

---

# Town of Yarmouth

## Streets and Sidewalks By-law

---

### By-law No. 8

1. This By-law is entitled the “Streets and Sidewalks By-Law”.
2. This By-law applies only to streets, sidewalks and other property owned by the Town of Yarmouth and to activities or conditions affecting such Town of Yarmouth streets, sidewalks and property.

### Definitions

3. In this By-law:
  - (1) “abutter means the owner, lessee or occupier of any premises or lot in the Town of Yarmouth which abuts a Town of Yarmouth street, and where the premises or lot has been registered as a condominium under the *Condominium Property Act*, includes the condominium corporation which manages the premises or lot;
  - (2) “Building Inspector” means a building inspector as defined in the Building Code Act and appointed for the Town of Yarmouth;
  - (3) “crosswalk” means that portion of a Town roadway ordinarily included within the prolongation or connection of curb lines or the edge of a roadway and property lines at intersections or any portion of a roadway clearly indicated for pedestrian crossings by lines or other markings on the road surface;

- (4) “Chief Administrative Officer”, “Town Engineer”, “Development Officer”, means those persons as identified in the Municipal Government Act who have been appointed by and/or to act on behalf of the Town of Yarmouth and includes any person acting under their supervision and direction;
- (5) “Town infrastructure” includes infrastructure that supports the provision of Town of Yarmouth services as well as water services, and without restricting the generality of the foregoing includes public trees, street lighting, traffic lights, traffic signs and other Town signs;
- (6) “Sewer or water system” means a sewer or water system owned and operated by the Town of Yarmouth or by a water utility owned by the Town of Yarmouth;
- (7) “Roadway” means that portion of a Town street between the curb lines or the travelled portion of a street designed for vehicular traffic and, except where the context indicates otherwise, includes a crosswalk;
- (8) “Sidewalk” means that portion of a Town 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;
- (9) “Street” means a Town 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;
- (10) “Structure” includes any building, bridge, pedway, balcony, bay window, elevator, fence, foundation wall, grating, hatch, hatchway, loading platform, manhole, porch, portacle, railing, retaining wall, step, storage tank, tunnel, vault, veranda, or any part thereof;

- (11) “Utility” includes any person or corporation that provides water, electric power, telecommunications service, natural gas or other gas intended for use as fuel to the public, except a water utility owned by the Town of Yarmouth.
- (12) “Town” means the Town of Yarmouth.
- (13) “Utility facilities” includes any pole, pole lines (including braces and anchors), aerial cables, manholes, conduits, underground cables, pipes for the carriage of gas or liquids, and associated apparatus for the provision of utility services, including amplifiers, connection panels, transformers, valves and other fittings or equipment.

#### **Removal of Ice and Snow from Sidewalks**

- 4. Except where municipal snow removal service is provided as identified in Schedule “A” of this by-law, abutters shall remove all snow and ice;
  - (1) from any sidewalk which abuts any side of their property;
  - (2) from any pathway leading from a sidewalk abutting their property to the roadway; and
  - (3) between any sidewalk abutting their property and a crosswalk.
- 5. The removal of snow and ice required by the immediately preceding section of this By-law shall be such as to leave an area entirely cleared of snow and ice of not lesser width than either;
  - (1) 1.2 metres; or
  - (2) the full width of the sidewalk.
- 6. The removal of snow required pursuant to section 4 following a snowfall shall be completed:

- (1) when a snowfall ceases during daylight hours and at least 4 hours in advance of sunset, within 4 hours after the snow stops falling;
  - (2) at other times, within 4 hours after sunrise on the following day.
7. Subject to section 4, when a sidewalk is slippery in the winter due to the presence of compressed snow or ice, abutters shall apply sufficient sand, salt or other deicing materials to provide good traction for pedestrian traffic.
8. Abutters whose property has snow, icicles or ice overhanging or abutting a sidewalk, including snow or ice on a roof which might slide onto a sidewalk, shall remove such snow, icicles or ice before they fall or are likely to fall onto a sidewalk at an uncontrolled time or in an uncontrolled manner.
9. When an abutter fails to remove snow, ice or icicles from overhanging structures as required by this By-Law, the Engineer may give to the abutter an order to remove the snow and ice within 24 hours of OR forthwith upon service of such notice.
10. If the remedial work ordered pursuant to section 9 is not made within the time provided for by the order, the Engineer may make or cause to be made such snow, ice or icicle removals.
11. The Town may recover the expense incurred in making snow, ice or icicle removals pursuant to section 10, 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.
12. Nothing in this By-Law creates a duty upon the Town to inspect or become aware of hazardous conditions created by snow, ice or icicles overhanging sidewalks. Council hereby declares, having regard to the resources and fiscal priorities of the Town that it is the express policy of the Town of Yarmouth:
  - (1) only to carry out inspections upon receiving a complaint about such conditions in respect of a specific location; and

