

Meeting Date: September 16, 2019
Department: Chief Administrative Officer
Prepared By: Greg McClinchey, Chief Administrative Officer
SUBJECT: **Temporary Road Closure By-law**

RECOMMENDATION: It is recommended that Council enact the Temporary Road Closure By-law.

PURPOSE

The attached by-law is intended to provide a clear framework to support a process to utilize and close municipal roads for the purposes of construction or repair of a municipal road or any works along or across the roads and, also for the purposes of social, recreational and community or athletic purposes.

SUMMARY HIGHLIGHTS

The by-law provides a framework to support a process to use and close municipal roads for a range of purposes by:

- Articulating the information required prior to the Municipality issuing a road closure permit;
- Establishing reasons for which a road closure permit can be revoked;
- Establishing penalties for those who drive on roads while they are closed;
- Clarifying the insurance demands, general procedures and the responsibilities associated with road closures;
- Setting out penalties for those who drive on a closed road or close a road without authorization to do so (a maximum fine of \$1,000.00 plus expenses).

BACKGROUND

In the past several years, Strathroy-Caradoc has utilized special events such as the Saturday Morning Market, the Victorian Christmas, the Feast on Front/Night Market, and now Rogers Hometown Hockey, as mechanisms for community building and economic development. Additionally, events hosted by community groups and associations,

including the Christmas Parade, the Lighting of the Lights, and the Show and Shine, rely on the safe and orderly closure of certain Municipal roads. As these events grow in both frequency and in scope, staff recommends providing clarity as to the requirements and procedures associated with the closure and utilization of roads while closed. The proposed by-law seeks to do so while also addressing long-standing and growing concerns with motorists failing to respect road closures. It is asserted that this by-law will help ensure a greater degree of pedestrian safety on closed roads while clearly establishing the expectation of motorists and those seeking to close a road for any reason.

CONSULTATION

The following have been consulted:

- The Strathroy-Caradoc Management Team (including the directors of Community Services, Engineering and Legal and Legislative Services);
- The Strathroy-Caradoc Fire Chief;
- The Strathroy-Caradoc Police Chief; and
- The Strathroy-Caradoc By-Law Enforcement Officer.

There are no outstanding concerns relating to the proposed by-law.

FINANCIAL IMPLICATIONS

None

ATTACHMENTS

By-law 49-19

**CORPORATION OF
THE MUNICIPALITY OF STRATHROY-CARADOC**

BY-LAW NO. 49-19

**A BY-LAW TO AUTHORIZE THE CHIEF ADMINISTRATIVE OFFICER, CITY
ENGINEER AND CLERK TO EXERCISE THE POWERS OF COUNCIL TO
TEMPORARILY CLOSE A MUNICIPAL ROAD**

WHEREAS Section 10(1) of the Municipal Act, 2001, as amended, provides a municipality with the road authority to pass by-laws to provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS Section 11 (3) of the Municipal Act, 2001, as amended, provides that a lower-tier municipality may pass by-laws respecting matters within the sphere of jurisdiction of highways, including parking and traffic on highways;

AND WHEREAS Section 35 of the Municipal Act, 2001, as amended, provides a municipality with the specific authority to pass by-laws removing or restricting the common law right of passage by the public over a highway and the common law right of access to the highway by the owner of land abutting a highway;

AND WHEREAS Section 23.1 of the *Municipal Act, 2001*, S.O.2001,c. 25, as amended, confirms that a municipality has authority to delegate its powers and duties.

Now therefore the Council of the Corporation of the Municipality of Strathroy-Caradoc enacts as follows:

Short Title

This by-law may be referred to as the Temporary Occupancy Road Closure By-law

**Part I
Definitions**

1. In this by-law:
 - a) **“Applicant”**- any person making an application for a Temporary Road Occupancy Permit and any person to whom a permit is issued.
 - b) **“CAO”** - the Chief Administrative Officer of the Corporation of the Municipality of Strathroy-Caradoc,
 - c) **“Clerk”** - the Clerk of the Corporation of the Municipality of Strathroy-Caradoc,

