



THE CORPORATION OF THE TOWNSHIP OF KING

BY-LAW NUMBER 2020-061

**Being a by-law to govern uses that occupy or
require the temporary closure of or otherwise affect
highways within the Township of King**

WHEREAS pursuant to Section 35 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act, 2001*"), a municipality may pass a by-law with respect to highways within the municipality's jurisdiction, including temporary and permanent opening and closing;

AND WHEREAS the *Municipal Act, 2001*, subsection 11 (3) authorizes Council to pass By-laws for maintaining highways, and for preventing damage to property in the municipality;

AND WHEREAS pursuant to Section 436 of the *Municipal Act, 2001* a municipality may pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not a municipal by-law, direction or order has been complied with;

AND WHEREAS the *Municipal Act, 2001*, Sections 23.1 and 23.2 authorize Council to delegate powers and duties to close a highway temporarily; and

AND WHEREAS Council has deemed it appropriate to determine measures to enhance the efficiency of its decision making and administrative processes, as established within the Delegation of Powers and Duties Policy pursuant to By-law No. 2007-137 and further deems it desirable to delegate to a designated municipal employee the authority for administering this By-law as outlined herein for matters such as approving a temporary closure of a highway for construction, storage or other purposes and from time to time to temporarily close all or part of a highway in order to facilitate construction, storage and/or other purposes such as for approving minor encroachments;

NOW THEREFORE the Council of the Corporation of the Township of King hereby enacts as follows:

Short Title

1. This *By-law* may be referred to as the "Road Occupancy/Road Closure By-law".

Scope

2. This By-law applies to any works within a Highway under the jurisdiction of the Township of King.

Administration

- 2.1. The Director of Public Works will be responsible for the administration of this By-law, including:
 - a) designating and/or establishing approved works on Highways;
 - b) issuing Permits authorizing certain works to be undertaken within a Highway;
 - c) imposing conditions as a requirement of obtaining, continuing to hold or renewing a Permit, in addition to the requirements under this By-law and/or Township policies, and such conditions may vary depending on the type of Permit or works undertaken;
 - d) where such authority has been delegated, is authorized to establish appropriate regulations;
 - e) revoking a Permit as a result of a breach of a condition of the Permit or a provision of this By-law or Township policy; and
 - f) reviewing and, if appropriate, approving requests to:

- i. temporarily close all or part of a Highway for the purpose of construction, storage or other purposes, for a period not exceeding thirty (30) days in duration; and
- ii. allow a Road Closure, a Minor Encroachment and/or a Road Occupancy.

2.2. Notwithstanding Section 2.1, the Clerk is authorized and responsible for the administration and issuance of Permit(s) for Road Occupancy for Special Events held temporarily.

Road Closure/Major Encroachments

- 2.3. Road Closures will continue to require Council to pass a by-law to:
- 2.3.1. permanently close all or part of a Highway, and
 - 2.3.2. to close a Highway for a period exceeding thirty (30) days in duration; and
- 2.4. Major Encroachments will require Council to pass a by-law to:
- 2.4.1. allow the Major Encroachment.

Interpretation

- 2.5. This By-law shall be interpreted broadly so as to achieve and ensure the objectives and the purposes of the By-law.
- 2.6. In the interpretation and application of the provisions of this By-law, unless otherwise stated to the contrary, the provisions shall be held to be the minimum requirements for the promotion of the health, safety, comfort convenience and general welfare of the public;

Word Usage

- 2.7. Words in singular shall be deemed to include plural and words in plural shall be deemed to include singular and shall read with all changes in gender or number as the context may require;
- 2.8. The words "include", "includes" or "including" are not to be read or be interpreted as limiting the words, phrases or descriptions that precede it;

Reference to Legislation

- 2.9. Reference to any Act, Regulation or By-law is reference to that Act, Regulation or By-law as it is amended, or re-enacted from time to time;

Conflict

- 2.10. Where there is a conflict between a provision of this By-law and a provision of any other Township By-law, the provision that establishes the highest standards to protect the health and safety of the public shall apply; and
- 2.11. Where the provisions of this By-law conflicts with an Act, Regulation or another by-law, the most restrictive shall prevail.

