

THE CORPORATION OF THE TOWNSHIP OF SEVERN

BY-LAW NO. 2018-69

BEING A BY-LAW TO REGULATE AND PERMIT THE TEMPORARY CLOSURE OR
OCCUPANCY OF ANY HIGHWAYS UNDER THE JURISDICTION OF THE
CORPORATION OF THE TOWNSHIP OF SEVERN

WHEREAS the *Municipal Act*, S.O. 2001, Chapter 25, Section 8, confers broad authority on municipalities to enable them to govern their affairs as they consider appropriate;

AND WHEREAS the *Municipal Act*, S.O. 2001, Chapter 25, Section 11, provides that a municipality may pass By-laws respecting matters related to Highways including parking and traffic on Highways;

AND WHEREAS the *Municipal Act*, S.O. 2001, Chapter 25, Section 27. (1), provides that a municipality may pass By-laws in respect of a highway over which it has jurisdiction;

AND WHEREAS the *Municipal Act*, S.O. 2001, Chapter 25, Section 96, provides that a municipality may exercise its powers for the purpose of preventing damage to property as a result of flooding;

AND WHEREAS the *Municipal Act*, S.O. 2001, Chapter 25, Section 118, provides a municipality may regulate the excavating, construction and use of trenches; prohibit the activities described unless a permit is obtained from the municipality for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS the *Municipal Act*, S.O. 2001, Chapter 25, Section 129, authorizes a municipality to prohibit and regulate noise, vibration, odour and dust and prohibit the matters described unless a permit is obtained from the municipality for those matters and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

AND WHEREAS the *Municipal Act*, S.O. 2001, Chapter 25, Section 391, authorizes a municipality to impose fees or charges on persons for the use of its property including property under its control;

AND WHEREAS the Municipal Act, S.O. 2001, Chapter 25, Section 444, provides that a municipality may make an order requiring the person who contravened the 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 contravening activity;

AND WHEREAS the Municipal Act, S.O. 2001, Chapter 25, Section 445, provides that a municipality may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention;

AND WHEREAS the Municipal Act, S.O. 2001, Chapter 25, Section 446, provides that a municipality has the authority to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense;

AND WHEREAS it is deemed expedient to regulate and permit the temporary closure or occupancy of municipal Highways and/or right of ways under the jurisdiction of the Township of Severn;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF SEVERN HEREBY ENACTS AS FOLLOWS:

1. Definitions

For the purpose of this By-law, the following definitions shall apply:

"Activity" means the temporary occupancy of a Highway for any purposes for a defined period of time outside its normal intended use.

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

"Applicant" means any person, utility company or corporation making an application for a Road Occupancy Permit and any person to whom a permit is issued is a "Permit Holder".

"Cold Patch" means a mixture of crushed stone and bituminous binder that may be used cold for mending pavement.

"Construction or Maintenance" 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 include landscaping, utility, building construction, repair or maintenance operations by the owner or occupant of land adjoining the Highway, including the storage of materials used for such purpose or the erector of hoardings, which require Highway occupancy or closure.

"Council" means the Council of the Corporation of the Township of Severn.

"Director" means the Director of Public Works or designate.

"Heave" means any rise in the surface of a road cut in relation to the grade of the adjacent undisturbed Highway.

"Highway" means a common and public Highway, road, street, avenue, parkway, square, sidewalk, footpath, place, bridge, viaduct or trestle, designed and 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; and shall include unopened Highways.

"Inspection" means any inspection conducted by the Township in respect to any permit issued, permit to be issued, or permit that should have been issued in accordance with this By-law whether or not a fee for any such inspection was paid for by the Applicant.

"Obstruct(ion)" means includes encumber, damage, foul or alteration.

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

"Officer" means a Municipal Law Enforcement Officer, Provincial Offences Officer, Police Officer, Municipal Inspector or any other duly appointed person.

"Owner" means the assessed Owner(s) as identified on the Assessment Roll for Taxation Purposes during the current year, as amended.

"Person" means an individual human being, his/her personal agent, heir, successors and assigns, and shall include a corporation with or without share capital.

"Road Cut" means a surface or subsurface cut in any part of a Highway made by any means, including but not limited to any excavation, reconstruction, cutting, saw cutting, overlaying, crack sealing, breaking, boring, directional drilling, jacking or tunneling operations.