- d) **“Council”** - the Council of the Corporation of the Municipality of Strathroy-Caradoc.
- e) **“Engineer”** - the Engineer of the Corporation of the Municipality of Strathroy-Caradoc;
- f) **“Road”** - means a common and public highway or street and includes any bridge, trestle, viaduct or other structure forming part of the street or highway, and except as otherwise provided, includes a portion of the street or highway; and includes the area between the lateral property lines of it.
- g) **“Licensee”** - an Applicant who has been granted a Temporary Road Closure Permit
- h) **“Municipal Authority”** - the Council, CAO, Clerk or Engineer.
- i) **“Municipality”** - the Municipality of Strathroy-Caradoc.
- j) **“Owner”** - the person identified as the property’s title holder on the Assessment Roll for taxation purposes, including a representative or agent of the Owner.

Part II
Purpose and Application

Council – CAO – Engineer – Clerk – authority – alternate Route – provided

2.

- (1) For the purposes of this by-law, the temporary closing of a road may include for the purposes of construction or repair of a municipal road or any works along or across the roads and, also for the purposes of social, recreational and community or athletic purposes.
- (2) The Municipal Authority may temporarily close any road to public travel for the purpose of repairing or improving the road or any infrastructure contained therein, or for the purpose of installing road works if a reasonable temporary alternative route for traffic and local access is provided, or for emergency purposes.
- (3) The Municipal Authority may temporarily close to vehicular traffic any road or portion of a road for a period of not more than 7 consecutive days for social, recreational, community, athletic, or cinematographic purposes, or combination of such purposes.

Council – CAO – Engineer – Clerk - authority – signs – barricades – requirements

- (4) Where a road or portion of a road has been temporarily closed under this by-law the common law right of passage by the public over the road and the common law right of access to the road by an owner of land abutting the road are restricted.

Council – CAO – Engineer – Clerk - authority – approvals

- (5) For the purpose of this by-law the Municipal Authority shall administer, approve and/or deny Temporary Road Occupancy Permits with the assistance of Municipal staff resources as required.
- (6) The Municipal Authority shall have authority to order the stoppage or cessation of activity on the road where an approved Temporary Road Occupancy Permit has not been issued or where the conditions of an approved permit, or provisions of this by-law, have not been complied with; and to revoke an approved permit if the Licensee does not meet the requirements of the permit or of this by-law as interpreted by the Municipal Authority.
- (7) The Municipal Authority is authorized to order a road closure or permit occupancy for uses related to social, economic, recreation, community, athletic, cinematographic activities or construction.
- (8) Nothing in this by-law shall limit, restrict or impede the lawful authority of the Strathroy-Caradoc Fire Chief, the Strathroy-Caradoc Police Chief, or any other recognized authority from closing a road in accordance with their existing legislative or regulatory authorities.

Council – CAO – Engineer – Clerk - authority – applications

- (9) Every person seeking to occupy or close to vehicular traffic on any road under the jurisdiction of the Municipality on the temporary basis shall apply in writing to the Municipal Authority or Council.
- (10) Every application filed shall include the following information:
- i. Name of Applicant;
 - ii. Address of Applicant;
 - iii. Telephone No., Fax No. (if applicable) and email address (if applicable) of applicant;
 - iv. Date of Application;

- v. Name of Event or Activity;
 - vi. Nature of Event or Activity;
 - vii. Date(s) of Event or Activity;
 - viii. Road(s) affected by proposed road closure and/or occupancy;
 - ix. Proposed start and finish time for road closure and/or occupancy;
 - x. Sketch showing proposed Detour Route (if required);
 - xi. Sketch showing proposed Location(s) of Warning Devices and Signage;
 - xii. List of all proposed uses if the subject road and sketch showing the location(s) of such uses); and
- (11) Every application shall be filed with the Municipal Authority, where possible, at least thirty (30) days prior to the proposed date of event.
- (12) The Municipal Authority shall, upon receipt of an application filed, circulate the application to the senior staff management team of the Municipality for comments prior to approval.
- (13) The Municipal Authority shall, upon receipt of an application, determine any and all signs, barricades, traffic control devices, personnel, or any other person or equipment required for the proposed road occupancy or closure.
- (14) The Municipal Authority shall, upon review of comments provided by applicable officials, determine whether approval shall be granted for the temporary occupancy and/or closure and what terms or conditions shall apply, including but not limited to:
- i. Road(s) affected by temporary road occupancy or closure;
 - ii. Start and end times for temporary road occupancy or closure;
 - iii. Location and detour route;
 - iv. Provision and/or installation of signs, barricades, and traffic control devices or personnel;
 - v. Permitted uses on road allowance during temporary road occupancy and/or closure;
 - vi. Any insurance which may be required;
 - vii. Notification to agencies and media of temporary road occupancy and/or closure; and
 - viii. Responsibility for clean up after the event and the associated costs if any.
- (15) The Municipal Authority shall, upon approval of the application, issue a Temporary Road Occupancy Permit. This permit shall contain all conditions imposed and be signed by the Municipal Authority.

