

The Council of the Town of Hampton under the authority vested in it, by Section 7 of the Municipalities Act, enacts the following Highway By-law No. 113-92

### Interpretation

In this By-law, unless the context otherwise requires:

#### DEFINITIONS

- a) "Bridge" shall mean any structure used or intended to be used for the purpose of carrying traffic on a highway, over or across a river, stream, ravine, railway or other highway, and having a length between abutments not less than three metres, and includes the approaches thereto;
- b) "Drainage Easement" shall mean an agreement between the Town and a property owner whereby the Town has the right or privilege to enter onto the property owner's land for the purpose of constructing and/or maintaining a storm sewer, ditch or other drainage system;
- c) "Highway" shall mean a road or highway designated by the Council to be a highway and includes:
  - i) any area made subject to a Department of Transportation Development Area;
  - ii) streets acquired by the Minister under section 28; and
  - iii) streets, lanes, roads, highways, alleys, thoroughfare or place which is used by the public for passage of vehicles and has been accepted by the Council under The Community Planning Act;
- d) "Motor Vehicles" shall mean every vehicle which is self-propelled;
- e) "Traffic Officer" shall mean a member of the Royal Canadian Mounted Police or any person designated by the Council as a traffic officer;
- f) "Public Money" shall mean public money of the Town;
- g) "Registry Office" shall mean a registry office under the Registry Act;
- h) "Right-of-Way" shall mean those portions of land constructed and maintained as a highway which are under the administration and control of the Town;
- i) "Street" shall mean any place used for the passage of vehicles and included bridges thereon;
- j) "Traffic Control Device" shall mean a sign or device for regulation, warning or guidance of traffic;
- k) "Committee" shall mean the Street Committee of the Town;
- l) "Council" shall mean the Mayor and Councillors of the Town;

#### ADMINISTRATION

- 1) The Council shall administer this By-law and may designate persons to act on their behalf.
- 2) Without limiting the generality of subsection (1) the Council may authorize, in writing, persons to execute contracts incidental to the construction, maintenance and acquisition of highways and such contracts when so executed shall bind the Town.
- 3) A contract of undertaking that is not signed by the Council or by a person designated under subsection (1) or a person authorized to do so under subsection (2) is not binding on the Town.

- 4) The Council may enter into and amend from time to time agreements with any person respective to the construction, maintenance and acquisition of highways.
- 5) All contracts and leases made by the Council shall be made in the name of the Town.
- 6) Every contract made by the Council whereby labour is to be performed shall contain a fair wage schedule made pursuant to the Employment Standards Act.
- 7)
  - a) Any action or other proceeding for the enforcement of a contract made by the Council or for the recovery of damages to any highway or for the enforcement of any right in respect of a highway may be instituted in the name of the Council;
  - b) Nothing in subsection a) shall impair the right of the Town to institute or maintain an action, suit or proceeding by the Council or otherwise to prevent any trespass or injury or for a breach of contract or to recover damages therefore.
- 8) The Committee shall make annually a detailed report to the Council respecting the expenditure of public moneys on highways, and such report shall be laid before the Council.
- 9) The Council may hold an inquiry relating to the expenditure of public money for or in connection with any highway, and for such purpose shall have all the powers of a commissioner appointed under the Inquiries Act.
- 10) The Council may contract for the purchase of land and other property required for highway purposes.
- 11) All land and property acquired for highway purposes shall be vested in the Town, and notwithstanding any other Act when any such land or property is not required, the Committee may, with the approval of the Council, enter into an agreement for the sale or lease thereof and may convey any such land or property by a deed of conveyance, lease or other instrument under the Seal of the Town and under the hand of the Mayor and Council, and the proceeds of any such sale or leasing shall be accounted for as public money.
- 12)
  - a) The Council may
    - i) Sell;
    - ii) Lease; or
    - iii) Dispose of by public tender

for such consideration and on such terms and conditions as they deem advisable, any equipment, machinery or implements no longer required for highway purposes.

b) The Council may trade any equipment, machinery or implements no longer required for highway purposes as a credit toward the purchase of new equipment, machinery or implements required for highway purposes.