"Road Occupancy Permit" or "Permit" means an authorization granted in writing by the Director pursuant to this By-law.

"Roadway" means the part of a Highway that is improved, designed and ordinarily used for vehicular traffic, but does not include the curb, shoulder or boulevard.

"Security" means all forms of security including cash or letters of credit to be provided by the Applicant pursuant to the requirements of this By-law.

"Settlement or Settled" means the sinking of the surface of a road cut in relation to the grade of the adjacent undisturbed Highway.

"Township" means The Corporation of the Township of Severn.

"Temporary" means intended to be used for a limited amount of time.

"Township Standards" means the Township of Severn Engineering Standards, as amended from time to time and are to be used in conjunction with the Ontario Provincial Standard Drawings (OPSD) and the Ontario Provincial Standard Specifications (OPSS).

"Work" means the work described in the application for a Road Occupancy Permit or in the Road Occupancy Permit.

2. Application

2.1 This By-law shall apply to all Highways under the jurisdiction of and located within the geographical boundaries of the Township.

3. Exemptions

- 3.1 The Director may grant an exemption to any person from any provision of this By-law and impose conditions for such exemption as may be considered reasonable and necessary provided such exemption does not interfere with the general integrity of this By-law.
- 3.2 A Road Occupancy Permit is not required by a person undertaking any works for or on behalf of the Township or for road occupancy or closures ordered by the Director;
- 3.3 Road Occupancy Permits shall not be required for Special Events such as social, recreational, community, athletic or cinematographic purpose, or combination of such activities which have been issued a Temporary Highway Closure Permit in accordance with applicable Township's By-laws.

4. Application for Road Occupancy Permits

- 4.1 Every person seeking to occupy or temporarily close any Highway or right of way within the Township shall complete and submit an application to the Township not less than ten (10) working days in advance of an activity. When applying for a Road Occupancy Permit, the Applicant shall;
 - i. Complete and submit the prescribed form;
 - ii. Include a sketch showing the proposed work area and the proposed location of any signs, barricades or other barriers;
 - iii. Pay a non-refundable permit fee as set out in the Township's Fees and Charges By-law;
 - iv. Proof of insurance as described in Section 4.0;
 - v. Satisfactory proof that the Applicant is at least 18 years of age or, if the Applicant is a Corporation, copies of the letters of incorporation or other incorporating documents that have been duly certified by the proper authorities and that show the full corporate name, officers, and directors of the Applicant;
 - vi. Any other information or documentation that the Director deems necessary.
- 4.2 Without limiting the generality of Section 4.1, the Director may require an Applicant to submit a traffic safety plan for the control of traffic and parking, including all vehicular, pedestrian and cyclist movements to, from and within the work area and additional insurance as described in Section 4.0.
- 4.3 Receipt of the application and/or permit fee by the Township shall not represent approval of the application for the issuance of the Permit nor shall it obligate the Township to issue a such Permit.
- 4.4 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 having jurisdiction.
- 4.5 The Director may require the Applicant to provide a refundable deposit and or security for possible damage to Municipal property or equipment, possible damage to adjacent private property, cleanup costs, and all other obligations of the Permit Holder under this By-law and permit.

5. Insurance

- 5.1 Every Applicant shall provide and maintain Comprehensive General Liability insurance acceptable to the Township and subject to limits of not less than five million dollars (\$5,000,000) inclusive per occurrence for bodily injury death and damage to property including loss of use thereof. Such Comprehensive General Liability insurance policy shall be in the name of the Applicant and shall name the Corporation of the Township of Severn as an additional insured. The insurance policy shall remain in place until all warranty requirements are fulfilled.
- 5.2 All insurance shall contain the endorsement to provide the Township with thirty (30) days' prior written notice of any cancellation or change.
- 5.3 The Director may vary the monetary limits and coverage requirements as set out in in Section 5.1.

6. Indemnification

- 6.1 The Permit Holder shall indemnify and hold harmless the Township, their elected officials, agents, officers, and employees from and against all claims, demands, losses, expenses, costs, damages, actions, suits or proceedings by third parties, hereinafter called "claims", directly or indirectly arising or alleged to arise out of the Road Occupancy Permit or failure to perform the conditions of occupancy, provided such claims are:
- i. attributable to bodily injury, disease, or death, or to damage to or destruction of tangible property;
 - ii. caused by negligent acts or omissions of the Permit Holder or anyone whose acts the Permit Holders may be liable.
- 6.2 The Permit Holder shall indemnify and hold harmless the Township of from all and every claim for damages, royalties or fees for the infringement of any patented invention or copyright occasioned by the Permit Holder in connection with the Road Occupancy Permit or material furnished by the Permit Holder.