- (2) 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.

### **Vegetation in Street Right-of-Way**

13. 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's resolution as exempt from this requirement including:
  - (1) clipping, cutting, or mowing the grass to a height of not greater than 8 cm;
  - (2) raking and renewing grass as necessary in order to maintain a neat and tidy appearance; and
  - (3) collecting and removing litter or waste.

### **Encroaching Vegetation**

14. Abutters shall trim the branches of trees, hedges, bushes or other shrubbery which encroaches from the abutting property over a street so as to prevent such tree, hedge, bush or other shrubbery:
  - (1) from interfering with pedestrian traffic on a sidewalk;
  - (2) from interfering with or affecting the sight lines of any person on a bicycle or in a motor vehicle travelling on the roadway up to a minimum height of 2.25 metres; or
  - (3) from interfering with any structure on or in a street.

## General

15. (1) No abutter shall place, permit to be placed, or permit to escape from the abutter's property or driveway, dirt, dust, ashes, garbage or any substance or material - or matter likely to become detrimental to public health or other nuisance onto the street.
- (2) No person shall cart or transport in any way, on any street, any sand, earth, dirt, manure, rotten fish gurry, hay, straw or rubbish, or any loose fluid or semi-fluid in such a manner that any portion of the same may be spilled or scattered on the street.
- (3) No person shall place or deposit snow or ice from driveways, parking lots or private property onto a roadway, sidewalk or into an open ditch or block a culvert, catchbasin or other components of a storm drainage system, or cover a fire hydrant.
- (4) No person shall place or deposit snow or ice on private property at an intersection in such a manner so as to obstruct the corner vision triangle or the minimum stopping distance as determined by the Town Engineer in accordance with good engineering practice, which ever distance is greater.
- (5) No person shall use any barbed wire for a fence along any street.
- (6) No person shall break, bark, remove, root up, or otherwise destroy or damage the whole or any part of any tree, sapling, or shrub planted for ornament or left growing in any street or highway of the Town, without first obtaining the written permission of the Engineer.
- (7) No person shall post, stick, stamp, paint, or otherwise affix, or cause to be posted, stuck, stamped, painted, or otherwise affixed, a bill, poster, notice, or advertisement of any kind on any property of the Town or on any post or tree within the limits of any street.

- (8) No person shall throw away any shingles, boards, slates sand, gravel, tar, or other material whatsoever from any roof or scaffolding upon any street; the same may be lowered in chutes, or by tackle, in such a manner as not to affect the safety and convenience of the public.
- (9) No person shall permit any horse or other animal, whether attached to a vehicle or not, to run at large, or stand in any street, without being sufficiently secured to prevent it running away. No person shall permit any horse or other animal, whether attached to a vehicle or not, to remain without some person in charge and control thereof.
- (10) (a) No person shall organize or conduct a parade, procession, demonstration, or event of any kind which will enter onto, or proceed along, a street without first obtaining the written permission of the Traffic Authority.
- (b) The Traffic Authority may refuse to grant permission for the conducting of a parade, procession, demonstration or event, where he determines that such parade, procession, demonstration, or event would disrupt vehicular or pedestrian traffic, or where he determines that the event is not properly organized and controlled.
- (c) The Traffic Authority may impose any conditions he deems are reasonable to the granting of the permission herein.
- (11) In this section
- 1(a) “sidewalk” means any public path, land, walkway, or other area designated for pedestrian travel or use;

- 1(b) “skateboard” means a board constructed of any material mounted on wheels on which a person may be transported;
- 1(c) “roller blades” and “roller skates” means a boot device made of any material or materials that is mounted on wheels on which a person may skate or propel themselves.
- (2) It shall be an offence for any person to use or operate a skateboard, roller blades or roller skates on any sidewalk.

