



TOWN OF GANANOQUE

BY-LAW NO. 2005 - 54

A BY-LAW TO PROTECT THE TOWN'S HIGHWAYS FROM UNAUTHORIZED ENCROACHMENTS

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WHEREAS subsections 9(3) and 11(1) of the *Municipal Act, 2001* authorize municipalities to enact by-laws with respect to their highways, including by-laws to regulate or prohibit respecting matters, to require persons to do things, to provide for a system of permits, and to impose conditions as a requirement of obtaining, continuing to hold or renewing a permit;

THEREFORE the Council of The Corporation of the Town of Gananoque enacts as follows:

1. DEFINITIONS:

In this by-law,

"Authorized encroachment" means an encroachment that is authorized by a valid permit or by the provisions of this or another by-law, and *"unauthorized encroachment"* has the opposite meaning;

"Awning" means a retractable or fixed roof-like cover made of canvas or other suitable material which normally extends over a doorway or window of a building;

"Boulevard" means the area between the roadway and sidewalk and serves primarily as a safety separation and utility corridor;

"Building" means a structure occupying an area greater than ten square metres that consists of a wall, roof and floor;

"Canopy" means a roof-like structure usually made of fabric, supported by columns, which normally extends over a doorway of a building;

"Town" and *"Town of Gananoque"* mean The Corporation of the Town of Gananoque;

"Town Council" means the Council of the Town of Gananoque;

"Construction" includes anything to do with the construction, erection, installation, extension, alteration, repair, reconstruction or replacement of a building, structure, fence or other object, and *"construct"* has a corresponding meaning;

"Directional sign" means a sign designed to guide or direct pedestrian or vehicular traffic, and includes a guide sign, route marker, trailblazer sign and any other similar device;

“Encroachment” means any object or material, including a building, structure, sign, apparatus, equipment, facility, fence, hedge, earth or rock, which is wholly or partly upon a highway, and ***“encroach”*** has a corresponding meaning;

“Fence” includes any fence or similar structure constructed of wood, metal, concrete, stone or other material;

“Hedge” means a continuous line of thick shrubs or low trees;

“Highway” means a common and public highway or portion of a common and public highway, and includes any street, lane, road allowance, bridge, trestle, viaduct or structure that forms part of a highway and all lands between the lateral boundaries of a highway and includes the space from the ground to the sky within the lateral boundary of the highway;

“Historical marker” includes a marker, sign, plaque, display panel and any similar device;

“Inadvertent” means accidental or unintentional, and ***“inadvertence”*** and ***“through inadvertence”*** have corresponding meanings;

“Director of Public Works” means the Director of the Public Works/Recreation Department, his or her designate or, in the event of organizational changes, another employee designated by Town Council;

“Owner” means the person who is the registered owner of a property, or the duly authorized agent of the owner;

“Parking meter” means a mechanical or electronic device designed to accept payment in exchange for a period of legal parking that is indicated by means of a signal on the device or on a ticket dispensed by the device;

“Pedestrian” includes an individual with a disability who is using a wheelchair or other remedial appliance or device, as well as an individual who is on foot;

“Permit” means, except where otherwise provided, a permit issued by the Town that authorizes an encroachment upon a highway;

“Person” includes a corporation and organization as well as an individual;

“Projecting sign” means a sign that is attached to an exterior wall of a building or structure, either directly or by means of a mast or pole;

“Publication box” means a receptacle for the sale or free distribution of any type of newspaper or publication;

“Real estate sign” includes a real estate advertising sign, a real estate point of sale sign, a real estate open house sign, and a real estate construction site sign;

“Roadway” means the portion of a highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder;

“Right Of Way (R.O.W.)” means the corridor of land reserved for highway improvements and under the jurisdiction of the municipality consisting of the road surface and roadside;

“Sidewalk” means the portion of a highway between the roadway and the lateral boundary of the highway that is set aside for the use of pedestrians;

“Shoulder” means that portion of the roadway between the edge of the travelled surface and the top inside edge of the ditch or fill slope;

“Surveyor” means a member of the Association of Ontario Land Surveyors who is authorized under the *Surveyors Act* to engage in the practice of professional lands surveying in Ontario;

“Upon a highway” means anywhere within the lateral boundaries of a highway, including the air space above and the ground below the grade of a highway.