7. Road Work

7.1 **General Requirements**

- 7.1.1 The Permit Holder shall open a Road Cut in such a manner as to do the least possible damage to the Highway and to any utility or municipal service.
- 7.1.2 The work shall proceed expeditiously and no Permit Holder shall allow a Road Cut to remain open unless the work is actively in progress.
- 7.1.3 The site shall be kept clean and safe and sources of dust and mud controlled at all times until the final reinstatement has been completed. All dust and mud nuisance that is tracked from the site shall be promptly cleaned.
- 7.1.4 The Permit Holder and contractor shall comply with and be bound by the provisions of the Occupational Health and Safety Act, RSO 1990, C.0.1 as amended.
- 7.1.5 All persons employing or using trucks or other vehicles entering or leaving construction sites for any purpose whatsoever shall immediately remove from the Highway any rubbish earth or other material which has fallen from such vehicles.

7.2 Excavated Material and Road Cut Methods

- 7.2.1 Except as permitted by the Director, where multiple road cuts are required, it may be required that the Permit Holder reinstate the Road Cuts and resurface the Roadway for the entire distance between the outer edges of each Road Cut;
- 7.2.2 Where a Road Cut is made in any concrete surface, the Permit Holder shall breakout and remove all concrete, to the nearest expansion joint or contraction joint using a concrete saw if necessary.
- 7.2.3 Where a Road Cut is made in asphalt pavement, the asphalt shall be cut with a mechanical cut device to produce:
- i. a rectangular opening with edges which are vertically straight; and
 - ii. a cut which is large enough to accommodate the proposed works without undermining the adjacent asphalt pavement.
- 7.2.4 Where boring directional drilling, jacking or tunneling is used for any subsurface Road Cut:
- i. the method used shall be approved by the Director; and
 - ii. if a cave-in settlement or heaving results therefrom, the surface in the affected area shall be removed and reinstated by the Permit Holder in accordance with this By-law to the satisfaction of the Township.

7.3 Reinstatement of Highway

- 7.3.1 The Permit Holder shall be responsible for:
- i. the temporary and permanent reinstatement of a Road Cut subject to the provisions of this By-law;
 - ii. the maintenance of temporary reinstatements as provided for in this By-law on every Road Cut which on or after November 15th in any year is not in a condition to be permanently reinstated and is carried over for permanent reinstatement prior to May 31st of the following year.
- 7.3.2 A Highway shall be reinstated with:
- i. Materials and specifications meeting Township standards with
 - ii. accompanying geotechnical information/verification where required by the Director;
- 7.3.3. Temporary surfacing of a Roadway with asphalt, concrete, or surface treatment shall meet the following requirements:
- i. the Road Cut shall be temporarily reinstated immediately after backfilling is completed;
 - ii. the reinstatement shall be to the same level as the adjacent surface;
 - iii. prior to the Highway being opened to traffic the Road Cut shall be surfaced with hot mix asphalt, concrete, or if hot mix asphalt is available with high performance emulsified cold mix asphaltic all hand tamped or rolled to a smooth flat condition; and
 - iv. all reinstatement activity shall be to the satisfaction of the Township.

7.4 Pavement degradation fees

- 7.4.1 Every Permit Holder that performs a cut in the Roadway shall be subject to pay the pavement degradation fees as set out in the Township's Fees and Charges By-law.
- 7.4.2 Any person or corporation who completes a cut in the Roadway without a Road Occupancy Permit or fails to identify the road cut through the permit application process shall be liable for fees as assessed by the Director;
- 7.4.3 Outstanding or unpaid fees shall be paid to the Township prior to any further Road Occupancy Permits being granted by the Director.

7.5 Completion of work

- 7.5.1 Upon completion of the temporary surfacing or permanent reinstatement of the Road Cut, all excess material shall be removed from the area of the Road Cut and the area shall be left in a safe neat and clean condition similar to the condition of the Highway area adjacent to the Road Cut, all to the satisfaction of the Township.

