



TOWN OF WINDSOR BYLAW # 10 STREETS AND SIDEWALKS BYLAW

Title

- 10.01** This Bylaw is entitled the “Town of Windsor Streets and Sidewalks Bylaw”.
- 10.02** This Bylaw applies only to streets, sidewalks and other property owned by the Town of Windsor and to activities or conditions affecting such Town of Windsor streets, sidewalks and property.

Definitions

- 10.03** In this Bylaw:
- (1) “abutter” means the owner, lessee or occupier of any premises or lot in the Town of Windsor which abuts a Town of Windsor 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) “crosswalk” means that portion of a Town of Windsor 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;
 - (3) “Engineer” means the Town of Windsor Engineer and includes a person acting under the supervision and direction of the Engineer;
 - (4) “Town of Windsor infrastructure” includes infrastructure that supports the provision of Town of Windsor 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 of Windsor signs;
 - (5) “Town of Windsor sewer or water system” means a sewer or water system owned and operated by the Town of Windsor or by a water utility owned by the Town of Windsor;
 - (6) “roadway” means that portion of a Town of Windsor street between the curb lines or the traveled portion of a street designed for vehicular traffic and, except where the context indicates otherwise, includes a crosswalk;

- (7) “sidewalk” means that portion of a Town of Windsor street between curb line and adjacent property line or any part of the street especially set aside for pedestrian travel and separated from the roadway;
- (8) “street” means a Town of Windsor 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 **from property line to property line**;
- (9) “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 Windsor;
- (10) “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

- 10.04** Irrespective of whether a sidewalk is periodically plowed and salt/sanded by the Town, when a sidewalk is slippery in the winter due to the presence of compressed snow or ice, the abutter shall apply sufficient sand, salt or other de-icing material to provide good traction for pedestrian traffic:
- (1) On any sidewalk which abuts any side of their property
 - (2) On any pathway leading from the sidewalk abutting their property to the roadway; and
 - (3) Between and sidewalk abutting their property and a crosswalk.
- 10.05** 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.
- 10.06** When an abutter fails to remove snow, ice or icicles from the sidewalks or structures as required by the Bylaw, 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 a notice.
- 10.07** If the remedial work ordered pursuant to 10.06 is not made within the time provided by the order, the Engineer may make or cause to be made such snow, ice or icicle removals.
- 10.08** The Town may recover the expense incurred in making snow, ice or icicle removals pursuant to section 10.07 together with costs and pre-judgement interest by action in any court of competent jurisdiction, or may charge and collect same as a first lien on the property.

10.09 Nothing in this Bylaw creates a duty upon the Town 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 Town that it is the express policy of the Town of Windsor:

- (1) Only to carry out inspections upon receiving a complaint about such conditions in respect to 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

10.10 Abutters shall maintain any grass between the curb or the edge of roadway 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:

- (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

10.11 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 traveling on the roadway up to a minimum height of 2.25 metres; or
- (3) from interfering with any structure on or in a street.

Nuisance

10.12 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.

Damage

10.13 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 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.

10.14

No person shall

- (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
- (2) otherwise cause or permit any visible damage or disturbance to the surface of a sidewalk

except as authorized by a Street Disturbance Permit.

10.15

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

10.16

No person shall construct or permit to be used any gate or barriers that open in to or encroach upon any portion of the street or that may in any way impede pedestrian or vehicular traffic, except as authorized by a Street Disturbance Permit.

Sidewalk Signage

10.17

Subject to the restrictions contained in the Town of Windsor Land Use Bylaw, sandwich boards or temporary or mobile signs may be placed on a sidewalk by an abutter lawfully operating a commercial enterprise or by a vendor authorized to carry on vending pursuant to the Vending Bylaw, provided that the owner has obtained a Sidewalk Signage Permit and provided that such signage:

- (1) shall not be placed or left on the sidewalk when the associated commercial enterprise is not open to the public;
- (2) shall not be placed or left on the sidewalk when there is snow or ice on the sidewalk;
- (3) shall not be placed or left on the sidewalk so as to obstruct the traffic of pedestrians, or wheelchairs, and without limiting the generality of the foregoing, shall only be placed in a manner that leaves a minimum width of 1 metre of sidewalk unobstructed between the curb and the signage or between the signage and the nearest building or other obstruction to the interior of the sidewalk; and
- (4) shall contain a maximum signage face area of 1 square metre.