#### MAINTENANCE

- 13) The Council by itself, their engineers, agents and workmen:
  - a) may enter upon any land, survey and take elevations of the same and make such borings or sink such trial pits as he deems necessary for any purpose relative to a highway;
  - b) may take possession of any land, waters or water course which, in their opinion, is necessary for the construction, maintenance or repair of a highway, or for obtaining access thereto;
  - c) may enter upon any land whether leased or not and deposit thereon any material required for a highway or for the purpose of removing or carrying away any material, and may remove therefrom any material for constructing, maintaining or repairing a highway and for such purpose may make and use such temporary roads to and from such lands as the Council deems necessary for such purposes;

- d) may enter upon any land for the purpose of making drains in which to carry off water from a highway and of keeping such drains in repair;
  - e) may alter the course of any water course and road and change the level of the same (subject to approval from the New Brunswick Department of the Environment); and
  - f) may enter upon any land and take temporary possession of the land for the purpose of a detour in a highway during the period required to construct or repair the said highway, or for the purpose of a temporary winter road.
- 14) The Town shall compensate the owner of lands injuriously affected by anything done under section 13 which compensation shall be paid from moneys allotted for the construction or maintenance of highways.
  - 15) Any person claiming to be entitled to compensation shall deliver to the Town a written claim setting forth full particulars thereof and of his right and title to such compensation.
  - 16) If the Council does not agree with the person claiming compensation the Council shall offer in writing the amount which they consider to be reasonable compensation and at the same time, give notice in writing to the person that if the amount of the offer is not accepted, the matter of the compensation shall be submitted to the Land Compensation Board.
  - 17) When the offer of the Council under section 16, is not accepted, the Council shall submit the matter of compensation to the Land Compensation Board for determination.
  - 18) a) The Council, by itself, its engineers, agents and workmen, without compensating the owner thereof or of any lands abutting the same,
    - i) may remove for highway purposes any soil, gravel, rock or other material being part of, or any tree, shrub or plant growing upon, any highway and may use anything so removed for highway purposes.
    - ii) may remove or demolish any building, structure, obstruction or encroachment upon a highway.
    - iii) may enter upon any lands adjacent to a highway between the first day of November and the first day of May in the year immediately following and remove therefrom any fence likely to cause snow drifts upon a highway, and any fence so removed shall be replaced thereon not later than the first day of June immediately following; and
    - iv) may enter upon any lands adjacent to a highway and erect and maintain thereon and remove therefrom snow fences.
  - b) If any resistance or opposition is made by any person to the removal or demolition authorized under clause (ii) of subsection (18), a Judge of the Supreme Court of the Province on production of a certificate provided for under Section 19 and after notice to show cause given in such manner as he prescribes, may issue his warrant to the sheriff of the county within which such highway is situate directing him to put down such resistance or opposition and put the Minister, his engineer, agents and workmen in possession thereof and the sheriff shall make a return to the Registrar or the Supreme Court of such warrant and the manner in which he executed the same.

OWNERSHIP, LOCATION AND CLOSURE

- 19) The Council may certify that any highway or portion thereof is a highway and this certificate shall be conclusive evidence that such highway or portion thereof is a highway.
- 20) a) All highways existing at the commencement of this By-law except those laid out and recorded as otherwise shall, until the contrary is provided, be deemed to have been laid out twenty metres in width.
- b) All highways which are laid out after the commencement of this Act shall be at least twenty metres in width unless the Council otherwise orders.