7.6 Trenchless Installations

- 7.6.1 Where the work being undertaken uses trenchless installation methods preservation and protection of existing facilities shall be according to OPSS 491;
- 7.6.2 Minimum horizontal and vertical clearances to existing facilities, as specified in OPSS, shall be maintained. Clearances shall be measured from the nearest edge of the largest back reamer required to the nearest edge of the facility being paralleled or crossed;
- 7.6.3 Existing underground facilities shall be exposed to verify its horizontal and vertical locations when the bore path comes within 10 metre horizontally or vertically of the existing facility. Existing facilities shall be exposed by non destructive methods. The number of pilot holes required to monitor work progress and the proposed location of such pilot holes must be clearly depicted on the application drawing. All pilot holes and any other damage to the Highway infrastructure shall be restored as per the requirements of this By-law.

8. Road Cut Failures and Warranty Periods

8.1 Warranty Periods

- 8.1.1 For temporary reinstatement of the Highway, a Permit Holder is responsible for the repairs necessary to correct any Road Cut considered under the Ontario Minimum Maintenance Standards for Municipal Highway, Township Standards and OPSS, as applicable.
- 8.1.2 Following permanent reinstatement of the Highway, a Permit Holder is responsible for the repairs necessary to correct any settlement or surface deterioration for a warranty period of twelve (12) months following the date of final reinstatement of the Highway, being the last time the Permit Holder repaired the Road Cut.

8.1.3 If the Permit Holder has not done the work referred to in Section 8.1.1 within twenty-four 24 hours of notification, the Director may order the work to be done at the Permit Holder's expense. All costs incurred by the Township shall be paid by the Permit Holder forthwith on demand.

8.2 Emergency Repairs

8.2.1 If the Director is of the opinion that a Road Cut reinstatement, or lack of Reinstatement, has created an emergency situation which can cause damage to vehicles or endanger the public, the Director may protect the area and:

- i. Make immediate repairs; or
- ii. Contact the Permit Holder and advise as to the repair work which must be carried out;
- iii. All work done by the Township pursuant to Section 8.2 hereof shall be at the expense of the Permit Holder and the costs of the Township shall be paid by the Permit Holder.

9. Prohibitions / General Provisions

- 9.1 No person shall alter, obstruct or damage, close or cause or permit the use, alteration, obstruction or damage of any Highway or part thereof without first having obtained a Road Occupancy Permit.
- 9.2 No person shall undertake construction, maintenance or installation of facilities, utilities, or other chattels on a Highway or parts thereof without obtaining a Road Occupancy Permit.
- 9.3 No person shall undertake construction or maintenance on land abutting on a Highway which may affect the drainage of the Highway without first having obtained a Road Occupancy Permit.
- 9.4 No person shall fail to comply with a Notice of Obstruction or an Order Issued pursuant to this By-law.
- 9.5 No person shall, without lawful authority use a Highway or right of way that is closed to any traffic while it is protected. Every person who uses a Highway closed under this By-law does so at their own risk and the Township is not liable for any damage sustained by a person using a Highway so closed.
- 9.6 No person shall remove or deface any barricade, device, detour sign or notice placed by lawful authority.
- 9.7 Without limiting the generality of Subsection 9.1, no person shall alter, obstruct or damage, or cause or permit the use, alteration, obstruction or damage of any Highway by any of the following:
 - i. 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;
 - ii. the depositing of snow or ice on travelled portion of the Highway or onto a Highway not contiguous with the property from the snow was moved from;
 - iii. the placement of any snow or ice, or any materials or equipment, or any structures within 1.2m, in any direction of a fire hydrant;
 - iv. the placement of leaves, grass clippings, and debris from private property to any portions of the Highway;

