

# THE CORPORATION OF THE TOWNSHIP OF SCUGOG

## BYLAW NUMBER 36-05

### BEING A BYLAW TO REGULATE THE TEMPORARY CLOSURE OR OCCUPANCY ON HIGHWAYS UNDER THE JURISDICTION OF AND WITHIN THE TOWNSHIP OF SCUGOG

WHEREAS, the Municipal Act S.O. 2001, as amended, provides that the Council of the Corporation of Township of Scugog may pass a Bylaw to regulate the temporary closure or occupancy on highways and that a fee for such Permit to close or temporarily occupy a highway may be levied in order to maintain Health and Safety to ensure safe and proper passage around any closure and to prevent a Nuisance by any person occupying a highway in a manner to cause damage to the highway or prevent persons from using the highway;

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

#### Section 1 DEFINITIONS:

- i) "Applicant" means, the person applying for a Road Occupancy permit and shall include a corporation or other person whose agent or employee acts as the applicant on behalf of that corporation or other person.
- ii) "Council" means, the Council for the Corporation of the Township of Scugog.
- iii) "Commissioner of Infrastructure & Development" means, the Commissioner of Infrastructure & Development for the Township of Scugog and shall include his/her designate from time to time and will include any person given the rights, powers and responsibilities of that position.
- iv) "Expenses" means, any and all expenses for work to be done including any work required to be done by the Township resulting from anything done by any person including the Township of Scugog and shall include any pre-inspection or any post inspection conducted in relation to any Occupancy Permit.
- v) "Extraordinary or Heavy Load" means, any load that exceeds the size or weight requirements as established by the Regulations of the Ontario Highway Traffic Act S.O. 1990, as amended.
- vi) "Highway" means, a highway as described by the Ontario Highway Traffic Act S.O. 1990 and shall include any sidewalk, footpath or boulevard under the jurisdiction of the Township

- vii) “Inspection” means, any inspection conducted by the Township in respect of any permit issued or to be issued whether or not a fee for any such inspection is paid by the applicant.
- viii) “Letter of Credit” means, a letter of credit or cash deposit held by the Township to be used for work that may be required by the Township to correct any work done.
- vix) “Municipal Law Enforcement Officer” means, the Municipal Law Enforcement Officer appointed by the Township of Scugog.
- viii) “Notice” means, the form of notification of intent to occupy or close any highway.
- ix) “Occupancy Permit” means, a permit issued by the Commissioner of Infrastructure & Development or designate and shall be interchangeable with the term “Permit”, and shall include any Notice or other writing or permit affixed from time to time as directed by the Commissioner of Infrastructure & Development or this Bylaw.
- x) “Person” means, an individual, partnership, corporation or agency.
- xi) “Road Closure” means the partial or full closing of any highway or bridge or portion thereof, and shall include any sidewalk, footpath or boulevard by any means.
- xii) “Road Occupancy” means, the partial occupancy or full occupancy of any highway or bridge or portion thereof, and shall include any sidewalk, footpath or boulevard by any means and shall include the occupancy of a highway for the purpose of transporting any load requiring a permit under the provisions of this By-law.
- xiii) “Site Plan” means, drawings or plans showing the area of highway or bridge to be closed, occupied or excavated, and shall include alternate routing if required.
- xiv) “Township” means, the Corporation of the Township of Scugog.

## Section 2 GENERAL PROVISIONS

- 2.1) Except where permitted under the provisions of this Bylaw or under the authority of an Occupancy Permit issued in accordance with this Bylaw, no person shall temporarily close, obstruct, encumber, injure, foul or in any way occupy any highway or bridge or any part of any highway or bridge under the jurisdiction of the Township of Scugog, by placing any tent, fence, boarding, structure, any chattel or other material or excavate or in any way disturb the surface or the soil or material thereon without first obtaining written permission from the Commissioner of Infrastructure & Development or his designate on the prescribed form, and which the correct fee has been paid and the surety has been provided.