2. APPLICATION:

- 2.1 This by-law applies to encroachments on every highway that is under the jurisdiction or joint jurisdiction of the Town of Gananoque.
- 2.2 This by-law does not apply to encroachments on lands, other than highways, owned by the Town of Gananoque, or to encroachments on provincial highways or private roads.
- 2.3 This by-law does not apply to the use of highways by vehicles for travel or parking, or to activities of a transitory nature that take place on highways.
- 2.4 This by-law does not apply to sandwich board signs whose placement upon a sidewalk complies with the requirements of the Signs and Merchandise Display By-Law, provided that the Town has no objection to the location of the sandwich board sign from a traffic, safety or operational point of view.
- 2.5 This by-law does not apply to election signs, real estate signs and other temporary signs, other than portable and mobile signs, whose placement upon a highway complies with the requirements of the Signs and Merchandise Display By-Law.

3. ADMINISTRATION:

- 3.1 The Director of Public Works is responsible for the administration of this by-law on behalf of the Town, including the review of applications for permits, the circulation of such applications, where appropriate, to other organizational units and agencies with an interest in the matter, and the issuance of permits.
- 3.2 All provincial offences officers with authority to enforce the by-laws of the Town are responsible for enforcing the provisions of this by-law.

- 3.3 No application for a permit will be reviewed and no permit will be issued except for the types of encroachment that are described in Part 4 of the by-law.
- 3.4 Every application shall be submitted in the form specified by the Director of Public Works, and the applicant shall be responsible for paying the relevant application fee to the Town and all other applicable fees, as set out in Schedule A.
- 3.5 The purpose of the application fee is to cover the costs incurred by the Town in reviewing an application, making a site inspection, and issuing the permit.
- 3.6 An applicant may be required to pay additional hourly fees, as set out in Schedule A, if the particular circumstances make it necessary for additional time to be spent on the review of an application.
- 3.7 Before section 3.6 becomes applicable, the applicant will be given advance written notice of the amount of these additional hourly fees.
- 3.8 The fees set out in Schedule A are subject to review from time to time and may be changed by amendment to this by-law.
- 3.9 Every applicant for a permit shall, upon request, provide documentation showing the location or proposed location of the encroachment upon the relevant highway in the form of a sketch plan drawn to scale that provides all relevant measurements or, where deemed necessary, a plan of survey prepared by a surveyor.
- 3.10 When appropriate, the Director of Public Works will impose conditions as a requirement of obtaining or continuing to hold a permit, including requiring an applicant to enter into an agreement with the Town.
- 3.11 A permit will not be issued unless all organizational units of the Town with an interest in the matter are satisfied that the encroachment will not pose a danger to the safety of persons using the highway, or interfere with the activities or adversely affect the condition or operation of the equipment or facilities of the Town or its agents.
- 3.12 A permit will be issued when the application complies with all of the requirements of this by-law and with all other applicable by-laws, statutes and regulations, and unless all applicable fees have been paid.
- 3.13 A permit will be issued to the owner of a property that is designated under Part IV of the *Ontario Heritage Act* or that is within a heritage conservation district designated under Part V of the *Ontario Heritage Act* when the application complies with the requirements of the *Ontario Heritage Act*.
- 3.14 A permit will be issued when the applicant agrees to indemnify the Town from liability for all claims for damages that the encroachment sustains as a result of any act done by the Town or its agents in the performance of their normal activities.