**Damage**

16. No person shall

- (1) move any heavy load over or deposit any heavy load on any sidewalk unless the sidewalk has first been protected by a covering of boards or suitable material of adequate thickness to prevent any visible damage or disturbance to the surface of the sidewalk, or
- (2) otherwise cause or permit any visible damage or disturbance to the surface of a sidewalk except as authorized by a Street Disturbance Permit.

17. No person shall

- (1) move any heavy load over or 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
- (2) otherwise cause or permit any visible damage or disturbance to the surface of a roadway except as authorized by a Street Disturbance Permit.

18. 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.

### **Gates**

19. 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.

### **Other Encroachments**

20. When any part of a street or other Town property has been built upon, the encroachment may be authorized to continue upon obtaining an Encroachment Permit.
21. Application for an Encroachment Permit shall be made to the Engineer and the Engineer may issue such permit upon;
  - (1) determination by the Engineer that the encroachment was made in error;
  - (2) payment of a permit fee of Five hundred (\$500.00) dollars
  - (3) submission of an application in writing, in duplicate, on such form as may be specified by the Engineer from time to time, and signed by the person applying therefore;
  - (4) determination by the Engineer that the encroachment does not significantly impede pedestrian or wheelchair traffic on a sidewalk or vehicular traffic on a roadway;

- (5) determination by the Traffic Authority that the encroachment does not pose a traffic hazard having regard to sight lines or otherwise;
  - (6) provision of an indemnity in favour of, and in form satisfactory to, the Town for the defence and indemnification of any claims arising out of or in relation to the encroaching structure; and
  - (7) provision of an acknowledgement that the permission of the Town to encroach may be withdrawn without payment of any compensation.
22. Notwithstanding the issuance of an Encroachment Permit, no person shall permit or cause a further or renewed encroachment once the original encroaching structure is demolished, destroyed or removed to the extent of 75% or more.
23. Notwithstanding Sections 20-22 inclusive, Council may by Agreement, authorize an encroachment or the continuation of an encroachment upon, under or over a street for such period of time and upon such conditions as it deems appropriate.
24. Sections 20 to 23 do not apply to utility facilities.
25. An Encroachment Permit shall remain in effect for a period of 2 years from the date of issuance, and applications for renewal shall be made at least one month before the renewal date, on such form as may be specified by the Engineer, from time to time, accompanied by the permit fee.
26. In the event of a change in ownership of the business for which the Permit has been issued, the new owner shall notify the Engineer, in writing of his name and postal address and no fee shall be payable for substituting the new owner's name and address for that of the former owner.

27. The Engineer may refuse to issue or renew, or may revoke or suspend an Encroachment Permit for breach of this By-Law or for not meeting or for ceasing to meet the terms of eligibility for the Permit, upon 10 days notice to an applicant or Permit holder from the date of mailing the notice to the address on record of the Applicant or Permit holder.
28. A person aggrieved by a decision pursuant to section 32 of the Engineer may appeal that decision to Council within 15 days from the date of mailing of the decision to the owner's address on record, by written notice of appeal to the Clerk.
29. After hearing an appeal, Council may confirm, rescind or vary the decision of the Engineer.
30. Notwithstanding the issuance of an Encroachment Permit, if Council is at any time of the opinion that terminating an encroachment would serve the Town's interests, it may, by resolution, terminate any permission or authority to encroach provided that:
  - (1) 30 days notice shall be provided to the affected Permit Holder except in the event of imminent danger or harm in which event no notice is required; and
  - (2) the affected Permit Holder shall be given a rebate of the Permit fee, pro-rated to reflect the proportion of unexpired time for which the Permit would otherwise have remained in effect.

### **Sidewalk Cafes and Restaurants**

31. Council may enter into leases, containing such terms and conditions as it deems appropriate, for the seasonal or temporary use of a sidewalk or other suitable Town property as a sidewalk café or restaurant. Nothing in this section limits any other authority of Council or the Chief Administrative Officer to make leases of other Town property.