- (16) That before receiving a Temporary Road Occupancy Permit for which a condition was imposed, every applicant shall provide proof of insurance in the form and with an insurer satisfactory to the Municipality. The policy of insurance shall:
- i. Provide for indemnification of the Municipality and the applicant against all damages, claims, injury or demands of every nature and kind arising from, or incidental to the temporary road occupancy and/or closure;
 - ii. Name as additionally insured 'the Corporation of the Municipality of Strathroy-Caradoc';
 - iii. Have a minimum liability/amount coverage subject to the discretion of the Municipal Authority;
 - iv. The Municipality shall be notified thirty (30) days prior to cancellation or expiry; and
 - v. The applicant shall be responsible for all costs associated with such insurance.
- (17) In addition to any other conditions imposed, when deemed necessary by the Municipal Authority it is the sole responsibility of the applicant, at the applicant's sole cost, to arrange for police attendance for the purpose of traffic control at any barricade or signalized intersection, as applicable.
- (18) The Municipal Authority shall, upon the issuance of a Temporary Road Occupancy Permit, notify the necessary authorities.
- (19) The Municipal Authority may, upon receipt of an application, refuse to grant a permit to any Applicant for any of the following reasons:
- i. Persistent and/or serious violations of any condition of a permit previously issued to the applicant, or of any provisions of this by-law applicable to a permit previously issued hereunder;
 - ii. Failure to receive the necessary approval from any relevant department or agency; and
 - iii. Such other reason(s) as the Municipal Authority deems proper. These reason(s) will be delivered to the applicant.
- (20) Subject to the Statutory Powers and Procedures Act, any Applicant who has been refused a permit or who objects to any condition, may appeal to the Council and the decision of Council shall be final and binding.
- (21) Any permit issued pursuant to this by-law may be revoked by the Municipal Authority upon giving written notice to the Applicant for any of the following reasons:

- i. A violation of any condition of the permit or any provision of this by-law;
- ii. A violation of any provision or other law relating to the road occupancy and/or closure;
- iii. The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or properties of others;
- iv. Where the permit has been issued on mistaken, false or misleading information; and
- v. Where the Applicant is unable or unwilling to meet the terms and conditions of the permit.

Council – CAO – Engineer – Clerk - authority – permits and fees

- (22) The fee schedule for the issuance of a Temporary Road Occupancy Permit is as follows:
- i. Applicants shall pay a permit fee of \$100, or the fee reflected in the Schedule of Fees By-law, whichever is greater, for the issuance of a Temporary Road Occupancy Permit;
 - ii. Permit fees may be waived for purposes related to broad-based social, economic, recreations, community or athletic events.
- (23) The Applicant may be required to provide a security deposit to the Municipality. The security deposit will be in the amount determined by the Municipal Authority as being sufficient to restore and make good all disrupted areas, as well as to protect the public. Security deposits may be held for a one-year period after the event concludes.

Council – CAO – Engineer – Clerk - authority – exemptions from fees and/or permits

- (24) A Temporary Road Occupancy Permit fee is not necessary for road occupancy or closures or any kind required by the Municipality.
- (25) A Temporary Road Occupancy Permit fee is not required for road occupancy or closures ordered by the County of Middlesex.
- (26) A Temporary Road Occupancy Permit, including fee, is not required for road occupancy or closures ordered by Police, Fire or other emergency service lawfully exercising their statutory or regulatory duties.

Council – CAO – Engineer – Clerk - authority – Detour Route

- (27) Where a road or portion thereof is closed under any order of the Municipality, the Municipality shall make best efforts to provide a reasonable temporary alternative or detour route for traffic and for all

property owners who cannot obtain access to their property by reason of such closing.