- 3.15 A permit will be issued when the applicant agrees to indemnify the Town from liability for all claims for damages that any person sustains as a result of the location or use of the encroachment, and to comply with any other terms and conditions imposed by the Town under section 3.10.
- 3.16 A permit will be issued for a canopy, publication box, temporary hoarding, covered way, scaffolding, dumpster or other object or equipment when the applicant provides and maintains, at the applicant's expense, liability and property damage insurance, in an amount satisfactory to the Town, naming the Town as an additional insured in order to protect the Town against all liability, and the applicant shall submit proof of such insurance when applying for a permit.
- 3.17 If an annual fee is payable in accordance with Part 4, the Town will add the amount of the fee to the tax roll for the property for which the permit was obtained, commencing in the year following the year in which the permit was issued, and will collect the amount in the same manner as taxes.
- 3.18 Where notice is to be provided to a person by the Town under this by-law, it will be given by prepaid registered mail or by personal service.
- 3.19 The term of the approved encroachment will be for a period of ten years at which time the encroachment will be reviewed to determine if it should continue and approval be renewed.

4. REGULATIONS:

General Requirements

- 4.1 No person shall construct, plant, place or leave in place an encroachment upon a highway or cause or permit an encroachment to be constructed, planted, placed or left in place upon a highway unless:
 - (a) The encroachment is of a type described in sections 4.11 to 4.87.
 - (b) The encroachment is authorized by a valid permit issued in accordance with Part 3 or by the provisions of this or another by-law.
 - (c) All relevant fees, as set out in Schedule A, including the application fee, all other fees and, where applicable, the annual fee for each year during which the encroachment remains in place, have been paid.
 - (d) The applicant has submitted proof of a sufficient amount of such liability and property damage insurance, if such insurance is required by section 3.16.
- 4.2 If the full amount of the annual fee, if any, is not paid by the final date established by the Town on which the taxes for the current year are due, the Town, after giving notice to the person who is responsible for paying the annual fee, may cancel the permit and, in that event, the encroachment shall no longer be authorized.

- 4.3 Every encroachment that is authorized by a permit shall be constructed, planted, placed or left in place in accordance with the permit and, if an authorized encroachment is moved or altered without the permit holder having obtained a new permit, the original permit shall be deemed to have been cancelled and, in that event, the encroachment shall no longer be an authorized encroachment.
- 4.4 Every encroachment that is authorized by a permit shall be maintained in a good state of repair by the owner of the property for which the permit was obtained or by the permit holder, as the case may be, so as not to pose a danger to the safety of persons using the highway, or to interfere with the activities or adversely affect the condition or operation of the equipment or facilities of the Town or its agents.
- 4.5 If an encroachment that was authorized by a permit is not maintained in a good state of repair, the Town, after giving notice to the person responsible for maintaining the encroachment in a good state of repair, may cancel the permit and, in that event, the encroachment shall no longer be an authorized encroachment.
- 4.6 If, as a result of changed circumstances, the Town determines that an authorized encroachment poses a danger to the safety of persons using the highway, or interferes with the activities or adversely affects the condition or operation of the equipment or facilities of the Town or its agents, the Town, after giving notice to the owner of the property for which the permit was obtained or the permit holder, as the case may be, may cancel the permit and, in that event, the encroachment shall no longer be an authorized encroachment.
- 4.7 Every person who constructs, plants, places or leaves in place an encroachment upon a highway or who causes or permits an encroachment to be constructed, planted, placed or left in place upon a highway shall be liable for any damages that any person sustains as a result of the location or use of the encroachment, regardless of whether it is an authorized or unauthorized encroachment.
- 4.8 Every person who constructs, plants, places or leaves in place an encroachment upon a highway or who causes or permits an encroachment to be constructed, planted, placed or left in place upon a highway that is not authorized by a valid permit shall remove the unauthorized encroachment at his or her own expense.
- 4.9 If a person is given notice by the Town to remove an unauthorized encroachment, and fails to do so by the date specified in the notice, the Town may remove the unauthorized encroachment at that person's expense.
- 4.10 If the owner of the adjoining property is the person who fails to remove an unauthorized encroachment by the date specified in a notice given under section 4.9, the Town may add the amount of the costs incurred by the Town in removing the encroachment to the tax roll for that property and collect the amount in the same manner as taxes.

