

**HALIFAX REGIONAL MUNICIPALITY  
BY- LAW E - 200**

**RESPECTING ENCROACHMENTS UPON,  
UNDER OR OVER A STREET**

**BE IT ENACTED by the Council of the Halifax Regional Municipality as follows:**

**Number and Short Title**

1 This bylaw shall be known as By-law E - 200 and may be cited as the “Encroachment By-law”.

**Definitions**

2 In this bylaw:

- (a) “Council” means the Council of the Halifax Regional Municipality;
- (b) “encroachment” means a structure or facility upon, under or over a street and also includes any portion of the street required by the encroachment as a clearance from other structures by good engineering practice;
- (c) “Engineer” means the Engineer for the Halifax Regional Municipality and includes a person acting under the supervision and direction of the Engineer;
- (d) “facility” means 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 provisions of services, including amplifiers, connection panels, transformers, valves, and other fittings and equipment;
- (e) “Inspector” means the Building Inspector for the Municipality;
- (f) “municipality” means the Halifax Regional Municipality;
- (g) “person” includes a corporation;
- (h) “street” includes a public alley, boulevard, bridge, court, footway, highway, lane, park, place, sidewalk, square and any part thereof, owned by the municipality;
- (i) “structure” includes any building, bridge, pedway, balcony, bay window, elevator, fence, foundation wall, grating, hatch, hatchway, loading platform, manhole, porch, portico, railing, retaining wall, sign attached to a building, step, storage tank, tunnel, vault, veranda, or any part thereof.

**License Required**

- 3 No person shall construct or maintain any encroachment or make use of a street for construction or restoration purposes in the municipality unless an encroachment license has been issued by the municipality.

**Approval Required**

- 4 An encroachment license shall not be issued unless the Council authorizes such encroachment
  - (a) except for the following, which may be issued by the Inspector without the authorization of Council:
    - (i) canopies- for commercial, industrial and institutional buildings only and to be restricted in width to not more than the entrance width plus six feet for a period of 5 years, renewable after inspection;
    - (ii) awnings and signs attached to a building - for commercial, industrial and institutional buildings only and to be restricted to not more than the width of the building, or in the case of a corner installation, not more than the width of the building plus the width of the awning only issued for a period of 5 years, renewable after inspection;
    - (iii) steps, foundations and other structures - for buildings where steps, foundations and other building features must encroach, or where an encroachment already exists, the area of encroachment may be increased provided there is no additional encroachment toward the curb for a period of 5 years, renewable after inspection;
    - (iv) the use of any portion of a street in association with a construction or restoration project where the use of the portion of the street is required, in the opinion of the Inspector or the Engineer, for public safety.
  - (b) except for the following, which may be issued by the Engineer without the authorization of Council:
    - (i) telephone booths - provided the free flow of pedestrians is not impeded, a traffic hazard is not created, and the location is acceptable to the municipal department using the property for a period of 5 years, renewable after inspection.
    - (ii) underground communications conduit, and manholes to service the

conduit, provided that the installation and use of the telecommunications cable will not interfere with the proper operation and maintenance of existing underground utilities, nor interfere with planned street works.

- (iii) sandwich board signs - located on a public sidewalk, as may be permitted under Section 7 of By-law S-800, The Sign By-law.”

**Encroachment License**

- 5 (1) Every encroachment license shall indicate:
  - (a) the type of encroachment authorized;
  - (b) the civic address where such encroachment is authorized;
  - (c) the length of time for which such encroachment is authorized; and
  - (d) such terms and conditions as may be necessary in the opinion of Council, the Inspector or the Engineer.
- (2) The fee for an encroachment license shall be as prescribed by Administrative Order 15.
- (3) No license fee shall be payable for the renewal of a license.
- (4) The Council may, in its sole discretion, cancel an encroachment license at any time, without notice.
- (5) Without restricting the generality of subsection (4), those licenses listed in paragraphs 4(a)(i) to (iii) inclusive, may be cancelled by the municipality upon breach of any term or condition subject to which the license is issued, at any time, without notice.

**Annual Rental Fee**

- 6 (1) In addition to the license fee, the owner of an encroachment shall pay rental fees as prescribed by Administrative Order Number 15.

**Exceptions**

- 7 (1) The provisions of this bylaw shall not apply to an encroachment by the Halifax Regional Water Commission or the Halifax-Dartmouth Bridge Commission.