10.18

A Sidewalk Signage Permit shall be obtained from the Development Officer upon

- (1) payment of a permit fee of Fifteen dollars (\$15.00);
- (2) submission of an application in writing, in duplicate, on such form as may be specified by the Development Officer from time to time, and signed by the person applying therefore;

- (3) the provision of an indemnity in favour of, and in form satisfactory to, the Town of Windsor for the defence and indemnification of any claims arising out of or in relation to the signage.

Awnings and Signs Encroaching on Airspace

10.19 No person shall cause or permit a sign, awning or other structure to encroach upon the air space above a street or sidewalk or other municipally owned property except pursuant to an Airspace Encroachment Permit.

10.20 Application for an Airspace Encroachment Permit shall be made to the Development Officer and the Development Officer may issue such permit upon

- (1) payment of a permit fee of \$15.00;
- (2) submission of an application in writing, in duplicate, on such form as may be specified by the Development Officer from time to time, and signed by the person applying therefore;
- (3) determination by the Development Officer that the encroachment is for a proposed sign or awning which complies with the Land Use Bylaw;
- (4) determination by the Building Inspector that the proposed sign or awning complies with the *Building Code Act* and *Regulations* and the Building Bylaw;
- (5) determination by the Traffic Authority that the proposed sign or awning is not a traffic hazard, having regard to sight lines or otherwise and, in any event, the proposed sign or awning must have a minimum clearance above the sidewalk of 3 metres and must not project beyond the sidewalk into the air space above the roadway;
- (6) provision of an indemnity in favour of, and in form satisfactory to, the Town of Windsor for the defence and indemnification of any claims arising out of or in relation to the sign or awning; and
- (7) provision of an acknowledgment that the permission of the Town of Windsor to encroach may be withdrawn without payment of any compensation.

Other Encroachments

10.21 When any part of a street or other Town of Windsor property has been built upon, other than pursuant to an Airspace Encroachment Permit, the encroachment may be authorized to continue upon obtaining an Encroachment Permit.

10.22 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 \$50.00;
- (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 of Windsor for the defence and indemnification of any claims arising out of or in relation to the encroaching structure; and
- (7) provision of an acknowledgment that the permission of the Town of Windsor to encroach may be withdrawn without payment of any compensation.

10.23 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.

10.24 Notwithstanding sections 10.21 to 10.23, 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.

10.25 Sections 10.21 to 10.24 do not apply to utility facilities.

Provisions Applicable to Various Permits

10.26 Sections 10.25 to 10.32 apply to Sidewalk Signage Permits, Airspace Encroachment Permits and Encroachment Permits.

10.27 Such Permits shall remain in effect for a period of three years from the date of issuance, and applications for a renewal shall be made at least one month before the renewal date, on such form as may be specified by the Development Officer or Engineer, as the case may be, from time to time, accompanied by the permit fee.

10.28 In the event of a change in ownership of the business for which the Permit has been issued, the new owner shall notify the Development Officer or Engineer, as the case may be, 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.

10.29 The Development Officer or Engineer, as the case may be, may refuse to issue or renew, or may revoke or suspend a Permit for breach of this Bylaw 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 of record of the Applicant or Permit holder.

10.30 A person aggrieved by a decision pursuant to section 10.28 of the Development Officer or Engineer, as the case may be, may appeal that decision to Council within 15 days from the date of mailing of the decision to the owner's address of record, by written notice of appeal to the Clerk.

