This is an office consolidation of By-law #33-12 and amendments thereto. For accurate reference you should consult the original by-laws that are retained by the Clerk

BY-LAW NUMBER 33-12 (As amended by By-law 56-25, 66-25 & 119-26)

- of –

THE CORPORATION OF THE COUNTY OF BRANT

To regulate and control operations on County of Brant roads

WHEREAS, Section 8 of the Municipal Act, 2001, S.O. 2001, c.25, ("the Municipal Act, 2001") provides that the powers of a municipality under this 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;

AND WHEREAS, Section 9 of the Municipal Act, 2001, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

AND WHEREAS, Section 10 of the Municipal Act, 2001, provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, inter alia highways**;**

AND WHEREAS subsection 434.1 of the Municipal Act, 2001 provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that a person has failed to comply with a by-law of the municipality passed under the Municipal Act;

AND WHEREAS Subsection 434.2(1) of the Municipal Act, 2001 provides that an administrative penalty imposed by a municipality on a person constitutes a debt of the person to the municipality;

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*.

1.7.1

Relief from certain provisions of this By-law may be granted for a film project carried on in accordance with an approved and valid Film Permit or Film Location Agreement issued under the County of Brant Film Policy.

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;

"Organic Debris" means organic material including leaves, branches, twigs, grass clippings and the like items.

"***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, *sidewalk*s, 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.

4.19 Boulevard Maintenance

No Owner or Occupant shall, without lawful authority, fail to maintain the boulevard grass and vegetation (excluding municipal trees) adjacent to all property lines (in front of, alongside or at the rear of the property) to a height of 20 cm or less.

4.20 For greater certainty, subsection 4.19 does not apply to boulevards adjacent to agricultural, agricultural employment and resource extraction zones as depicted in Schedule “A” of the County of Brant Zoning By-law # 61-16 as amended or any successor thereto.

4.21 Removal of Accumulation of Organic Debris

No Owner or Occupant shall fail to remove any accumulation of Organic Debris from the sidewalk adjacent to their property (in front of, alongside of at the rear) that may interfere with pedestrian travel and/or creates a potential hazard.

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

Pursuant to subsection 4.19, an *owner* or *occupant* of land abutting a *highway* shall, at their 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 of 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.