- (2) Where the provision for payment of an encroachment fee is made by special statute as in the case Nova Scotia Power Inc. and the Maritime Telegraph and Telephone Company, the provisions of Sections 5(2) and 6 shall not apply.
- (3) License fees or rental fees, with the exception of temporary rental fees, shall not be payable in respect of any encroaching structure which existed
  - (a) in the former City of Halifax on May 15, 1965, or
  - (b) in the remainder of the municipality on the effective date of this bylawor to any repair or replacement of the encroaching structure that does not increase the amount of the encroachment.

**Appeals**

- 8
- (1) Any person who has been refused an Encroachment license by the Inspector or the Engineer may appeal such refusal.
  - (2) Where the encroachment is located in an area of the municipality where there exists a community council, the appeal shall be to the community council and in all other cases, the appeal shall be to the Council.
  - (3) Such appeal shall be in writing, in the form of a notice, and filed with the municipal clerk within 15 days of such refusal, and shall clearly state the grounds for such appeal.
  - (4) Council shall determine such appeal at such time and place as it determines and may confirm such refusal by the Inspector or Engineer, as applicable, or direct the Inspector or Engineer, as applicable, to issue such license.
  - (5) If the Council or community council directs the Inspector or Engineer, as applicable, to issue such license, the same shall be issued immediately.

**Penalties**

- 9
- (1) Any encroachment which is not authorized by a current encroachment license shall be removed by the owner within 30 days after notice to remove the encroachment has been given to such owner by the Inspector or the Engineer.
  - (2) If any owner fails to remove the encroachment within such 30 day period, the Inspector or Engineer may remove the encroachment, and the cost of the removal may be recovered from such owner by action in any court of competent

jurisdiction.

- (3) Any owner who fails to remove the encroachment within such 30 day period shall be liable to a penalty not less than \$100 not exceeding \$2,000 and, in default of payment thereof, to imprisonment for a period not exceeding 60 days.

**Encroachment Agreements**

10 Notwithstanding the provisions of this bylaw, Council may

- (a) enter into an agreement permitting any person to construct or maintain an encroachment upon such terms and conditions as Council may deem appropriate, and the provisions of this bylaw shall not apply to such encroachments provided that consideration for such agreement shall not be less than the fees payable by a licensee for a similar structure pursuant to subsection 5(2) and section 6 of this bylaw.
- (b) waive all or any of the fees otherwise payable pursuant to any provisions of this bylaw in respect of overhead pedways or underground pedestrian tunnels, if in the opinion of Council, the pedways or tunnels provide a public benefit.
- (c) enter into an agreement with a gas distribution company which has been approved by the Nova Scotia Utility and Review Board to distribute gas within the municipality, or communications company licensed by the Canadian Radio-television Telecommunications Commission, permitting the construction or maintenance of an encroachment upon such terms and conditions that Council may deem appropriate. The provisions of this by-law shall not apply to such encroachments, and the fees payable shall be determined by Council.

Done and passed in Council this 13th day of July, 1999

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Mayor

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Municipal Clerk

I, Vi Carmichael, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above-noted By-Law was passed at a meeting of Halifax Regional Council held on July 13, 1999.

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Vi Carmichael, Municipal Clerk

BY-LAW E-200

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Notice of Motion:	May 4, 1999
First Reading:	May 11, 1999
“Notice of Intent” Publication:	May 15, 1999
Second Reading:	July 13, 1999
Effective Date:	July 17, 1999

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Amendment # 1 (V-101)  
Subsection (3) of Section 9

Notice of Motion:	August 19, 2003
First Reading:	August 26, 2003
“Notice of Public Hearing” Publication:	September 6, 2003
Second Reading:	September 23, 2003
Approval of Service Nova Scotia and Municipal Relations:	N/A
Effective Date:	September 27, 2003

Amendment # 2 (E-201)  
Section 4 (b)

Notice of Motion:	June 27, 2006
First Reading:	July 4, 2006
Notice of Public Hearing Publication:	August 26, 2006
Second Reading:	September 12, 2006
Notice of Approval by Service Nova Scotia and Municipal Relations:	N/A
Effective Date:	November 18, 2006

Amendment # 3 (E-202)  
Sections 2 & 4

Notice of Motion: Waive	April 7, 2009
First Reading:	April 7, 2009
Notice of Public Hearing Publication:	April 11, 2009
Second Reading:	May 5, 2009
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