Definitions

3. In this By-law,
- a. "Applicant" means the Person applying for a Permit;
 - b. "Apron" means an area of the Boulevard consisting of a hard surface leading from the travelled portion of the Highway to a private Driveway;
 - c. "Boulevard" means that the portion of a highway between the travelled portion of the highway and the limit of the Highway line;
 - d. "By-law" means this By-law being the 'Road Occupancy/Road Closure By-law';
 - e. "Clerk" means the Director of Clerks and By-law Enforcement Services for the Township (or any successor job title) and his/her designate.

- f. "Construction Activity" means any construction or other activity that requires temporary closure of a portion of a Highway to the public including, but not limited to:
 - i. construction of any utility company infrastructure;
 - ii. installation of municipal services in accordance with an approved site plan, subdivision plan or other development agreement;
 - iii. construction on residential properties including pools, fences, gate posts and mailboxes;
 - iv. felling of trees;
 - v. installation of drainage works;
 - vi. erection of banners or signs;
 - vii. erection of scaffolding or hoarding;
 - viii. parking of construction vehicles;
 - ix. placement of construction equipment (e.g. mobile cranes);
 - x. placement of dumpsters; and
 - xi. storage of construction materials; and
 - xii. includes Minor Encroachments.
- g. "Decorative Pavement" means covering with a hard surface and without limiting the generality of the foregoing shall include concrete, brick, cobble or interlocking stone.
- h. "Director" means the Director of Engineering, Public Works and Building, of the Township (or any successor job title) and his/her designate(s), unless otherwise specified;
- i. "Ditch" means a narrow channel dug in the earth, usually used for drainage, irrigation or as a boundary mark;
- j. "Driveway" means that portion of a lot used to provide vehicular access from a highway to an off-street parking or loading area located on the same lot;
- k. "Encroachment" means anything constructed or erected with a fixed location on, or in the ground or attached to something having a fixed location on the ground that extends on, over or under Township lands including the following:
 - i. "Encroachment, Minor" means an encroachment that is minor in nature and may include, but is not limited to, the following:
 - a) shrubs, trees or other natural landscape materials;
 - b) hard landscaping (including asphalt, concrete, brick sidewalks and walkways, curbs, parking pads, aprons or driveways) underground sprinkler systems, invisible dog fencing, and pillars.
 - ii. "Encroachment, Major" means an encroachment that is large in scale, difficult to move, secured by a footing and may include, but is not limited to, the following:
 - a) buildings (including dwellings, garages, sheds larger than 10m²);
 - b) structures (including retaining walls, decks, stairs and patios);
 - c) fences.
- l. "Entrance" means a public or private roadway, driveway, sidewalk, footpath or easement, gate structure or any facility structured or used as a means of ingress and egress to and from any road and;
- m. "Highway" means a common and public walkway, lane, street, avenue, parkway, driveway, square, place, road, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles and pedestrians and includes the untraveled portion of a road allowance, a *street* as defined in the *Municipal Act, 2001* and the *Highway Traffic Act* and a *highway* as defined in the *Municipal Act, 2001* and the *Highway Traffic Act*.
- n. "Highway Traffic Act" means the *Highway Traffic Act*, R.S.O. 1990, c. H.8 and its regulations as amended from time and any successor legislation thereto;
- o.
- p. "Multiple Offence" means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law;