Retaining/Landscaping Walls, Fences and Hedges

- 4.11 No permit authorizing a retaining/landscaping wall, fence or hedge upon a highway will be issued except for a fence or hedge that extends diagonally from the outer limit of a corner lot toward the intersection of two highways, whose purpose is to prevent pedestrians and others from crossing the boulevard at that intersection.
- 4.12 If there is a sidewalk, no portion of a retaining/landscaping wall, fence or hedge of the type described in section 4.11 shall be permitted to extend nearer than 1.0 metre (3.3 feet) to the inner edge of the sidewalk.
- 4.13 If there is no sidewalk, the setback required for a retaining/landscaping wall, fence or hedge of the type described in Section 4.11 will be determined by the Director of Public Works and will be contingent on the classification of the highway and the design of the adjoining highways.
- 4.14 The height of a retaining/landscaping wall, fence or hedge of the type described in section 4.11 shall not exceed 0.75 metres (2.5 feet), at any point, above the elevation of the centreline of the adjoining highways.
- 4.15 Every owner of a corner lot who proposes to construct a retaining/landscaping wall, fence or plant a hedge upon a highway of the type described in section 4.11 that complies with the requirements set out in sections 4.12 to 4.14 shall make application for a permit.
- 4.16 A permit authorizing a retaining/landscaping wall, fence or hedge to encroach upon a highway shall be valid as long as the fence or hedge remains in place or until the permit is cancelled by the Town.
- 4.17 An annual fee, as set out in Schedule A, shall be payable by the owner of the corner lot for which the permit was obtained for each year or portion of a subsequent year during which the encroachment remains in place.

Existing Buildings

- 4.18 Every owner whose property contains an existing building that, through inadvertence, encroaches upon a highway shall make application for a permit.
- 4.19 A permit authorizing an inadvertent encroachment upon a highway by an existing building shall be valid as long as the encroachment remains in place or until the permit is cancelled by the Town.
- 4.20 An annual fee, as set out in Schedule A, shall be payable by the owner of the property for which the permit was obtained for each year or portion of a subsequent year during which the encroachment remains in place.
- 4.21 Subject to section 4.6, every area opening and cellar window that encroaches upon the adjoining highway at a municipal address set out in Schedule B is deemed to be an authorized encroachment.

- 4.22 Every area opening and cellar window that is authorized by Section 4.21 shall be maintained in a good state of repair by the owner of the property served by the area opening or cellar window so as not to pose a danger to the safety of persons using the highway, or to interfere with the activities or adversely affect the condition or operation of the equipment or facilities of the Town or its agents.
- 4.23 If an area opening or cellar window that is authorized by Section 4.21 is not maintained in a good state of repair, the Town, after giving notice to the owner of the property served by the area opening or cellar window, may do the necessary work at the owner's expense by adding the costs incurred by the Town in doing the work to the tax roll for that property and collecting them in the same manner as taxes.

Refacing of Existing Buildings

- 4.24 Every owner of a property who proposes to reface an exterior wall of an existing building on that property so that the building will encroach upon a highway shall make application for a permit.
- 4.25 A permit authorizing an existing building which has been refaced to encroach upon a highway shall be valid as long as the encroachment remains in place or until the permit is cancelled by the Town.
- 4.26 An annual fee, as set out in Schedule A, shall be payable by the owner of the property for which the permit was obtained for each year or portion of a subsequent year during which the encroachment remains in place.

Projections from Buildings

- 4.27 Every owner of a property who proposes to attach an awning, bracket, cornice, eave, fire escape, projecting sign, sill, window air-conditioner or other object to a building on that property that will project beyond the main walls of the building so as to encroach upon a highway shall make application for a permit.
- 4.28 No awning, bracket, cornice, eave, fire escape, projecting sign, sill, window air-conditioner or other projecting object shall be permitted to encroach upon a highway unless the height of the projection is at least 2.4 metres (8 feet) above the grade of the highway.

Notwithstanding paragraph 4.28, where the wall of the building from which the awning, bracket, cornice, eave, fire escape, projecting sign, sill, window air conditioner or other projecting object's encroachment is less than 1.0 metre (3.3 feet) from the paved portion of the highway, the minimum height of the projection shall be at least 3.6 metres (12 feet).

