

THE CORPORATION OF THE TOWNSHIP OF SOUTH STORMONT

BY-LAW NO. 2016-024

- BEING a by-law for the purpose of regulating the use, alteration, and occupancy of Highways or bridges.
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- WHEREAS the *Municipal Act, 2001*, c. 25, s. 5 (1) provides that the powers of a municipal corporation are to be exercised by its council;
- AND WHEREAS the *Municipal Act, 2001*, c. 25, s. 5 (3) provides that the powers of every council are to be exercised by by-law;
- AND WHEREAS the *Municipal Act, 2001*, c. 25, s. 11 authorizes a municipality to pass by-laws respecting matters within the sphere of Highways, including parking and traffic on Highways;
- AND WHEREAS the *Municipal Act, 2001*, c. 25, s. 436 (1) provides that a municipality may pass by-laws providing for the entry onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;
- AND WHEREAS the *Municipal Act, 2001*, c. 25, s. 441.1 provides that the treasurer of a local municipality may add any part of a fine for a commission of a provincial offence that is in default under section 69 of the Provincial Offences Act to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine and collect it in the same manner as municipal taxes;
- AND WHEREAS the *Municipal Act, 2001*, c. 25, s. 444 provides that a municipality may make an order to require a Person to discontinue contravening a by-law and to do the work required to correct contravention;
- AND WHEREAS the *Municipal Act, 2001*, c. 25, s. 446 provides that a municipality may proceed to do things at a Person's expense which that Person is otherwise required to do under a by-law but has failed to do and the costs incurred by the municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as taxes;
- AND WHEREAS Council deems it appropriate to regulate the obstructing, encumbering, injuring or fouling of Highways or bridges.
- NOW THEREFORE Council of the Corporation of the Township of South Stormont enacts as follows:

1. Definitions

1.1 In this by-law:

"Alter" means to change in any manner and includes to restore, renovate, repair or disturb and alteration has a corresponding meaning.

"Damage" means harm or injury to the Highway, including without limitation, harm, injury, disturbance, cracking, gouging, or displacement of or to the road surface and sidewalks resulting from the use of the Highway to access work such that, in the sole opinion of the Director of Public Works, the Highway is not in its pre-construction condition.

"Director of Public Works" means the Director of Public Works for the Township of South Stormont, or designate.

"Highway" includes 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.

"Material" includes gravel, soil, sod, bricks, and paving stones, landscaping rocks, wooden planks or boards.

"Municipal Law Enforcement Officer" (Officer) includes an employee of the Township who has been appointed by by-law to enforce the provisions of the Township by-laws or a member of the Ontario Provincial Police.

"Notice of Obstruction" includes an Order issued under this by-law.

"Obstruct" includes encumber, Damage, foul, or Alter.

"Occupant" means a lessee, tenant, mortgagee in possession or any other Person who appears to have care and control of any property.

"Order" includes Work Order, Order to Comply, or Order to Discontinue.

"Person" includes an individual or a corporation and its directors and officers and their successors and assigns unless the context otherwise requires and includes an Officer.

"Road Occupancy Permit" (Permit) includes a Permit as required to undertake work on a Highway.

"Township" means the Corporation of the Township of South Stormont.

2.0 General Provisions

- 2.1 No Person shall Alter, Obstruct or Damage, or permit the use, alteration, obstruction or Damage of any Highway without first having obtained a Road Occupancy Permit.
- 2.2 No Person shall fail to comply with a Notice of Obstruction or an Order issued pursuant to this by-law.
- 2.3 No Person shall conduct approved work between the hours of 17:00 and 7:00 local time, Monday to Friday and at any time on statutory holidays except for emergency repairs, unless otherwise authorized by the Director of Public Works.
- 2.4 Without limiting the generality of subsection 2.1, no Person shall Alter, Obstruct, Damage or cause or permit the use, alteration, obstruction or Damage of any Highway by any of the following:
 - 2.4.1 the depositing, throwing, spilling or tracking or cause or permit the depositing, throwing, spilling or tracking of any Material, waste or soil onto any Highway; and / or
 - 2.4.2 the depositing of snow or ice on the travelled portion of any Highway not contiguous with the property from where the snow was moved from.

3.0 Removal of Highway Obstruction

- 3.1 If an Officer determines that an obstruction of a Highway exists, the Officer may issue a Notice of Obstruction requiring the owner, Occupant or contractor of the property from which the obstruction comes from, relates to, or was created for, to discontinue causing the obstruction and to remove the obstruction and repair, as necessary, at the expense of the owner, Occupant and or contractor so that the Highway is brought back to its former condition prior to the obstruction.
- 3.2 Where the Notice of Obstruction described in subsection 3.1 is not complied with within the time period stipulated therein, the Township may remove the obstruction and repair, as necessary, the Highway, and all costs incurred by the Township in undertaking this work shall be expenses owed to the

Township by the owner of the property receiving the benefit of the underground structure.