- q. "Officer" means a by-law enforcement officer or police officer and includes any Person appointed and/or responsible for the enforcement of provisions of this By-law and may include his/her designate and police officers.
- r. "Order" means,
 - i. "Order to Discontinue Activity" means the verbal or written Order to stop the contravening activity(s), or to take such actions that will result in compliance with this By-law, or
 - ii. "Order to Perform Work" means the written Order of an Officer to perform work or works necessary to comply with this By-law.
- s. "Owner" means the registered owner of any Property or the occupant, tenant, lessee or the person for the time being managing or receiving the rent of the Property, whether on its own account or on account of an agent or trustee of any other person or anyone of the aforesaid.
- t. "Permit" means a document issued and authorized by the Township pursuant to this By-law, for the occupancy or closure of any Highway for any purpose or Construction Activity.
- u. "Permit Holder" means the person named in the Permit;
- v. "Person" includes an individual, association, firm, partnership, corporation, trust, organization, trustee, agent or legal representative of an individual;
- w. "Prescribed Forms" means those forms as are created and approved by the Director.
- x. "Principal Applicant" means the person that requires the work to be done and not to the person performing the work on their behalf;
- y. "Property" means any lands and premises.
- z. "Road Closure" means the temporary or permanent closing of a Highway;
- aa. "Road Occupancy" means any activity likely to impact on the operational efficiency of the Highway network, in other words, any activity that requires the road to be used in such a way as to affect traffic flow, or an off road activity that affects or can affect traffic flow and may involve the closure of traffic lanes.
- bb. "Subsequent Offence" means a second or Subsequent Offence if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence;
- cc. "Township" means The Corporation of the Township of King;

GENERAL PROVISIONS

Permit Required

- 4. No Person except by Permit shall:
 - 4.1. undertake, or permit to be undertaken, any Construction Activity on a Highway;
 - 4.2. damage, cause damage, or permit the obstruction or damage of any Highway;
 - 4.3. close, occupy, obstruct, encumber, injure or foul any Highway;
 - 4.4. place an encroachment on a Highway;
 - 4.5. have a Driveway, create, widen any Driveway, apron or cut any curb abutting Property;
 - 4.6. host parades, community walks, concerts, street parties, events, displays, sales, any filming activities, or other similar activities;
 - 4.7. undertake construction on Property abutting a Highway which may affect the drainage of the Highway or require alteration of street furniture;
 - 4.8. use or occupy a Highway for the purpose of the sale, or offering to sale, of any goods and services, including the sale of event tickets;
 - 4.9. alter of the grade on any boulevard;
 - 4.10. cut, alter, extend, in any manner whatsoever of a concrete curb, open or contained culvert, culvert overpass, or similar structure or landscape;
 - 4.11. excavate or damage any portion of a Highway, including sod, trees, light poles, street signs or other objects within the Highway; or
 - 4.12. place any items on a Highway such as donation bins, construction materials, container bins.

5. Despite section 4, the Township or an authorized Person acting in an emergency situation, may temporarily close, occupy, obstruct, encumber, injure or foul any Highway for a period not exceeding 30 days.
6. No Person shall:
 - 6.1. deposit, throw, spill or track or cause or permit the depositing, throwing, spilling or tracking of any material, waste or soil onto any Highway;
 - 6.2. Place an unauthorized encroachment onto any Highway;
 - 6.3. alter, obstruct or damage, or cause or permit the use, alteration, obstruction or damage of any Highway by any of the following:
 - 6.3.1. deposit snow or ice on travelled portion of the Highway or onto a Boulevard; or
 - 6.3.2. place leaves, grass clippings, or debris from Property onto portions of the Highway normally used for pedestrian or vehicular traffic.

Permit

7. An application for a Permit pursuant to this By-law shall be submitted on the Prescribed Forms and include,
 - 7.1. a completed application;
 - 7.2. full payment of the appropriate fees as provided in the Township Fees and Charges By-law as amended;
 - 7.3. any documentation, deposit or security, or insurance certificates, as required for the issuance of the Permit, and
 - 7.4. release waiver and indemnity form, indemnifying the Township from and against any and all damages, claims, actions and causes of actions incurred or arising as a result of, or in any way connected with, the works.
8. 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 the Township or other authorities have jurisdiction.
9. Receipt of the application and/or the Permit fee by the Township shall not represent approval of the application for the issuance of a Permit nor shall it obligate the Township to issue such Permit.