- 4.29 No awning or projecting sign that requires a sign permit from the Town shall be permitted to encroach upon a highway unless the application complies with the requirements of the Signs and Merchandise Display By-Law.
- 4.30 A permit authorizing an awning, bracket, cornice, eave, fire escape, projecting sign, sill, window air-conditioner or other projecting object to encroach upon a highway shall be valid as long as the encroachment remains in place, or until the permit is cancelled by the Town.
- 4.31 An annual fee, as set out in Schedule A, shall be payable by the owner of the property for which the permit was obtained for each year or portion of a subsequent year during which the encroachment remains in place.

Canopies

- 4.32 Every owner of a property who proposes to attach a canopy to a building on that property that will encroach upon a highway shall make application for a permit.
- 4.33 No canopy shall be permitted to encroach upon a highway unless:
- (1) The height of the projection over a highway at any point is at least 2.4 metres (8 feet) above the grade of the highway.
 - (2) Subject to the site conditions, the support poles of the canopy are located at least 1.0 metre (3.3 feet) from the inner edge of the sidewalk or, where there is no sidewalk, at least 2.0 metres (6.6 feet) from the back of the curb.
 - (3) Notwithstanding sub-paragraph 4.33(1), where the wall of the building from which the canopy projects is less than 1.0 metre (3.3 feet) from the paved portion of the highway, the minimum height of the canopy shall be at least 3.6 metres (12 feet).
- 4.34 No canopy that requires a sign permit from the Town shall be permitted to encroach upon a highway unless the application complies with the requirements of the applicable by-law regulating signs and advertising devices.
- 4.35 A permit authorizing a canopy to encroach upon a highway shall be valid as long as the encroachment remains in place, or until the permit is cancelled by the Town.
- 4.36 An annual fee, as set out in Schedule A, shall be payable by the owner of the property for which the permit was obtained for each year or portion of a subsequent year during which the canopy remains in place.

Directional Signs and Historical Markers

- 4.37 Every person who proposes to install a historical marker upon a highway to identify a building or site of architectural, historical or cultural significance shall make application for a permit.
- 4.38 Heritage directional Signs as defined in the Sign and Merchandise Display By-law do not require encroachment permits.

- 4.39 A permit authorizing a historical marker to encroach upon a highway shall be valid as long as the marker remains in place or until the permit is cancelled by the Town.
- 4.40 Every permit holder shall be responsible for all costs incurred by the Town in installing, maintaining and, if applicable, supplying a directional sign or historical marker.
- 4.41 Despite the provisions of this by-law, every tourism-oriented directional sign that is installed and maintained upon a highway in accordance with an agreement between the Town and Canadian TODS Limited or its successor is deemed to be an authorized encroachment as long as it is maintained in a good state of repair so as not to pose a danger to the safety of persons using the highway, or to interfere with the activities or adversely affect the condition or operation of the equipment or facilities of the Town or its agents.

Banners, Pennants and Flower Baskets

- 4.42 Every local organization or institution that proposes to have a banner installed over a highway shall make application for a permit, and the application shall include the requested dates and the proposed wording on the banner.
- 4.43 No permit for a banner will be issued except to a local organization or institution for the purpose of promoting a community event of a non-partisan, non-political nature.
- 4.44 A banner shall show only the event or events being promoted and other pertinent information, such as the date, time and location of the event or events.
- 4.45 No permit authorizing the installation of a banner over a highway will be issued except for the following locations:
- (1) King Street, between Charles Street and Stone Street
- 4.46 A permit authorizing a banner to encroach upon a highway shall be valid only for the time period specified in the permit.
- 4.47 Every banner for which a permit has been issued shall be installed and removed by the Town, and no other person shall install or remove a banner.
- 4.48 No banner will be installed by the Town unless:
- (1) The applicant holds a valid permit.
 - (2) The applicant pays the full amount of the fees to the Town a minimum of seven days prior to the scheduled date of the banner's installation.
 - (3) The applicant delivers the banner to the Town's Public Works Facility a minimum of two days prior to its scheduled date of installation.
 - (4) The banner measures 0.9 by 7.5 metres (3 by 25 feet), and complies with all other requirements including those relating to ropes and cut flaps.

