

THE CORPORATION OF THE TOWN OF MILTON

BY-LAW NO. 115 - 2005

BEING A BY-LAW TO PROHIBIT THE OBSTRUCTING, ENCUMBERING, DAMAGING OR FOULING OF HIGHWAYS, AND TO REPEAL BY-LAW NO. 97-2000

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 the Council of the Corporation of the Town of Milton has jurisdiction over public highways within the municipality;

AND WHEREAS Council deems it necessary and advisable to prohibit the obstructing, encumbering, damaging or fouling of highways, and to repeal By-law No. 97-2000;

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

DEFINITIONS

1. In this By-law,

- a) "*By-law 75-2004*" shall mean the by-law to regulate the construction, installation, widening or altering of entrances, road cuts and curb cuts located on *Town* owned road allowances or other property under the jurisdiction of the *Town*, as amended from time to time;
- b) "*Director*" shall mean the Director of Engineering Services of the Town, or his or her designate.
- c) "*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 and includes the area between the lateral property lines thereof;
- d) "*material*" shall include, but not be limited to: earth, gravel, sand, snow, ice, refuse, signs, fences, hedges, trees, bushes, and rubbish;
- e) "*suspected violator*" shall mean a person or corporation who has violated section 2 or 5 of this By-law by performing, causing or permitting the act prohibited thereby, and without limiting the generality of the foregoing, shall include the owner, lessee, tenant, occupant or person in apparent control of the lands immediately abutting to which the violation occurred, the owner of the offending *material*, matter or thing under Section 2, and the owner and operator of the offending vehicle under Section 5.

- f) "*Town*" shall mean the Corporation of the Town of Milton.

GENERAL PROHIBITIONS

2. No person or corporation, without lawful authority, shall:
- (a) place, deposit or plant, or cause or permit to be placed, deposited or planted any *material*, matter or thing on any *highway* within the boundaries of the *Town* which will in any way obstruct, encumber, damage or foul such *highway*;
 - (b) excavate or otherwise damage or cause or permit to be excavated or otherwise damaged, any *highway*, including any pavement, sod, curbing or other object thereon, except in accordance with By-law No. 75-2004, and all amendments thereto;
 - (c) place, construct or maintain any object or structure on, upon, under or over a *highway*;
 - (d) cause a public nuisance in or upon a *highway* by fire, vapour, noise or any means whatsoever;
 - (e) construct or maintain a gate or door which opens or swings over a *highway*;
 - (f) conduct an activity which interferes with public travel or use of a *highway*;
 - (g) post a notice, handbill, sticker, placard or advertisement in or upon a *highway*.
3. Section 2 does not apply so as to prohibit the *Town*, the Regional Municipality of Halton, Milton Hydro, Bell Canada, Union Gas, Cogeco Cable Systems Inc. and other provincial, federal and municipal agencies, their agents and employees, and persons and organizations authorized by them in writing from depositing *material* upon, or excavating, any *highway* within the *Town*, in the course of their normal operations, providing that all appropriate safety precautions are employed.
4. The agencies listed in Section 3 of this By-law shall ensure that once their work has been completed, the *highway* shall be rehabilitated to the satisfaction of the *Director*.
5. Any person or corporation employing or using trucks, graders, loaders or other vehicles in any operation which involves the passage of such vehicles to or from any site, whether for building purposes or otherwise, shall at once remove from the *highway* or from any other public property where the same may be deposited, all *material* which may fall from such trucks, graders, loaders or other vehicles.

VIOLATION OF BY-LAW

6. Where there has been a violation of Sections 2 or 5 of this By-law, the *Director* may serve written notice upon the *suspected violator* directing that the violation be remedied within a specified period of the delivery of such notice. In the event that the violation in the notice is not remedied within the aforesaid period of time, the *Director* may cause the violation to be remedied at the expense of the *suspected violator*. The *Town* shall not be responsible for any damage that may be sustained by the property of the *suspected violator*.
7. Where the *Director* deems a violation of this By-law to constitute a hazard to the public, the *Director* may, without notice, take immediate remedial action to cause the violation to be remedied at the expense of the *suspected violator*. The *Town* shall not be responsible for any damage that may be sustained by the property of the *suspected violator*.
8. Any notice given under this By-law may be given by regular mail or personal delivery. Delivery by regular mail shall be deemed to have been affected five (5) days after mailing.
9. The *Town* may hold any *material*, matter or thing removed by the *Town* pursuant to Sections 6 or 7 hereof, for a period of ten (10) days following such removal. If not reclaimed within the aforesaid period, the *material*, matter or thing may be disposed of by the *Town*.
10. The *Town* may recover its costs of remedying a violation of this By-law by invoicing the *suspected violator*, by instituting court proceedings or by adding the cost to the tax roll in the same manner as municipal taxes. The exercise of any such remedy shall not preclude the exercise of any other available remedy.

ENFORCEMENT

11. The provisions of this By-law will be enforced by the *Town* and the Halton Regional Police Service.
12. Where a conflict arises between the requirements of this By-law and any other By-law of the *Town*, the more stringent regulations shall apply.

SEVERABILITY

13. When a court of competent jurisdiction declares any section or part of this By-law invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

PENALTY

14. Any *person* who violates any provisions of this By-law is guilty of an offence and shall be liable to a fine subject to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.13, as amended, and be subjected to any other penalty permitted by law for each offence. Each day such violation continues shall constitute a separate offence and shall be punishable as such.

REPEAL

15. By-law No. 97-2000 is repealed.

SHORT TITLE

16. This By-law shall be known as the "Road Fouling By-law".

EFFECT

17. This by-law shall come into force and take effect on the day it is passed.

18. EXEMPTION-ELECTION SIGNS (As amended by By-law No. 160-2005)

18. This by-law shall not apply to signs erected for the purpose of legal public elections provided such signs are removed within forty-eight (48) hours of the close of the election for which that sign was erected.

18.1 Notwithstanding Section 18, no election signs shall be erected which, in the opinion of the Director or a Municipal Law Enforcement Officer, is found to be interfering with traffic sight lines, or road, property, or service maintenance.

18.2 When the Director or a Municipal Law Enforcement Officer has reasonable and probable grounds to believe that an election sign has been erected in violation of this by-law, the Director or a Municipal Law Enforcement Officer may cause the election sign to be removed immediately, without notice.

18.3 Election signs removed in accordance with this by-law may be destroyed or otherwise disposed of by the Town without notice and/or compensation to any party.

READ A FIRST, SECOND AND THIRD TIME and FINALLY PASSED this 29th day of August, 2005

Gordon A. Krantz Mayor

Troy McHarg Town Clerk