<u>This is an office consolidation of By-law #54-24 and amendments thereto. For accurate reference you should consult the original by-laws that are retained by the Clerk</u>

BY-LAW NUMBER 54-24 (As amended by By-law 119-26)

-of-

THE CORPORATION OF THE COUNTY OF BRANT

A by-law to repeal and replace by-law number 243-00 requiring persons to clear snow, slush and ice from sidewalks

WHEREAS Section 8(1) the Municipal Act, 2001, S.O. 2001, c.25, as amended (herein referred to as the *Municipal Act, 2001*), 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 8(2) of the *Municipal Act, 2001* states that, in the event of ambiguity in whether or not a municipality has the authority under this or any other Act to pass a by-law or to take any other action, the ambiguity shall be resolved so as to include, rather than exclude, powers the municipality had on the day before this Act came into force; and

WHEREAS, Section 8(3) of the *Municipal Act, 2001* provides that without limiting the generality of subsections (1) and (2), a by-law under sections 10 respecting a matter may,

(a) regulate or prohibit respecting the matter;
(b) require persons to do things respecting the matter;
(c) provide for a system of licences respecting the matter; and

WHEREAS, Section 10(1) 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; and

WHEREAS, Section 10(2)6. of the *Municipal Act, 2001* provides that single-tier municipality may pass by-laws respecting the matters for the health, safety and well-being of persons; and

WHEREAS Section 10(2)8. of the *Municipal Act, 2001* provide that a single-tier municipality may pass by-laws for the protection persons and property; and

WHEREAS, section 44(1) of the *Municipal Act*, *2001,* requires that a municipality that has jurisdiction over a highway or bridge shall keep it in a state of repair that is reasonable in the circumstances; and

WHEREAS, Section 44(9) of the *Municipal Act, 2001*, states that, except in case of gross negligence, a municipality is not liable for a personal injury caused by snow or ice on a sidewalk; and

WHEREAS, section 121(1) of the *Municipal Act 2001,* provides that a municipality may require the owners and occupants of buildings to remove snow and ice from the roofs of the buildings and may regulate when and how the removal shall be undertaken; and

WHEREAS, subsection 391(1) of the Municipal Act provides that a municipality may impose fees and charges on persons,

(a) for services or activities provided or done by or on behalf of it;

(b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and

(c) for the use of its property including property under its control; 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, section 446 of the Municipal Act provides that where a municipality has authority to direct that any matter or thing be done, the municipality may also direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at his expense, and the municipality may recover the expense incurred in doing so by action or in the same manner as property taxes; and

WHEREAS, Council of The Corporation of the County of Brant deems it desirable to enact a sidewalk snow, slush and ice removal by-law;

NOW THEREFORE, the corporation of the County of Brant hereby enacts as follows:

1.0 Definitions

In this By-law:

“Accumulation” means accumulation of *Snow* (whether newly fallen, wind-blown or otherwise), *Slush* or *Ice*;

"Council" means the municipal council of The Corporation of the County of Brant;

"County" means The Corporation of the County of Brant;

“Director” means the Director of Enforcement and Regulatory Services and their designate;

"Highway" means a common and public highway and includes any street, avenue, parkway, *Sidewalk,* 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, which is under the jurisdiction of the *County;*

"**Ice"** means the solid form of water, produced by freezing;

"Municipal By-law Enforcement Officer" means an individual appointed by the Municipality pursuant to Section 55 and of the Community Safety and Policing Act, S.O. 2019, c. 1, Sched. 1 as amended.

"Owner" means the registered owner, occupant or tenant of a *Property*, or a *Person* who, for the time being or permanently, is managing or receiving the rent from a *Property*, whether on his or her own account or on account of an agent or trustee of any other *Person*, or any one of the aforesaid;

"Person" means an *Owner,* an individual, or group of individuals, unincorporated association, sole proprietorship, partnership or corporation;

“Property” means land that may have a building (occupied or unoccupied) on it or vacant land;

"Sidewalk" means that part of the *Highway* meant for pedestrian use, typically indicated by some sort of concrete;

“Slush” means partially melted *Snow* or *Ice*;

"Snow" includes precipitation in the form of ice crystals, mainly of intricately branched, hexagonal form and often agglomerated into snowflakes, formed directly from the freezing of the water vapour in the air.

2.0 Removal of snow and ice

2.1 Every *Owner* shall remove, or cause to be removed, any *Accumulation* of *Snow*, *Slush* or *Ice* from the *Sidewalk* in front of, alongside or at the rear of their *Property* within twenty-four (24) hours after the *accumulation* has ended.

2.2 If, after clearing away or removing or having cleared away or removed *Snow*, *Slush* or *Ice* from the *Sidewalk*, as required in Section 2.1, the *Sidewalk* still remains to be slippery and poses a hazard to pedestrians, the *Owner* shall spread or cause to be spread, sand or any other reasonable suitable material, along said portion of the *Sidewalk*.