- v. the altering of the grade on any part of the Highway unless the person without having obtained a Road Occupancy Permit, pursuant to this By-law;
- vi. the parking of equipment, motorized equipment other than motorized equipment permitted and licensed under the regulations of the Ministry of Transportation of Ontario, containers, trailers, or any landscape or construction material on a Highway without having obtained a Road Occupancy Permit;
- vii. the cutting, altering, extending, in any manner whatsoever of a concrete curb, open or contained culvert, culvert overpass, or similar structure or landscape without having obtained a Road Occupancy Permit;
- viii. the allowance of a crane boom or any portion of a stationary tower crane to travel over, hoist, or otherwise occupy the space above a Highway or any part thereof without having obtained a Road Occupancy Permit;
- ix. the excavation or damage to any portion of a Highway, including sod, trees, light poles, street signs or other objects within the Highway without having obtained a Road Occupancy Permit;
- x. the placement of donation or electronic recycling bins on a Highway;
- xi. the placing or depositing of sporting equipment, including but not limited to basketball nets, skateboard ramps and bicycle ramps, on a Highway;
- xii. the placement or alteration of any street furniture on a Highway without having obtained a Road Occupancy Permit;
- xiii. the installation and/or discharge of irrigation systems onto a sidewalk or the travelled portion of a Highway;
- xiv. the direct discharge of water from any sump pump or down spout onto a Highway
- xv. occupy a Highway for the purpose of the sale, or offering to sale, of any goods and services, including the sale of event tickets (hawker peddler);
- xvi. creating or establishing vehicle or trailer access to property without first having obtained an Entrance Permit; and
- xvii. the construction, installation, or placement any tree, landscaping, irrigation, fence, post, light post, rock(s) /decorative wall and the installation of electrical wiring on or over any Highway.

9.8 This By-law shall be read in conjunction with the Township's Entrance By-law.

10. Review, Approval and Refusal

- 10.1 The Director is authorized to receive and consider all applications, and to conduct all investigations necessary to determine whether a Road Occupancy Permit should be issued.
- 10.2 The Director shall have the authority to approve, refuse, administer and/or revoke all Road Occupancy Permits, and may include any conditions in a permit that he/she deems appropriate.
- 10.3 The Director shall have the authority to determine and from time to time amend the forms, information, and special conditions required in the administration of this By-law.
- 10.4 Prior to making a decision on any application, the Director shall consult with such other persons or agencies as he/she considers necessary.
- 10.5 When reviewing an application, the Director shall consider:
 - i. any potential adverse effect on public health and safety;
 - ii. any potential inconvenience to the public;
 - iii. any potential traffic impacts, including the adequacy of detour routes;
 - iv. any concerns for the security of persons or property; and
 - v. the past or present conduct of the Applicant affords reasonable grounds to believe the construction, maintenance or other works may not be adequately managed in accordance with this By-law.
- 10.6 The Township, upon receipt of a completed application, may recommend additional signs, barricades, traffic control, personnel or other equipment, additional insurance or notification to additional agencies that are necessary for the proposed road occupancy.
- 10.7 When the Applicant is requesting multiple road cuts, the Director reserves the right to issue a single Road Occupancy Permit or multiple Road Occupancy Permits for the works;
- 10.8 When authorized, a Road Occupancy Permit is valid for sixty (60) calendar days from the date of issue.
- 10.9 Without limiting the generality of Section 10.2, the Director may refuse to issue a Road Occupancy Permit, if:
 - i. the Applicant has not provided information or documentation required or did not provide such information or documentation within the specified time frame;
 - ii. the Applicant has not provided the fees, securities and/or insurance required;
 - iii. the Applicant has submitted false, mistaken, incorrect or misleading information in support of the application;
 - iv. the Applicant or any Principal, Director, or Officer of the Applicant has an outstanding debt to the Township, or;
 - v. the requested temporary occupancy poses an unacceptable level of risk to the factors outlined in Section 10.5.
- 10.11 The Director may revoke a Road Occupancy Permit at any time without prior notice to the Permit Holder if:
 - i. it was issued in error;
 - ii. it was issued as a result false, mistaken, incorrect or misleading information in the application;

- iii. there are reasonable grounds to believe that the continuation of the temporary occupancy or closure poses a risk to the factors outlined in Section 10.5.
- iv. the Permit Holder is not in compliance with any permit condition.

10.12 Any Applicant who has been refused a Road Occupancy Permit, has had permit revoked or who objects to conditions imposed may appeal to Council and the decision of Council shall be considered final and binding on the Applicant.

10.13 Any person required to renew and or extend a Road Occupancy Permit previously granted under this By-law, shall contact the Township requesting renewal or extension of the Road Occupancy Permit at a minimum five (5) business days prior to Permit expiry and provide any requested modified documentation as required by this By- law or as deemed necessary by the Director. The Director reserves the right to approve or deny requests for renewals or extensions of permits.

10.14 A copy of the Road Occupancy Permit must be on site at all times and available for review upon request. Failure to have the permit on site may result in an Order (Section 13) Offence (Section 14).