Additional Details and Criteria

10. All work must be completed in accordance with the specifications set out in the Permit as outlined therein.
11. Entrance and Driveway locations are subject to the approval of the Director and must comply with, and be in accordance with, Township Zoning By-law(s), Design Criteria Manual, Site Plan any other Township policy as may be applicable including specifications (such as location, length, width) and shall not interfere with any Municipal services or other private utility services located within the Highway.
12. Culverts and curb cuts shall be constructed in accordance with current applicable Township Design Criteria and Standard Detail Drawings.

REGULATION, ENFORCEMENT, PENALTIES AND OFFENCE

Enforcement

13. This By-law may be enforced by Officers, without limiting/restricting any other power, duty or function granted by this By-law, Officer(s) may: give direction, issue Order(s) to Discontinue or to perform work and further give verbal or written direction and may enter onto any Property and/or carry out and direct whatever inspections, are reasonably required to determine compliance with this By-law; and
 - 13.1. The Director may give direction or Order to Discontinue Activity under this By-law to any Person believed to be contravening or have contravened any provision of this By-law.

Orders

Orders to Perform Work

14. If an *Officer* is satisfied that a contravention of this *By-law* has occurred, the *Officer* may issue an *Order to Perform Work* requiring the work to be done to correct the contravention and shall set out:
- i. the municipal address or the *Highway* name of the *Property* on which the contravention occurred;
 - ii. the date of the contravention;
 - iii. the reasonable particulars of the contravention of this *By-law*;
 - iv. the date by which there must be compliance with the *Order*;
 - v. the date on which the *Order* expires; and
 - vi. a notice that if the work is not done in compliance with the *Work Order* by the deadline, the *Township* may have the work done at the expense of the *Owner* and the cost of the work may be recovered by adding the amount to the *Owner's* tax roll.

Order to Discontinue Activity

15. If an *Officer* has reasonable grounds to believe that a contravention of this *By-law* has occurred, the *Officer* may make an *Order to Discontinue Activity* requiring the *Owner* of the *Property* and any *Person* who contravened this *By-law*, or who caused or permitted the contravention, or the *Owner* or occupier of the land on which the contravention occurred, to discontinue the contravention.

Orders In General

16. An *Order* may include, but is not limited to:
- 16.1. immediately desist from the activity constituting or contributing to such contravention;
 - 16.2. immediately remove from the *Highway* anything owned by or in the control of such *Person* which is involved in such contravention; and
 - 16.3. ordering any *Person* engaging in an activity that requires a *Permit* under this *By-law* to provide the original copy of the *Permit* for inspection.

Fail to Comply with Order

17. No *Person* shall fail to comply with an *Order* issued by an *Officer* or the *Director* under the authority of this *By-law*.

Service of Orders

18. An *Order* may be served Personally on the *Person* to whom it is directed or by sending a copy of the *Order* by regular mail to the last known address of that *Person*, in which case it shall be deemed to have been given on the third day after mailing. Service on a Corporation can be made by sending a copy of the *Order* by registered mail to the corporation's address as listed in the Corporate Profile Report.

Unable to Effect Service

19. If the *Township* is unable to effect service of an *Order* on the *Owner*, a placard containing the terms of the *Order* may be placed in a conspicuous place on the *Property* and the placing of the placard shall be deemed to be sufficient service of the *Order* on the *Owner*.

Removal of Hazardous Condition

20. Where the Director or 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 Director or an 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, occupant, tenant, and/or contractor of the Property from which the obstruction comes from, relates to, or was created for.

