

## PART III SPECIFIC MUNICIPAL POWERS

### HIGHWAYS

#### Definitions

24. In sections 25 to 68,

“bridge” means a public bridge forming part of a highway or on, over or across which a highway passes; (“pont”)

“provincial highway” means a highway under the jurisdiction of the Province of Ontario. (“voie publique provinciale”) 2001, c. 25, s. 24.

#### Provincial highways

25. Except as otherwise provided in this Act, sections 26 to 68 do not apply to a provincial highway. 2001, c. 25, s. 25.

#### What constitutes highway

26. The following are highways unless they have been closed:

1. All highways that existed on December 31, 2002.
2. All highways established by by-law of a municipality on or after January 1, 2003.
3. All highways transferred to a municipality under the *Public Transportation and Highway Improvement Act*.
4. All road allowances made by the Crown surveyors that are located in municipalities.
5. All road allowances, highways, streets and lanes shown on a registered plan of subdivision. 2001, c. 25, s. 26.

#### By-laws

27. (1) Except as otherwise provided in this Act, a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway. 2001, c. 25, s. 27 (1).

#### Joint jurisdiction

(2) If a highway is under the joint jurisdiction of two or more municipalities, a by-law in respect of the highway must be passed by all of the municipalities having jurisdiction over the highway. 2001, c. 25, s. 27 (2).

#### Jurisdiction

28. (1) Except as otherwise provided in this Act or under section 8 of the *Public Transportation and Highway Improvement Act* or in a by-law passed under this Act, a municipality has jurisdiction or joint jurisdiction, as the case may be, over the following highways:

1. All highways over which it had jurisdiction or joint jurisdiction on December 31, 2002.

2. All highways established by by-law of the municipality on or after January 1, 2003.
3. All highways transferred to the municipality under this Act, the *Public Transportation and Highway Improvement Act* or any other Act. 2001, c. 25, s. 28 (1).

### **Local municipalities**

(2) Except as otherwise provided in this Act or under section 8 of the *Public Transportation and Highway Improvement Act*, a local municipality has jurisdiction over,

- (a) all road allowances located in the municipality that were made by the Crown surveyors; and
- (b) all road allowances, highways, streets and lanes shown on a registered plan of subdivision. 2001, c. 25, s. 28 (2).

### **Boundary lines**

29. (1) Subject to section 28 and to a by-law passed under section 52, the local municipalities on either side of a boundary line between municipalities have joint jurisdiction over any highways forming the boundary line. 2001, c. 25, s. 29 (1).

### **Joint jurisdiction, bridges**

(2) Subject to section 28 and to a by-law passed under section 52, if a bridge joins a highway under the jurisdiction of any municipality to a highway under the jurisdiction of another municipality, the bridge is under the joint jurisdiction of the municipalities. 2001, c. 25, s. 29 (2).

### **Deviation of boundary lines**

(3) If, because of physical difficulties or obstructions, a highway does not follow a boundary line throughout but deviates so that parts of it lie wholly within one of the boundary municipalities, the highway shall be deemed to be the boundary line between the two municipalities for the purposes of determining jurisdiction over the highway. 2001, c. 25, s. 29 (3).

(4), (5) Repealed: 2002, c. 17, Sched. A, s. 8.

### **Agreement**

29.1 (1) If municipalities having joint jurisdiction over a boundary line highway enter into an agreement under which each municipality agrees to keep any part of the highway in repair for its whole width and to indemnify the other municipality from any loss or damage arising from the lack of repair for that part, the agreement and a copy of the by-law authorizing the agreement may be registered in the proper land registry office for the area in which the highway is located. 2002, c. 17, Sched. A, s. 9.

### **Effect**

(2) If municipalities enter into an agreement under subsection (1), each municipality has jurisdiction over that part of the highway that it has agreed to keep in repair and is liable for any damages that arise from failure to keep the highway in

repair and the other municipality is relieved from all liability in respect of the repair of that part. 2002, c. 17, Sched. A, s. 9.

### **Ownership**

**30.** A highway is owned by the municipality that has jurisdiction over it subject to any rights reserved by a person who dedicated the highway or any interest in the land held by any other person. 2001, c. 25, s. 30.

### **Establishing highways**

**31.** (1) Repealed: 2006, c. 32, Sched. A, s. 16 (1).

### **By-law necessary**

(2) After January 1, 2003, land may only become a highway by virtue of a by-law establishing the highway and not by the activities of the municipality or any other person in relation to the land, including the spending of public money. 2001, c. 25, s. 31 (2); 2006, c. 32, Sched. A, s. 16 (2).

### **Certain highways not affected**

(3) Subsection (2) does not apply to highways described in paragraphs 3, 4 and 5 of section 26. 2001, c. 25, s. 31 (3).

### **Exclusion**

(4) A municipality may by by-law assume the following highways for public use and section 44 does not apply to the highways until the municipality has passed the by-law:

1. An unopened road allowance made by the Crown surveyors.
2. A road allowance, highway, street or lane shown on a registered plan of subdivision. 2001, c. 25, s. 31 (4).

### **Other exclusions**

(5) Section 44 does not apply to a highway laid out or built by any person before January 1, 2003 unless it was assumed for public use by the municipality or it has been established by by-law. 2001, c. 25, s. 31 (5).

### **Widening highways**

(6) If a municipality acquires land for the purpose of widening a highway, the land acquired forms part of the highway to the extent of the designated widening. 2001, c. 25, s. 31 (6).

### **Unorganized territory**

**32.** Despite section 19, a municipality may by by-law establish a highway in adjoining unorganized territory. 2001, c. 25, s. 32.

**33.** Repealed: 2006, c. 32, Sched. A, s. 17.

### **Highway closing procedures**

**34.** (1) A by-law permanently closing a highway does not take effect until a certified copy of the by-law is registered in the proper land registry office. 2006, c. 32, Sched. A, s. 18.

### **Consent**

(2) A by-law permanently closing a highway shall not be passed without the consent of the Government of Canada if the highway,

- (a) abuts on land, including land covered by water, owned by the Crown in right of Canada; or
- (b) leads to or abuts on a bridge, wharf, dock, quay or other work owned by the Crown in right of Canada. 2006, c. 32, Sched. A, s. 18.

**Restricting common law right of passage**

**35.** Without limiting sections 9, 10 and 11, a municipality may pass by-laws removing or restricting the common law right of passage by the public over a highway and the common law right of access to the highway by an owner of land abutting a highway. 2006, c. 32, Sched. A, s. 18.

**36.-39.** Repealed: 2006, c. 32, Sched. A, s. 18.