11. Conditions

11.1 **Notice requirements for road occupancy**

11.1.1 Where the work is of a major nature or duration and will cause general inconvenience to all the residents and businesses located beside or near the Highway where the work will occur every Permit Holder or person responsible for the road activity shall at least ten (10) working days prior to commencing the work, provide in writing, to every resident and business located beside or near the Highway where the work will occur the following information:

- i. description and rationale for the work
- ii. the approximate start date
- iii. the duration of the work
- iv. access restrictions and service interruptions and
- v. contact information for the Permit Holder

11.2 **Locates**

11.2.1 It shall be the sole responsibility of the Permit Holder to request from the appropriate Utility Company marking or other location information to determine the location and to provide safeguards for all utilities. Should the Permit Holder in carrying out the work granted under the Road Occupancy Permit cause damage to any such utilities the entire cost and responsibility of restoring any such utilities shall be at the sole expense of the Permit Holder.

11.3 **Traffic Control, Notifications, Devices, Signs and Closures**

11.3.1 The Permit Holder shall supply, erect and maintain warning devices barricades and traffic signs where applicable in accordance with the Occupational Health and Safety Act, RSO 1990, C.0.1 as amended, and any applicable provincial traffic regulations including but not limited to the Ministry of Transportation Ontario Traffic Manual Book 7 Temporary Conditions.

11.3.2 If the Permit Holder fails to comply with Subsection 11.3.1 hereof, the Director may order the erection and maintenance of any warning devices barricades and signs considered necessary at the Permit Holder expense and charge back such expenses to the Permit Holder.

11.3.3 No Permit Holder shall close a Highway to traffic or one direction of traffic on a Highway unless:

- i. the written consent of the Director for the closing is obtained; and
- ii. Written notifications have been made to OPP, Fire and Emergency Services Ambulance Service and any other person, department or agent requiring notice from time to time affected by the occupancy for the commencement and duration of the activity as directed by the Director. The Permit Holder shall provide such proof to the Director, prior to the closing of the Highway.

11.3.4 The Permit Holder is to supply and maintain appropriate signage and is responsible for any and all costs associated with paid duty policing as required by the Director.

11.4 Snow removal and de-icing

11.4.1 Where the Permit Holder's work impedes snow removal and de-icing by the Township on areas where vehicular and pedestrian traffic are being maintained as reasonably determined at the sole discretion of the Director, the Permit Holder shall be responsible for providing ice and snow removal services within the limits of the work site. Such areas shall be cleared of ice and snow to the satisfaction of the Director;

11.4.2 Should the Permit Holder fail to complete the required snow removal services and de-icing within the set deadlines, the Director without any notice to the Permit Holder may arrange for the snow and ice to be removed by others. All costs incurred by such removal shall be charged to the Permit Holder.

11.5 Site Conditions

11.5.1 The Permit Holder is responsible for maintaining the work site and surrounding area free of dust and mud The Permit Holder shall clean the road and sidewalks as required to the satisfaction of the Director;

11.5.2 The Permit Holder shall immediately notify the Director of any alteration, breaking, or disturbance of existing Highway condition or if the Work undertaken deviated from that set out in the approved permit. The Applicant shall undertake a temporary repair and be responsible for all costs associated with the work as set out herein.

11.5.3 The Permit Holder shall ensure that all equipment is in good working order and does not leak fluids or produce unnecessary noise. The idling of service equipment shall be restricted to the minimum amount necessary for the completion of the permitted works.

11.5.4 The Permit Holder shall keep the site and work in a tidy condition as practical and to the satisfaction of the Township. The Permit Holder shall not deposit any material on any portion of street, sidewalk, boulevard, grass, plot or other Township property without the permission of the Director and shall remove the same without delay when and as directed by the Director. Upon completion of the work, the Permit Holder shall remove all surplus materials as well as any rubbish accumulated on account of the work, make good any defects or damage and shall leave the site in a condition satisfactory to the Township;

11.5.5 Should the Permit Holder fail to comply with this requirement and maintain the street in a satisfactory condition the Director without further notice may issue an Order, cancel the Road Occupancy Permit, charge the Permit Holder under applicable By-laws and/or arrange for the site to be cleaned immediately by others. All costs incurred in cleaning the dust and mud resulting from the Permit Holder's work shall be charged to the Permit Holder.

