

# THE CORPORATION OF THE MUNICIPALITY OF LAMBTON SHORES

## BY-LAW NUMBER 28 OF 2005

Being a By-law to provide for the Regulation of Streets within  
the Municipality of Lambton Shores

The Municipal Council of the Corporation of the Municipality of Lambton Shores enacts  
as follows:

### Part 1 Definitions

In this by-law:

**“By-law Enforcement Officer”** shall mean a person duly appointed by the Corporation of the Municipality of Lambton Shores for the purpose of enforcing or carrying out the provisions of Municipal by-laws.

**“Deposit”** shall mean to throw or place.

**“Director of Community Services”** shall mean the person appointed by the Council to the position of Director of Community Services and any employee of the Municipality of Lambton Shores who acts at the direction of the Director of Community Services.

**“Municipality”** shall mean the Corporation of the Municipality of Lambton Shores.

**“Obstruct”** shall mean to block or interfere with or fill with obstacles.

**“Public Nuisance”** shall include, but not be limited to, urinating in public, shouting or yelling or loitering in a public place.

**“Roadway”** shall mean the portion of a highway or street which is improved for the travel of motor vehicles.

**“Road Works”** shall mean the physical improvements which have been made to a street including pavement, curbs, signs, gutters, trees, culverts, treated and graded surfaces, walls, sidewalks, utility apparatus, ditches and swales.

**“Sidewalk”** shall mean a walk or raised path or that portion of a street between the curb line or edge of pavement or the lateral line of a roadway and the adjacent property line, primarily intended for the use of pedestrians.

**“Sidewalk Café”** means a group of tables and chairs and other accessories situated and maintained upon a public sidewalk for the use and consumption of food and beverages sold to the public from or in, an adjoining or adjacent indoor restaurant, or retail store which is located immediately against the building façade. A sidewalk café shall not be fenced and no table service or consumption of alcohol is permitted.

**“Sidewalk Patio”** means a group of tables and chairs and other accessories situated and maintained upon a public sidewalk for the use and consumption of food and beverages sold to the public from, or in an adjoining or adjacent indoor restaurant located and adjacent to the business. A Sidewalk Patio shall extend no wider than the width of the associated indoor food and beverage establishment and shall be fenced. Table service and the consumption of alcohol are permitted

**“Snow”** includes ice and slush.

**“Street or Highway or Road”** are all used interchangeably and shall include a common and public highway, street, avenue, boulevard, bridge, crescent, cul-de-sac, court, parkway, driveway, square, place, shoulder, bridge, viaduct, or trestle, or the like, 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.

**“Sales by retail”** includes but is not limited to sales conducted from a refreshment stand or vehicle.

## **Part 2 PROHIBITED MATTERS**

### **2. Prohibited Matters relating to Streets and Sidewalks**

No person shall (either by himself or by permitting others or by any means) without lawful authority:

- a) obstruct any street or sidewalk;
- b) place or construct any object or structure on, under or over a street or sidewalk;
- c) deposit any dirt, rubbish, glass, tires, rubbish or refuse on a street or sidewalk;
- d) create or cause a public nuisance or a public safety issue on a street or sidewalk, or within 3 (three) metres of a street or sidewalk by fire, water, vapour, noise or any means whatsoever;
- e) conduct any activity which interferes with public travel or use of a street or sidewalk.
- f) obstruct a ditch or culvert on any street.
- g) deposit any snow or ice from private property onto a street or sidewalk.