- (5) The Director of Public Works is satisfied with the physical condition of the banner.
- 4.49 The Town is not responsible for any damages that the banner sustains, and may discard any banner that is not picked up by the time agreed to by the applicant.
- 4.50 Despite Sections 4.42 to 4.49, the Downtown Business Improvement Area (B.I.A.) is authorized to hang pennants and flower baskets from lamp standards located on highways within the designated improvement area, including pennants hung from permanent brackets on light standards provided that it gives advance written notice to the Director of Public Works of the specific location and duration of the installations and the wording on the pennants.

Sidewalk Sales

- 4.51 No person shall place a display of goods, merchandise or objects on a sidewalk, except in accordance with Sections 4.52 to 4.55.
- 4.52 The Downtown Business Improvement Area (B.I.A.) is authorized to sponsor sales on sidewalks within the designated improvement area, provided that it gives advance written notice to the Director of Public Works of the specific locations and dates of these sales.
- 4.53 During an authorized sale, every person who operates a retail business within the designated improvement area may, during business hours, place a display of goods, merchandise and objects on the sidewalk adjacent to his or her permanent place of business, but no person shall place a display on a sidewalk in a location or in a manner that obstructs the movement of pedestrians or that interferes with the activities or adversely affects the condition or operation of the equipment or facilities of the Town or its agents.
- 4.54 During an authorized sale, every person who operates a participating retail business shall be responsible for maintaining a portion of the sidewalk adjacent to his or her permanent place of business for the unobstructed movement of pedestrians that is at least 1.5 metres (5.0 feet) in width and that is kept free and clear of displays and of individuals who have stopped to inspect the displays.
- 4.55 At all other times, every person who operates a retail business within the designated improvement area may, during business hours, place a display of goods, merchandise and objects on the portion of the sidewalk that is immediately adjacent to his or her permanent place of business, provided such placement complies with the Sign and Merchandise Display By-law.
- 4.56 Despite Section 4.54, the Downtown Business Improvement Area (B.I.A.) is authorized to place flower boxes on sidewalks within the designated improvement area, provided that it gives advance written notice to the Director of Public Works of the specific locations and duration of these installations.

Publication Boxes

- 4.57 Every person who proposes to place a publication box upon a highway shall make application for a permit in each calendar year during all or part of which the person proposes to place the box upon a highway.
- 4.58 No publication box shall be permitted upon a highway unless its proposed location is at least 100 metres (330 feet) from an existing retail business that sells or distributes the same publication.
- 4.59 A permit authorizing a publication box to encroach upon a highway, which shall be valid only for the duration of the calendar year for which it is issued.
- 4.60 If an authorized publication box is not maintained in a neat, clean and rust-free condition, the Town, after giving notice to the permit holder, may remove and impound the publication box and, in that event, the permit holder or another person acting on the permit holder's behalf who wishes to recover the publication box shall be required to pay the amount of the costs incurred by the Town in removing and impounding the publication box.

Temporary Hoarding and Covered Ways

- 4.61 Every owner of a property who proposes to construct temporary hoarding or a covered way upon a highway for the purposes of a construction project on that property shall make application for a permit.
- 4.62 No permit will be issued for temporary hoarding or a covered way unless appropriate measures are taken to ensure that staff of the Town or its agents can gain immediate access to manholes, vaults and similar facilities.
- 4.63 Every owner who obtains a permit in accordance with Section 4.61 shall be responsible for all costs incurred by the Town or its agents if it becomes necessary to remove and subsequently reinstate temporary hoarding or a covered way in order to gain access to a manhole, vault or similar facility.
- 4.64 If an owner proposes to construct temporary hoarding or a covered way upon a roadway, a daily occupancy fee, as set out in Schedule A, shall be payable in addition to the application fee.
- 4.65 If an owner proposes to construct temporary hoarding or a covered way upon a portion of a roadway which is regulated by parking meters, a daily fee to compensate the Town for the loss of parking revenue shall be payable in addition to the application fee and the daily occupancy fee.
- 4.66 Every applicant for a permit shall agree to comply with the relevant requirements of the Construction Projects Regulation under the Occupational Health and Safety Act and with all other applicable legislation and regulations.

