

TOWN OF MAHONE BAY
STREETS AND SIDEWALKS BYLAW
By-law #41

Title

1. This Bylaw is entitled the “Town Streets and Sidewalks Bylaw”. This Bylaw applies only to streets, sidewalks and other property owned by the Town and to activities or conditions affecting such Town streets, sidewalks and property. It is intended to be applied together with the Town’s Land Use Bylaw.

Definitions

2. In this Bylaw:
 - (1) “abutter” means the owner, lessee or occupier of any premises or lot in the Town which abuts a Town 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 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) “Director” means the Director of Operations and includes a person acting under the supervision and direction of the Director;
 - (4) “Development Officer” means the Development Officer for the Town of Mahone Bay;
 - (6) “roadway” means that portion of a Town 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 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;
 - (8) “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;

- (9) “Town” means the Town of MAHONE BAY;
- (10) “Town infrastructure” includes infrastructure that supports the provision of Town 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;
- (11) “Town sewer or water system” means a sewer or water system owned and operated by the Town or by a water utility owned by the Town;
- (12) “Traffic Authority” means the Traffic Authority for the Town of Mahone Bay;
- (13) “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;
- (14) “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.

CUTS AND EXCAVATIONS

- 3. (1) No person shall install a culvert in any street right of way or cut into or excavate any part of a sidewalk, curb or street within the Town without first applying to the Town Council for permission to do so and thereafter obtaining permission by way of a Street Excavation Permit;
- (2) The Director shall be responsible for supplying application forms for Street Excavation Permits and for authorizing Street Execution Permits, on behalf of the Town;
- (3) The Director shall, when considering an application for a Street Excavation Permit, take in relation to the application, as to:
 - {a} points of access; or
 - {b} time periods for work to be completed; or

{c} any other conditions to be attached to the Permit so long as such conditions relate to the security of the public;

(4) The fee for a Street Excavation Permit shall be Three Hundred Dollars (\$300.00).

SECURITY

4. (1) Every applicant for a Street Excavation Permit may be required, as part of the application, deposit with the Director a bond in an amount equal to the approximate value of the work to be accomplished, which approximation is to be made by the Director. Such bond is to be returned to the applicant once the works are completed in the opinion of the Director;
 - (2) Notwithstanding the above, a certified cheque, letter of credit or other security acceptable to the Director may accompany the application in place of the bond;
 - (3) The Director may call upon the bond, or other security, in order to acquire funds to make any such repairs he deems necessary if the applicant does not complete the works properly. However, before so doing, the Director shall notify the applicant of his intention, and the reasons for so doing, by certified mail and give the applicant 14 days within which to accomplish all of which is felt by the Director to be necessary and as outlined in the Notice to the applicant;
5. Every applicant carrying out work pursuant to a Street Excavation Permit shall be responsible for maintaining his or her own liability insurance coverage and shall be responsible for providing adequate barriers and lighting so as to give clear notice to the traveling public of such excavation and so as to do whatever is necessary to attempt to avoid accidents occurring there from.

TEMPORARY CLOSING OF STREETS

6. The Director or the Traffic Authority may temporarily close any street or part thereof while any work is being done thereon or when, for other reasons, it deems it advisable to do so.
7. No person shall travel on any portion of a street which has been temporarily closed as a result of a decision by the Director or the Traffic Authority.

MOVING BUILDINGS BOATS & LARGE EQUIPMENT ON STREETS

8. (1) No person shall move a building, or a boat or large pieces of equipment that are wider than a single lane of traffic over or along a public street in the Town without first applying to the Traffic Authority for permission to do so and thereafter

obtaining permission by way of a Street Transport Permit;

- (2) The Traffic Authority shall be responsible for supplying application forms for the Street Transport Permits and for signing Street Transport Permits, on behalf of the Town;
- (3) The fee for a Street Transport Permit shall be Fifty Dollars (\$50.00).

REMOVAL OF SNOW

9. (1) The Town shall provide snow and ice removal from streets and sidewalks wherever possible depending on resources available. The priority areas for sidewalk plowing are identified in Schedule "A" of this bylaw.