4.0 Removal of Hazardous Condition

- 4.1 Where an Officer determines that an obstruction of a Highway is, or may create a hazardous condition to the safety of any Person using the Highway, the Officer may take any action necessary to have the obstruction immediately removed and the Highway repaired, if necessary, and all the costs incurred by the Township in undertaking this work shall be expenses owed to the Township by the owner of the property receiving the benefit of the underground structure.

5.0 Road Occupancy Permits - Administration

- 5.1 A Person may apply for a Permit under this by-law if the Person:
 - 5.1.1 completes an application for the Permit on the forms as provided by the Township.
 - 5.1.2 submits the application along with the applicable fee pursuant to the Township's Current Fees and Charges By-law.
 - 5.1.3 provides any documentation, deposit or security as required by the Director of Public Works as prerequisites and requirements for the issuance of a Permit.
 - 5.1.4 provides proof of insurance pursuant to current requirements to the satisfaction of the Director of Public Works.
- 5.2 The issuance of a Permit under this by-law does not relieve any Person from the necessity of acquiring any other license or permit or complying with any other applicable laws, by-laws, regulations and requirements of other governmental authority.
- 5.3 A Permit is the property of the Township and is non-transferable unless otherwise authorized by the Director of Public Works.
- 5.4 Any Person wanting approval to perform work for any of the aforementioned purposes shall be required to deposit a minimum amount of \$1,000, by certified cheque, with the Township of South Stormont as surety for satisfactory performance of the work to be performed. The value of the surety can be increased by the Director of Public

Works if the scope of the proposed work exposes the Township to potential Damages greater than the minimum deposit amount.

6.0 Permit Conditions

- 6.1 A Permit holder shall comply or ensure compliance with all provisions and conditions of the Permit and this by-law.
- 6.2 A Permit holder shall provide and maintain a contact phone number that the Director of Public Works or an Officer may reach the Permit holder at all times.
- 6.3 Failure to comply with any provisions or conditions of a Permit or this by-law may result in the revocation of the Permit by the Director of Public Works, in addition to any other enforcement proceedings against the Permit holder as permitted by law.
- 6.4 The Permit holder of a revoked Permit shall immediately cease or ensure the immediate cessation of all of the activities for which a Permit has been issued upon revocation of the Permit under subsection 6.3.
- 6.5 Every Permit holder and every owner and occupier of land shall forthwith rectify damaged conditions on a Highway, on land or to municipal services and shall reinstate the Highway, the land and the municipal services as the case may be, to the satisfaction of the Director of Public Works.
- 6.6 Every Permit holder shall maintain access to all private and public properties during any Highway closure and occupancy.
- 6.7 Approval for a Permit shall not be given unless it is determined to the satisfaction of the Director of Public Works that auguring, pushing, drilling or boring is not deemed to be expedient or practical for the intended work.
- 6.8 All costs associated with the construction and geotechnical inspections shall be borne entirely by the Permit holder.
- 6.9 Every Permit holder shall ensure that full-time geotechnical inspection/compaction tests are required by a recognized soils testing company during reinstatement of the trench, at the applicant's cost. If geotechnical testing has not been undertaken or test results

indicate that minimum compaction and/or geotechnical requirements are not met, the Township reserves the right to withhold release of the surety for one (1) year to confirm that trench settlement has not occurred. If trench settlement has occurred, the repair will be undertaken at the Permit holder's expense.

6.10 Every Permit holder shall pay the prescribed fee, pursuant to the Township's current Fees and Charges By-law.

6.11 Every Permit holder shall provide a security deposit in the form of a one thousand dollar (\$1,000) certified cheque to be released when the following criteria has been met:

6.11.1 The work has been performed to the satisfaction of the Township;

6.11.2 The reinstated grassed areas have been established; and

6.11.3 All test results indicate compliance with geotechnical requirements.

7.0 Prescribed Method to Restore Road Cuts

7.1 The general prescribed method to restore road cuts on Township Highways is attached hereto as Schedule "A" and forming part of this by-law.

8.0 Enforcement

8.1 The Officer is hereby authorized and empowered to enforce the provisions of this by-law.

8.2 No Person shall hinder or Obstruct, or attempt to hinder or Obstruct, any Person who is exercising a power or performing a duty under this by-law.

8.3 The Officer may at any reasonable time enter onto any lands within the Township to determine if the provisions of this by-law are being complied with or may enter onto any lands within the Township to carry out the remedial actions required to bring the property into conformity with the by-law.

8.4 The Officer is empowered for the purposes of inspection to determine compliance with the by-law to:

8.4.1 require the production for inspection of documents or things relevant to the inspection, including the removal of the documents for

the purposes of making copies or extracts;

8.4.2 alone or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of inspection; and,

8.4.3 require information from any Person concerning a matter related to the inspection.