- c) The Council, on recommendation of the Committee, and if satisfied that a width of less than twenty metres is sufficient for highway purposes, may order that a highway be laid out less than twenty metres but not less than ten metres in width.
- d) When any doubt or dispute as to the boundaries of a highway arises a line drawn along the centre line of the travelled portion of such highways shall be deemed prima facie to be the centre line of such highway.
- 21) a) Upon filing of a subdivision plan those streets (noted as Public) on that plan are highways for the purpose of this By-law.
- b) The Council, may acquire as highways streets that are laid out less than twenty metres in width.
- c) No compensation is payable for any street acquired as a highway under this section.
- 22) Where it is deemed necessary or advisable, the Council may close temporarily, permanently or for a specified period of time any highway or portion thereof in accordance with sections 187 (2), (3), (4), (5), (6), (7), and (8) of the Municipalities Act.
- 23) a) No road constructed by a person other than the Town or a person acting on their behalf shall become a highway for the purpose of this By-law until the Council with the recommendation of the Committee, certifies that they accept the road as a highway for the purposes of this By-law.
- b) Notwithstanding the Community Planning Act, the Council, with the recommendation of the Committee, may accept a road or street as a highway by certifying that they accept the road or street as a highway for the purposes of this By-law.
- c) No person shall undertake the construction of any street or sidewalk intended for public use without Town approval and the design, construction and acceptance standards shall be as established by the Town.
- 24) a) Subject to subsection (b) where, in the opinion of the Council, the operation of a motor vehicle may cause damage to a highway, they may impose weight restrictions with respect to such highway at such time and for such period as they deem necessary and shall publish a notice to that effect in a local paper circulated in the municipality.
- b) The Council may cancel a notice or restriction published under subsection (a) by giving a certificate to that effect.
- c) Notwithstanding subsection a), the Committee may cause to be posted on any bridge a sign indicating maximum load and height limits and bearing the initials L.A. (legal authority) thereon, and such sign when so posted shall be conclusive evidence of load and weight restrictions placed on the bridge.
- d) The Council may, in addition to publication under subsection (a), give notice of weight restrictions by such other means as they deem expedient, but failure to give notice under this subsection shall not invalidate the weight restrictions imposed under subsection (a).
- e) Where a person operates a motor vehicle on a highway with respect to which weight restrictions are in effect, and the weight of the vehicle including load is in excess of the weight restriction, that person is guilty of an offence and on summary conviction is liable, for the first offence, to a fine of not less than one hundred dollars nor more than two hundred fifty dollars, or, for a second or subsequent offence, to a fine of not less than two hundred dollars nor more than five hundred dollars, and in default of payment of a fine is liable, in respect of the first offence, to imprisonment for a period of not more than twenty-five days or, in respect of a second or subsequent, to imprisonment for a period of not more than fifty days.
- f) Where a person operates or causes to be operated upon a highway a motor vehicle when the weight of that vehicle including load is in excess of the weight restrictions in effect, and thereby causes damage to the highway, the owner and the operator of such motor vehicle are jointly and severally liable to the Town for the damage.

g) The Council may, in its discretion, upon application in writing by the owner of a motor vehicle issue a special permit in writing authorizing the applicant to operate or move a motor vehicle over a highway in respect of which weight restrictions are in effect under subsection a), subject to such conditions as he deems necessary to ensure against undue damage to such a highway.

h) The granting of a permit under subsection (g) does not affect the liability of the owner or operator of a motor vehicle imposed by subsection (f).

25) a) A traffic officer may stop any motor vehicle which he believes is being operated in violation of a weight restriction and may direct the operator of that motor vehicle to facilitate the weighing of the said vehicle either by portable or stationary traffic scales.

b) When a motor vehicle has been operated in violation of the weight restrictions a traffic officer may direct the operator of such motor vehicle to stop the same in a suitable place and remain stopped until there is removed from such motor vehicle such portion of the load as is necessary to reduce the weight of the vehicle including load to a weight permissible within the weight restriction.

c) A person who fails or refuses to stop and submit a motor vehicle to a weighing or stop at a suitable place or remain stopped until there is removed from such motor vehicle including load such portion of the load as is necessary to reduce the weight of the vehicle including load to a weight permissible within the weight restrictions when directed to do so by a traffic officer, is guilty of an offence and liable on summary conviction to the same penalties and imprisonment as provided for in subsection (e) of section 24.

d) A traffic officer may arrest without warrant any person whom he finds committing or has reasonable grounds for believing has committed an offence specified in section 24 or subsection (c) of this section and take such persons before a judge of a magistrates court to be dealt with according to law.

e) No person shall move along or across a sidewalk, street or public place, any building, vehicle or other heavy object that by reason of its weight, size or form of construction may cause damage to the structure therein and thereon, except in accordance with a special permit issued by the Town.

#### EXCAVATIONS

26) a) No person without written permission from the Council or its agent shall make an excavation under or across a highway.

b) The Council or its agent may, upon an application therefore grant permission to make an excavation under or across a highway subject to such terms and conditions as they may prescribe.

c) The Council or its agent may require an applicant under this section to deposit with the Town the estimated cost of an excavation project to meet the cost thereof and shall return to such person any amount not required for such purpose.

d) All work shall be performed in strict accordance with the Town standards and shall conform with Provincial and Town requirements with respect to necessary traffic controls, signs, lights and other safety measures.

e) Such works as may be permitted shall on completion require the restoration of streets, curbs, sidewalks, etc., to original condition

#### UTILITIES

27) a) No person or corporation shall erect any telephone, telegraph, electric power or other poles, or lay any water, gas or other mains or any wire in conduit along, over or under a highway without first having notified the Council or its agent in writing of his or its intention to do so.