- 2.2) No person shall close, obstruct, encumber, injure or foul any highway or bridge or any part thereof by any means, except when carried out under the provisions of this bylaw.
- 2.3) Any person intending to close or occupy any highway under the jurisdiction of the Township of Scugog must deliver Notice in writing to the Commissioner of Infrastructure & Development, no less than 24 hours in advance of the said closing or occupancy and where such occupancy shall consist of occupying any highway under the jurisdiction of the Township in order to move an extraordinary or heavy load such notice shall be given no less than thirty (30 days) prior to such occupancy.
- 2.4) The Notice shall be accompanied by the required Permit fee and shall give the name address and telephone number of the person for which the work is being done or that requires the closure or occupancy .
- 2.5) The Notice shall include a Site Plan, which shall include any Alternate route required, the area of highway or bridge to be closed, disturbed or otherwise occupied, the amount of time closure or occupation shall be required and will fully describe the work to be done, including materials things and vehicles that will be occupying the highway or bridge. Notwithstanding the foregoing the Commissioner of Infrastructure & Development may require further information on any Notice to more clearly describe the work, closure or occupancy.
- 2.6) The Commissioner of Infrastructure & Development or his designate after examining the Notice and upon its acceptance shall determine an amount of Letter of Credit to be held by the Township before an Occupancy Permit is issued.
- 2.7) The Commissioner of Infrastructure & Development or his designate may impose conditions on the Occupancy Permit in addition to the conditions named on the Notice.
- 2.8) The Occupancy Permit with the Notice attached shall be available for inspection where the work is being done and such Permit and Notice shall be produced for inspection to the Commissioner of Infrastructure & Development, his designate or the Municipal Law Enforcement Officer if requested.
- 2.9) Any work to be carried out where it is necessary to alter, break, or disturb an existing pavement, curb, boulevard or sidewalk the extent of such work , breaking or disturbance shall be set out in the Occupancy Permit or the Notice.
- 2.10) Following the completion of any work, alteration, disturbance or occupancy of any highway or bridge the applicant will be fully responsible until all work is finalized and any and all repair has been satisfactorily made and has been inspected by the Commissioner of Infrastructure & Development or his designate.

- 2.11) Where notice is given under Section 2.3 of this Bylaw and where such notice must be given no later than thirty days (30), the applicant in addition to the required permit fee as set out in the Township of Scugog Fees & Charges By-Law shall also submit a pre inspection fee and post inspection fee as set out in the Township of Scugog Fees & Charges By-Law and such inspection fees shall not be refundable.
- 2.12) All signs, postings, barricades, flag men, traffic control devices or any other equipment or thing determined to be required for the proper and safe movement and control of pedestrians and traffic in the area will be the sole responsibility of the applicant and where such a device or other control is determined to be required after the Occupancy Permit has been issued and work commenced the responsibility shall remain the applicant's and where such additional device or thing is required and not provided forthwith, the Occupancy Permit may be withdrawn by the Commissioner of Infrastructure & Development or his designate.
- 2.13) The applicant shall maintain full access at all times to public and private properties and where limiting access to any private lands, the applicant shall have in writing authorization of that property owner and such writing shall be attached to the Occupancy Permit and be made available for inspection if requested by the Commissioner of Infrastructure & Development, his designate or the Municipal Law Enforcement Officer.
- 2.14) The Occupancy Permit may be revoked by the Commissioner of Infrastructure & Development or his designate should any permit holder or any person employed to do any work for the permit holder, fails or refuses to comply with any of the conditions set out in the Permit or in the attached Notice.
- 2.15) This permit may be extended should conditions or unforeseen problems make it necessary to make the time of completion longer than stated. Any such extension shall be granted only by the Commissioner of Infrastructure & Development or his designate and such extension shall be noted and attached to the permit and Notice, and shall be produced for inspection if requested.
- 2.16) The applicant shall be responsible to notify the Durham Regional Police Services, Scugog Fire Department, the Emergency Medical Services, Durham Boards of Education and any other person or agency determined by the Commissioner of Infrastructure & Development prior to commencement of any closure or occupancy and advise of the start and termination dates.
- 2.17) Where a Utility or public service company closes or occupies a highway due to an emergency situation, a telephone notice to the Commissioner of Infrastructure & Development shall be given immediately and a Permit shall be obtained as soon as practicable after that.

