal Law Enforcement Officer”** means a Municipal Law Enforcement Officer appointed by the *Council* of the Corporation of the County of Brant;

**“Occupant”** means any *person* found in charge, care and control of the premises;

**“Owner”** shall mean: the *person* whose name appears as the registered owner of the property according to Registry Office records;

**“Person”** shall include an individual, an association, a chartered organization, a firm a partnership or a corporation;

**“Property line”** shall mean the boundary between the *highway* and the abutting land;

**“Roadway”** shall mean the portion of a *highway* which is improved for the travel of motor vehicles;

**“Road works”** shall mean the physical improvements which have been made to a *highway* including, but not limited to, pavement, curbs, signs, gutters, trees, culverts, treated and graded surfaces, walls, *sidewalks*, utility apparatus, ditches and swales;

**“Sidewalk”** shall mean any municipal walkway or *road works* for the accommodation of pedestrians on that portion of a *highway* between the *property line* and the edge of the *roadway*.

**Part 3**  
**MUNICIPAL AUTHORITY RE MAINTENANCE AND ENFORCEMENT**

**3.1 Highway Name Signs**

Pursuant to S. 61 of the Municipal Act, 2001, S.O. 2001, c.25, the *General Manager of Public Works* may at any reasonable time enter upon land lying along a *highway* to install and maintain a sign setting out the name of a *highway*.

**3.2 Private Roads**

Pursuant to S. 61 of the Municipal Act, 2001, S.O. 2001, c.25, the *General Manager of Public Works* may, at any reasonable time, enter upon land lying along a private road to install and maintain a sign setting out the name of the road if the *County* has passed a By-law under section 48 of the *Municipal Act* to name or change the name of the private road.

**3.3 Entry on Land, Tree Trimming**

Pursuant to section 62.(1) of the Municipal Act, 2001, S.O. 2001, c.25, the *General Manager of Public Works* may, at any reasonable time, enter upon land lying along any *highway*,

3.3.1 to inspect trees and conduct tests on trees; and

3.3.2 to remove decayed, damaged or dangerous trees or branches of trees if, in the opinion of the *General Manager of Public Works*, the trees or branches pose a danger to the health or safety of any *person* using the *highway*.

**3.4 Removal of Tree – Immediate Danger**

The *General Manager of Public Works* may remove a decayed, damaged or dangerous tree or branch of a tree immediately and without notice to the *owner* of the land upon which the tree is located if, in the opinion of the employee or agent, the tree or branch poses an immediate danger to the health or safety of any *person* using the *highway*.

**Part 4  
PROHIBITED MATTERS**

**4.1 Highway – Obstructing – Encumbering – Injuring – Fouling**

No *person* shall, either by himself or by permitting others, without lawful authority, obstruct, encumber, injure, or foul or cause or permit the obstruction, encumbering, injuring or fouling of any *highway*.

**4.2 Requirement to Comply with Conditions of Lawful Authority**

No *person*, either by himself or by permitting others, shall fail to comply with the conditions of any lawful authority, to injure, obstruct, encumber, or foul a *highway*.

**4.3 Excavation – Upon Highway – Prohibited**

No *person* shall, without lawful authority, make any excavation upon a *highway*.

**4.4 Structure – On – Over – Under Highway**

No *person* shall, either by himself or by permitting others, without lawful authority, place, construct, or maintain any object or structure upon, under or over a *highway*.

**4.5 Dirt – Gravel – Other Materials – Dumping – On Highway**

No *person* shall, either by himself or by permitting others, without lawful authority, deposit any dirt, gravel, water, or other material upon a *highway*.

**4.6 Plants – Earth – Material – Removal – From Highway**

No *person* shall, either by himself or by permitting others, without lawful authority, remove any plant, earth or material from a *highway*.

**4.7 Trees – Shrubs – Vegetation – Planting On Highway**

No *person* shall, either by himself or by permitting others, without lawful authority, plant any tree, shrub or vegetation on a *highway*. Despite the foregoing, the planting of grass on a *boulevard* is permitted.

**4.8 Public Nuisance – Upon Highway**

No *person* shall, either by himself or by permitting others without lawful authority, cause a public nuisance in or upon a *highway*, by fire, water, vapour, noise or any means whatsoever.