- b) The Council, within thirty days of the receipt of a notice under subsection a), may require that a plan of the project showing the location of the poles, mains or conduits, as the case may be, be submitted by that person or corporation and that the approval of the Council be obtained before the project is commenced.
- 28) a) A company, a telephone or a telegraph company, an electric company, an electric railway or other electric company, and a steam railway, oil, gas, water or public service company shall remove any of its poles and wires connected therewith or any of its tracks, switches, spurs or oil, gas or water pipes, mains or conduits or other objects when, in the opinion of the Council, they constitute an obstruction in a highway or interfere with the construction, improvement, maintenance, repair or use thereof.
- b) If in its opinion any obstruction or interference as referred to in subsection a) is caused, the Council may cause a notice to be served upon the Company causing the same directing the removal of the obstruction or interference, and if such company does not within five days from the service of such notice proceed to remove the obstruction or interference and complete the removal thereof within a reasonable time, the Council, by their engineers, agents and workmen may remove the obstruction or interference and the expense thereby incurred may be recovered by action in the name of the Council.
- c) This section shall not prejudice the right of any such company to be or remain within the limits of a highway by virtue of any authority or franchise granted to it and any such authority or franchise shall extend to all highways within the meaning of this Act, and to all water courses, and the Town shall be bound by this subsection.
- 29) A Company, a telephone or a telegraph company, an electric railway or other electric company, or a steam railway, oil, gas, water or public service company, while engaged in the construction, repair or maintenance of works lawfully erected along, over or under a highway may place, maintain and display upon or in view of any highway signs, signals, markings, or devices warning persons using the highway of the presence on the highway of the workmen engaged in such undertaking.
- 30) a) The Council, upon giving thirty days notice in writing by registered mail to the owner of a building lying within the right of way of a highway, may, upon the expiration of the thirty day period, remove that building from the right of way providing that the building is required to be removed due to highway reconstruction or maintenance.
- b) The Council may remove a building under subsection a) by:
- i) causing it to be removed to an area outside the highway right of way; or
- ii) where the structure of the building has deteriorated to the point where it is impractical to cause it to be moved, by demolishing it.
- c) No compensation shall be paid under section 14 where the owner of a building made subject to this section has been or may be compensated therefor upon the acquisition by the Town of all or a portion of that owner's land containing all or a portion of that building.
- 31) a) A contract to which the Town is a party, for the construction or maintenance of a highway that specifies a date by which or a time within which any work is to be done or material is to be supplied may also provide for a penalty for failure to complete the work or supply the material by that date or within that time.
- b) The penalty referred to in subsection a) shall be:
- i) the actual loss or damages suffered by the Town because of the failure; or
- ii) a stipulated sum for each day that the work is unfinished or the material not supplied in full after the date or time agreed upon, regardless of actual loss or damages;

or both i) and ii).

- c) Where a contract for the construction or maintenance of a highway provides for a penalty as mentioned in this section, the amount of the penalty may, to the extent thereof, be withheld from any moneys payable by the Town under the contract.
- 32) a) The Committee, with the approval of the Council, may make regulations:
- i) respecting the use of highways; and
  - ii) generally for the better administration of this By-law.
- b) Regulations made under subsection a) shall be published in a local newspaper circulated in the Municipality and take effect from the date of such publication.
- 33) 1) Every person is guilty of an offence under this Act who,
- a) erects, places, puts or maintains any building, structure, gasoline pump, lumber, logs, stones, refuse, snow or other encumbrances or obstruction over or upon any highway;
  - b) without authority of law, erects, raises or maintains any dam, pier or other obstruction in any river or stream, which causes the waters of such river or stream to overflow any highway and obstruct or interfere with the passage over or along such highway;
  - c) alters any highway, or fills up or obstructs any ditch, water course or drain constructed for the purpose of carrying off water from a highway;
  - d) in using a plough, harrow or cultivator or by any other means, disturbs the soil within four feet of any highway ditch;
  - e) in any manner, except in the reasonable use of the highway, breaks the shoulder of or otherwise damages a highway;
  - f) defaces, destroys or removes any traffic control device;
  - g) damages or defaces any highway, bridge or culvert;
  - h) wilfully hinders or interrupts any officer, engineer or agent acting under the authority of the Council in the lawful exercise of his duties;
  - i) refuses or neglects to perform any duty imposed upon him by this By-law; or
  - j) violates or fails to comply with a provision of this By-law, or of a regulation made under authority thereof.
- (2) The Owner of a motor vehicle or farm tractor shall be guilty of any violation of this Act committed by any person operating or in charge of such motor vehicle or farm tractor and involving the weight of vehicle and load unless he establishes that the offence was committed without his knowledge and consent and by a person over whom he had no authority or control.
- (3) An owner charged with a violation under subsection 2) may be charged as the principal offender but the information shall show that the charge is laid under that subsection.

