

## PART XII

### STREETS AND HIGHWAYS

#### **Interpretation**

**307** In this Part, "street" means a public street, highway, road, ~~land~~ *lane*, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, but does not include bridges vested in the Halifax-Dartmouth Bridge Commission and streets vested in Her Majesty in right of the Province.

#### **Streets vested in municipality**

**308 (1)** All streets in a municipality are vested absolutely in the municipality.

**(2)** In so far as is consistent with their use by the public, a council has full control over the streets in the municipality.

**(3)** No road, or allowance for a road, becomes a street until the council formally accepts the road or allowance, or the road or allowance is vested in the municipality according to law.

**(4)** 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.

#### **By-laws for protection of streets**

**309 (1)** The council may make by-laws for the protection of streets and may limit the by-law to certain streets, or to certain times of the year, or to both.

**(2)** For the purpose of the *Motor Vehicle Act*, the council is a local authority.

**(3)** The council may, by policy, limit or prohibit the use of a mall by vehicles, or classes of vehicles, and may restrict or prohibit parking on a mall.

**(4)** The council may, by by-law

**(a)** establish a pedestrian mall on a street or any other land owned by the municipality;

(b) prohibit any person from using any vehicle or apparatus on a sidewalk in the municipality;

(c) prohibit any person from taking or riding any animal on any sidewalk in the municipality;

(d) designate any street as a controlled access street;

(e) *regulate or prohibit access to a controlled access street.*

(5) No person may

(a) construct or use a road or gate connected with, or opening upon, the controlled access street; or

(b) offer for sale goods within the limit of the controlled access street.

#### **Power to make by-laws**

**310 (1)** The council may, by by-law

(a) require the owner, occupier or person in charge of a property to clear snow and ice from the sidewalks adjoining the property;

(b) prescribe measures to be taken by the owners, occupiers or persons in charge for the abatement of dangerous conditions arising from the presence of snow and ice on the sidewalks adjoining the property.

(2) Where a person required by a by-law made pursuant to subsection (1) fails to clear the ice and snow from the sidewalk forthwith after notice to do so or to take the necessary measures for the abatement of any dangerous condition arising from the presence of the snow and ice, the engineer may have the snow and ice cleared and any necessary measures to abate dangerous conditions taken.

- (3) The council may, by by-law
  - (a) require the owner of a property to remove ice or icicles from part of a building overhanging or abutting a sidewalk;
  - (b) require the owner of lands abutting a street to maintain an area of vegetation between the streetline and the main travelled way.

**Traffic authority**

**311 (1)** In this Section, "highway" and "Provincial Traffic Authority" have the same meaning as in the *Motor Vehicle Act*.

**(2)** The council may, by policy, appoint a traffic authority for all or part of the municipality.

**(3)** A traffic authority has, within the municipality, the powers of a traffic authority of a city or town pursuant to the *Motor Vehicle Act*.

**(4)** The clerk shall notify the Provincial Traffic Authority of the appointment of a traffic authority.

**(5)** Where there is no traffic authority appointed by a council, the Minister of Transportation and Public Works may appoint a traffic authority to hold office until the council appoints a traffic authority.

**(6)** Where it appears to the Minister of Transportation and Public Works that a traffic authority appointed by the council is not performing the duties and functions of a traffic authority, the Minister of Transportation and Public Works may cancel the appointment of the traffic authority.

- (7)** The Provincial Traffic Authority has, with respect to
  - (a) highways vested in Her Majesty in right of the Province;
  - (b) highways in areas of a municipality for which

there is no traffic authority; and

(c) highways in a municipality that have been designated by the Minister of Transportation and Public Works as main travelled or through highways,

the powers conferred upon a traffic authority by or pursuant to the *Motor Vehicle Act*.

(8) The traffic authority for a municipality has, with respect to highways in the municipality, excluding those for which the Provincial Traffic Authority has authority, the powers conferred upon a traffic authority by or pursuant to the *Motor Vehicle Act*.

#### **Street related powers**

**312 (1)** A council may design, lay out, open, expand, construct, maintain, improve, alter, repair, light, water, clean, and clear streets in the municipality.

(2) When a street is laid out, opened or expanded, a survey plan shall be filed in the registry.

(3) The council may expend funds for the purpose of clearing snow and ice from the streets, sidewalks and public places in all, or part, of the municipality.

#### **Civic addresses**

**313 (1)** The council may

(a) by by-law, adopt a system for assigning civic numbers to buildings;

(b) by by-law, require owners or occupiers of property to post the correct civic number prominently on their properties, with power to prescribe the size, design and location of the civic number that the owner or occupier is so required to post, and the manner in which it is posted;

(c) by policy, name or rename any street or private road;

(d) post the name of any street or private road, including posting the name on private property;

(e) by by-law, require the owner of land that is a private road to

(i) apply for permission to erect a sign or signpost that identifies the road by the name assigned to it pursuant to clause (c) to any person or authority whose permission is required by law to erect the sign or signpost and use the owner's best efforts to obtain such permission, and

(ii) erect a sign or signpost of such size and design, in such location and in such a manner as is prescribed by the by-law, where permission is obtained to erect the sign or signpost in accordance with subclause (i).

### **Street encroachment**

**314 (1)** Where any part of a street, other than the travelled way, has been built upon and it is determined that the encroachment was made in error, the engineer may permit, in accordance with any by-law made pursuant to subsection (2), the encroachment to continue until such time as the building or structure encroaching upon the street is taken down or destroyed.

**(2)** A council may, by by-law, regulate encroachments upon, under or over streets, including stipulating the period of time an encroachment may remain and the entering into of agreements, including terms and conditions, for particular encroachments.