### **3. Use of Sidewalks for Sidewalk Cafes, Sidewalk Patios and the Display of Goods, Wares, Merchandise or Articles**

Notwithstanding the provisions of this By-law, the establishment of Sidewalk Cafés, Sidewalk Patios and the display of goods, wares, merchandise or articles associated with a business abutting the municipal sidewalk are permitted in those areas:

- a) Shown on Schedules D1 and D2 of this By-law:
- b) In Grand Bend on Main Street West; and
- c) In Forest in the entire BIA designated area except for Main Street South, from King Street to Victoria/Broadway Streets;

subject to the following regulations:

1. A minimum of 1.5 metres of clear and unobstructed pedestrian access shall be maintained on the sidewalk, except;
  - a) in Grand Bend where a minimum of 2 metres of clear and unobstructed pedestrian access shall be provided on the sidewalk; and
  - b) in Forest where the maximum width of the sidewalk that can be used for the establishment of sidewalk cafés, sidewalk patios and the display of goods, wares, merchandise or articles associated with a business abutting the municipal sidewalk is 0.91 metres
2. No crosswalks or intersections shall be impeded;
3. No parking spaces shall be removed;
4. The sidewalk cafe, sidewalk patio and the area used for the display of goods, wares, merchandise or articles shall be operated by the owner and located adjacent to the building in which the associated restaurant or business is located and only extend the width of the property that the restaurant or business is located on;
5. A plan of the sidewalk café, sidewalk patio or the area used for the display of goods, wares, merchandise or articles shall be submitted to the Municipality for approval;
6. The owner shall provide proof that the business' or restaurants liability insurance has been extended to cover the area used for a sidewalk café, sidewalk patio or the area used for the display goods, wares, merchandise or articles and that the Municipality has been named as an additional insured;

7. No food preparation shall be permitted on the sidewalk as part of a sidewalk café, sidewalk patio or the area used for the display of goods, wares, merchandise or articles, including the use of outdoor barbeques;

8. Use of the Sidewalk for a sidewalk café, sidewalk patio or an area used to display goods, wares, merchandise or articles may only be open from April 15 to November 1 of a respective year;

9. All tables and chairs and display cases shall be constructed of a sturdy weather resistant material, shall not exceed 1.2 metres in height and shall be kept clean;

10. All fixtures associated with a sidewalk café and the areas used for the display of goods, wares, merchandise or articles shall be removed from the municipal sidewalks on a nightly basis when the associated restaurant or business closes.

11. The owner/operator shall keep the sidewalk cafe, sidewalk patio and area used for the display of goods, wares, merchandise or articles free from papers, garbage, rubbish and debris of any kind;

12. The Municipality or any public utility shall have the right to enter any portion of the sidewalk cafe, sidewalk patio and the area used for the display of goods, wares, merchandise or articles at any time for the purpose of installing, maintaining or repairing pipes, cables, sidewalks, wires, poles and other installations;

13. No awnings shall be permitted, but umbrellas are. No umbrella shall project into the required minimum pedestrian access;

14. All sidewalk cafes, sidewalk patios and the areas used for the display of goods, wares, merchandise or articles shall be installed at existing grade;

In addition to the provisions above in Section 3, the following shall apply only to sidewalk cafés and sidewalk patios:

1. An encroachment agreement with the Municipality is required only for a sidewalk café or sidewalk patio.
2. No audio speakers shall be permitted on the sidewalk café or sidewalk patio and speaker sound from the adjacent restaurant is to be directed into the building rather than projecting out to the sidewalk café or sidewalk patio.
3. Music or entertainment provided to patrons of the sidewalk café or sidewalk patio shall not be amplified.

4. No retail sale of goods shall be permitted.

Further, in addition to the provisions above in Section 3, the following shall apply only to sidewalk patios:

