

# The Corporation of the Township of Springwater

## By-Law 2008-082

**A By-law to regulate the temporary closure or occupancy of any highway under the jurisdiction of the Council for purposes related to social, recreation, community, athletic or cinematographic activities, or construction or maintenance; and to repeal Township of Springwater By-law 95-20.**

**WHEREAS** The Corporation of the Township of Springwater has authority to pass by-laws relating to Highways under its jurisdiction, including parking and traffic pursuant to Section 11 of the Municipal Act, 2001, S.O. 2001, as amended; and

**WHEREAS** the Council of The Corporation of the Township of Springwater deems it necessary and desirable to enact such a by-law to provide for such temporary road occupancy and closures and to authorize the Director of Public Works to act on its behalf;

**NOW THEREFORE** the Council of The Corporation of the Township of Springwater enacts as follows:

### 1. DEFINITIONS

THAT for the purpose of this by-law:

**"Applicant"** means any person making an application for a Temporary Road Occupancy Permit and any person to whom a permit is issued.

**"Construction or Maintenance Purposes"** means any construction, repair or improvement of the highway or a portion thereof, or any works under, over, along, across or upon the highway, and also includes building construction, repair or maintenance operations by the owner or occupant of land adjoining the highway, including the storage of materials used for such building or the erection of hoardings, which require highway occupancy or closure.

**"Council"** means the Council of the Corporation of the Township of Springwater.

**"Highway"** means a common and public highway, street, avenue, parkway, driveway, or any part thereof, including bridges, which is intended for or used by the general public for the passage of vehicles and pedestrians and includes the area between the lateral property lines thereof.

**"Owner"** means the person as identified as the owner on the Assessment Roll for Taxation Purposes during the current year, and where the context relates to the making of an application for a Temporary Road Occupancy Permit under this By-law

for the purpose of maintaining or upgrading an adjacent property, includes a representative or agent of the Owner.

**"Person"** includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply to law.

**"Director of Public Works"** includes the Director of Public Works of the Township of Springwater or his/her authorized representative.

**"Township"** shall mean The Corporation of Township of Springwater.

## **2. APPROVALS**

- 2.1. THAT for the purpose of this By-law, the Director of Public Works shall have authority to approve and administer all Temporary Road Occupancy Permits.
- 2.2. THAT the Director of Public Works shall have authority to order the stoppage of work or cessation of activity on the highway where an approved Temporary Road Occupancy Permit has not been issued or where the conditions of an approved permit, or provisions of this By-law, have not been complied with; and to revoke an approved permit if the Licensee does not meet the requirements of the permit or of this By-law.
- 2.3. THAT the Director of Public Works is authorized to order road closure or permit occupancy for uses related to social, recreation, community, athletic or cinematographic activities, construction or maintenance.

## **3. APPLICATION FOR TEMPORARY ROAD OCCUPANCY PERMITS**

- 3.1 THAT every person seeking to occupy or close to vehicular traffic on any highway under the jurisdiction of the Township on a temporary basis shall apply in writing to the Director of Public Works.
- 3.2 THAT the applicant for a Temporary Road Occupancy Permit under this By-law must be the owner if the permit is requested for the purpose of maintaining or upgrading the owner's property.
- 3.3 THAT every application filed shall include the following information:
  - 3.3.1 Name of Applicant
  - 3.3.2 Address of Applicant
  - 3.3.3 Telephone No., Fax No. (if applicable) and email address (if applicable) of applicant
  - 3.3.4 Date of application
  - 3.3.5 Name of Event or Activity
  - 3.3.6 Nature of Work