### **Street closure**

**315 (1)** The council may, by policy, permanently close any street or part of a street and the council shall hold a public hearing before passing the policy.

***(1A) Notwithstanding subsection (1), where a street or part of a street is being altered, improved or redesigned, part of that street may be closed without holding a public hearing under subsection (1) if***

*(a) the part of the street that remains open*

*(i) is open to vehicular and pedestrian traffic, and*

*(ii) meets all the municipal standards; and*

*(b) the part of the street that is closed*

*(i) is determined by the engineer to be surplus, and*

*(ii) is worth less than fifty thousand dollars*

(2) The council shall give notice of its intent to close the street by advertisement in a newspaper circulating in the municipality.

(3) The notice shall set out the time and place of the public hearing at which those in favour or opposed to the street closing will be heard and describe the street to be closed sufficiently to identify it.

(4) A copy of the notice shall be mailed to the Minister of Transportation and Public Works before the public hearing.

(5) A copy of the policy passed by the council, certified by the clerk under the seal of the municipality, incorporating a survey or a metes and bounds description of the street that is closed, shall be filed in the registry and with the Minister of Transportation and Public Works.

(6) Upon filing the policy in the registry, all rights of public user in the land described in the policy are forever extinguished and the municipality may sell and convey the land or may subsequently reopen the land as a street in the manner required by this Act.

### **Contribution to cost of underground wiring**

**316** Where a council determines that wires and other parts of an electrical distribution or telecommunications system be placed underground, the council may contribute to the cost.

**Work on a street**

**317 (1)** No person shall break the surface of a street without the permission of the engineer.

**(2)** A council may, by policy, prescribe the terms upon which a permit to break the surface of a street may be granted, including setting a fee for the permit and requiring security to be posted to ensure that the street is restored.

**(3)** No person shall construct or widen a driveway, or other access to a street, without the permission of the engineer.

**Obstruction of street**

**318 (1)** ~~No~~ *Except as otherwise provided in this Act, no* person shall

- (a) obstruct a street in a municipality;
- (b) erect, construct or place a building or structure, fence, railing, wall, tree or hedge or part of them upon a street;
- (c) deposit any snow or ice on the travelled way of a street;
- (d) deposit any snow or ice near a portion of the travelled way of a street so as to hinder clearing of the travelled pathway;
- (e) prevent water flowing from a street on to the adjoining land;
- (f) cause or permit water to flow over a street, except as directed by the engineer or council;
- (g) deposit, or permit to accumulate, sewage, refuse, garbage, rubbish or other matter on a street or in a drain, gutter, sluice or watercourse on a street; or
- (h) cause or permit sewage, refuse, garbage,

rubbish or any other matter to discharge or flow upon a street or into a drain, gutter, sluice or watercourse on a street.

(2) An owner or occupant of land who collects water upon the land and turns or allows the water to flow upon a street is liable for all damage to the street, gutters or drains occasioned thereby.

(3) Where, as a result of the collection of the water, the flow requires, in the opinion of the engineer, the construction of a larger drain, sluice or culvert on the street, or makes necessary any alteration in the street or the building of new drains, sluices or culverts, the person is liable to pay the cost of the alteration or construction.

(4) Where a person is in apparent contravention of this Section, the engineer may serve notice on the person to remedy the contravention and, where the condition is not remedied within the time specified in the notice, the engineer may cause the condition to be remedied.

(5) Where an obstruction is a structure of any kind, the engineer may require the owner of the structure to remove the structure from the street within such time as the engineer specifies.

(6) Where the structure is not removed within the time specified, the engineer may remove, demolish or destroy the structure in such manner as is deemed expedient.

#### **Public Utilities Act applies**

**319** Section 78 of the *Public Utilities Act* applies to the erection or placement of a pole, wire, conduit or pipe in, upon, along, under or across a street.

#### **Removal of sign or billboard**

**320 (1)** The engineer may require an owner or occupant of land adjoining a street to remove a sign or billboard on the land that, in the opinion of the engineer, is a source of danger to traffic on the street.

(2) Where the owner of the land fails to remove the sign or billboard within fourteen days after receipt of notice from the engineer, the engineer may cause the sign or billboard to be removed.

**Dangerous vegetation**

**321 (1)** The engineer may require an owner or occupant of land adjoining a street to remove or trim a tree, bush, shrub, hedge or other vegetation that, in the opinion of the engineer, is a source of danger to traffic on the street.

**(2)** Where the owner of the land fails to remove or trim the vegetation within fourteen days after receipt of notice from the engineer, the engineer may cause the vegetation to be removed or trimmed.

**Temporary purposes**

**322** The engineer may

(a) permit a person to use a portion of a street for construction or other temporary purpose;

(b) temporarily close a street, or part thereof, for the protection of the public, to allow work to be done on the street or on lands and buildings adjacent to the street or for any other purpose beneficial to the public interest.

**Power to enter land**

**323 (1)** The engineer may

(a) enter upon land adjoining a street and erect and maintain snow fences on it or take down, alter or remove a fence or obstruction of any kind that causes drifts or an accumulation of snow so as to impede or obstruct traffic;

(b) at any time and from time to time, construct, open, maintain or repair a drain, gutter, sluice or watercourse upon land adjoining a street and for such purpose may, at any time and from time to time, enter into and upon such land.

**(2)** A person who hinders or obstructs the engineer in the exercise of a power or authority conferred by this Section is guilty of an offence.

**Motor Vehicle Act does not apply**

**324** A by-law passed pursuant to this Part is not subject to the *Motor Vehicle Act*.