

MUNICIPALITY OF THE DISTRICT OF YARMOUTH

**Streets and Sidewalks By-Law**  
**S-089-12**

Effective Date:

**March 11, 2014**

**Part 1 - Title**

This By-Law is entitled the “*Streets and Sidewalks By-Law.*”

This by-law applies only to *streets, sidewalks* and other property owned by the *Municipality* of the District of Yarmouth and to activities or conditions affecting such Municipal *streets, sidewalks* and property.

**Part 2 – Definitions**

- 2.1 “**Abutter**” means the owner, lessee or occupier of any premises or lot in the *Municipality* which abuts a *street* or *roadway*;
- 2.2 “**Curb**” means a rim, especially of joined stones or concrete, along a street or roadway, forming an edge for a street or sidewalk;
- 2.3 “**Engineer**” means the Municipal *Engineer* and includes a person acting under the supervision and direction of the *Engineer*;
- 2.4 “**Heavy Load**” means loads of over 9923 lbs or 4501kg;
- 2.5 “**Municipal Infrastructure**” includes infrastructure that supports the provision of Municipal services and without restricting the generality of the foregoing includes public trees, *street* lighting, traffic lights, traffic signs and other municipal signs;
- 2.6 “**Municipal Sewer**” means a sewer owned and operated by the *Municipality*;
- 2.7 “**Municipality**” means the *Municipality* of the District of Yarmouth;
- 2.8 “**Roadway**” means that portion of a Municipal *street* between the curb lines or the traveled portion of a *street* designed for vehicular traffic;
- 2.9 “**Sidewalk**” means that portion of a Municipal *street* between the curb line and adjacent property line or any part of the *street* especially set aside for pedestrian travel and separated from the *roadway*;
- 2.10 “**Street**” means a Municipal *street*, highway, road, lane, *sidewalk*, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith and, without restricting the generality of the foregoing, includes the full right-of-way width;

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**Part 3 - Removal of Ice and Snow from Sidewalks**

- 3.1** Abutters whose property has snow, icicles or ice overhanging or abutting a sidewalk, shall remove such snow, icicles or ice before it falls or is likely to fall onto a sidewalk at an uncontrolled time or in an uncontrolled manner.
- 3.2** When an abutter fails to remove snow, ice or icicles from sidewalks or structures as required by this-by-law, the Director of Public Works may give to the abutter an order to remove the snow and ice within 24 hours of OR forthwith upon service of such notice.
- 3.3** If the remedial work ordered pursuant to section 3.2 is not made within the time provided for by the order, the Director of Public Works may make or cause to be made such snow, ice or icicle removed.
- 3.4** The Municipality may recover the expense incurred in making snow, ice or icicle removals pursuant to section 3.3, together with costs and pre-judgment interest by action in any court of competent jurisdiction, or may charge and collect same as a first lien on the property.
- 3.5** Nothing in this by-law creates a duty upon the Municipality to inspect or become aware of hazardous conditions created by snow or ice on or near or overhanging sidewalks. Council hereby declares, having regard to the resources and fiscal priorities of the Municipality, that it is the express policy of the Municipality;
- a)** to only to carry out inspections upon receiving a complaint about such conditions in respect of a specific location; and
  - b)** that such complaints shall be deemed to be remedied upon the removal or remediation of the hazardous condition that existed at the time of the making of the complaint.

**Part 4 - Vegetation in Street Right-of-Way**

- 4.1** *Abutters* shall maintain any grass between the *curb* and a *sidewalk* abutting their property and between the *curb* and their abutting property except in areas designated by Council resolution as exempt from this requirement including:
- 4.1.1** clipping, cutting or mowing the grass to a height of not greater than 8 cm.;

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4.1.2 raking and renewing grass as necessary in order to maintain a neat and tidy appearance; and

4.1.3 collecting and removing litter or waste.

**Part 5 - Encroaching Vegetation**

5.1 *Abutters* shall trim the branches of trees, hedges, bushes or other shrubbery which encroach from the abutting property over a *street* so as to prevent such tree, hedge, bush or other shrubbery:

5.1.1 from interfering with pedestrian traffic on a *sidewalk*;

5.1.2 from interfering with or affecting the sight lines of any person on a bicycle or in a motor vehicle traveling on the *roadway* up to a minimum height of 2.25 meters; or

5.1.3 from interfering with any structure on or in a *street*.

**Part 6 - Nuisance**

6.1 No *abutter* shall place, permit to be placed, or permit to escape from the *abutter's* property or driveway, dirt, dust, or other nuisance onto the *street* or *sidewalk*.