**4.9 Gate – Door – Opening – Over Highway**

No *person* shall, either by himself or by permitting others, without lawful authority, construct or maintain a gate or door, which opens or swings over a *highway*.

**4.10 Overhanging – Over *Highway***

No *person* shall, either by himself or by permitting others, without lawful authority construct or maintain anything which projects into or overhangs a *highway*.

**4.11 Public Travel – Use – Interference**

No *person* shall, either by himself or by permitting others, without lawful authority, conduct any activity, which interferes with public travel or use of a *highway*.

**4.12 Sale – On *Highway* – On Vacant Land Adjacent to**

No *person* shall, either by himself or by permitting others, without lawful authority, sell, display or offer for sale any goods upon a *highway*.

**4.13 Crane – Other – Operation – Above *Highway***

No *person* shall, either by himself or by permitting others, without lawful authority, operate a crane, boom or other equipment above a *highway*.

**4.14 Snow – Ice – Deposit – On Road – *Sidewalk* – Prohibited**

No *person* shall deposit, or cause to be deposited, snow or ice upon a *sidewalk* or the *roadway*.

**4.15 Snow – Ice – Removal – To *Boulevard* – Prohibited**

No *person* shall move, or cause to be moved, snow or ice from privately-owned lands to a *boulevard*.

**4.16 Altering of *Boulevard***

No *person* shall either by himself or by permitting other, without lawful authority, alter any *boulevard*.

**4.17 Requirements – Prevent – Mud Tracking**

No *person* shall permit waste, soil or other materials to be spilled or tracked onto a *highway*.

The *General Manager of Public Works* may require that the *owner* or *occupant* of land take all necessary steps to prevent waste, soil, or other materials from being spilled or tracked onto the public *highways* from abutting land, and may require the *owner* or *occupant* of the land which is the source of the waste, soil or other materials, to remove any waste, soil or other materials from the *highway*.

#### **4.18 Vehicles – Crossing – Sidewalks**

Where any *person* undertakes or causes to be undertaken any crossing of curbing, *sidewalk*, or *boulevard* by vehicles delivering or removing materials from abutting land, the *owner* or *occupier* of said abutting land can be held liable for the cost of repairing any damage to the *highway*, *sidewalk*, curbing, *boulevard*, ditches or culverts, or to any water service box caused by the crossing thereof of such vehicles, or for the cost of removing any material, waste, or soil which is tracked or spilled onto the *highway* by said vehicles.

### **Part 5 REMOVAL OF OBSTRUCTIONS**

#### **5.1 Projections – Over Highway – Unlawful – Removal By Owner**

Any structure or thing which projects into or over a *highway* without lawful authority shall be removed by the *owner* of the land in connection with which it exists.

#### **5.2 Fence – Structure – Obstructing Travel – Removal**

Any fence, barricade or other thing on or near a *highway* without lawful authority, which obstructs a *highway* or interferes with a sight line or safe public travel on it, shall be removed by the *person* by whom the same has been built, maintained, placed or deposited.

#### **5.3 Application To Court – Removal Of Obstructions Adjacent To Highway**

Pursuant to section 62.1 of the Municipal Act, 2001, S.O. 2001, c.25, the *General Manager of Public Works* may apply to a judge of the Superior Court of Justice for an order requiring the *owner* of land lying along a *highway* to remove or alter any vegetation, building or object on the land that may obstruct the vision of pedestrians or drivers of vehicles on the *highway*, cause the drifting or accumulation of snow or harm the *highway* if the municipality is unable to enter into an agreement with the *owner* of the land to alter or remove the vegetation, building or object from the land.

#### **5.4 Impounding Of Objects On Highway**

Pursuant to section 63 of the Municipal Act, 2001, S.O. 2001, c.25, any object on a *highway* in contravention of this By-law may be removed, impounded, restrained or immobilized and subsection 170 (15) of the Highway Traffic Act applies, and the *County* may, at any reasonable time, enter upon land near a *highway* for this purpose.

Pursuant to subsection 63(4) of the Municipal Act, 2001, S.O. 2001, c.25, if the removed object or vehicle, other than a motor vehicle, is used to sell anything on or near a *highway* and the object or vehicle is not claimed by the *owner* within 60 days after its removal, it becomes the property of the municipality and may be sold and the proceeds shall form part of the general funds of the municipality.