(2) Property owners abutting sidewalks not plowed, sanded or salted by the Town may remove snow and ice on the sidewalk abutting their property provided such removal is done in a safe manner maintaining a standard to not provide a hazard to public safety.
10. 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 meter; or
 - (2) The full width of the sidewalk.
11. 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.
12. When an abutter fails to remove snow, ice or icicles from sidewalks or structures as Required by this By-Law, the Director may give to the abutter an order to remove the

Snow and ice within 24 hours of service of such notice.

13. If the remedial work ordered pursuant to section **11** is not made within the time Provided for by the order, the Director may make or cause to be made such snow, ice or icicle removals.
14. The **Town** may recover the expense incurred in making snow, ice or icicle removals pursuant to section **12**, 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.
15. Nothing in this By-Law 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**:
 - (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.

EXISTING ENCROACHMENTS

16. In accordance with Subsection 304(4) of the *Municipal Government Act*, possession, occupation, use or obstruction of a street, or a part of a street, does not give and never has given any estate, right or title to the street.
17. The Council may, by policy, acknowledge the existence of individual and specific encroachments by buildings made before 1 April 2006 upon public streets.
18. Where an existing structure encroaches upon a public street, the encroachment may not be rebuilt or repaired if destroyed or damaged by fire or otherwise to the extent of more than sixty per cent, removed, or demolished.

PERMITS

19. No person shall erect or place any structure under, on or over any street unless a Street Use Permit has been issued therefor by the Director of Operations, the permit number is displayed upon the structure, and the permit is in force.
20. Every Street Use Permit issued under this By-law shall automatically lapse and become null and void on the thirty-first day of March of the year in which it is issued.
21. When so requested by the owner of the permit, the Director of Operations may make minor

amendments to or may re-issue a Street Use Permit which has not lapsed by making an appropriate notation thereon provided that the amended or re-issued permit conforms with the requirements of this By-law in effect on the date of the minor amendment or re-issuance.

22. The Director of Operations may revoke any Street Use Permit issued under this By-law where:
 - 1) The requirements of the permit are not met; or
 - 2) the issuance of the permit was based on incorrect information; or
 - 3) the permit was issued in error.

23. Every application for a Street Use Permit shall be in the form prescribed by Council and shall be accompanied by:
 - 1) a plan drawn to an appropriate scale and showing the nature and extent of the proposed use;
 - 2) proof of adequate public liability insurance for the proposed use of the street
 - 3) the application fee prescribed by Council from time to time by policy

24. Where the Director of Operations is unable to determine the location of the street boundary in relation to an application for a Street Use Permit, the Director of Operations may require that the plans submitted under Section 23 be based upon a current survey by a Nova Scotia Land Surveyor.

25. Where the Director of Operations is satisfied that the proposed use of the street conforms with the requirements of this by-law and will not interfere with the public use of street, including traffic and pedestrian safety, snowplowing, and other street maintenance activities, the Director of Operations may issue a Street Use Permit for:
 - 1) steps and wheelchair ramps satisfying the requirements of the National Building Code
 - 2) seasonal sidewalk cafes and restaurant seating
 - 3) construction barricades, which permits may be set to expire before 31 March
 - 4) overhanging awnings and signs subject to the requirements of Sections 27, 28 and 29.
 - 5) planters and benches.

Awnings and Overhanging Signs

26. Where the Development Officer has issued a Development Permit under the terms of the Land Use By-law for an awning or a sign which overhangs the street, the Director of Operations may waive the requirement for a Street Use Permit under Section 19 of this By-law.
27. Where the Director of Operations has issued a Street Use Permit therefor, no awning or sign may overhang the street at a height less than 8 feet above the sidewalk or shoulder of the street and 14 feet above the traveled way.
28. No flag, no banner, no plant pot and no other thing shall overhang the public street at a height less than 8 feet above the sidewalk or shoulder of the road, or a height less than 14 feet above the traveled way.
29. Council may enter into agreements with utility companies for use of any public street for the purposes of supplying water, electricity, gas, or communications services, without regard to the provisions of Sections 15 to 28 of this By-law.

TEMPORARY ENCROACHMENTS

30. (1) When any part of a street or sidewalk is encroached upon, all persons involved with the encroachment shall be required to adhere to all federal, provincial and municipal rules and regulations which govern health and safety.
(2) The Director of Operations may suspend the use of any sidewalk or street if the Director deems the encroachment unsafe to the general public.