**Part 7 - Damage**

7.1 No person shall:

7.1.1 move any *heavy load* over or deposit any *heavy load* on any *sidewalk* unless the *sidewalk* has first been protected by covering with boards of adequate thickness to prevent any visible damage or disturbance to the surface of the *sidewalk*, or

7.1.2 otherwise cause or permit any visible damage or disturbance to the surface of a *sidewalk*,

except as authorized by a *Street Disturbance Permit*.

7.2 No person shall:

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**7.2.1** drag or cause or permit any load or part of a load to drag on any *roadway* in such a manner as to cause any visible damage or disturbance to the surface of the *roadway*, or

**7.2.2** otherwise cause or permit any visible damage or disturbance to the surface of a *sidewalk*,

except as authorized by a *Street* Disturbance Permit.

**7.3** No person shall drive over a curb with a heavy load or otherwise cause any visible damage or disturbance to the surface of the curb, except as authorized by a *Street* Disturbance Permit.

**Part 8 - Gates**

**8.1** No person shall construct or permit to be used any gate or barriers that open into or encroach upon any portion of the *street* or that may in any way impede pedestrian or vehicular traffic.

**Part 9 - Street Disturbance Permit**

**9.1** No person shall:

**9.1.1** make any excavation in a *street*;

**9.1.2** cause or permit the breaking of the surface of a *street* or other physical damage to a *street* by construction activities in or near a *street*; or

**9.1.3** otherwise engage in construction activity or other temporary activity that is likely to obstruct pedestrian or vehicular traffic in a *street* without first obtaining a *Street* Disturbance Permit from the *Municipality* of the District of Yarmouth.

**9.2** Every application for a *Street* Disturbance Permit shall include:

**9.2.1** a non-refundable fee in the amount specified in the Fees Policy when the Permit is required solely because of an obstruction of one month or less to the pedestrian or vehicular traffic in a *street*, without breaking or damaging the surface or subsurface of a *street*, or to *Municipal infrastructure* or property in, on or under a *street*;

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- 9.2.2** a non-refundable fee in the amount specified in the fees policy in all other cases; and
- 9.2.3** where an excavation or other construction activity is involved that may, in the opinion of the *Engineer*, cause damage to a *street*, a security deposit in the amount specified in the fees policy.
- 9.3** The security deposit required under section 9.2.3 shall be retained as security that the applicant will properly perform and complete the work for which the permit is granted, and restore and keep the surface of the *street* and other Municipal property when such work is done, to a good condition to the satisfaction of the *Engineer* for a period of six months after the completion of the work.
- 9.4** If the *Engineer* is of the opinion that the surface of the *street* or other Municipal property is not restored and kept in good condition for the six month period, he may, upon advance notice to the Permit holder, perform such work in respect of the *street* as he considers necessary and the cost shall be deducted from the deposit, and the balance, if any, returned upon the expiry of the six month period. If the cost of such work exceeds the deposit, the *Municipality* may recover the balance, together with costs and pre-judgment interest, by action in any court of competent jurisdiction from the Permit Holder, or may charge and collect the balance, together with costs and pre-judgment interest as a first lien on the property for whose benefit the work was undertaken.
- 9.5** In the event of an emergency arising at the location of the excavation, the *Engineer* may immediately fill or direct the filling of the excavation at the expense of the Permit Holder.
- 9.6** Every person obtaining a *Street* Disturbance Permit to make any excavation or opening in any *street* shall
- 9.6.1** sufficiently and continuously light the excavation at night;
- 9.6.2** enclose and secure the excavation by a fence or barrier at least one meter in height; and
- 9.6.3** comply with any standards relating to excavations in the Occupational Health & Safety Act or Regulations or any other applicable statutes or regulations.
- 9.7** In addition to any other conditions imposed by the *Engineer* for the granting of a *Street* Disturbance Permit, all permits shall be subject to the following conditions:
- 9.7.1** the *Engineer* may stipulate the hours of work;