- 4.67 Every applicant for a permit shall agree to take all measures, including the installation of warning signs and barriers, as are necessary to protect the safety of persons using the highway.
- 4.68 Despite Section 4.61, an owner who, in an emergency situation or as a result of an order made under the Building Code Act to undertake remedial work, is required to construct temporary hoarding or a covered way upon a highway in order to protect the safety of persons using that highway, may construct the hoarding or covered way without having obtained a permit.
- 4.69 Every owner who constructs temporary hoarding or a covered way in accordance with Section 4.68 shall make application for a permit on the first subsequent day on which the offices of the Town are open for business, and Sections 4.61 to 4.68 are applicable to the application.
- 4.70 A permit authorizing temporary hoarding or a covered way to encroach upon a highway shall be valid only for the time period specified in the permit.
- 4.71 Despite Section 4.70, a permit authorizing temporary hoarding or a covered way to encroach upon a highway that is the result of an order made under the Building Code Act shall be valid only until the date specified in the order for the completion of the remedial work.

Scaffolding

- 4.72 Every owner of a property who proposes to construct scaffolding upon a highway for the purposes of a construction or maintenance project on that property shall make application for a permit.
- 4.73 No permit will be issued for scaffolding unless appropriate measures are taken to ensure that staff of the Town or its agents can gain immediate access to manholes, vaults and similar facilities.
- 4.74 If an owner proposes to construct scaffolding upon a roadway, a daily occupancy fee, as set out in Schedule A, shall be payable in addition to the application fee.
- 4.75 If an owner proposes to construct scaffolding upon a portion of a roadway which is regulated by parking meters, a daily fee to compensate the Town for the loss of parking revenue shall be payable in addition to the application fee and the daily occupancy fee.
- 4.76 Every applicant for a permit shall agree to comply with the requirements of the Construction Projects Regulation under the *Occupational Health and Safety Act* and with all other applicable legislation and regulations.
- 4.77 A permit authorizing scaffolding to encroach upon a highway shall be valid only for the time period specified in the permit.

Dumpsters and Other Objects or Equipment

- 4.78 Every owner of a property who proposes to place a dumpster or other object or equipment upon a highway for the purposes of a construction or maintenance project on that property shall make application for a permit.
- 4.79 Every application for a permit shall include provisions dealing with drainage matters that are sufficient to ensure that nothing from a dumpster or other object or equipment drains into a manhole, vault or similar facility.
- 4.80 No permit will be issued if the proposed location of a dumpster or other object or equipment will limit or prevent access to a manhole, vault or other facility.
- 4.81 If an owner proposes to place a dumpster or other object or equipment upon a roadway, a daily occupancy fee, as set out in Schedule A, shall be payable in addition to the application fee.
- 4.82 If an owner proposes to place a dumpster or other object or equipment upon a portion of a roadway which is regulated by parking meters, a daily fee to compensate the Town for the loss of parking revenue shall be payable in addition to the application fee and the daily occupancy fee.
- 4.83 No dumpster or other object or equipment shall be permitted to encroach upon a highway unless its use is directly related to a construction or maintenance project on the property of the owner who is applying for the permit.
- 4.84 A permit authorizing a dumpster or other object or equipment to encroach upon a highway shall be valid only for the time period specified in the permit.

Existing Authorized Encroachments Upon Highways

- 4.85 Subject to section 4.4, every existing encroachment described in Schedule B (as updated from time to time) that was authorized by a previous by-law is deemed to continue to be an authorized encroachment upon a highway.
- 4.86 Every existing encroachment that is authorized by Section 4.85 shall be maintained in a good state of repair by the owner of the property or the person who is responsible for the encroachment, as the case may be, so as not to pose a danger to the safety of persons using the highway, or to interfere with the activities or adversely affect the condition or operation of the equipment or facilities of the Town or its agents.
- 4.87 If an existing encroachment that is authorized by Section 4.86 is not maintained in a good state of repair, the encroachment shall be deemed to be no longer authorized and, in this event, Sections 4.6 to 4.8 are applicable to the encroachment.