## 5.5 Impounding Perishable Items

Pursuant to section 63 (5) of the Municipal Act, 2001, S.O. 2001, c.25, any perishable object or vehicle removed from the *highway* is the property of the municipality upon being moved from the *highway* and may be destroyed or given to a charitable institution, except a perishable object that comes into the possession of a police force in the circumstances described in section 132 of the Police Services Act.

## Part 6 PERMITTED ACTIVITIES

### 6.1 Grass Area – Abutting *Highway* – Planting – Maintenance

An *owner* of land abutting a *highway* may at this own expense maintain any adjacent *boulevard*.

### 6.2 Obstructions – Permitted – B.I.A Areas – Downtown Areas

It shall be lawful for display of merchandise in the areas listed in Schedule A provided the display complies with the conditions contained in Schedule A.

### 6.3 Lawful – Signs

It shall be lawful for a *person* to affix, alter, or otherwise display a sign if permitted by and displayed in accordance to the provisions set in *County* By-laws regulating signs.

### 6.4 *Highway* Use – Authorized – Statute – By-law – Agreement

It shall be lawful for use to be made of a *highway* pursuant to permission granted under a statute, by the *Council* under a By-law, resolution or agreement, or as may be authorized in writing by the *General Manager of Public Works*, or under the authority of a *County* permit.

## Part 7 TEMPORARY CLOSING – *HIGHWAY*

### 7.1 Authorized Temporary Closing of a *Highway*

For the purposes of this By-law, the temporary closing of a *highway* includes:

- 7.1.1 The temporary closing of any *highway* or portion of a *highway* for any period during the construction, repairing, improvement or maintenance of such *highway* or portion thereof or any works under, over, along, across or upon such *highway* or portion thereof;



- 7.1.2 The temporary closing of any *highway* or portion of a *highway* for such social, recreational, community, athletic or cinematographic purposes, or combination of such purposes, subject to such conditions as may be imposed;
- 7.1.3 The temporary closing of any *highway* or portion of a *highway* for any *period* due to emergency situations arising from inclement weather, motor vehicle accidents, fire, or other situations when a police order is issued to close the *highway* or portion thereof.

## **7.2 Highway Closing – Authority**

Pursuant to Section 23.2 of the Municipal Act, 2001, S.O. 2001, c. 25, *Council* hereby delegates to the *General Manager of Public Works*, the authority to close a *highway* or portion of a *highway* for such purposes as cited in 7.1.1, 7.1.2 and 7.1.3 of this By-law, for such a period of time as is deemed appropriate and subject to such conditions as deemed appropriate.

## **7.3 Indemnification – Public Liability Insurance**

The *General Manager of Public Works* shall not temporarily close a *highway* until the group, organization, association, individual or corporation requesting the said closing has signed an agreement indemnifying the *County*, and has provided a certificate of public liability insurance coverage, with a minimum liability limit amount of two million dollars (\$2,000,000.00) per occurrence, naming the *County* as an additional insured and endorsed to provide 30 day notification to the *County* of any alteration, revocation, cancellation or reduction in the coverage.

## **Part 8 ENFORCEMENT**

### **8.1 Enforcement**

*County Municipal Law Enforcement Officers* and police officers of the Brant County detachment of the Ontario Provincial Police are hereby authorized to enforce the provisions of this By-law.

### **8.2 Power of Entry re Inspection**

Pursuant to section 435 and 436 of the Municipal Act, 2001, any employee, officer or agent of the *County* or member of the police force of the *County* may, without notice and upon producing proper identification upon request, enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether this By-law, a direction or order of the *County* made under this By-law, a condition of a permit issued under this By-law, or an order made under section 431 of the *Municipal Act* is being complied with. The *person* exercising the power may be accompanied by a *person* under his or her direction.

### **8.3 Inspection Powers**

Any employee, officer or agent of the *County* or member of the police force of the *County*, carrying out an inspection pursuant to section 8.2 may:

- 8.3.1 require the production for inspection of documents or things relevant to the inspection;
- 8.3.2 inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- 8.3.3 require information from any *person* concerning a matter related to the inspection;
- 8.3.4 alone or in conjunction with a *person* possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

### **8.4 Order to Discontinue**

Pursuant to section 444 of the Municipal Act, 2001, where the *County* is satisfied that a contravention of this By-law has occurred, the *County* may make an order requiring the *person* who contravened the By-law or who caused or permitted the contravention, or the *owner* or *occupant* of the land on which the contravention occurred to discontinue the contravening activity.

