

BY-LAW NUMBER 07-029

OF

THE REGIONAL MUNICIPALITY OF WATERLOO

A By-law to Regulate Work on Regional Roads

WHEREAS section 42 of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes The Regional Municipality of Waterloo to delegate to an employee of the municipality, subject to any conditions The Regional Municipality of Waterloo may impose, the power to close its highways temporarily for any purpose specified in the by-law;

AND WHEREAS section 11 of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes The Regional Municipality of Waterloo to pass by-laws respecting Regional roads;

NOW THEREFORE, the Council of The Regional Municipality of Waterloo enacts as follows:

Definitions

1. In this By-law:

- (1) "Commissioner" means the Commissioner of Transportation and Environmental Services for the Region or any successor position or his or her designate;
- (2) "DGSSMS" means the Region of Waterloo and Area Municipal Design Guidelines and Supplemental Specifications for Municipal Services, as amended;
- (3) "driveway" means that part of a road that provides vehicular access to and from the roadway and an adjacent property;
- (4) "emergency work" means unforeseen work that is necessary immediately because of imminent danger to life, health or property including, but not limited to:
 - (a) a washout or cave-in;
 - (b) drainage impediment or ponding;
 - (c) softspot;
 - (d) settlement of the roadway surface greater than 50 mm;
 - (e) damaged or leaking water or gas pipe;
 - (f) damaged, plugged or leaking sanitary or storm sewer pipe;
 - (g) damaged underground electrical or communications facility;
 - (h) damaged or downed aboveground or overhead utility structure including but not limited to a pole, anchor, guy wire, support strand, cable, splice enclosure, pedestal or cabinet; or
 - (i) unscheduled interruption of utility service;
- (5) "infrastructure" includes, but is not limited to, any public or private utility structure, copper or coaxial wire, fibre optic cable, pipe, conduit, pedestal, cabinet, antenna, vault, support structure, bus stop facility, culvert, noise barrier, fence, guiderail, barricade, traffic island, traffic control device, sign, light, rail facility, pavement, subgrade, manhole, catch basin, handwell, valve chamber, valve box, curb, gutter, sidewalk, driveway, mailbox, hydrant, sod, berm, ditch or watercourse;
- (6) "lane" means that part of a roadway that accommodates a single line of moving or parked vehicles;
- (7) "lane closure" means a closure of one or more lanes on a roadway such that the direction of traffic flow is maintained in all directions existing before the closure and no diversion of traffic to another road is required;

- (8) "local municipality" means any of The Corporation of the City of Cambridge, The Corporation of the City of Kitchener, The Corporation of the City of Waterloo, The Corporation of the Township of North Dumfries, The Corporation of the Township of Wellesley, The Corporation of the Township of Wilmot, or The Corporation of the Township of Woolwich;
- (9) "m" means metres;
- (10) "mm" means millimetres;
- (11) "municipal consent" means the written consent of the Commissioner, with or without conditions for access to and use of a Regional road;
- (12) "municipal costs" means labour, material, equipment and administrative costs incurred by the Region or a local municipality as a result of work, including but not limited to costs for temporary or permanent traffic control devices, costs where the proponent has failed to comply with any of the requirements of this By-law, and costs for restoration of infrastructure in, on, over, under, across or along a road damaged by the work as deemed necessary by the Commissioner at the end of the warranty period;
- (13) "municipal law enforcement officer" means a by-law enforcement officer appointed by the Region or a local municipality;
- (14) "person" includes, but is not limited to, an individual, sole proprietorship, partnership, association or corporation;
- (15) "proponent" means a person who does or intends to do work on a Regional road personally or by means of an agent, servant, employee, subcontractor or licensee including, but not limited to, a utility commission or company, municipality or individual;
- (16) "Region" means The Regional Municipality of Waterloo;
- (17) "Regional road" means a road under the jurisdiction of the Region;
- (18) "road" includes, but is not limited to, a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, 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;
- (19) "road closure" means a closure of one or more lanes on a road such that a diversion of traffic to another road is required;
- (20) "roadway" means that part of a road that is improved, designed or ordinarily used for vehicular traffic including lanes, shoulders, and curb and gutter;
- (21) "sidewalk" means that part of a road with a surface improved with asphalt, concrete or gravel for the use of pedestrians;
- (22) "sidewalk closure" means a closure of part or the entire width of a sidewalk such that a diversion of pedestrians to another sidewalk is required;
- (23) "SSRC" means the Regional Municipality of Waterloo Standard Specifications for Road Construction, as amended;
- (24) "utility structure" includes, but is not limited to, storm sewer, sanitary sewer, watermain, gas, oil, hydro, telecommunications and traffic control signal equipment, plant, facilities and structures, whether in, on, over, under, across or along a Regional road;
- (25) "vehicle" includes, but is not limited to, a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power including muscular power;