## Street Disturbance Permit

32. No person shall:
- (1) make any excavation in a street;
  - (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
  - (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 Engineer.
33. Every application for a Street Disturbance Permit shall include
- (1) a non-refundable fee of \$50.00 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 damaging Town infrastructure or property in, on or under a street.
  - (2) a non-refundable fee in the amount of \$100.00; and
  - (3) In addition to subsection 33 (2), where excavation or other activity is involved that may, in the opinion of the Engineer, cause damage to a street , a security deposit in the amount of \$1,000.00, or such other amount as may be determined by the Town Engineer.
34. The security deposit required under subsection (3) of section 33 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 Town property when such work is done, to a good condition to the satisfaction of the Engineer for a period of twelve months after the completion of the work.

35. If the Engineer is of the opinion that the surface of the street or other Town property is not restored and kept in good condition for the twelve month period, he may, upon advance notice to the Permit holder, perform such work in respect of the street as he considers necessary, in which case the deposit shall be forfeited. If the cost of such work exceeds the deposit, the Town 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-judgement interest as a first lien on the property for whose benefit the work was undertaken.
36. The Engineer may grant an Annual Street Disturbance Permit to a utility for the purpose of the installation of Utility facilities, including pavement patching related thereto which requires excavations in municipal streets, subject to such conditions as the Engineer may determine, and, without restricting the generality of the foregoing, any such permit shall require that the Engineer be informed of the location and time of each instance of street disturbance prior to its commencement.
37. An application for an Annual Street Disturbance Permit shall include
- (1) a non-refundable fee of \$500.00; and
  - (2) a security deposit in the amount of \$10,000.00, or such higher amount as determined by the Engineer, to be maintained in place for the duration of the permit.
38. Every Permit holder shall file in the office of the Engineer a notice of completion of work for all facilities constructed or repaired within a street within one week of the completion of the work.
39. Every excavation in a street shall, after notice, either written or verbal, given by the Engineer to the Permit holder, be closed and filled as required by the notice, and if it is not so closed and filled within 48 hours after such notice, then it may be closed and filled by the Town at the expense of the Permit holder.

40. 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.
41. Every person obtaining a Street Disturbance Permit to make any excavation or opening in any street shall
  - (1) sufficiently and continuously light the excavation at night;
  - (2) enclose and secure the excavation by a fence or barrier at least one meter in height; and
  - (3) comply with any standards relating to excavations in the *Occupational Health & Safety Act* or *Regulations* or any other applicable statutes or regulations.
42. 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:
  - (1) the Engineer may stipulate the hours of work;
  - (2) the Permit holder shall keep the work site safe at all times 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*;
  - (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 with such order within 24 hours, or immediately in the event of an emergency, the Town may undertake any necessary action at the expense of the Permit holder.

- (4) the Permit holder shall ensure that the street is kept free from nuisance, dirt, and dust;
- (5) the Permit holder shall dispose, 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 materials may, at the Engineer's discretion, remain Town property;
- (6) the Permit holder shall ensure that all excavations are backfilled and restored in such manner and with such material as 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;
- (7) the Permit holder shall comply and ensure compliance by any agents, contractors or employees, within
  - a. the Town's Policy on Driveway Access and Construction Standards in cases where the construction activity involves construction, repair or alteration of driveway access points into a street;
  - b. the Town's Policy on Utility Facilities Construction in cases where the construction activity involves construction, repair or alteration of Utility facilities;
  - c. the Town's Policy on Street and Sidewalk Construction Standards where the construction activity involves excavation or other penetration or damage to the surface or subsurface of a street;
  - d. Policies or Standards of the Town, from time to time, regarding design or construction standards applicable to Town infrastructure or property in, on, under or near a street.

- (8) the provision of an indemnity in favour of, and in form satisfactory to, the Town for the defence and indemnification of any claims arising out of or in relation to the proposed street disturbance activities;
  - (9) 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
  - (10) any other condition in respect of safety or preservation of Town property interests that the Engineer may impose.
43. 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.
44. The 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
- (1) the 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 Town's property;
  - (2) the 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;
  - (3) the 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 Town;
  - (4) this By-Law or the terms or conditions of a Permit have been contravened;  
or
  - (5) for any other reason in the public interest.

