

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2005-04

Being a By-law respecting the removal of snow and ice from the sidewalks on the highways in front of, alongside or at the rear of occupied or unoccupied premises.

WHEREAS, the *Municipal Act*, 2001, S.O. 2001, c. 25, section 130, provides that a municipality may regulate matters related to the health, safety and well-being of the inhabitants of the municipality;

WHEREAS section 122 of the *Municipal Act*, 2001, S.O. 2001, provides that a local municipality may require the owners and occupants of buildings to remove snow and ice from the roofs of the buildings and may regulate when and how the removal shall be undertaken and may enter at any reasonable time upon land to remove snow and ice,

AND WHEREAS, the *Municipal Act*, 2001, S.O. 2001, c.25, section 44(9), provides that except in case of gross negligence, a municipality is not liable for a personal injury caused by snow or ice on a sidewalk;

AND WHEREAS the Town of Amherstburg considers it desirable for the protection of the public and in the public interest to pass a by-law to enforce the removal of snow and ice from sidewalks within the limits of the municipality of the Town of Amherstburg;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF

THE TOWN OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS:

In this by-law:

- a) "Building":
 - i) "Multiple family" shall mean a building designed or intended or used for occupancy by two or more families and includes apartment buildings and apartment hotels;
 - ii) "Single family" shall mean a detached building designed or intended or used for occupancy by not more than one family;
 - iii) "Commercial" shall mean a building in which the activities are primarily the buying and selling of merchandise or the provision of services;
- b) "Corporation" means the Corporation of the Town of Amherstburg;
- c) "Council" means the Council of the Corporation of the Town of Amherstburg;
- d) "Highway" means a common and public highway under the jurisdiction of the Town of Amherstburg and includes a street, sidewalk, boulevard whether paved or not paved, a bridge forming part of the highway or on, over or across which a highway passes and any portion of the land situated between street lines;
- e) "Occupant" shall include:
 - i) the person who is in physical possession of a building or land; or
 - ii) the 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;

- f) "Owner" shall include any person who is an owner of land either jointly or in common with any other person or persons and shall include any or all of such persons;
- g) "Person" means an individual, firm, corporation, association or partnership;
- h) "Public Works Manager" means the Manager of Public Works for the Town or his/her successor;
- i) "Town" means the Corporation of the Town of Amherstburg;

2. OBJECTIVES:

- a) To provide safe walking areas for the prevention of unnecessary injury to pedestrians due to slips and falls.
- b) To enable seniors in our community to remain mobile in the winter months without the fear of injuring themselves due to slips and falls.
- c) To help provide for a safe environment for all commercial employees who make their rounds on foot on our sidewalks and also schoolchildren walking to and from school.
- d) To provide safe sidewalks for all year tourist promotion.

3. APPLICATION:

- a) The provisions of this by-law shall apply to all properties within the boundaries of the Town of Amherstburg except for those directed by Council.
- b) Every person having the charge or care of any church, chapel, school, public hall or other public building, shall be deemed to be an occupant thereof, for the purposes of this by-law.

4. COMMERCIAL DUTIES, OBLIGATIONS AND PROHIBITIONS:

- a) The owner of every retail outlet, professional office, vacant commercial building lot or multi-residential unit in the Town of Amherstburg shall, within 12 hours of a 5 centimeter snowfall or better, or if the snowfall ended during the night, within 4 hours of the commencement of the business day, clear away and remove all snow and ice from the sidewalks on the highways in front of, along side of, or at the rear of such building or vacant lots. Salt or sand must be applied to any formations of ice on these sidewalks.
- b) If the owner is not in physical possession of the building or property referred to in clause (a), the occupant and the owner shall be jointly and severally responsible for clearing away and removing the snow and ice from the said sidewalks on the highways in front of, alongside and at the rear of such building.
- c) Failure to remove accumulated snow or ice as stated in clause (a), the owner or occupant will be issued a written warning from the Town and directed to remove the snow or ice within 4 hours.

5. RESIDENTIAL DUTIES, OBLIGATIONS AND PROHIBITIONS:

- a) The owner of every occupied or unoccupied building or vacant land in the Town of Amherstburg shall, within 12 hours of a 5 centimeter snowfall or

better, clear away and remove all snow and ice from the sidewalks on the highways in front of, along side of, or at the rear of such building or vacant lots. Salt or sand must be applied to any formations of ice on these sidewalks.

- b) If the owner is not in physical possession of the building or property referred to in clause (a), the occupant and the owner shall be jointly and severally responsible for clearing away and removing the snow and ice from the said sidewalks on the highways in front of, alongside and at the rear of such building.
- c) Failure to remove accumulated snow or ice as stated in clause (a), the owner or occupant will be issued a written warning from the Town and directed to remove the snow or ice within 8 hours.

6. GENERAL DUTIES, OBLIGATIONS AND PROHIBITIONS:

- a) All owners or occupants of buildings where the roof or eaves abut or overhang the highway or sidewalk upon the highway shall, whenever ice or snow accumulates on the roof or eaves, remove the same immediately, and in a manner showing due care and precaution for the safety of persons passing.
- b) No owner or occupant shall throw, place, bring or deposit snow or ice:
 - i) on or immediately adjacent to a fire hydrant or in any manner that obstructs access to a fire hydrant.
 - ii) on or adjacent to a traveled highway or in such a manner to interfere with the safe passage of vehicles, or pedestrians, or obstruct the visibility of vehicle operators or pedestrians.
 - iii) in such a manner as to obstruct drainage to any drain or sewer.
- c) No owner or occupant shall remove snow in a manner which may damage any sidewalk or curb within the Town of Amherstburg.
- d) That if the owner or occupant fails, neglects, or refuses to comply with any of the snow and ice removal provisions of this by-law, the Public Works Manager in lieu of, or in addition to any other remedy provided by this by-law, is authorized to have the snow or ice to be removed at the expense of the owner or occupant, and in the case of non-payment, such expenses may be recoverable in a like manner as municipal taxes.

7. ENFORCEMENT

Police Officers of the Town of Amherstburg Police Services and By-law Enforcement Officers of the Corporation shall have the duty of enforcing the provisions of this by-law.

8. PENALTY:

- a) Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than Five Thousand Dollars (\$5,000.00), exclusive of costs and every such fine is recoverable under the *Provincial Offences Act*.
- b) This section shall not be construed to derogate from any other remedies or rights which the Corporation may have.

9. SEVERABILITY:

In the event that any provision, or part thereof, of this by-law is found by a court of competent jurisdiction, to be *ultra vires*, such provision, or part thereof, shall

be deemed to be severed, and the remaining portion of such provision and all provisions of this by-law shall remain in full force and effect.

10. REPEAL:

Where the provisions of any other by-law, resolution or action of Council are inconsistent with the provisions of this by-law, the provisions of this by-law shall prevail.

This By-law shall come into force and take effect on the date of final passage thereof.

Read a first time this 10th day of January, 2005.

Read a second and third time and finally passed this 24th day of January, 2005.

MAYOR

CLERK

1st Reading: January 10, 2005
2nd Reading: January 24, 2005
3rd Reading: January 24, 2005

Certified to be a true copy of By-law
No. 2005-04 passed by Council of the
Town of Amherstburg on the 24th
day of January, 2005.

Clerk