1. A rental fee of \$10 sq. ft. is to be paid to the Municipality for the area of the sidewalk patio only.
2. The sidewalk patio may only be open during regular business hours and operations shall cease at 12:00 a.m. (midnight) every day, which means the serving of food and beverages shall stop at 12:00 a.m. (midnight) each day.
3. The sidewalk patio shall be enclosed with an open style fence/barrier which has a minimum height of 0.9 metres and a maximum height of 1.2 metres. Fences must be constructed for easy removal in the off season and they shall not be permanently attached to the sidewalk. Any supporting brackets cannot extend into the required pedestrian access and shall not create a hazard.
4. The owner/operator of the associated restaurant shall satisfy the Municipality that the liquor license for the restaurant has been extended to cover the sidewalk patio.
5. All exterior lighting shall be task lighting, shall not interfere with the sidewalk and shall be totally contained within the sidewalk patio. Lighting levels shall be low and directed onto the sidewalk patio and shall not spill onto abutting private properties or sidewalk. Lighting shall not have exposed cables.
6. Barrier free access of 1.5 metres in width shall be provided to the sidewalk patio.

#### **4. Deposit against Damage**

- 4.1 No person shall move heavy vehicles, loads, objects or structures in excess of the dimensions set out in the Highway Traffic Act on any roads or streets within the Municipality without first obtaining a permit from the Municipality for the moving of such vehicle, load, object or structure and providing a deposit against damage in the amount set out in Schedule "C" to this by-law. The deposit will be returned once it has been confirmed that damage did not occur.
- 4.2 Every person who applies for a building permit may be required to pay a road bond/deposit in the amount set out in Schedule "C" to this by-law to cover the cost of any damage to the road that may occur as a result of the construction. The road bond will be returned once it has been confirmed that damage did not occur as a result of the construction.

## **5. Projections over street –removal by owner**

- 5.1 No person shall erect or allow to be erected any structure or thing which projects into or over a street without lawful authority. Any such structure or thing that projects into or over a street without lawful authority shall be removed by the owner of the land in connection with which it exists immediately after receiving notice from the Municipality to do so.
- 5.2 In default of such person removing same, the Municipality shall cause the same to be removed and such person shall, upon demand, pay to the Municipality the cost of such removal. If the structure or thing removed by the Municipality is to be returned, the owner may be entitled to redeem it, upon producing appropriate identification and receipt of payment of the cost of removal and storage fees if applicable.

## **6. Removal of a fence or structure obstructing travel**

- 6.1 No person shall obstruct any public highway or sidewalk by erecting, locating or placing thereon any fence, structures or encroachments. Any obstruction, including, but not limited to a fence, barricade or other thing which obstructs a street or interferes with public travel on it shall be removed by the person by whom the same has been built, maintained, placed or deposited.
- 6.2 In default of such person removing same, the Municipality shall cause the same to be removed and such person shall, upon demand, pay to the Municipality the cost of such removal. If the structure or thing removed by the Municipality is to be returned, the owner may be entitled to redeem, upon producing appropriate identification and receipt of payment of the cost of removal and storage fees if applicable.

## **7. Authorized use of Streets under agreement**

- 7.1 It shall be lawful for use to be made of a street pursuant to permission granted under a statute, by the Council under a by-law, resolution or agreement.
- 7.2 All authority conferred under this by-law is subject to the condition that each person who exercises a right to use a street in the manner provided is liable to any person who consequently suffers injury or loss and shall indemnify the Municipality of Lambton Shores from all such claims and actions.

## **8. Closing of Roads by the Municipality**

- 8.1 The Municipality may close any street to public travel for the purpose of repairing or improving it, or for the purpose of installing road works if a

reasonable temporary alternative route for traffic and local access is provided.

8.2 When a street is closed to public travel for the purpose of repairing or improving it, or for the purpose of installing road works, there will be erected and maintained at each end of the portion of the street to be closed:

- (a) A detour sign and barricade;
- (b) A notice that the street is closed to traffic; and
- (c) A warning device which is in good working order for use between sunset and sunrise.

8.3 Every person who uses a street, or portion of a street so closed to traffic does so at his own risk.

8.4 Every person who without lawful authority uses a street, or portion of a street which has been closed to traffic in the manner provided above, or who removes or defaces any barricade, device, detour sign or notice, is guilty of an offence and is also liable for any damage or injury occasioned by such wrongful use, removal or defacement.

