

**Town of Yarmouth
STREETS & SIDEWALKS BYLAW**

Bylaw Name: Streets & Sidewalks Bylaw	
Bylaw No.: TOY 8	
Effective Date: 1988	Amended Date: October 15th, 2018

1.0 This Bylaw is entitled the “Streets and Sidewalks Bylaw”.

2.0 This Bylaw 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.

3.0 Definitions

In this Bylaw:

- a. “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;
- b. “Building Inspector” means a building inspector as defined in the Building Code Act and appointed for the Town of Yarmouth;
- c. “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;
- d. “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;
- e. “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;
- f. “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;
- g. “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;

- h. “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;
- i. “Sidewalk Café” means a group of tables and chairs and other accessories situated and maintained upon a public sidewalk or pedestrian mail, that may be for the use and consumption of food and beverages sold to the public, from or in, the adjoining indoor commercial establishment;
- j. “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;
- k. “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;
- l. “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.
- m. “Town” means the Town of Yarmouth.
- n. “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.

4.0 Removal of Ice and Snow from Sidewalks

Except where municipal snow removal service is provided as identified in Schedule “A” of this bylaw, abutters shall remove all snow and ice;

- a. from any sidewalk which abuts any side of their property;
- b. from any pathway leading from a sidewalk abutting their property to the roadway; and
- c. between any sidewalk abutting their property and a crosswalk.

4.1 The removal of snow and ice required by the immediately preceding section of this Bylaw shall be such as to leave an area entirely cleared of snow and ice of not lesser width than either;

- a. 1.2 meters; or
- b. the full width of the sidewalk.

4.2 The removal of snow required pursuant to section 4 following a snowfall shall be completed:

- a. when a snowfall ceases during daylight hours and at least 4 hours in advance of sunset, within 4 hours after the snow stops falling;
- b. at other times, within 4 hours after sunrise on the following day.

- 4.3** Subject to section 4.0, 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.
- 4.4** 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.
- 4.5** When an abutter fails to remove snow, ice or icicles from overhanging structures as required by this 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 notice.
- 4.6** If the remedial work ordered pursuant to section 4.5 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.
- 4.7** The Town may recover the expense incurred in making snow, ice or icicle removals pursuant to section 4.6, 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.
- 4.8** Nothing in this Bylaw 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:
- a. only to carry out inspections upon receiving a complaint about such conditions in respect of a specific location; and
 - b. 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.

5.0 Vegetation in Street Right-of-Way

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;

- a. clipping, cutting, or mowing the grass to a height of not greater than 8 cm;
- b. raking and renewing grass as necessary in order to maintain a neat and tidy appearance; and
- c. collecting and removing litter or waste.

6.0 Encroaching Vegetation

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:

- a. from interfering with pedestrian traffic on a sidewalk;
- b. 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 meters; or
- c. from interfering with any structure on or in a street.

7.0 General

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.

7.01 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.

7.02 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, catch basin or other components of a storm drainage system, or cover a fire hydrant.

7.03 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.

7.04 No person shall use any barbed wire for a fence along any street.

7.05 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.

7.06 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.

7.07 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.

7.08 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.

7.09 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.

- a. 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.
- b. The Traffic Authority may impose any conditions he deems are reasonable to the granting of the permission herein.

7.10 In this section

- a. "sidewalk" means any public path, land, walkway, or other area designated for pedestrian travel or use;
- b. "skateboard" means a board constructed of any material mounted on wheels on which a person may be transported;
- 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.

It shall be an offence for any person to use or operate a skateboard, roller blades or roller skates on any sidewalk.

8.0 Damage

No person shall

- a. 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
- b. otherwise cause or permit any visible damage or disturbance to the surface of a sidewalk except as authorized by a Street Disturbance Permit.

8.1 No person shall

- a. 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
- b. otherwise cause or permit any visible damage or disturbance to the surface of a roadway except as authorized by a Street Disturbance Permit.

8.2 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.

9.0 Gates

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.

10.0 Other Encroachments

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.