10.31 After the hearing of an appeal, Council may confirm, rescind or vary the decision of the Development Officer or Engineer, as the case may be.

10.32 Notwithstanding the issuance of a Permit, if Council is at any time of the opinion that terminating an encroachment would serve the Town of Windsor's interests, it may, by resolution, terminate any permission or authority to encroach provided that:

- (1) 60 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, prorated to reflect the proportion of unexpired time for which the Permit would otherwise have remained in effect.

Sidewalk Cafés and Restaurants

10.33 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 of Windsor 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 of Windsor property.

Controlled Access Streets

10.34 The streets or portions of streets identified in ****Schedule "B"** to this Bylaw are hereby designated as "controlled access" streets.

Street Disturbance Permit

10.35 No person shall:

- (1) make any excavation in a street **right of way**;
- (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.

10.36 Every application for a Street Disturbance Permit shall include:

- (1) a non-refundable fee of \$10.00 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 to Town of Windsor infrastructure or property in, on or under a street;
- (2) a non-refundable fee in the amount of \$100.00 in all other cases; and
- (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 of \$1,000.00.

10.37 The security deposit required under subsection (3) of section 10.36 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 of Windsor 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.

- 10.38** If the Engineer is of the opinion that the surface of the street or other Town of Windsor 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 Town of Windsor 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.
- 10.39** 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 require 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.
- 10.40** 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 to be maintained in place for the duration of the permit.
- 10.41** The provisions of sections 10.37 and 10.38 shall apply, with any necessary changes for context, to the annual security deposit pursuant to subsection (2) of section 10.40 and the balance of the security deposit shall be returnable upon expiration of the permit.
- 10.42** 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.
- 10.43** Every excavation in a street shall, after notice, either written or verbal, given by 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 of Windsor at the expense of the Permit holder.
- 10.44** 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.
- 10.45** 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.

10.46

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 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*;
- (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 Town of Windsor 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 material may, at the Engineer's discretion, remain Town of Windsor property;
- (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;
- (7) the Permit holder shall comply and ensure compliance by any agents, contractors or employees, with
 - (a) the Municipality'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 Municipality's Policy on Utility Facilities Construction in cases where the construction activity involves construction, repair or alteration of Utility Facilities;
 - (c) the Municipality'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) and any other Policies or Standards of the Town of Windsor, from time to time, regarding design or construction standards applicable

to Town of Windsor 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 of Windsor 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 six months from date of issuance, but where work has commenced the permit shall expire twelve months after the date of issuance; and
- (10) any other condition in respect of safety or preservation of Town of Windsor property interests that the Engineer may impose.

10.47 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.

10.48 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 of Windsor'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 of Windsor;
- (4) this Bylaw or the terms or conditions of a Permit have been contravened; or
- (5) for any other reason in the public interest.

10.49 A person aggrieved by a decision of the Engineer pursuant to section 10.48 may appeal that decision to Council within fifteen days of the decision by written notice of appeal to the Clerk.

10.50 After the hearing of an appeal, Council may confirm, rescind or vary the decision of the Engineer.

Penalty

10.51 Any person who contravenes any provision of this Bylaw is punishable on summary conviction by a fine of not less than **\$100.00** and not more than **\$5,000.00** and to imprisonment of not more than **ninety days** in default of payment thereof.

10.52 Any person who contravenes sections 10.06, 10.10, 10.11, and 10.12 of this Bylaw and who is given notice of the contravention may pay to the Town of Windsor, at the place specified in the notice, the sum of **\$100.00** within 14 days of the date of the notice and shall thereby avoid prosecution for that contravention.

10.53 Sections 10.01 – 10.11 of the Streets Bylaw as contained in the Town of Windsor Consolidated Bylaws are hereby repealed.

Schedule “B”

CONTROLLED ACCESS STREETS

Controlled Access Streets shall be considered to be any streets that are part of the Nova Scotia Department of Transportation 100 Series Highway System or any street or portion of street that is added to this schedule by resolution of Council.