## **9. Removal of Snow and Icicles from a building or structure when hazardous**

9.1 The owner of a lot having a building, structure, or sign situated on it in such a manner as to represent a hazard from icicles, ice, or snow which may fall from it onto the street or sidewalk shall remove such icicles, ice, or snow from the building, structure or sign by 10 a.m. on any day which is not a holiday as defined in the Retail Business Holidays Act.

9.2 If the owner does not remove such icicles, ice or snow from the building, structure or sign as required by section 9.1, such icicles, ice or snow may be removed at the direction of the Municipality without notice to and at the expense of the owner of the land upon which the building, structure or sign is located, and such costs may be recovered by action or by adding the costs to the tax roll and collecting them in the same manner as municipal taxes.

## **10. Penalty Section**

10.1 Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided in the Provincial Offences Act.

10.2 The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and

such order shall be in addition to any other penalty imposed on the person convicted.

**11. Force and Effect**

This by-law comes into force and effect on the date of the final passing.

**12. Previous By-laws Repealed**

All by-laws listed in Schedule "B" of this by-law are repealed as of the final passing of this by-law.

Read a first and second time this 2<sup>nd</sup> day of May, 2005

"MAYOR – J. C. Ivey"

"CLERK - Carol McKenzie"

Read a third time and finally passed this 6<sup>th</sup> day of June, 2005

MAYOR – J. C. Ivey"

"CLERK - Carol McKenzie"

**Amended by By-law 45 of 2014**  
Definitions and Section 3



## **SUMMARY OF SCHEDULES**

### **Schedule "A" of By-law 28 of 2005**

Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided in the Provincial Offences Act.

CONSOLIDATED

**Schedule “B” of  
By-law 28 of 2005**

The following by-laws providing for the regulating of streets are hereby repealed as of the final passing of By-law 28 of 2005:

Lambton Shores	By-law 34-2004
Bosanquet	By-law 20-1999
Forest	By-law 18a-1975 By-law 56-1981

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**Schedule "C" of  
By-law 28 of 2005**

