

THE CORPORATION OF THE TOWN OF ESSEX

BY-LAW NO. 1108

**BEING A BY-LAW RESPECTING THE REMOVAL OF
SNOW AND ICE FROM THE SIDEWALKS ON
THE HIGHWAYS IN THE TOWN OF ESSEX**

WHEREAS Sections 9, 10 and 11 of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a municipality may pass by-laws respecting the health, safety and well-being of persons;

AND WHEREAS Section 122 (2) of the *Municipal Act, 2001*, S.O. 2001, c.25 provides that a municipality may enter at any reasonable time upon land to remove snow and ice;

AND WHEREAS it is deemed expedient to enact a by-law for such purposes;

NOW THEREFORE THE COUNCIL OF THE TOWN OF ESSEX ENACTS AS FOLLOWS:

DEFINITIONS

1. In this by-law:

“building” means

- a) a structure occupying an area greater than ten square metres consisting of wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;
- b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto; or,
- c) structures designated in the Ontario Regulation 350/06, as amended, also known as the Ontario Building Code.

“Council” means the municipal council of the town;

“highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof, which is under the jurisdiction of the town;

“ice” means the solid form of water, produced by freezing

“occupant” shall include:

- a) the person who is in physical possession of a building or land; or
- b) a person who has responsibility for and control over the condition of a building or the activities carried on therein or control over persons allowed to enter the building;
notwithstanding that there may be more than one occupancy of the same building or land.

“owner” means the registered owner, occupant or tenant of the property, or a person who, for the time being or permanently, is managing or receiving the rent from the property, whether on his and/or her own account or on the account of an agent and/or trustee of any other person, or any one of the aforesaid;

“person” means an individual or group of individuals, unincorporated association, sole proprietorship, partnership or corporation;

“property” means land that may have a building (occupied or unoccupied) on it or vacant land;

“Provincial Offenses Officer” means an individual(s) appointed by Council of the Town of Essex to enforce this by-law;

“roof” means the external upper covering of a building;

“sidewalk” means that part of a highway meant for pedestrian use, typically indicated by some sort of concrete or paved surface in front of, alongside, or at the rear of occupied, or unoccupied building or property; and includes all corner lot handicapped sidewalk approach; and

“snow” includes precipitation in the form of ice crystals, mainly of intricately branched, hexagonal form and often agglomerated into snowflakes, formed directly from the freezing of water vapour in the air.

“Town” means The Corporation of the Town of Essex.

GENERAL DUTIES, OBLIGATIONS, AND PROHIBITIONS

2. Every owner of commercial property in the Town of Essex shall remove, or cause to be removed, accumulations of snow and ice from the sidewalk(s) abutting the highway(s) immediately adjacent to their property within;
 - a. four (4) hours following the snow fall or formation of ice upon the said sidewalks during daylight hours; or
 - b. four (4) hours following sunrise in the case of snow falling or ice forming overnight.
3. Every owner of residential, institutional and industrial property in the Town of Essex shall remove, or cause to be removed, accumulations of snow and ice from the sidewalk(s) abutting the highway(s) immediately adjacent to their property within;
 - a. twelve (12) hours following the snow fall or formation of ice upon the said sidewalks during daylight hours; or
 - b. twelve (12) hours following sunrise in the case of snow falling or ice forming overnight.
4. Where the clearing away or removal of snow and/or ice from the sidewalks as provided for in this by-law may cause structural damage to such sidewalks, the owner or occupant, as the case may be, shall spread sand, salt or other ice melting products upon those portions of the said sidewalks where ice has formed in such a manner so as to remove the danger of any person slipping and falling on the said sidewalks.
5. Every owner shall remove, or cause to be removed, accumulations of snow and ice from all roofs of buildings on their property, if the roof slopes directly onto a sidewalk/highway, within twelve (12) hours following such accumulation.
6. No owner or occupant shall throw, place, bring, or deposit snow and/or ice;
 - a. on or immediately adjacent to a fire hydrant, or in any manner that obstructs access to a fire hydrant;
 - b. on or adjacent to a travelled portion of a highway, or in such a manner so as to interfere with the safe passage of vehicles, or pedestrians, or obstruct the visibility of vehicle operators or pedestrians;
 - c. in such a manner so as to obstruct drainage to any drain or sewer.
7. That if the owner or occupant fails, neglects, or refuses to comply with Sections 2, 3, 4, 5, 6 and 7 of this By-law, the Provincial Offenses Officer in lieu of, or in addition to any other remedy provided by this By-law, is authorized to have the snow and/or ice to be removed at the expense of the owner or occupant, and in the case of non-payment, such expenses may be recovered in a like manner as municipal taxes.

ENFORCEMENT

- 8. Any Police Officer, Municipal Law Enforcement Officer, or employee of the Town of Essex designated by the Town for the purpose of this Section is authorized to inform any person of the provisions of this By-law and to request compliance therewith;

PENALTY

- 9. Every person who contravenes any of the provisions of this by-law shall be liable upon conviction thereof, to a penalty of not more than Five Thousand Dollars (\$5,000.00), exclusive of costs which penalty and costs shall be recoverable under the provisions of the Provincial Offences Act, R.S.O. 1990, and amendments thereto.

SEVERANCE

- 10. Should a court of competent jurisdiction declare any part or whole of any provision of this By-law to be invalid or of no force and effect, the provision or part shall be deemed to have been served from this By-law, and it is the intention of Council that the remainder of the By-law survive and be applied and enforced in accordance with the terms to the extent possible under law.

SHORT TITLE

- 11. The short title of this By-law shall be "The Snow Removal By-law".

REPEALS and ENACTMENT

- 12. By-Law 190 of the Town of Essex is hereby repealed.
- 13. This by-law shall come into force and take effect on the day of the final passing thereof.

READ A FIRST, A SECOND AND A THIRD TIME AND FINALLY PASSED THIS 17TH DAY OF OCTOBER, 2011.

Mayor

Clerk/Deputy-Treasurer