- 2.18) Where any Police Service or Scugog Fire Department closes or occupies any highway or portion thereof due to an emergency situation they shall notify the Commissioner of Infrastructure & Development as soon as practicable to do so and no permit shall be required.
- 2.19) Where a highway or any portion thereof is closed or occupied under the authority and approval of the Commissioner of Infrastructure & Development, the applicant shall provide and keep in good repair a reasonable temporary alternate route for all traffic and pedestrians around any work site and where such alternate route is not kept in a reasonable repair the Township shall keep the route in reasonable repair and all expenses incurred shall be that of the applicant.

### SECTION 3 EXCEPTIONS / LIABILITIES

- 3.1) A Road Occupancy Permit will not be required by a utility company for the following types of work;
- a) installing maintaining or relocating a pole line,
  - b) raising or lowering utility service boxes,
  - c) work on shut off valves,
  - d) initial; work conducted in new subdivisions prior to installation of sidewalk, curb and gutter and asphaltic concrete pavement,
  - e) work in manholes, valve chambers and transformer vaults,
  - f) a person who occupies the highway for eight hours (8) or less, where the occupation is by a motor vehicle only and such motor vehicle is required as the delivery system for that person in the form of carrying packages, equipment or goods, home fuel delivery, chemical or other product that must be delivered by sprayer applications or any similar device,
  - g) where supplies or debris is placed on the traveled portion of any highway and will be removed within an eight (8) hour period.
- 3.2) The applicant assumes all liability for any resultant maintenance and/ or required permanent repairs, and where any such repairs shall be carried out by the Township all costs shall be that of the applicant. Subsequent maintenance and repair after the permanent repair is complete shall be the Township's responsibility.

- 3.3) Nothing in this Bylaw is meant to negate any right conferred upon any person under any statute or franchise agreement lawfully entered into and authorized by Bylaw granting any right to use or occupy any public highway and in the event of any conflict between this Bylaw and any statute or agreement, the provisions of the statute or agreement shall prevail.
- 3.4) Where a breach of any of the provisions of this Bylaw causes a permit to be revoked or withdrawn, no portion of the cost of such permit will be refundable.

#### SECTION 4 ADMINISTRATION AND ENFORCEMENT

- 4.1) This Bylaw shall be administered by the Commissioner of Infrastructure & Development.
- 4.2) This Bylaw shall be enforced by the Commissioner of Infrastructure & Development, his designate and the Municipal Law Enforcement Officer.

#### SECTION 5 PENALTIES

- 5.1) Every person who contravenes any provision of this Bylaw is guilty of an offence and upon conviction thereof shall be liable to a fine of up to \$5,000.00 imposed pursuant to the Provincial Offences Act, R.S.O. 1990, as amended.

#### SECTION 6 SEVERABILITY

- 6.1) If a court of competent jurisdiction should declare any section of this Bylaw, or part thereof, to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this Bylaw as being invalid and is hereby declared that the remainder of the Bylaw shall be valid and shall remain in force.

#### SECTION 7 REPEAL OF BYLAWS

- 7.1) Bylaw 57-77 and any amendments thereto are hereby repealed.

#### SECTION 8 EFFECTIVE DATE

- 8.1) This Bylaw shall come into force on the date of its passing.

Read a First, Second and Third time and finally passed this 11th day of April, 2005.

(Signed) Marilyn Pearce  
MAYOR, Marilyn Pearce

(Signed) Kim Coates  
CLERK, Kim Coates