2.3 Every *Owner* must ensure that the portion of *Sidewalk* for which they are responsible is continually kept and maintained free of slippery surfaces, *Snow*, *Slush*, *Ice* or any combination thereof, by appropriate means, between falls of precipitation, no matter what the cause.

2.4 Every *Owner* of a building where the roof or eaves of which abut or overhang the *Highway* or *Sidewalk*, whenever *Ice* or *Snow* accumulates on the roof or eaves, remove the same immediately, and in a manner showing due care and precaution for the safety of *Persons* passing.

2.5 No *Person* shall fail to comply with an order or direction pursuant to this By-law.

2.6 No *Person* shall remove, or cause to be removed, any *Snow, Slush* or *Ice* in a manner that would damage a *Highway*.

2.7 No *Person* shall place, or cause to be placed, any *Snow, Slush* or *Ice* on a *Highway*.

2.8 If the *Owner* fails, neglects, or refuses to comply with Sections 2.1 to 2.5 of this By-law, the *Director*, in lieu of, or in addition to any other remedy provided by this By-law, is authorized to have the *Snow* or *Ice* to be removed at the expense of the *Owner*, and in the case of non-payment, such expenses may be recovered in a like manner as municipal taxes, pursuant to the *Municipal Act, 2001.*

3.0 Exemptions

3.1 This By-law does not apply to the *Snow* removal efforts performed by or on behalf of The Corporation of the County of Brant.

4.0 Winter Maintenance By-law Suspension Event

4.1 Where the *Director*, in their sole discretion determines that any weather related or unusual circumstance makes it unreasonable to enforce this By-law or a portion of this By-law, the *Director* may, in their discretion, for such period of time as the *Director* determines to be reasonable in the circumstances:

a) suspend enforcement of this By-law or any portion thereof;

b) cease the performance of inspections under this By-law; and

c) decline investigation of complaints made by members of the public or any *Person* under this By-law.

5.0 Enforcement

5.1 This By-law may be enforced by *Municipal By-Law Enforcement Officers.*

6.0 Penalty

6.1 Any *Person* who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for by the Provincial Offences Act, R.S.O. 1990, Chapter P33 as amended.

6.2 A *Person* convicted under this By-law is liable on a first conviction, to a fine of not less than $250.00 and not more than $25,000.00; and,

6.3 On a second or subsequent conviction, to a fine of not more than $10,000.00 for each day or part of a day on which the contravention has continued after the day on which the *Person* was first convicted.

7.0 Obstruction

7.1 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, including refusing to identify themselves when requested to do so by a *Municipal By-law Enforcement Officer*.

8.0 Powers of inspection

8.1 Pursuant to Section 436 of the Municipal Act, 2001, the *County* may enter on *Property* at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

(a) this By-law;

(b) a direction or order of the County made under this By-law; or,

(c) an order made under section 431 of the Municipal Act, 2001.

9.0 Order to discontinue activity

9.1 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 this By-law, or who caused or permitted the contravention, or the *Owner* of the *Property* on which the contravention occurred, to discontinue the contravening activity.

An order under section 9.1 of this By-law shall set out:

(a) reasonable particulars of the contravention adequate to identify the contravention and the location of the *Property* on which the contravention occurred; and,

b) the date by which there must be compliance with the order.

10.0 Work order

10.1 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 this By-law, or who caused or permitted the contravention, or the *Owner* of the *Property* on which the contravention occurred, to do work to correct the contravention.

10.2 An order under this section 10.1 of this By-law shall set out:

(a) reasonable particulars of the contravention adequate to identify the contravention and the location of the *Property* on which the contravention occurred; and,

(b) the work to be done and the date by which the work must be done.

11.0 Remedial action

11.1 Pursuant to section 446, of the Municipal Act, 2001, if a *Person* fails to do a matter or thing, including comply with an order under this By-law, as directed or required by this By-law, the County may, in default of it being done by the *Person* directed or required to do it, do the matter or thing at the *Person's* expense. The County may recover the costs of doing a matter or thing from the *Person* directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.

11.2 The costs outlined in section 11.1, of this By-law shall include interest calculated at a rate of 15 per cent, calculated for the period commencing on the day the County incurs the costs and ending on the day the costs, including the interest, are paid in full.

11.3 Further to the costs outlined in section 11.1 and 11.2, an administrative fee shall be applied pursuant to the County of Brant Fees and Charges By-law, as amended from time to time.

11.4 The amount of the costs, including interest, constitutes a lien on the *Property* upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the County shall register a discharge of the lien in the proper land registry office.

12.0 Severability

12.1 In the event that a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced *Council* to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in full force and effect.

13.0 Coming into force

13.1 This By-law shall come into force on the date it is approved by *Council*.

14.0 Repeal

14.1 By-law No. 243-00 of the County is hereby repealed in its entirety.

15.0 Short title

15.1 This By-law may be cited as the "Sidewalk Snow & Ice Removal By-law ".

READ a first and second time, this 25th day of June 2024.

READ a third time and finally passed in Council, this 25th day of June 2024.

THE CORPORATION OF THE COUNTY OF BRANT

David Bailey, Mayor

Alysha Dyjach, Clerk