- (26) "very short duration work" means mobile operations or very short duration work as defined in the Ministry of Transportation of Ontario's *Ontario Traffic Manual Book 7 Temporary Conditions*, as amended or replaced;
- (27) "warranty period" means a period of two years after restoration of infrastructure in, on, over, under, across or along a Regional road damaged by the work, or longer as required by the Commissioner, within which time the proponent must ensure that the restoration, together with all materials used in completing the restoration, complies with this By-law;
- (28) "work" means any excavation, cut or trench or other project to install, construct, place, move, remove, relocate, adjust, alter, clean, maintain, test, repair, replace, improve, or restore infrastructure in, on, over, under, across or along a Regional road including any work that extends from a Regional road to private property or on an unopened Regional road or any occupation of a Regional road for work adjacent to a Regional road, but does not include very short duration work undertaken by staff of a local municipality or maintenance work undertaken by Regional staff;
- (29) "Work Permit" means a Work Permit as issued under this By-law; and
- (30) "work zone" means the section of a Regional road where work takes place.

Prohibitions

- 2. No proponent shall undertake work without first having obtained a Work Permit in accordance with this By-law.

General

- 3. When the work is being undertaken as a joint project by two or more proponents and where such proponents have appointed one proponent as prime, the Commissioner may consider the work to be one project for the purposes of this By-law.
- 4. When this By-law requires that the Region give any type of notification to the proponent, the Commissioner, a municipal law enforcement officer or a police officer shall notify the proponent:
 - (1) verbally, in person or over the telephone with the proponent or any of their senior field personnel as identified in their Work Permit application; or
 - (2) in writing, by regular mail, fax or e-mail addressed to the proponent or any of their senior field personnel as identified in their Work Permit application.
- 5. When this By-law requires that the proponent give any type of notification to the Commissioner, unless specified differently in this By-law the proponent shall notify the Commissioner in writing by registered mail, fax or e-mail addressed to the Commissioner.
- 6. A Work Permit granted under this By-law shall:
 - (1) not be transferable from one proponent to another, from one design to another, from one location to another nor from one date and time to another, unless written permission is first obtained from the Commissioner; and
 - (2) expire upon the completion of the work or on the last date of the work as permitted by the Work Permit, whichever comes first.

Work Permit Application – Information and Documentation

- 7. The proponent shall apply to the Commissioner for a Work Permit.
- 8. When deemed applicable by the Commissioner, every proponent who applies for a Work Permit shall provide the Commissioner with:

- (1) the name, signature and position of the contact individual for the proponent and the proponent's organization name, street address, telephone number, fax number and e-mail address;
 - (2) the name, telephone number and fax number of the most senior field personnel of the proponent or of the proponent's agent, servant, employee, subcontractor or licensee who is assigned to oversee the work;
 - (3) a description of the work zone including the name(s) and number(s) of the Regional road(s) and the municipal address;
 - (4) a description of the type and purpose of the work;
 - (5) where the Commissioner does not require municipal consent, a description of the design of the work including whether the work is in, on, over, under, across or along the Regional road(s), the placement of the work within the work zone, and the proposed depth, width and length of any excavation, cut or trench;
 - (6) where the Commissioner requires municipal consent, a copy of the municipal consent and any associated construction design drawings;
 - (7) the scheduled starting date of the work and length of time estimated to complete the work;
 - (8) any proposed lane closure, road closure or sidewalk closure;
 - (9) the requirement for any proposed removal or bagging of a parking meter, prohibition of curb parking, relocation of a bus stop, change to pavement markings or change to a traffic control device, including a temporary adjustment to traffic control signal timing or interference with a traffic signal loop;
 - (10) whether the work is emergency work and the nature of the emergency;
 - (11) a signed indemnity, satisfactory to the Commissioner, indemnifying and saving harmless the Region and any affected local municipality from any and all claims, demands, suits, actions and judgments made, brought or recovered against the Region or any affected local municipality and from all loss, costs, damages, charges or expenses that may be incurred, sustained or paid by the Region or any affected local municipality by reason of the granting of the Work Permit; and
 - (12) any additional information or documentation for the purposes of administering this By-law.
9. The proponent shall provide the Commissioner with a certificate of insurance in accordance with the provisions as identified on the Work Permit application form or otherwise as satisfactory to the Commissioner.
10. Where the proponent is planning to undertake the work by means of an agent, subcontractor or licensee, then the agent, subcontractor or licensee shall provide the Commissioner with a certificate of insurance in accordance with the provisions as identified on the Work Permit application form or otherwise as satisfactory to the Commissioner.
11. No proponent applying for a Work Permit shall knowingly provide false information to the Commissioner.