- 3.3.7 Date(s) of event of Activity or Work
  - 3.3.8 Estimated Value of Work or Restoration
  - 3.3.9 Highway(s) affected by proposed road closure and/or occupancy
  - 3.3.10 Proposed start and finish time for road closure and/or occupancy
  - 3.3.11 Sketch showing Proposed Detour Route (if required)
  - 3.3.12 Sketch showing Proposed Location(s) of Warning Devices and Signage
  - 3.3.13 List of all proposed uses of the subject highway and sketch showing the location(s) of such uses
  - 3.3.14 Detailed description and dimensions of all works including work plan, proposed equipment and sketches
- 3.4 THAT every application shall be filed with the Director of Public Works, where possible, at least thirty (30) days prior to the proposed date of the event.
- 3.5 THAT the Director of Public Works shall, upon receipt of an application filed, circulate the application to the Director of Fire and Emergency services, Chief Building Official, and Clerks Department for comments prior to approval.
- 3.6 THAT the Director of Public Works shall, upon receipt of an application, determine any and all signs, barricades, traffic control devices, personnel, or any other person or equipment required for the proposed road occupancy or closure.
- 3.7 THAT the Director of Public Works shall, upon review of comments provided by applicable officials, determine whether approval shall be granted for the temporary occupancy and/or closure and what terms or conditions shall apply, including but not limited to:
- 3.7.1 highways affected by temporary road occupancy or closure;
  - 3.7.2 start and end times for temporary road occupancy or closure;
  - 3.7.3 location of detour route;
  - 3.7.4 provision and/or installation of signs, barricades, traffic control devices or personnel;
  - 3.7.5 permitted uses on road allowance during temporary road occupancy and/or closure;
  - 3.7.6 any insurance which may be required;
  - 3.7.7 notification to agencies and media of temporary road occupancy and/or closure; and
  - 3.7.8 responsibility for clean up after the event and the associated costs, if any.
- 3.8 THAT the Director of Public Works shall, upon approval of the application, issue a Temporary Road Occupancy Permit. This permit must contain all conditions imposed and be signed by the Director of Public Works.
- 3.9 THAT before receiving a Temporary Road Occupancy Permit for which a condition was imposed, every applicant shall provide proof of such insurance in

the form and with an insurer satisfactory to the Township. The policy of insurance shall:

- 3.9.1 provide for indemnification of the Township and the applicant against all damages, claims, injury or demands of every nature and kind arising from, or incidental to the temporary road occupancy and/or closure;
  - 3.9.2 name additionally insured 'the Corporation of the Township of Springwater';
  - 3.9.3 have a minimum liability/amount coverage subject to the discretion of the Director of Public Works;
  - 3.9.4 the Township shall be notified thirty (30) days prior to cancellation or expiry; and
  - 3.9.5. the applicant shall be responsible for all costs associated with such insurance.
- 3.10 THAT in addition to any other conditions, it is the sole responsibility of the applicant, at the applicant's sole cost, to arrange for police attendance for the purpose of traffic control at any barricade or signalized intersection, as applicable.
- 3.11 THAT the Director of Public Works shall, upon the issuance of a Temporary Road Occupancy Permit, notify the Ontario Provincial Police (Huron West OPP), the Township Fire and Emergency Services Department, the Township Clerks Department or any other department and/or institution(s) that may be valid.
- 3.12 THAT the Director of Public Works may, upon receipt of an application, refuse to grant a permit to any applicant for any of the following reasons:
- 3.12.1 persistent and/or serious violations of any condition of a permit previously issued to the applicant, or of any provisions of this By-law applicable to a permit previously issued hereunder;
  - 3.12.2 failure to receive approval from the County of Simcoe or Ministry of Transportation for temporary road occupancy or closures involving highways under their jurisdiction; and
  - 3.12.3 such other reason(s) as the Director of Public Works deems proper. These reason(s) will be delivered in writing to the applicant.
- 3.13 THAT subject to the *Statutory Powers and Procedures Act*, any applicant who has been refused a permit or who objects to any condition, may appeal to the Township Council and the decision of Council shall be final and binding on the applicant.
- 3.14 THAT any permit pursuant to this By-law may be revoked by the Director of Public Works upon giving written notice to the applicant for any of the following reasons:

- 3.14.1 a violation of any condition of the permit or any provision of this By-law;
- 3.14.2 a violation of any provision of other law relating to the road occupancy and/or closure;
- 3.14.3 the existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or properties of others;
- 3.14.4 where the permit has been issued on mistaken, false or misleading information; and
- 3.14.5 where the applicant is unable or unwilling to meet the terms and conditions of the permit.