10.01 Application for an Encroachment Permit shall be made to the Engineer and the Engineer may issue such permit upon;

- a. determination by the Engineer that the encroachment was made in error;
- b. payment of a permit fee of Five hundred (\$500.00) dollars;
- c. 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;
- d. determination by the Engineer that the encroachment does not significantly impede pedestrian or wheelchair traffic on a sidewalk or vehicular traffic on a roadway;
- e. determination by the Traffic Authority that the encroachment does not pose a traffic hazard having regard to sight lines or otherwise;
- f. provision of an indemnity in favour of, and in form satisfactory to, the Town for the defense and indemnification of any claims arising out of or in relation to the encroaching structure; and
- g. provision of an acknowledgement that the permission of the Town to encroach may be withdrawn without payment of any compensation.

10.02 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.

10.03 Notwithstanding Sections 10.0-10.2 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.

10.04 Sections 10.0 to 10.3 do not apply to utility facilities.

10.05 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.

- 10.06** 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.
- 10.07** The Engineer may refuse to issue or renew, or may revoke or suspend an Encroachment 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 on record of the Applicant or Permit holder.
- 10.08** A person aggrieved by a decision pursuant to section 12.0 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.
- 10.09** After hearing an appeal, Council may confirm, rescind or vary the decision of the Engineer.
- 10.10** 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:
- a. 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
 - b. 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.

11.0 Sidewalk Cafés and Restaurants

No abutter shall establish a sidewalk café unless a permit has been granted by the Town Engineer of the Town of Yarmouth, who may impose such terms and conditions deemed necessary to conform to the requirements contained in this section.

- a. Should an application be declined, the applicant may appeal in writing, with reasons, to Council for consideration of that decision. Council shall deliver a written decision, within sixty (60) days of receipt of the appeal letter.
- b. Where the permit holder fails to conform to the terms of approval, the Town may order that the sidewalk café be removed from the public sidewalk on which it is located. If the permit holder fails to comply with such an order within twenty four (24hrs) hours notification, the Town may take such action needed to have the sidewalk café removed at the permit holder's expense.
- c. The permit holder shall carry a minimum of \$2,000,000 liability insurance for the operation of the sidewalk café and the sidewalk area naming the Town as insured and must indemnify the Town and save it harmless from any and all aims of injury to persons, damage to property, or, any damage to any vehicles, attributable, in whole, or

in part, to the existence, location and operation of the sidewalk café, including the sidewalk area.

11.01 Requirements

The operation of the sidewalk café shall be seasonal from May 15th until October 15th, unless otherwise approved, and shall be completely removed outside of the approved season.

11.02 A sidewalk café shall be operated for no longer than the operating hours of the principal use to which it is an accessory, and in any event, must be closed not later than 2:00 am of any given day.

11.03 Once the sidewalk café is removed for the season, the street, sidewalk and municipal property shall be restored to its original condition.

11.04 The sidewalk café shall be constructed to the following requirements:

- a. The café shall not extend onto the frontage of an abutting property unless written permission is obtained from the abutting property owners;
- b. All objects shall be contained within the area approved for the sidewalk café with the exception of temporary signs which may be placed outside of the area but immediately abutting the café;
- c. Lighting shall be temporary in nature and shall not project light onto adjacent properties, no conflict with traffic flow;
- d. Landscaping shall be temporary, unless otherwise approved. Plant material shall be contained within the designated sidewalk care area or otherwise be immediately abutting;
- e. All umbrellas shall be located entirely within the approved sidewalk café area and shall not extend beyond the extremities of the designated sidewalk café area;
- f. The elements of the sidewalk café, including temporary sidewalks, landscaping, fencing and furnishings, shall be designed and finished to a standard that is consistent with the appearance of the existing streetscapes and buildings.

11.05 The commercial establishment shall be responsible to maintain the sidewalk café area, and the immediately adjacent area, in a clean and safe condition at all times.

11.06 The commercial establishment shall ensure any refuse originating from the sidewalk café use is removed from the street right-of-way.

11.07 A minimum access width of 106 cm (41 in) of unobstructed walkway shall be maintained to the entrance of any buildings.

11.08 Utility Access

The Town and Public Utility agencies retain the right of entry to the sidewalk café area and the sidewalk for the installation, maintenance, and repair of pipes, cables, wires, poles, hydrants, and other elements as necessary.

11.09 In case of emergency, entry shall be made without notice. For scheduled work, a minimum notice of 24 hours will be given.