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- 9.7.2** the Permit Holder shall keep the work site at all times safe with respect to vehicular and pedestrian traffic, including direction of traffic, barricades, lights, signs, and supply of properly equipped and trained traffic control personnel for protection of traffic, in accordance with the Temporary Workplace Control Manual or other standards in force pursuant to the Occupational Health and Safety Act;
- 9.7.3** the *Engineer* may order additional precautions, work stoppages and restorations of the *street* should circumstances warrant and upon the failure of the Permit Holder to comply within 24 hours with such order, or immediately in the event of an emergency, the *Municipality* may undertake any necessary action at the expense of the Permit Holder;
- 9.7.4** the Permit Holder shall ensure that the *street* is kept free from nuisance, dirt and dust;
- 9.7.5** the Permit Holder shall dispose of, store, or haul away any clean material suitable for use as structural fill excavated from a *street* in accordance with the directions of the *Engineer* and the material may, at the *Engineer's* discretion, remain Municipal property;
- 9.7.6** the Permit Holder shall ensure that all excavations are backfilled and restored in such manner and with such material as is approved by the *Engineer* and that advance notice of a minimum of 24 hours of the backfilling operation shall be provided to the *Engineer* so that it may be properly inspected;
- 9.7.7** the Permit Holder shall comply and ensure compliance by any agents, contractors or employees, with
- a)** the *Nova Scotia Department of Transportation and Infrastructure Renewal Standards and/or Standards and Specifications for Municipal Services* in cases where the construction activity involved construction, repair or alteration of driveway access points into a *street*;
  - b)** the *Nova Scotia Department of Transportation and Infrastructure Renewal Standards and/or Standards and Specifications for Municipal Services* where the construction activity involved excavation or other penetration or damage to the surface or subsurface of a *street*;

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- c) and any other Policies or Standards of the *Municipality*, from time to time, regarding design or construction standards applicable to *municipal infrastructure* or property in, on, under or near a *street*;
- d) the provision of an indemnity in favour of, and in form satisfactory to, the *Municipality* for the defence and indemnification of any claims arising out of or in relation to the proposed *street* disturbance activities;
- e) the permit shall be valid for a period of 6 months from date of issuance, but where work has commenced the permit shall expire 12 months after the date of issuance; and
- f) any other condition in respect of safety or preservation of Municipal property interests that the *Engineer* may impose.

**9.8** In the event of an emergency requiring the immediate excavation of the *street*, the *Engineer* may give verbal permission for such excavation on the condition that a *Street Disturbance Permit* is applied for and obtained on the first working day subsequent to the granting of such permission.

**9.9** The *Director of Public Works and/or Engineer* may refuse to issue, renew or amend, or may revoke or suspend a *Street Disturbance Permit*, upon reasonable notice to an applicant or Permit Holder, when

**9.9.1** the *Director of Public Works and/or Engineer* is not satisfied that the steps taken, or proposed steps to be taken, by the applicant or Permit Holder has adequately protected or will adequately protect the *Municipality's* property;

**9.9.2** the *Director of Public Works and/or Engineer* is not satisfied that the steps taken, or proposed steps to be taken, by the applicant or Permit Holder has minimized or will minimize the obstruction to pedestrian or vehicular traffic in the *street*;

**9.9.3** the *Director of Public Works and/or Engineer* is not satisfied that the steps taken, or proposed steps to be taken, by the applicant or Permit Holder has achieved or will achieve compliance with any applicable Policies or Standards of the *Municipality*;

**9.9.4** this Policy or the terms or conditions of a Permit have been contravened; or

**9.9.5** for any other reason in the public interest.

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- 9.10** A person aggrieved by a decision of the *Director of Public Works and/or Engineer* pursuant to section 9.9 may appeal that decision to Council within 15 days of the decision by written notice of appeal to the CAO.
- 9.11** After the hearing of an appeal, Council may confirm, rescind or vary the decision of the *Director of Public Works and/or Engineer*.

**Part 10 – Penalties**

- 10.1** Any person who violates any provision or requirement of this By-Law is guilty of an offence and liable upon summary conviction to a fine not less \$100.00 dollars for the first offence, \$500.00 dollars for a second offence, and up to \$1000.00 dollars for subsequent offences payable to the office of the Municipality of the District of Yarmouth provided that said payment is made within a period of fourteen (14) days from the date of the notice.



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**CAO's Annotation For Official By-Law Book**

Date of first reading: January 29, 2014

Date of advertisement of Notice of Intent to Consider: February 11, 2014

Date of second reading: February 26, 2014

\*Date of advertisement of Passage of By-Law: March 11, 2014

Date of mailing to Minister a certified copy of By-Law: April 2, 2014

I certify that this by-law was adopted by Council and published as indicated above.

*K. Masses*

April 2, 2014

CAO

Date

**Date Last Reviewed: February 26, 2014**

**Date Last Amended: February 26, 2014**