11.6 **Transferability**

11.6.1 A Road Occupancy Permit is not transferable without the written consent of the Director.

12. Utility Companies

12.1 **Service Drops**

12.1.1 Temporary service drops shall be permitted as a temporary means to supply servicing to a resident with the permanent service being installed at a future date. Installation of cables shall be performed in a manner that ensures the safety of residents, pedestrians and vehicles and placed with due regard for aesthetics. Cables shall be installed in a manner that does not create a trip hazard.

12.1.2 Cables shall not cross sidewalks driveways or walking paths along the surface. When crossing a road, sidewalk, driveway or walking path the height of the cable shall be no less than 5 metres.

12.1.3 Cables shall not lie unprotected on the ground at any location.

12.1.4 Cables shall not be strung using trees.

12.1.5 The Permit Holder shall make its best effort to install the permanent service as soon as possible. In the winter or early spring frost conditions may delay the permanent installation, however; in general temporary service drops shall be removed within thirty (30) days.

12.1.6 Immediately upon installation of the permanent service regardless of whether or not restoration has been completed all materials and equipment associated with the temporary service drop shall be removed from the site.

13. Inspections

13.1 An Officer may at all reasonable times enter on any land, for the purpose of carrying out an inspection to determine whether or not the provisions of this By- law, direction or order in association with the Road Occupancy Permit are being complied with.

14. Order

14.1 If after inspection, the Director or an Officer is satisfied that a contravention of this By-law has occurred, the Director/Officer shall notify the registered owner of the land of the particulars with a "Notice of Contravention" and/or an "Order to Comply" pursuant to Subsections 444(1) and 445(1) of the Municipal Act, 2001, as amended, at the same time and provide all occupants with a copy of the notice and such order shall contain:

- i. the municipal address and the legal description of the land;
- ii. reasonable particulars of the contravention;
- iii. the period of time within which there must be compliance.

14.2 The Director/Officer, by a written Notice of Contravention and/or an Order to Comply pursuant to Subsections 444(1) and 445(1) of the Municipal Act, 2001, as amended, may require any person who has done work without an approved Road Occupancy Permit or has not complied with the provisions of this By-law, or where the permit has been issued on mistaken, false or misleading information:

- i. to cease all work;
- ii. to restore/repair any damages caused;
- iii. to do all work necessary to eliminate any hazards resulting from the work that has occurred.
- iv. to be responsible for all cost associated with the remedial work, such cost will be withdrawn from any securities provided by the Permit Holder. In the event the cost to repair damages exceeds the deposit and/or securities, the Permit Holder shall be responsible for the full amount of damages incurred to any Highway and the Township shall have the right to recover any expenses incurred in the same manner as taxes.

14.3 Where any person has contravened any provision of this By-law, the Township may, without notice, effect compliance and the expense of doing so may be recovered by adding the expenses to the tax roll for such property and collect them in the same manner as taxes.

15. Offences

15.1 Every Person who hinders or obstructs, or attempts to hinder or obstruct, any Officer exercising a power or performing a duty pursuant to this By-law is guilty of an offence as provided in Section 426 of the Municipal Act, 2001.

15.2 Every Person who contravenes the provisions of the By-law is guilty of an offence and liable upon conviction to a penalty as set out in the Provincial Offences Act, R. S.O. 1990, c. P. 33, as amended.

15.3 The conviction of an offender upon the breach of any provisions of this By-law shall not operate as a bar to a prosecution against the same offender upon any continued or subsequent breach of any provision. Section 442 of the Municipal Act, 2001, S.O. 2001, c.25, as amended from time to time, shall further apply to any continued or repeated breach of this By-law.

16. Short Title

16.1 This By-law may be cited as the "**Road Occupancy By-law**".

17. Severability

17.1 If any court of competent jurisdiction finds that any of the provisions of this By-law are ultra vires the jurisdiction of Council, or are invalid for any reason, such provision shall be deemed to be severable and shall not invalidate any of the other provisions of the By-law, which shall remain in full force and effect.

18. Miscellaneous

18.1 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.

18.2 Where the context permits, words importing the singular also include more than one persons, parties or things of the same kind. Where the context permits, words importing the masculine gender also include female as well as male.

19. Repeal

19.1 That By-law No. 2004-91 be and it is hereby now repealed.

By-law read a first and second time this 28th day of November, 2018.

By-law read a third time and finally passed this 28th day of November, 2018.

CORPORATION OF THE TOWNSHIP OF SEVERN



MAYOR



CLERK