

THE CORPORATION OF THE TOWN OF SMOOTH ROCK FALLS

BY-LAW No. 2023-16

BEING A BY-LAW TO PROHIBIT THE OBSTRUCTION OF HIGHWAYS

AND WHEREAS Section 8 (1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, states that the powers of a municipality under the Act or any other act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

WHEREAS Section 27 (1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway;

AND WHEREAS Section 63(1) of the *Municipal Act, R.S.O. 2001, Chap. 25* as amended, states that a by-law passed for prohibiting or regulating the placing, stopping, standing or parking of an object or vehicle on a highway, may provide for the removal and impounding or restraining and immobilizing of any object or vehicle placed, stopped, standing or parked on a highway;

AND WHEREAS Section 63(2) of the *Municipal Act, R.S.O. 2001, Chap. 25* as amended, states that any perishable object or vehicle removed from a highway is the property of the municipality upon being moved from a highway and may be destroyed or given to a charitable institution;

AND WHEREAS section 391(1) of the *Municipal Act, 2001*, provides that a municipality may pass by-laws imposing fees or charges on any Person for services or activities provided by the municipality or done on behalf of it;

AND WHEREAS section 429 (1) of the *Municipal Act, 2001*, provides that a municipality may establish a system of fines for a by-law passed under the Act;

AND WHEREAS section 444 of the *Municipal Act, 2001*, provides that a municipality may make an order to require a Person to discontinue contravening a by-law and to do the work required to correct the contravention;

AND WHEREAS Section 446 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that where a municipality has authority by an Act or By-law to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do so, the matter or thing shall be done at the person's expense and the municipality may recover the costs of doing the matter or thing from the person required to do it, by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS the Council of the Corporation of the Town of Smooth Rock Falls deems it necessary to prohibit the obstruction of highways within the municipality.

NOW THEREFORE the Council of the Corporation of the Town of Smooth Rock Falls hereby enacts as follows:

1. DEFINITIONS

“Boulevard” means all the parts of the streets in the Town of Smooth Rock Falls lying between the curb or edge of the roadway and the street line, exclusive of the area covered by a sidewalk or shoulder.

“Highways” shall include 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 and includes the area between the lateral property lines thereof.

“Municipal Law Enforcement Officer” means a person appointed by the Council of the Corporation of the Town of Smooth Rock Falls for the purposes of enforcing Municipal By-Laws and for the purpose of this by-law shall include the Ontario Provincial Police or any policing agency.

“Obstruct” means to foul, encumber, injure, hamper, hinder, obstruct, block or damage.

“Obstruction” For the purpose of this By-Law, shall include household furnishings, appliances, construction material, rocks, boulders, stones, trees or parts thereof, fences, objects or conditions that may create a safety hazard, dead animals, discarded organic materials, and without limiting the generality of the foregoing shall include any material or thing deemed by a Municipal Law Enforcement Officer as obstructing pedestrians or vehicles or motor vehicle traffic on a highway.

“Person” shall include any individual, occupant, owner, a partnership, a body corporate, an agent of trustee, and the heirs, executors, administrators, or other legal representatives of a person to whom the context can apply according to law.

“Sidewalk” shall include all such parts of the highway as are set aside for the use of pedestrians or used by the general public for the passage of pedestrians.

2. GENERAL PROVISIONS

- 1) No person shall cause a highway, boulevard, or a sidewalk to be obstructed.
- 2) No person shall obstruct a ditch or culvert which is upon a highway under the jurisdiction of the Town of Smooth Rock Falls.
- 3) Upon the discovery of an obstruction on a highway, sidewalk or boulevard, the Municipal Law Enforcement Officer may direct that said obstruction be removed immediately or within a time period to be determined by the Municipal Law Enforcement Officer.
- 4) Notwithstanding any provisions contained in this By-Law, the Municipal Law Enforcement Officer during any emergency or special circumstances deemed sufficient therefore, may by the use of appropriate signs, barriers, or obstructions or signals, suspend any or all parking located in that area by erecting such notices or barricades or affixing “No Parking” in locations that will be made visible to the public.
- 5) Notwithstanding any of the foregoing provisions of this section, the provisions of this By-Law shall not apply to any conditions or obstructions created by emergency services, utility services and government services while actually engaged in the performance of their duties.

3. ENFORCEMENT

- 1) The Municipal By-Law shall be enforced by the Municipal Law Enforcement Officer or any other officers of the municipality.
- 2) Every person who violates the provisions of this By-Law may receive an order by the Municipal Law Enforcement Officer to remove the obstruction from the highway, boulevard, or sidewalk, at their own expense, within a time period to be determined by the Municipal Law Enforcement Officer.

4. PENALTY

- 1) Every person who contravenes a provision of this by-law is guilty of an offence and upon conviction, is liable to the penalties provided for in the Provincial Offences Act R.S.O. 1990, as well as subject to the set fines set out herein Schedule "A" of this By-Law
- 2) Where a person is in default of any of the provisions of the By-Law, the Corporation of the Town of Smooth Rock Falls or its servants or agents shall carry out, or cause to be carried out, on behalf of the Corporation the work required to be done by this By-Law at the expense of the property owner and the Municipality may recover the expense incurred in doing it in like manner as Municipal Taxes.

5. REPEAL

- 1) That By-Law 83-27 and any amendments thereto are hereby repealed in their entirety.

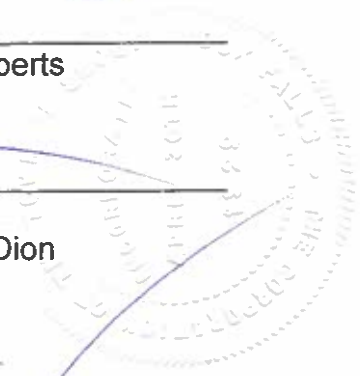
6. EFFECTIVE DATE

- 1) That the effective date of this By-Law shall be the date of final passage thereof.

READ a first time this 17 day of April, 2023

MAYOR – Patrick Roberts

CLERK – Véronique Dion



READ a third time and finally passed this 15 day of May, 2023

MAYOR – Patrick Roberts

CLERK – Véronique Dion

SCHEDULE "A" – SET FINES

Short Word Forming	Section	Set Fine
Obstruction of a highway, boulevard, or a sidewalk.	2.1	\$40.00
Obstruction of ditch or culvert	2.2	\$40.00