11.10 When access is required by the Town or a Public Utility for necessary purposes, the sidewalk café will be removed entirely by the commercial establishment and reinstalled after the work has been carried out at the expense of the permit holder.

11.11 Emergency Access

The Town retains the right of entry to the sidewalk café and sidewalk area for emergency vehicle access.

11.12 Temporary Sidewalks

Where the sidewalk café encroaches on the free flow of pedestrian traffic, preventing a 2.1m (7ft) wide unobstructed walkway, the operator shall provide a temporary sidewalk adjacent to the sidewalk café. The temporary sidewalk shall be constructed to the following requirements:

- a. Shall provide a minimum of at least 2.1m (7ft) wide sidewalk travelling surface around the sidewalk café. The Town Engineer may consider a reduction of that reservation where the design of the café leaves sufficient clear space for the safe movement of pedestrians, but in no case shall the sidewalk width be less than 1.5m (5.0ft);
- b. Shall ensure that the sidewalk travelling area is separated from the designated sidewalk café dining area by fence, planters or other design features;
- c. Shall install a fence or barrier along the street side to delineate the edge of the structure and to prevent clients or pedestrians from entering the street from the sidewalk affect. Fencing shall conform with the following requirements:
 - i. Fencing shall not exceed 122 cm (48 in) in height or be less than 107 cm (42 in);
 - ii. Fencing shall provide partial visual screen but shall not be opaque.

11.13 Signs

Any permitted signs in the Downtown Commercial Sign Provisions Table in part 6 Signs of the Town Land Use Bylaw may be devoted to the sidewalk café use.

11.14 Minor Sidewalk Cafés

Notwithstanding sections 1.0-10.0 of this policy, sidewalk cafes that consist solely of outside furniture which is removed after operating hours of the principal use, does not prevent

pedestrians from passing by, and contains less than three (3) tables and six (6) seats, shall be considered a minor sidewalk café and shall not be required to obtain a permit.

11.15 The Owner of a minor sidewalk café shall sign an indemnity in favour of and in form satisfactory to the Town for the defense and indemnification of any claims arising out of or in relation to the minor sidewalk café.

11.16 Notwithstanding section 10.01 of this policy, minor sidewalk cafes shall be accessory to a food establishment. Should a minor sidewalk café be accessory to a non food establishment, the sidewalk café shall be considered major and be required to obtain a permit.

12.0 Street Disturbance Permit

No person shall:

- a. make any excavation in a street;
- b. 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
- c. 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.

12.01 Every application for a Street Disturbance Permit shall include:

- a. 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.
- b. a non-refundable fee in the amount of \$100.00; and
- c. in addition to subsection 12.01 (b), 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.

12.02 The security deposit required under subsection (c) of section 12.01 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.

12.03 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.

- 12.04** 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.
- 12.05** An application for an Annual Street Disturbance Permit shall include:
- a. a non-refundable fee of \$500.00; and
 - b. 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.
- 12.06** 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.
- 12.07** 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.
- 12.08** 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.
- 12.09** Every person obtaining a Street Disturbance Permit to make any excavation or opening in any street shall:
- a. sufficiently and continuously light the excavation at night;
 - b. enclose and secure the excavation by a fence or barrier at least one meter in height; and
 - c. comply with any standards relating to excavations in the Occupational Health & Safety Act or Regulations or any other applicable statutes or regulations.
- 12.10** 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:
- a. the Engineer may stipulate the hours of work;
 - b. 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;

- c. 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;
- d. the Permit holder shall ensure that the street is kept free from nuisance, dirt, and dust;
- e. 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;
- f. 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;
- g. the Permit holder shall comply and ensure compliance by any agents, contractors or employees, within
 - i. 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;
 - ii. the Town's Policy on Utility Facilities Construction in cases where the construction activity involves construction, repair or alteration of Utility facilities;
 - iii. 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;
 - iv. 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.
 - v. the provision of an indemnity in favour of, and in form satisfactory to, the Town for the defense and indemnification of any claims arising out of or in relation to the proposed street disturbance activities;
 - vi. 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
 - vii. any other condition in respect of safety or preservation of Town property interests that the Engineer may impose.