9.0 Notice of Obstruction – Delivery – When Deemed Served

9.1 The Notice of Obstruction from the Township may be:

9.1.1 served personally upon the owner, contractor, or Permit holder;

9.1.2 posted on site; or

9.1.3 mailed by regular mail to the last known address of the owner, contractor, or Permit holder according to the current assessment rolls.

9.2 If served by regular mail, a Notice of Obstruction under subsection 9.1.3 shall be deemed to have been served on the fifth day after mailing.

10.0 Exemptions

10.1 Any utility company with an applicable agreement in place with the Township will not require a Road Occupancy Permit to undertake work.

11.0 Offences

11.1 Every Person who contravenes any of the provisions of this by-law or fails to comply with a Notice of Obstruction or an Order issued under this by-law or who Obstructs or attempts to Obstruct an Officer or an employee or agent of the Township in carrying out his or her duties under this By-law is guilty of an offence and is liable, upon conviction to a maximum fine as established pursuant to the *Provincial Offences Act, R.S.O., 1990, c.P.33*.

11.3 Pursuant to subsection 441.1 of the *Municipal Act, 2001, S.O. 2001, c.25*, the treasurer of a municipality may add any part of a fine for a commission of a provincial offence that is in default under section 69 of the *Provincial Offences Act* to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine

and collect it in the same manner as municipal taxes.

12.0 Severability

12.1 Notwithstanding that any section or sections of this by-law, or any part thereof, may be found by any court of law to be invalid or beyond the power of the Council to enact, such clause, Schedule or parts thereof shall be deemed to be severable, and all other clauses and Schedules of this by-law or parts thereof, are separate and independent therefrom and enacted as such.

13.0 Repeal


13.1 That any by-laws inconsistent with this by-law are hereby repealed.

14.0 Force and Effect

14.1 This by-law shall come into force and effect on the date of enactment and passage.

READ AND PASSED in open Council, signed and sealed this 13th day of April, 2016.

Mayor



Clerk



General Prescribed Method to Restore Road Cuts on Township Roads

The Department of Public Works may modify these requirements based on existing conditions or recommendations from a geotechnical consultant.

Materials

All materials shall conform to the Ontario Provincial Standard Specifications.

General Method to Reinstate Road Cuts

Step 1: Excavation

Excavate to the required depth. Excavation shall comply with Occupational Health and Safety Act (OHSA) requirements. Separate the native soil from any granulars.

Step 2: Trench Backfill

Following installation of the pipe(s), pipe bedding and surround, the trench shall be backfilled with native soil placed in compacted layers at a maximum pre-compaction thickness of 300mm. In the event that the existing soil is not suitable for use as backfill, appropriate backfill material as approved by a geotechnical engineer must be used. Backfill shall be compacted to a minimum 95% Standard Proctor Density (SPD).

The trench backfill shall extend from the pipe cover to the bottom of the granular base layer.

The top lift of backfill material shall be shaped to slope from the centreline down at 3% towards the edge of shoulder.

Should the layer to be backfilled with native soil be less than 1200mm, the entire depth of the cut shall be reinstated using a frost taper with a slope of 15:1 as per Ontario Provincial Standards Drawing (OPSD) 803.030. The frost taper shall be backfilled with Granular 'B' in lifts not exceeding 200mm thick. Granular 'B' in the frost taper shall be compacted to 100% Standard Proctor Density (SPD).

Step 3: Granular Reinstatement

The existing granular base shall be cut back at a 1:1 slope from the top of the sub-grade elevation. If reinstating with a frost taper, the existing granular base shall be cut back at a 15:1 slope. Reinstatement of granular material shall match existing. At minimum, Granular 'B' subbase material shall be 300mm thick and Granular 'A' base material shall be 100mm thick. The minimum accepted compaction for the granulars shall be 100% Standard Proctor Density in lifts not exceeding 200mm thick.

The top of the Granular 'A' base material shall be shaped to slope from the centreline down at 2% towards the edge of shoulder and level with the bottom of the existing asphalt. The minimum asphalt thickness to be reinstated shall be 80mm thick if the existing asphalt is less than 80mm thick.

Step 4: Asphalt Reinstatement

The existing asphalt shall be saw cut a minimum of 300mm back from the top of the edge of the new granular. For cuts which cross the road, the asphalt shall be removed in a dovetail with the apex at the road centreline.

Just prior to placing the asphalt, the granular surface shall be re-graded and re-compacted. HL-3 asphalt shall be installed in 40mm lifts (minimum). The first lift shall be compacted in a direction parallel to the centreline of the cut and subsequent lifts shall be compacted in a direction parallel to the direction of traffic flow. Asphalt shall be compacted to 100% Standard Proctor Density.

Step 5: Topsoil and Seeding/Topsoil and Sod

A minimum of 100mm of topsoil shall be spread and compacted over the area to be reinstated. In rural areas the area shall be reinstated with standard highway seed mixture. In urban areas, the lawns and boulevards shall be repaired with sod.