#### **4. PERMIT FEES AND DEPOSITS**

- 4.1 THAT the fee schedule for the issuance of a Temporary Road Occupancy Permit is as follows:
  - 4.1.1 applicants must pay a permit fee of **\$110** for the issuance of a Temporary Road Occupancy Permit if the work does not include a road cut;
  - 4.1.2 applicants must pay a permit fee of **\$300** for the issuance of a Temporary Road Occupancy Permit if the work includes a road cut;
  - 4.1.3 permit fees are waived for utility installation; and
  - 4.1.4 permit fees are waived for purposes related social, recreation, community or athletic events.
- 4.2 THAT the applicant may be required to provide a security deposit to the Township. The security deposit will be in the amount determined by the Director of Public Works as being sufficient to restore and make good all disrupted areas, as well as to protect the public. Security deposits may be held for a one year period after the work is done.

#### **5. EXEMPTIONS FROM PERMIT REQUIREMENTS**

- 5.1 THAT a Temporary Road Occupancy Permit is not required by a person undertaking any works for or on behalf of the Township.
- 5.2 THAT a temporary road occupancy permit is not required for road occupancy or closures ordered by the Director of Public Works.

#### **6. DETOUR ROUTE**

- 6.1 THAT where a highway or portion thereof is closed under an order of the Director of Public Works or a Temporary Road Occupancy Permit, the Township shall provide, in accordance with the terms and conditions of the Permit, a reasonable temporary alternative or detour route for traffic and for all property owners who cannot obtain access to their property by reason of such closing.

- 6.2 THAT a detour route may not be required in the event that the highway is closed to vehicular traffic for the duration of a parade provided that the estimated length of time required for the parade to pass at any one point along the route is ten (10) minutes or less.
- 6.3 THAT the applicant, or the Township where the occupancy and/or closure is ordered by the Director of Public Works, shall ensure that access to all public and private properties is maintained.
- 6.4 THAT all detours shall comply with the requirements identified in the most recent edition of Ontario Provincial Road Standards Book 7 "Temporary Conditions".

## **7. BARRICADES AND WARNING DEVICES**

- 7.1 THAT while a highway or portion thereof is closed to traffic under a Temporary Road Occupancy Permit or under an order of the Director of Public Works, there shall be erected at each end of such highway or portion thereof, and where a detour route deviates therefrom, a barricade upon which an adequate warning device shall be exposed and in good working order continuously from sunset to sunrise. At such points there shall be erected a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic.
- 7.2 THAT the Director of Public Works shall provide such barricades and warning devices to the applicant in accordance with the terms and conditions of the Temporary Road Occupancy Permit.
- 7.3 THAT the applicant shall ensure that prior to the closing of the highway(s), that all barricades and warning devices are erected in accordance with the terms and conditions of the Temporary Road Occupancy Permit. The applicant shall keep in place and working all barricades and devices, and take further care and precaution as may be necessary for the protection and safety of the public.
- 7.4 THAT the use of barricades and warning devices shall comply with the requirements identified in the most recent edition of Ontario Provincial Road Standards Book 7 "Temporary Conditions".

## **8. ROAD CUTS**

- 8.1 THAT a work plan must be submitted to the Director of Public Works describing the work, identifying all contractors who will be used to perform the work and all material suppliers, before a permit may be issued.
- 8.2 THAT geotechnical information must be supplied for all aggregate materials imported and incorporated as part of the works.
- 8.3 THAT all roads are to be open to traffic prior to sunset.

- 8.4 THAT asphalt surfaces are to be restored with 50mm of temporary cold patch until final restoration is complete.
- 8.5 THAT the owner is responsible for all costs of maintaining the road cut for a one year period from the completion of the work.

## **9. UTILITY INSTALLATIONS**

- 9.1 THAT utility installations are at no cost, provided the work is completed via trenchless technology.
- 9.2 THAT if trenching or open cut is proposed and approved by the Director of Public Works, then the road cut permit section application will apply.

## **10. DRAINAGE WORKS**

- 10.1 THAT Drainage works are at no cost, provided the work is being constructed as a Municipal Drain under the *Drainage Act*.
- 10.2 THAT all other drainage related works will either require an Entrance Permit or an approved Road Cut work plan as determined by the Director of Public Works.