Request For Identification

21. Where an *Officer* has reasonable grounds to believe that an offence under this *By-law* has been committed by a *Person*, the *Officer* may require the name, address and proof of identity of that *Person*, and the *Person* shall supply the required information.

Inspection

22. An Officer may enter onto any Property at any time and inspect the Property determine whether the provisions of this By-law, or an Order issued under this By-law have been complied with.

Work Done by the Township/Cost Recovery

23. If the work required by an Order under the provisions of this By-law, is not done within the specified period, the Township, in addition to all other remedies it may have, may do the work at the owner's expense and may enter upon the Property, at any reasonable time, to do the work.
24. If the costs for work pursuant the provisions of this By-law are not paid to the Township within 30 days of written demand thereof, the Treasurer for the Township may add the costs, including interest, to the tax roll for the Property and collect them in the same manner as municipal taxes.

Obstruction

25. No *Person* shall:

- 25.1. prevent, hinder or interfere or attempt to prevent, hinder or interfere with an *Officer* or other *Person* who is exercising a power or performing a duty under this *By-law*, including refusing to identify themselves when requested to do so by an *Officer*;
- 25.2. willfully obstruct, hinder or otherwise interfere with an *Officer* in the performance of their duties or the exercise of their rights, functions, powers or authority under this *By-law*; or
- 25.3. knowingly provide any false information in any statement, whether in writing or otherwise, made to an *Officer* investigating an offence under this *By-law*.

Deemed Obstruction

26. Where anyone fails or refuses to immediately identify themselves to an *Officer* or where the information is found to be false or misleading, they shall be deemed to have willfully obstructed an *Officer* in the discharge of their duties.
27. It shall be an offence to obstruct or permit the obstruction of such inspection.

Offence and Penalty

28. Every *Person* who contravenes any provision of this By-law, including an Order issued under this By-law, is guilty of an offence and is liable on conviction to the penalties set out herein.
29. Any person who is in contravention of any provision of this By-law, or who fails to comply with an Order issued under this By-law shall be deemed to be committing a continuing offence for each day that the offence remains in contravention, or for each day that they fail to comply with the Order.
30. On conviction, a *person* may be liable:
 - 30.1. upon a first conviction, to a fine of not less than \$100.00 and not more than \$50,000.00;
 - 30.2. upon a second or subsequent conviction for the same offence, to a fine of not less than \$400.00 and not more than \$100,000.00;
 - 30.3. upon conviction for a continuing offence, to a fine of not less than \$100.00 and not more than \$10,000 for each day or part of a day that the offence continues. The total of the daily fines may exceed \$100,000.00; and
 - 30.4. upon conviction of a multiple offence, for each offence included in the multiple offence, to a fine of not less than \$100.00 and not more than \$10,000.00. The total of all fines for each included offence is not limited to \$100,000.00.

Validity and Severability

31. Notwithstanding any section, subsections, clause, paragraph or provision of this By-law, or parts thereof may be declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or beyond the powers of Council to enact, such section or sections or parts thereof shall be deemed to be severable and that all other sections or parts of this By-law are separate and independent therefrom and enacted as such as a whole. Same shall not affect the validity or enforceability of any other provisions of this By-law or of the By-law as a whole.

Repeal

32. This By-law repeals By-law No. 2005-121, as amended, except insofar as this by-law repeal other by-laws, as of the date of the enactment of this By-law;

Transitional Provision

33. Notwithstanding the repeal of the above mentioned by-laws, and relevant by-law sections the mentioned by-laws and sections shall apply to any acts, omissions or occurrences and to any offences that took place prior to the enactment of this by-law.

34. This By-law shall come into force and take effect on the date of enactment.

| **READ** a **FIRST** and **SECOND** time this 30th day of November, 2020.

READ a **THIRD** time and **FINALLY PASSED** this 30th day of November, 2020.

Steve Pellegrini
Mayor

Kathryn Moyle
Director of Corporate Services
Township Clerk