VEGETATION IN STREET RIGHT-OF-WAY

31. Except in areas designated by Council resolution as exempt from this requirement, abutters shall maintain any grass between the curb and a sidewalk abutting their property, and/or between the curb and their abutting property including:
 - clipping, cutting or mowing the grass to a height of not greater than 8 cm;
 - raking and renewing grass as necessary in order to maintain a neat and tidy appearance; and
 - collecting and removing litter or waste.

ENCROACHING VEGETATION

32 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:

- from interfering with pedestrian or vehicular traffic on a sidewalk or street;
- from interfering with or affecting the sight lines of any person on a bicycle or in a motor vehicle traveling on the roadway, from the ground up to a minimum height of 2.25 meters; or
- from interfering with any structure on or in a street.

PENALTIES

33 Any person who contravenes any provision of this Bylaw is punishable on summary conviction by a fine of not less than \$250 and not more than \$1,000.

34 Any person who contravenes any provision of this Bylaw and who is given notice of the contravention may pay to the Town, at the place specified in the notice, 50% of the minimum fine specified in this Bylaw pursuant to the Town’s Payment in Lieu of Prosecution Policy within 14 days of the date of the notice and shall there by avoid prosecution for that contravention.

REPEAL

35 All previous Streets and Sidewalk Bylaws of the Town, and any amendments thereto, are hereby repealed.

EFFECTIVE DATE

36 This Bylaw shall be effective on the date of publishing.

C Joe Feeney, Mayor

James A Wentzell, CAO

This is to certify that the foregoing is a true copy of a bylaw passed at a duly convened meeting of the Council of the Town of MAHONE BAY, held the 3rd day of June 2008..

Given under the hand of the Mayor and Chief Administrative Officer and the seal of the Town of MAHONE BAY this 24th day of June 2008

Schedule A

Town Sidewalk Classification (Priority Order)

1. Main Street:
Corner of Pleasant to Clearway (clear both sides of street excluding section located between entrance/exit of 543 Main St. {i.e. Save Easy Store})
2. Clearway Street:
Corner of Main along Clearway to property line with Bayview School (excludes section of sidewalk located on west side of Clearway St.)
3. Main Street:
Corner of Clearway to Freeman Veinot Road
4. Main Street:
Corner of Pleasant to 804 Main St
5. Pleasant Street:
Corner of Main to Spruce St.
6. Fairmont Street:
Corner of Main to Pleasant St.
7. Fairmont Street:
Corner of Pleasant to Pine Grove St. (alternates sides of street @ Maple St.)
8. Maple Street:
Corner of Fairmont to School St.
9. School Street:
Corner of Pond to Pleasant St.
10. Edgewater Street/Old Edgewater Street:
Corner of Main to 121 Old Edgewater St. (clear sidewalk sections located on both sides of street excluding section located in front of 33 Edgewater St.)
11. Clairmont Street:
Corner of Main to 89 Clairmont St.

Schedule B

**TOWN OF MAHONE BAY
STREETS & SIDEWALKS BYLAW
PERMIT FEES**

Note: All permits expire on March 31st of each year or on date specified in the permit.
Fees are not prorated throughout the year.

Street Transport Permit	\$ 50
Street Use Permit – Contractor Vehicles /Equipment	\$ 7.50 day per parking space
Street Use Permit- Removable Steps & Wheel chair Ramps	\$ 75/year
Street Use Permit -Sidewalk Cafes	\$ 20/table per month
Street Use Permit – Portable Signs/Banners (Non Profit)	\$0
Street Use Permit – OPUS Sign (Specific Businesses)	\$20 per business per year
Street USE Permit – Portable Planters/Benches	\$10 per planter/bench per year

Clerk’s Notation

FIRST READING:	April 24, 2008
“NOTICE OF INTENT” PUBLICATION:	May 20, 2008
SECOND READING:	June 03, 2008
MINISTERIAL APPROVAL:	N/A
DATE OF PUBLISHING:	June 24, 2008
FORWARDED TO THE MINISTER:	June 24, 2008
FORWARDED TO TOWN WEBSITE:	N/A