The order shall set out

- 8.4.1 the reasonable particulars of the contravention adequate to identify the contravention and the location of the land upon which the contravention occurred; and
- 8.4.2 the date by which there must be compliance with the order.

### **8.5 Offence – Contravene Order to Discontinue**

No *person* shall contravene an order to discontinue issued pursuant to section 8.4.

### **8.6 Work Order**

Pursuant to section 445 of the Municipal Act, 2001, where the *County* is satisfied that a contravention of this By-law has occurred, the *County* may make an order requiring the *person* who contravened the By-law or who caused or permitted the contravention, or the *owner* or *occupant* of the land on which the contravention occurred to do work to correct the contravention.

An order may require work to be done even though the facts which constitute the contravention of the By-law were present before this By-law came into force.

The order shall set out

- 8.6.1 the reasonable particulars of the contravention adequate to identify the contravention and the location of the land upon which the contravention occurred; and

8.6.2 the work to be done and the date by which the work must be done.

### **8.7 Offence - Contravention Work Order**

No *person* shall contravene a work order issued pursuant to section 8.6.

### **8.8 Remedial Action**

Pursuant to Section 446 of the Municipal Act, 2001, S.O. 2001, C. 25., upon the default of any *person* to do anything required to be done by that *person* under this By-law, an employee or agent of the *County* who may be accompanied by any *person* under his or her direction, may enter upon land at any reasonable time and may do the work or thing required to be done, at the expense of the said *person*, and the *County* may recover the expense by action or by adding the costs to the tax roll and collecting in same manner as property taxes.

### **8.9 Offence – Obstructing Officer or Inspector**

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

## **Part 9 PENALTY**

### **9.1 Fine for Contravention**

Every *person* who contravenes any provision of this By-law and every director or officer of a corporation who knowingly concurs in the contravention of a By-law by the corporation is guilty of an offence and upon conviction is subject to a fine of not more than \$100,000.00.

### **9.2 Continuation – Repetition Contravention**

Notwithstanding section 9.1, every *person* that contravenes any provision of this By-law and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence for every day or part thereof upon which such offence occurs or continues and upon conviction is liable to a fine of not more than \$10,000.00 for each day the offence continues.

### **9.3 Additional Order To Discontinue Or Remedy**

Every *person* that contravenes any provision of this By-law and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and in addition to any other remedy and to any penalty imposed by the 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.

**Part 10  
REPEAL – ENACTMENT**

**10.1 By-laws – previous**

By-law Numbers 257-03, 258-03, 259-03, 260-03, 261-03, 262-03 and 263-03 of the *County*, and all other by-laws and parts of by-laws that are inconsistent with the provisions of this by-law are hereby repealed.

**10.2 Effective date**

This By-law comes into force and takes effect on the day of passage.

**READ** a first and second time, this 21st day of February, 2012.

**READ** a third time and finally passed in Council, this 21st day of February, 2012.

**THE CORPORATION OF THE COUNTY OF BRANT**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

**Schedule A**

**REQUIREMENTS FOR DISPLAY OF MERCHANDISE ON A HIGHWAY**

**Permitted Areas**

1. Paris Business Improvement Area – boundaries per By-law 46-04
2. St. George Downtown Area – Main Street North and Main Street South, from Church Avenue to South Street
3. Burford Downtown Area – King Street, from Alexander Street to Park Avenue
4. Scotland Downtown Area – Simcoe Street, from Isaac Street to Church Street East

**Mandatory Requirements Regarding Display of Merchandise on a Highway**

1. The display does not obstruct the *boulevard* in such a manner as to leave a width of less than 1.5 metres available for pedestrian use.
2. The merchandise displayed must be merchandise that is available for sale at the business adjacent to the display, be restricted to the *boulevard* fronting the business selling the merchandise displayed, and does not include the placement of vending machines.
3. Any display on the *boulevard* is not located in such a manner as to obstruct access to the *sidewalk* from any delineated parking space.
4. The display is designed to withstand reasonable loading conditions.
5. The business *owner* has filed with the *County* proof of liability insurance in the amount of \$2,000,000.00, naming the *County* as an additional insured and shall indemnify, save and hold harmless the municipality in respect to any and all occurrence with respect to the display of merchandise on municipal property.