TELEPHONE, TELEGRAPH, and ELECTRIC POWER LINES

- 34) a) No pole shall be placed on any highway at a distance greater than 1.5 metres from the right of way boundary unless permission is received in writing from the Town Council.
- b) No wires shall be placed over the highway unless such wires are at least 5.5 metres above the highway.

CULVERTS

- 35) Where new culverts are required for the purpose of access to a property line by crossing a ditch, the property owner shall pay to the Town an amount for the installation of such culvert, such amount to be established by Council from time to time, and the Town shall have such culvert installed.

An exception will be made only where the Town has made previous arrangements with the developer of the sub-division for financial responsibility for culvert installation for specific areas.

GENERAL

- 36) No person shall engage in skating, skiing, tobogganing, skateboarding, snowmobiling or sliding on or across any street.

*See Amendment #133-97*

No person shall operate any snowmobile or all terrain vehicle on any right-of-way.

No person shall play at hockey, baseball, football or any other game or play on any street or public place not expressly set apart and designated by the Town for such games and sports, but subject to the regulations for that area.

No person shall run or race on any street or sidewalk or so occupy any public place so as to crowd, obstruct or impede in any way the free passage of the public. Nor may they drive any vehicle or animal that may similarly impede public passage. Failure to desist, disperse or separate on order by the police officer shall be deemed a violation of this by-law.

*See Amendment #117-92*

No person shall place upon any street for sale, or display goods, wares or merchandise, or solicit and receive orders for same.

No person shall remove or attempt to remove, dig up, cut down, destroy or in any manner damage or injure any trees in or upon any public street or grounds.

No person shall remove, mark or deface any placard, fence, sign or barricade placed by Town authority.

No person shall park a motor vehicle on a street so as to impede snow removal operations. The owner of the vehicle shall be liable for any towing charges.

No person shall walk on any street where a sidewalk has been installed for that purpose.

WATERCOURSES & DRAINAGE

- 37) a) No person shall obstruct in any way the drainage system associated with the streets either intentionally or by negligence.
- b) Any person authorized by the Town shall have the right to enter upon any property having a watercourse or drainage system, seasonal or otherwise, for the purpose of inspecting, observing and making such alterations as necessary to facilitate removal of water from the road system in a sound and workmanlike manner.
- c) The alteration or improvement of any existing water course or drainage system on private property, whether seasonal or otherwise, shall be subject to provincial regulations and Town approval and shall be the responsibility of and be maintained by the property owner.
- d) Where such alteration or improvement has taken place and where it does not meet or has deteriorated so as not to meet Town standards, the property owner may receive direction in writing from Council to improve conditions to the satisfaction of Council. Should the owner fail to comply, Council may arrange for the improvement at the expense of the Town and demand reimbursement from the owner.



PARKING

- 38) The Council may, from time to time, designate certain areas of highways as "No Parking Zones". These zones shall be posted with "No Parking" signs. The owner of a vehicle parked in these zones shall be subject to such fines as established by this by-law and shall also be liable for any towing and/or impoundment charges.
- 39) The Council may, from time to time, designate certain parking areas for use by handicapped persons. The owner of any vehicle parked in these areas which does not display the proper handicap identification shall be subject to such fines as established by this by-law and shall also be liable for any towing and/or impoundment charges.

DRIVEWAYS

- 40) Driveways shall be located as outlined under the Town "Driveway Control Policy" attached herein as Schedule "A".

PENALTIES

- 41) Any person who violates any provision of this by-law is guilty of an offence and liable on summary conviction to a fine not exceeding \$500.00.

REPEAL OF EXISTING BY-LAWS

- 42) The by-law entitled Village of Hampton By-Law No. 29 Weight Restriction By-Law enacted March 11, 1980 and all amendments thereto is hereby repealed.
- 43) The by-law entitled Village of Hampton By-Law No. 38 Snow Removal By-Law enacted March 5, 1981 and all amendments thereto is hereby repealed.

IN WITNESS WHEREOF the Town of Hampton has caused the Seal of the said Town to be affixed to this By-law the 14<sup>th</sup> day of July 1992, and signed by:

James McHovey  
MAYOR

Margaret Clark  
TOWN CLERK

First Reading: June 9/92  
 Second Reading: June 9/92  
 Third Reading: July 14/92