## **11. ADDITIONAL APPLICANT RESPONSIBILITIES**

- 11.1 THAT no applicant shall fail to notify the Director of Public Works in the event that additional time is required to complete the work than contemplated on the permit, and the reason therefore.
- 11.2 THAT no applicant shall fail to notify the Director of Public Works of the extent of any alteration, breaking or disturbance of an existing pavement, boulevard or sidewalk, immediately upon completion of the works, if the works undertaken deviate from those set out in the permit.
- 11.3 THAT if it is necessary to alter, break or disturb an existing pavement or sidewalk, the applicant shall undertake a temporary repair to the satisfaction of the Township. The Township shall maintain the temporary repair until it can undertake permanent restoration, all of which shall be at the expense of the applicant.
- 11.4 THAT no applicant shall fail to permanently restore all sodded areas to the satisfaction of the Township.
- 11.5 THAT in the event that the applicant fails to effect temporary repairs or restoration of sodded areas, the Township may effect the necessary repairs or restore the sodded areas at the expense of the applicant or any other person

who benefited from or who contracted for the works. In addition to any other penalty and without limiting any collection remedy otherwise available to the Township, the cost to effect the temporary repairs or restore the sodded areas, or upon default of payment for the permanent repairs, the Township may add the outstanding expense to the tax role for any real property within the municipality owned by the applicant responsible for paying the expense, and the amount may be collected in like manner as municipal taxes.

- 11.6 THAT the Applicant shall undertake any work necessary to obtain all required utility locates, approvals and permits from all applicable levels of government and authorities.

## **12. OFFENSES AND PENALTIES**

- 12.1 THAT No person shall permit or cause the temporary occupancy and/or closure of a highway or portion thereof for a social, recreational, community, athletic or cinematographic purpose or for construction or maintenance without first obtaining a Temporary Road Occupancy Permit issued under this By-law.
- 12.2 THAT every person who without lawful authority uses a highway or portion thereof so closed to traffic while it is protected or who removes or defaces any barricade, device, detour sign or notice placed thereon by lawful authority is guilty of an offence and is also liable to the municipality having jurisdiction for any damage or injury occasioned by such wrongful use, removal or defacement.
- 12.3 THAT every person who uses a highway or portion of a highway closed to traffic under this By-law does so at their own risk and the municipality is not liable for any damage sustained by a person using a highway or portion thereof so closed.
- 12.4 THAT no person shall use or permit the use of a highway or portion of a highway closed to vehicular traffic under this By-law during the period of closure except for pedestrian traffic or such other uses authorized under the Temporary Road Occupancy Permit.
- 12.5 THAT every person who contravenes the provisions of this By-law shall be guilty of an offence and liable upon conviction to a fine not to exceed Five Thousand Dollars (\$5,000) exclusive of costs for each such offence and every penalty shall be recoverable under the *Provincial Offences Act*.
- 12.6 THAT if any provision of this By-law be declared by a court of competent jurisdiction to be void or ultravires for any reason, the remaining provisions shall be read as if the offending section or sub-section had been struck out.

### **13. GENERAL**

- 13.1 THAT if any provision of this By-law is inconsistent with the *Municipal Act*, the *Public Transportation Act*, the *Highway Traffic Act* or any other Act, the provisions of the applicable Act shall prevail.
- 13.2 THAT if any section, subsection, clause, paragraph or provision of this By-law, including any part of the Schedules to this By-law, be declared by a court of competent jurisdiction to be invalid, the same shall not effect the validity of the By-law as a whole or any part, other than the provision or part of the Schedule declared invalid.
- 13.3 THAT this By-law may be cited as the "Temporary Road Occupancy By-law".
- 13.4 THAT By-law No. 95-20 of the Township of Springwater be and is hereby repealed.
- 13.5 THAT this By-law shall take force and effect upon final passage hereof.

**READ A FIRST, A SECOND, AND THIRD TIME AND FINALLY PASSED THIS EIGHTEENTH DAY OF AUGUST, 2008.**

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**Tony Guergis, Mayor**

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**Carol O. Trainor, Clerk**