Work Permit Application - Timing

12. The proponent shall submit their Work Permit application to the Commissioner at least 3 business days prior to the issuance of the work permit.
13. Notwithstanding section 12 of this By-law, the proponent shall submit their Work Permit application when the work requires:

- (1) a Regional lane closure or a change to an existing traffic control signal, at least 5 business days prior to the commencement of the work;
 - (2) a Regional road closure, at least 10 business days prior to the commencement of the work; or
 - (3) detouring traffic to a Provincial highway, at least 40 business days prior to the commencement of the work.
14. Notwithstanding sections 12 and 13 of this By-law, the proponent shall consult with the Commissioner as early as possible about the work prior to its commencement, taking into consideration the scale and complexity of the work.

Grant, Refusal or Revocation of Work Permit

15. The Commissioner may grant a Work Permit, refuse to grant a Work Permit or may grant a Work Permit imposing conditions as a requirement of obtaining and continuing to hold it including, but not limited to, conditions that the proponent:
- (1) deliver a written notice setting out the type, purpose, location, date, time and other information as required not less than 5 business days or as required by the Commissioner in advance of the work to all affected homes, businesses and institutions as determined by the Commissioner;
 - (2) deliver a written notice setting out the type, purpose, location, date and time of the work to all affected agencies not less than 5 business days in advance of the work including, but not limited to, the Waterloo Regional Police Services, the Region's Transportation Engineering Division, Transportation Operations Division, Grand River Transit, Emergency Medical Services, the Fire Departments and the local municipalities, as determined by the Commissioner; and
 - (3) provide the Commissioner with "before" and "after" photos of the work zone.
16. In considering the grant, refusal or grant with conditions of a Work Permit, the Commissioner may have regard to:
- (1) whether the work is necessary or the proposed design, location or timing for the work is appropriate;
 - (2) whether the work is likely to be carried out in compliance with the Work Permit and this By-law, considering the conduct of the proponent, including, but not limited to, timely payment of amounts owed to the Region or a local municipality; or
 - (3) a conflict with a previously scheduled activity for which the Region or a local municipality has granted a permit.
17. The Commissioner may grant the Work Permit by signing the properly completed Work Permit application form.
18. At any time after the Commissioner has granted a Work Permit the Commissioner may:
- (1) impose a condition on the Work Permit, upon giving notice to the proponent; or
 - (2) extend the Work Permit to allow for additional work or time, at the request of the proponent.
19. At any time after the Commissioner has granted a Work Permit the Commissioner, a municipal law enforcement officer or a police officer may suspend or revoke the Work Permit.

Emergency Work

20. The proponent must comply with this By-law to the full extent possible when undertaking emergency work, except when such compliance would result in an increased imminent danger to life, health or property.

General Responsibilities of the Proponent

21. When undertaking the work, the proponent shall:

- (1) produce the Work Permit to the Commissioner or a municipal law enforcement officer or a police officer on his or her demand;
- (2) comply with all municipal by-laws and provincial and federal laws including, but not limited to, those pertaining to safety, noise, trees, water resources, oversize loads, traffic control devices, railway crossings and the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, as amended;
- (3) comply with the Ministry of Transportation of Ontario's *Ontario Traffic Manual Book 7 Temporary Conditions*, as amended or replaced;
- (4) notify the Commissioner at least 5 business days in advance when the work:
 - a. requires a change to an existing traffic control signal;
 - b. requires that the Region prohibit curb parking; or
 - c. may interfere with a traffic signal loop.
- (5) notify the Commissioner at least 10 business days in advance when the work requires a Regional road closure;
- (6) undertake the work in accordance with the SSRC and the DGSSMS;
- (7) apply and remove temporary pavement markings within a work zone using temporary pavement marking materials in accordance with the SSRC;
- (8) conduct the work expeditiously;
- (9) work in a manner so as to avoid interference with or damage to any existing infrastructure;
- (10) work in a manner so as to maintain access to all properties with access affected by the work, consulting with adjacent property owners for this purpose and making known to them the schedule of the work;
- (11) work in a manner so as to avoid damage to property adjacent to the work zone;
- (12) work in a manner so as to avoid injuring or damaging any tree in accordance with the SSRC;
- (13) not place material on any roadway or sidewalk where it creates a hazard to pedestrians or vehicles;
- (14) in accordance with sidewalk closures identified in the Work Permit, maintain safe and convenient passage for pedestrians through or around the work zone;
- (15) not allow material to obstruct the free passage of water through any drain, gutter, ditch or watercourse;
- (16) inform themselves as to the existence and location of all underground and above-ground utilities at or adjacent to the work zone;