**Deposits Required**

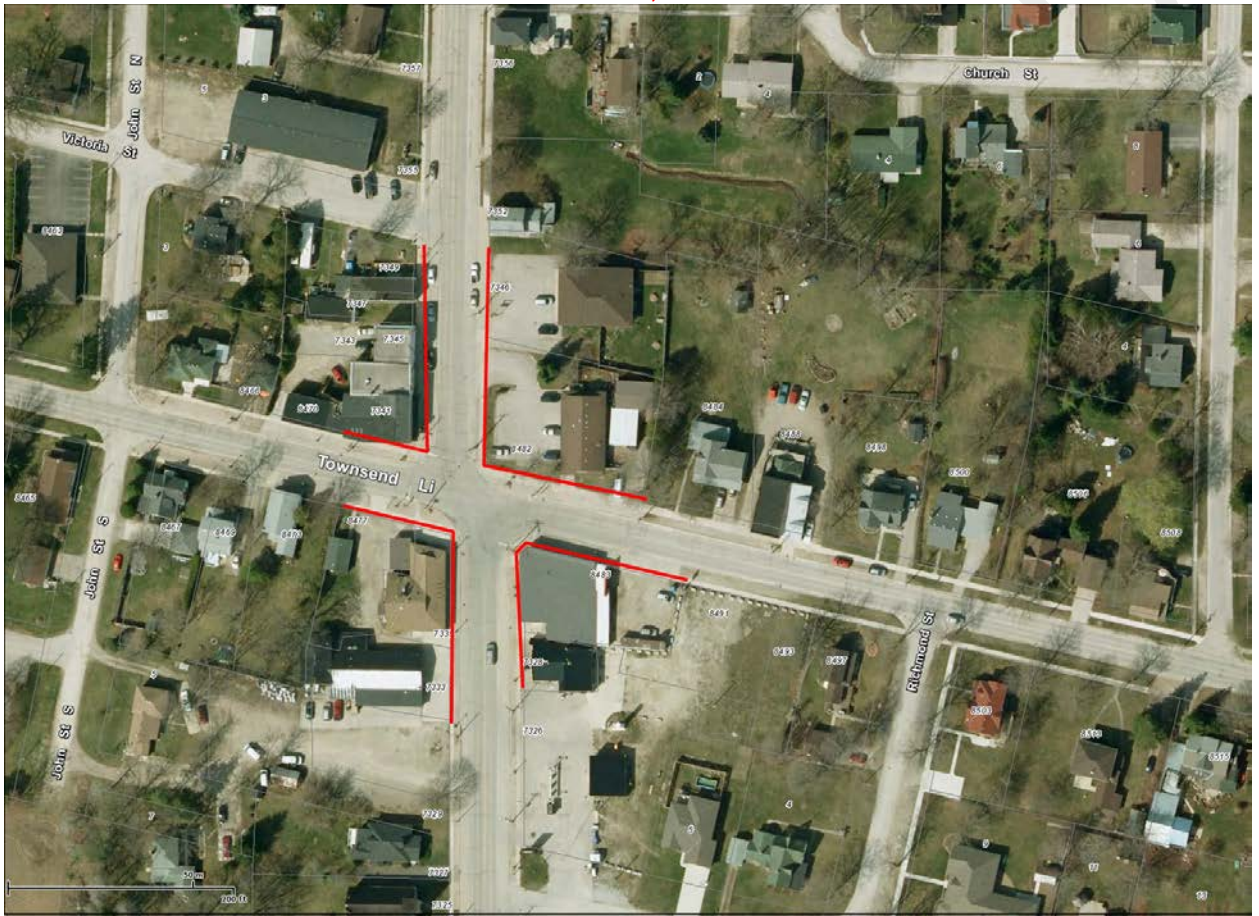
For moving heavy loads	\$ 5,000.00
Road Bond	\$ 1,500.00

CONSOLIDATED

*SCHEDULE A TO BY-LAW 45 OF 2014*

**Schedule "D1" of  
By-law 28 of 2005**

**RED LINES DENOTE AREAS WHERE SECTION 3 OF BY-LAW 28 OF 2005,  
AS AMENDED, APPLIES**



**SCHEDULE A TO BY- LAW 45 OF 2014**

**Schedule "D2" of  
By-law 28 of 2005**

**RED LINES DENOTE AREAS WHERE SECTION 3 OF BY-LAW 28 OF 2005,  
AS AMENDED, APPLIES**



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# The Corporation of the Municipality of Lambton Shores

## Part II Provincial Offences Act

### Title: Regulation of Streets By-law

<b>ITEM</b>	<b>COLUMN 1</b>	<b>COLUMN 2</b>	<b>COLUMN 3</b>
	<b>Short Form Wording</b>	<b>Offence Creating Provision or Defining Offence</b>	<b>Set Fine SUGGESTED</b>
1.	Obstruct any street or Sidewalk	Section 2.a	\$ 105.00
2.	Place, construct any object or structure on, under or over a street or sidewalk	Section 2.b	\$ 105.00
3.	Deposit dirt, rubbish, snow, ice or refuse on a street or sidewalk	Section 2.c	\$ 105.00
4.	Create or cause a public nuisance on a street or sidewalk	Section 2.d	\$ 105.00
5.	Interfere with public travel or use of a street or sidewalk	Section 2.e	\$ 105.00
6.	Obstruct any ditch or culvert	Section 2.f	\$ 105.00
7.	Deposit snow or ice from private property onto a street or sidewalk	Section 2.g	\$105.00

**The penalty provision for the offence indicated above is Section 10.1 of By-law 28 of 2005, a certified copy of which has been filed.**

Provincial Offences approved – December 15, 2005