45. A person aggrieved by a decision of the Engineer pursuant to section 51 may appeal that decision to Council within 15 days of the decision by written notice of appeal to the Clerk.
46. After the hearing of an appeal, Council may confirm, rescind or vary the decision of the Engineer.

### **Driveway Access**

47. No person shall construct a driveway access to a street without first obtaining a Street Disturbance Permit from the Town Engineer.
48. Every application for a Street Disturbance Permit for a driveway access shall include fees and security deposit as per section 33 (1) to (3).
49. Every driveway within a street shall be constructed and maintained at the expense of the property owner and in conformance with the requirements as determined by the Engineer in accordance with good engineering practice.
50. Where a driveway access crosses an existing drainage ditch, the property owner shall install and maintain a culvert at the owner's expense and in conformance with the requirements as determined by the Town Engineer in accordance with good engineering practice.
51.
  - (1) All driveways shall meet minimum stopping sight distances requirements in conformance with requirements as determined by the Engineer in accordance with good engineering practice.
  - (2) Notwithstanding subsection (1) the Engineer may approve a driveway where there is no other means of access to the lot and the Engineer may issue the permit subject to special conditions.

### **Penalty**

52. Any person who contravenes any provision of this By-Law is punishable on summary conviction by a fine of not less than Five Hundred (\$500.00) dollars and not more than Ten thousand (\$10,000.00) dollars and to imprisonment of not more than 60 days in default of payment thereof.

53. Any person who contravenes any sections of this By-Law and who is given notice of the contravention may pay to the Town, at the place specified in the notice, the sum to two hundred fifteen (\$215.00) dollars, pursuant to Payment in Lieu of Prosecution Policy within 14 days of the date of the notice and shall thereby avoid prosecution for that contravention.
54. Each day of non-compliance is a separate offence.
55. By-Law No.8 Streets of January 20, 1998 is repealed.

AMENDED

Date of First Reading:	<u>February 8, 2001</u>
Date of Advertisement of Notice of Intent to Consider:	<u>February 23, 2001</u>
Date of Second Reading:	<u>Tabled, March 8, 2001</u>
Final Approval	<u>June 14, 2001</u>
Date of Publication	<u>June 22, 2001</u>
Date copied to SNSMR:	<u>June 22, 2001</u>

AMENDED

Date of First Reading:	<u>December 9, 2004</u>
Date of Advertisement of Notice of Intent to Consider:	<u>December 28, 2004</u>
Date of Second Reading:	<u>January 13, 2005</u>
Final Approval	<u>January 13, 2005</u>
Date of Publication	<u>January 25, 2005</u>
Date copied to SNSMR:	<u>January 27, 2005</u>

AMENDED

Date of First Reading:	<u>March 10, 2005</u>
Date of Advertisement of Notice of Intent to Consider:	<u>March 29, 2005</u>
Date of Second Reading:	<u>Tabled April 14, 2005</u>
Final Approval	<u>June 23, 2005</u>
Date of Publication	<u>August 30, 2005</u>
Date copied to SNSMR:	<u>September 15, 2005</u>

**Schedule “A”**

Municipal snow removal service shall be provided for all sidewalks within the Town of Yarmouth except those sidewalks bounded by the following streets:

Parade Street to Forest Street inclusive and;

Water Street to Main Street inclusive in the Downtown Business District.

Ice and snow control on those sidewalks identified above shall be in accordance with the Snow and Ice Control Policy of the Town of Yarmouth.

By-law adopted	<u>1988</u>
Amendment to Section 22(b)	<u>December 21, 1988</u>
Amendment to Section 24	<u>August 17, 1989</u>
Amendment to Section 24.1 & 24.2	<u>January 21, 1998</u>
1998 bylaw repealed; new bylaw adopted	<u>June 22, 2001</u>
Section 23(1) deleted	<u>December 3, 2002</u>
bylaw repealed and new bylaw adopted	<u>September 15, 2005</u>