- (17) prior to commencing the work, satisfy themselves as to the existence or non-existence of any environmental contamination at the work zone;
 - (18) not allow and immediately take action to control unnecessary dust or any other unnecessary or unreasonable annoyance to the public;
 - (19) immediately clean any haul route that becomes dirty or when required to do so by the Commissioner, a municipal law enforcement officer, or a police officer;
 - (20) ensure that construction materials and equipment are properly secured within the work zone;
 - (21) if required by the Commissioner, provide the Commissioner with as-built drawings of the work, within 90 days of the completion of the work; and
 - (22) provide any additional information or documentation relating to the work as required by the Commissioner.
22. The proponent shall limit the timing of an excavation, cut or trench on any Regional road to the months from April 1 to November 30 of each year, unless permission is first obtained from the Commissioner to do otherwise.
23. The proponent shall limit the days and hours of work on any Regional road to Monday to Friday, 9:00 a.m. to 3:00 p.m., unless permission is first obtained from the Commissioner to do otherwise.
24. The proponent shall permit the Commissioner, a municipal law enforcement officer or a police officer, accompanied by any individual under their direction, to inspect the work zone.
25. The proponent shall pay all municipal costs in accordance with any invoice delivered to them by the Commissioner.

Restoration

26. Temporarily, when work ceases on each day, the proponent shall:
- (1) bring all excavations, cuts or trenches in the Regional road to grade in accordance with the SSRC unless permission is first obtained from the Commissioner to do otherwise;
 - (2) bring all driveways to grade so that the driveways provide safe and convenient passage unless the proponent has made reasonable alternative arrangements in consultation with the owner of the property serviced by the driveway; and
 - (3) leave the work zone in a safe and clean condition.
27. Permanently and as soon as possible, when completing the work, the proponent shall:
- (1) restore all infrastructure in, on, over, under, across or along the Regional road in accordance with the SSRC or as directed by the Commissioner; and
 - (2) remove all debris, refuse and excess excavated material from the work zone leaving it in a neat, clean and safe condition free from nuisance and similar to or better than the work zone condition prior to the work.
28. When required to do so by the Commissioner, the proponent shall retain a qualified materials testing company to undertake specified compaction and compliance testing and report the results to the Commissioner.

Maintenance and Warranty

29. The proponent shall maintain any infrastructure that has been disturbed and restored by the proponent in accordance with the SSRC for the duration of the warranty period.
30. The proponent shall maintain their utility structure in, on, over, under, across or along a Regional road in a safe and clean condition, including, but not limited to, maintaining their appurtenances on a Regional road to meet the tolerances in the SSRC.

Penalty

31. Every person who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

Administration and Enforcement

32. Any administrative forms required under this By-law may be prescribed from time to time by the Commissioner.
33. This By-law may be enforced by the Commissioner, a municipal law enforcement officer, or a police officer.
34. If any section or part of this By-law is found by any Court or body having jurisdiction over the matter to be illegal or beyond the power of the Council to enact, such section or part shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent and shall continue in full force.
35. This By-law comes into force and effect on June 1, 2007.
36. This By-law may be cited as the "Work Permit By-law".
37. (1) All policies or parts of policies that address permits for work on Regional roads enacted by by-law before the enactment of this By-law shall be repealed effective the coming into force of this By-law to the extent that the policies or parts of policies address permits for work on Regional roads.
- (2) Notwithstanding subsection (1) of this section, all permits for work issued under the Region's policies addressing permits for work that are in effect at the time this By-law is passed shall be deemed to be Work Permits issued under this By-law, with all necessary modifications, and all the rules, requirements and regulations of this By-law shall apply.

By-law read a first, second and third time and finally passed in the Council Chamber in the Regional Municipality of Waterloo this 18th day of April, A.D., 2007.


REGIONAL CLERK


REGIONAL CHAIR