12.11 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:

- a. the Engineer may stipulate the hours of work;
- b. 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*;

- c. 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.
- d. the Permit holder shall ensure that the street is kept free from nuisance, dirt, and dust;
- e. 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;
- f. 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;
- g. the Permit holder shall comply and ensure compliance by any agents, contractors or employees, within
 - i. 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;
 - ii. the Town's Policy on Utility Facilities Construction in cases where the construction activity involves construction, repair or alteration of Utility facilities;
 - iii. 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;
 - iv. 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.
 - v. the provision of an indemnity in favour of, and in form satisfactory to, the Town for the defense and indemnification of any claims arising out of or in relation to the proposed street disturbance activities;
 - vi. 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
 - vii. any other condition in respect of safety or preservation of Town property interests that the Engineer may impose.

12.12 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.

12.13 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

- a. 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;
- b. 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;
- c. 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;
- d. this Bylaw or the terms or conditions of a Permit have been contravened; or
- e. for any other reason in the public interest.

12.14 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.

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

13.0 Driveway Access

No person shall construct a driveway access to a street without first obtaining a Street Disturbance Permit from the Town Engineer.

13.1 Every application for a Street Disturbance Permit for a driveway access shall include fees and security deposit as per section 12.01 (a) to (c).

13.2 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.

13.3 After installation of a culvert, the property owner shall maintain the culvert in good repair. Any damage to the culvert caused by the property owner shall be repaired forthwith by the property owner. In the event the property owner fails to repair the culvert in a reasonable period of time, The Town Engineer may direct that a culvert be repaired or replaced and should the property owner fail to do so, the Town shall carry out the work to repair or replace the culvert and add the cost of such repairs or replacement to the property taxes for the property owner.

13.4 The Town shall have the right to repair or replace any culvert if determined necessary by the Town Engineer, which repair or replacement shall be at the expense of the Town without any charge to the property owner.

13.5 All driveways shall meet minimum stopping sight distances requirements in conformance with requirements as determined by the Engineer in accordance with good engineering practice.

13.6 Notwithstanding section 13.5 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.

14.0 Penalty

Any person who contravenes any provision of this Bylaw 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.

14.1 Any person who contravenes any sections of this Bylaw 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.

14.2 Each day of non-compliance is a separate offence.

14.3 Bylaw No.8 Streets of January 20, 1998 is repealed.

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:

- a. Parade Street to Forest Street inclusive; and
- b. 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.

Clerk's Annotation for Official Bylaw Book	
Date of Adoption: 1988	
Date of Approval of Amended Bylaw: December 21 st , 1988 (Section 22(b))	
Date of Approval of Amended Bylaw: August 17 th , 1989 (Section 24)	
Date of Approval of Amended Bylaw: January 21 st , 1998 (Section 24.1 & 24.2)	
Bylaw Repealed & New Bylaw Adopted: June 22 nd , 2001	
Date of Approval of Amended Bylaw: December 3 rd , 2002 (Section 23(1) deleted)	
Bylaw Repealed & New Bylaw Adopted: September 15 th , 2005	
Date of Approval of Amended Bylaw: September 15 th , 2016 (Section 3(i) & 11)	
Date of Approval of Amended Bylaw: October 11 th , 2018 (Section 13.3 & 13.4)	
I certify that this 'Streets and Sidewalks Bylaw' was adopted by Council as indicated above.	
Town Clerk:	Date:

Amended

Date of First Reading	February 8 th , 2001
Date of Ad of Notice of Intent to Consider	February 23 rd , 2001
Date of Second Reading	Tabled, March 8 th , 2001
Final Approval	June 14 th , 2001
Date of Publication	June 22 nd , 2001
Date copied to SNSMR	June 22 nd , 2001

Amended

Date of First Reading	December 9 th , 2004
Date of Ad of Notice of Intent to Consider	December 28 th , 2004
Date of Second Reading	January 13 th , 2005
Final Approval	January 13 th , 2005
Date of Publication	January 25 th , 2005
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Amended

Date of First Reading	March 10 th , 2005
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Amended

Date of First Reading	August 16 th , 2016
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Date of Second Reading	September 15 th , 2016
Final Approval	September 15 th , 2016
Date of Publication	September 27 th , 2016

Amended

Date of First Reading	September 13 th , 2018
Date of Ad of Notice of Intent to Consider	Sept 24 th , Oct 1 st , 2018
Date of Second Reading	October 11 th , 2018
Final Approval	October 11 th , 2018
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