5. EXEMPTIONS:

- 5.1 The activities of Canada Post Corporation and its agents with respect to the placement of receptacles or devices upon highways for the collection, delivery or storage of mail are exempt from the provisions of this by-law.
- 5.2 The activities, infrastructure and equipment of companies and agencies that provide public utilities, electricity and telecommunications services upon highways are exempt from the provisions of this by-law.
- 5.3 The activities upon highways of persons who are carrying out work or installing infrastructure in accordance with the terms and conditions of a subdivision or site plan agreement with the Town are exempt from the provisions of this by-law.
- 5.4 Every private entrance upon a highway that complies with the requirements of the applicable by-law regulating private entrances or that is constructed in accordance with the terms and conditions of a subdivision or site plan agreement with the Town is exempt from the provisions of this by-law.

6. SCHEDULES:

The following schedules are attached to and form part of this by-law:

- Schedule A Fees
- Schedule B Existing Authorized Encroachments.
- Sample Application

7. OFFENCE AND PENALTY PROVISIONS:

- 7.1 Any person who contravenes this by-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the Provincial Offences Act and to any other applicable penalties.
- 7.2 If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

8. VALIDITY:

- 8.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

9. COMMENCEMENT:

9.1 This by-law takes effect and comes into force on the day that it receives third reading and is passed.

Read a first and second time this 20 day of September, 2005.

Mayor

Clerk

Read a third time and finally passed on this 4 day of October, 2005.

Mayor

Clerk

SCHEDULE A:
FEES (including taxes)

Existing Buildings

Application Fee	\$50.00
Annual Fee	\$25.00

Retaining/Landscaping Walls, Fences and Hedges

Application Fee	\$50.00
Annual Fee	\$25.00

Refacing of Existing Buildings

Application Fee	\$50.00
Annual Fee	\$25.00

Projections from Buildings

Application Fee	\$50.00
Annual Fee	\$25.00

Canopies

Application Fee	\$50.00
Annual Fee	\$25.00

Directional Signs

Application Fee	\$50.00
Provision of Sign	Amount of costs incurred by the Town
Installation/Maintenance	Amount of costs incurred by the Town
Annual Fee	Nil

Historical Markers

Application Fee	\$50.00
Provision of Sign	Amount of costs incurred by the Town
Installation/Maintenance	Amount of costs incurred by the Town
Annual Fee	Nil

Banners

Application Fee	\$50.00 Plus cost to erect sign
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Publication Boxes

Application Fee (Annual)	\$25.00 per box
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SCHEDULE A:
Fees (continued)

Hoarding, Covered Ways and Scaffolding

Application Fee	\$50.00
Daily Occupancy Fee	\$10.71 per 6 metres (20 ft.) frontage
Daily Metered Parking Fee	As determined

Dumpsters and Other Objects or Equipment

Application Fee	\$50.00
Daily Occupancy Fee	\$10.71 per dumpster, etc.
Daily Metered Parking Fee	As determined

Additional Fees [as per section 3.6]

Management Staff	\$50.00 per hour
Other Staff	\$30.00 per hour

SCHEDULE B:

EXISTING AUTHORIZED ENCROACHMENTS

Location of Encroachment	Type of Encroachment
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TO BE COMPLETED BY PUBLIC WORKS STAFF



**TOWN OF GANANOQUE
APPLICATION FOR AN ENCROACHMENT PERMIT**

DATE: _____

APPLICANT NAME: _____

ADDRESS: _____

TELEPHONE NO. _____

_____, Agent/Owner for the property described as Lot

No./Plan _____ on the _____ side of

_____ Street, hereby apply for a permit to occupy the following
portion of the said street:

as shown on the attached plan. (sketch plan for temporary encroachments showing exact location and all measurements; plan of survey prepared by Ontario Land Surveyors for inadvertent encroachments) for the purpose of:

Required term of encroachment: _____

I have read and agree to comply with the conditions of By-Law No. _____ "A by-law to authorize the Town of Gananoque to regulate encroachments of highways and public utility easements" and amendments thereto.

Applicant