



## **Council Report**

**Report Number PW2020-001**

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**Meeting Date:** December 15, 2020

**Title:** Establishment of a By-Law to Regulate Road Occupancy and Closure

**Description:** Presented for Council consideration is the establishment of a By-Law to regulate the occupancy and closure of Municipal Roads

**Author and Title:** Bryan Robinson, Director of Public Works

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### **Recommendation(s):**

**That** Report PW2020-001, Establishment of a By-Law to Regulate Road Occupancy and Closure, be received; and

That the draft By-Law attached as Appendix A to Report PW2020-001 be approved and adopted by Council.

**Department Head:**\_\_\_\_\_

**Financial/Legal/HR/Other:**\_\_\_\_\_

**Chief Administrative Officer:**\_\_\_\_\_

## **Background:**

The City of Kawartha Lakes has over 2900 center line kilometers of road to administer. It is the responsibility of the Roads Division within the Public Works Department to ensure public safety when travelling within the right of way and to manage liability related to activity within the rights of way.

The City has an existing encroachment by-law which was passed in October 2018 (2018-017 Consolidates City lands Encroachment By-Law). This by-law regulates placement of physical items on the right of way (vegetation, structures, buildings, etc.). The Public Works Department, in cooperation with the Engineering and Corporate Assets Department has recognized the need to establish a by-law to regulate activity on the road allowance.

Within the province, most municipalities regulate activity by a process known as Road Occupancy, where those wishing to undertake activity in the road allowance must obtain a permit to complete activity within a municipal right of way. The permitting process has been chosen to enable several benefits:

- 1) It allows the City to understand all activity to ensure there are no conflicts;
- 2) It allows the City to ensure the activity is being completed with appropriate safety measures in place (traffic control, pedestrian protection); and
- 3) It allows the City to obtain appropriate insurance documentation to mitigate liability of the City.

Within the City of Kawartha Lakes, we currently utilize an application based process to permit occupancy and closure of a road, however there is nothing expressly prohibiting such activity. When we discover unapproved activity, we do not have the authority to stop the activity.

This report addresses the creation of a by-law to enable staff to regulate activity in the road allowance.

## **Rationale:**

Establishing the proposed by-law will enable Staff to better manage risks, liabilities and conflict related to activity within the municipal right of ways.

Although complimentary to the City Lands Encroachment By-Law (2018-017) the intent of this By-Law would be to enable staff to control, regulate and enforce activity.

## **Other Alternatives Considered:**

Council could consider imposing a permit processing fee to recognize Staff time involved with processing the application and the additional resources potentially required from the Municipal Law Enforcement Division to investigate and regulate

the By-Law. Staff surveyed eight neighbouring municipalities and found a range of fees being charged. Three municipalities are charging no fees. Others range in fees from as low as \$35 up to \$180.

## **Alignment to Strategic Priorities**

### **1. Healthy Environment**

This report aligns with the priority of health environment as it enables authority of the City to control physical activity within the road allowance thereby ensuring that natural environmental features are protected or managed in an appropriate manner.

### **2. An Exceptional Quality of Life**

This report aligns with the priority of exceptional quality of life by ensuring Staff are aware of all activity within the road allowance thereby ensuring appropriate notification is made to emergency services, bussing companies and residents where necessary.

### **3. Good Government**

This report aligns with the strategic goal of good government by enabling staff to properly administer activity within our road allowances to ensure public safety and liability is managed. It is a consistent approach across the province.

## **Financial/Operation Impacts:**

The current process for receiving and processing applications is free. At this time, Staff are not proposing to impose fees. Other municipalities both impose fees and sometimes take securities related to the work to ensure the restoration is to the satisfaction of the City. Staff are not proposing this at this time to avoid the administrative burden this would have.

As with any new by-law that has an enforcement component, there would be additional burden on the Municipal Law Enforcement Division. Staff can draw some comparison to the implementation of the Encroachment By-law to predict potential future impact. Staff anticipate that MLE Officers will investigate 50 complaints per year specific to this by-law. Council has received information in the past that indicated with current staffing levels the eight MLE Officers are able to investigate approximately 1600 complaints per year, before service levels are impacted. MLE Officers currently investigate over 2000 complaints per year and by-laws are being created with increasing complexity, with multi-departmental expertise required, such as with the Site Alteration By-law. Staff are currently over capacity, so creating this by-law without staff support could increase wait

times for all other investigations. Currently, investigations see approximately 1-4 week delay depending on priority.

### **Consultations:**

Manager, Municipal Law Enforcement  
Director, Engineering and Corporate Assets  
Supervisor, Technical Services  
Manager, Roads Operations (3)

### **Attachments:**

Appendix A – Draft: A By-Law to Regulate Activity on a Municipal Road Allowance.



PW2020-001  
Appendix A.pdf

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**Department Head: Bryan Robinson**