- (28) A detour route may not be required in the event that the road is closed to vehicular traffic for the duration of a parade, market or special event provided the estimated length of time required for the closure is eight (8) hours or less.
- (29) The Applicant or the Municipality, where the occupancy and/or closure is ordered, shall have regard to providing maintaining reasonable access to all public and private properties affected.
- (30) All detours shall comply with the requirements identified in the most recent edition of Ontario Provincial Road Standards Book 7 "Temporary Conditions".

Council – CAO – Engineer – Clerk - authority – Barricades and Warning Devices

- (31) While a road or portion thereof is closed to traffic under a Temporary Road Occupancy Permit or under an order by the Municipality, there shall be erected at each end of such road or portion thereof, and where a detour route deviates therefrom, a barricade upon which an adequate warning device shall be exposed and in good working order continuously for the duration of the closure. At such points there shall be erected a detour sign indicating the alternative route and containing a notice that the road is closed to vehicular traffic.
- (32) The Municipality shall provide such barricades and warning devices to the Applicant in accordance with the terms and conditions of the Temporary Road Occupancy Permit.
- (33) The Applicant shall ensure that prior to the closing of the road(s), that all barricades and warning devices are erected in accordance with the terms and conditions of the Temporary Road Occupancy Permit. The applicant shall keep in place and working all barricades and devices, and take further care and precaution as may be necessary for the protection and safety of the public.
- (34) The use of barricades and warning devices shall comply with the requirements identified in the most recent edition of Ontario Provincial Road Standards Book 7 "Temporary Conditions".

Part III Enforcement

Fines – Offenses and Penalties

3.

- (1) No person shall permit or cause the temporary occupancy and/or closure of a road or portion thereof for a social, economic, recreational, community, athletic or cinematographic purpose without first obtaining a Temporary Road Occupancy Permit issued under this by-law.
- (2) Every person who without lawful authority uses a road or portion thereof so closed to traffic while it is protected or who removes or defaces any barricade, device, detour sign or notice placed thereon by lawful authority is guilty of an offence and is also liable to the Municipality for any damage or injury occasioned by such wrongful use, removal or defacement.
- (3) Every person who uses a road or portion of a road closed to traffic under this by-law does so at their own risk and the Municipality is not liable for any damage sustained by a person using a road or portion thereof so closed.
- (4) That no person shall use or permit the use of a road or portion of a road closed to vehicular traffic under this by-law during the period of closure except for pedestrian traffic or such other uses authorized under the Temporary Road Occupancy Permit.
- (5) That every person who contravenes the provisions of this by-law shall be guilty of an offence and liable upon conviction to the set fine prescribed in Schedule A for offences prosecuted under Part 1 of the Provincial Offences Act, R.S.O. 1990, Chapter P.33.
- (6) That should any provision of this by-law be declared by a court of competent jurisdiction to be void or ultra vires for any reason, the remaining provisions shall be read as if the offending section or sub-section had been struck out.

Part IV

Enactment

Repeals

- 4.1. By-law 92-13 and any other temporary road closure by-laws adopted by Council is hereby repealed.

Commencement

- 4.2. This by-law shall come into full force and take effect on the date of its final passage in Open Council.

Read a **FIRST** and **SECOND** and **THIRD** time and **FINALLY PASSED** in Open Council this 16th day of September 2019.

Mayor

Clerk

SCHEDULE 'A'

CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC

Set Fine Schedule – Part 1 Provincial Offences Act

By-law 49-19

To authorize the Chief Administrative Officer, City Engineer and Clerk to exercise the powers of Council to temporarily close a municipal road.

Item	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	No person shall permit the use of a Temporary Road closure without an Occupancy Permit.	Section 3(1)	\$1000.00
2	Every person who removes road closure safety devices without lawful authority.	Section 3(2)	\$1000.00
3	Every person who uses the road closed to traffic.	Section 3(3)	\$1000.00
4	No person shall use or permit the use of a road closed to vehicular traffic.	Section 3(4)	\$1000.00

The general provision for the offences listed above is Section 3 of By-law 49-19 a certified copy of which has been filed and Section 61 of the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33.