



## REPORT

**REPORT TO:** Chair and Members of the Planning, Public Works and Transportation Committee

**REPORT FROM:** Matt Roj, Traffic Coordinator

**DATE:** January 21, 2019

**REPORT NO.:** TPW-2019-0001

**RE:** Draft By-Law to Regulate the Obstruction, Encumbering, Injuring or Fouling of Highways and Set Fines Approval

### RECOMMENDATION:

THAT Report No. TPW-2019-0001, dated January 21, 2019, regarding the Draft By-Law to Regulate the Obstruction, Encumbering, Injuring, or Fouling of Highways and Set Fines Approval, be received;

AND FURTHER THAT the Draft By-Law to Regulate the Obstruction, Encumbering, Injuring, or Fouling of Highways be adopted by Council, as outlined in the attached Appendix A, and to repeal By-Law 90-68;

AND FURTHER THAT Council endorses the proposed set fines, as recommended in Report No. TPW-2019-0001 and direct staff to submit the necessary Set Fine application to the Ministry of the Attorney General for approval;

AND FURTHER THAT the Rates and Fees By-Law bl-CL-2018-0076 be amended to include the Road Occupancy Permit Fees in the amount of \$120.00 for Disposal Containers and Construction Supplies;

AND FURTHER THAT the Rates and Fees By-Law bl-CL-2018-0076 be amended to include an additional fee in the amount of \$240.00 for any Road Occupancy Permits issued in response to non-compliant and illegal placement of Disposal Containers and Construction Supplies.

### BACKGROUND:

The Town has an existing By-Law No. 90-68 which is to Prohibit the Obstruction Encumbering or Fouling of Highways and was enacted on May 28, 1990. The purpose of the by-law is to better regulate and control unauthorized use of municipal right-of-ways. The current by-law does not allow any exemptions and did not have a set fine schedule for violations to the by-law.

In 2014, Council approved Report No. INF-2014-0007, which provided guidance and processes of bin placements on the Town's road allowance. It also recommended that a new by-law be prepared to replace the existing By-Law 90-68 to allow the exemption of bin placements and other equipment on the Town's road with a permit issued by staff to address this issue.

### **COMMENTS:**

In 2018, staff engaged the Town's Prosecutor to assist with replacing the existing By-Law 90-68 with a new by-law that will also establish proposed Set Fine Rates. The draft By-Law is attached as Appendix A.

Since the approval of Report No. INF- 2014-0007, staff has refined the guidelines and conditions for disposal containers or construction supplies as follows:

- If disposal containers or construction supplies can be placed on a residential or commercial driveway, residents or contractors will receive a temporary exemption from the Uniform Traffic Control By-Law 84-1 to temporarily park their vehicles on the public road allowance. However, residents or contractors are strongly encouraged to evaluate all available options to keep disposal containers or construction supplies off the road allowance.
- If it is demonstrated by a resident or a contractor that all available options have been exhausted, they may seek a Road Occupancy Permit from the Town. Among other requirements, this permit will require that the resident or contractor provide a Certificate of Insurance in the minimum amount of \$5,000,000.00, with the Town named as an additional insured. Further, to ensure public safety, residents or contractors will be required to install cones with white colour retro-reflective tapes or any other traffic control devices mandated by the Ontario Traffic Manual – Temporary Conditions Book 7.
- Road Occupancy Permits will not be issued by the Town during the overnight winter parking prohibition in effect from mid-November to mid-April. However, the Commissioner of Transportation and Public Works Department or his designate may allow disposal container or construction supplies placement under special circumstances, such as in mild winter conditions.

The proposed cost of the Road Occupancy Permit is \$120.00. Should staff identify illegally placed disposal containers or construction supplies on the road allowance without a permit, the resident or contractor will be provided with an opportunity to purchase the permit for double the original cost in the amount of \$240.00. The added cost is to encourage initial compliance with the permit system and to recover costs associated with having to involve the By-law Enforcement staff.

The draft By-Law will enable staff to effectively deal with illegal placement of disposal containers and construction supplies through the implementation of a new Road

Occupancy Permit. The new application process will streamline public inquiries and expedite the application process for both residents and contractors.

## By-law Enforcement

Staff is seeking to enforce this by-law through Part I of the *Provincial Offences Act*. Part I of the POA allows the Town to issue tickets for by-law infractions. These tickets will indicate a set fine.

The amount of the set fines must be first approved by Council and then “set” by the Chief Justice of the Ontario Court. This process requires that a Set Fine Application Package be submitted to the Ministry of Attorney General’s office with all the required documentation. If the set fine amounts are approved, an Order of a Justice will be returned, stating that the fines have been “set”.

The proposed set fine amounts for Council’s consideration and approval are provided below based on the various sections set out in the draft by-law.

	Offence	Section	Set Fine
1	No <i>person</i> , without lawful authority, shall cause, permit, or allow [(a) to (j)]	Section 2	\$300.00
2	No <i>person</i> shall cause, permit, or allow the placing, locating, or maintaining of a <i>disposal container</i> on a <i>highway</i> without first obtaining a permit	Section 4	\$400.00
3	No <i>person</i> shall cause, permit, or allow the placing, locating, or maintaining of <i>construction supplies</i> on a <i>highway</i> without first obtaining a permit	Section 4	\$300.00

Once the necessary documentation has been received by the Ministry of Attorney General’s office, By-Law Enforcement staff will be in a position to issue tickets for infractions. This task will be incorporated in their regular roles and responsibilities and will be monitored to determine if additional resources are required.

## RELATIONSHIP TO STRATEGIC PLAN:

There is no relationship to the strategic plan.

**FINANCIAL IMPACT:**

All proposed revenue generated from the Road Occupancy permits will be incorporated in the operating budget. The 2018 Rates and Fees By-Law bl-CL-2018-0076 will need to be amended to include this new fee. Additional costs will be required for the Town's Prosecutor to submit the necessary Set Fine Application to the Attorney General's Office for approval.

**CONSULTATION:**

Corporate Services, Public Works and Development Engineering staff were consulted throughout the development of this report and draft By-Law.

**PUBLIC ENGAGEMENT:**

Staff will inform the public by promoting the By-law and Road Occupancy Permit via Town's website, social networks, and local newspapers prior to undertaking By-law Enforcement. Over the past decade, staff has been engaging the public, including residents, disposal container companies, and contractors in an effort to reduce illegal disposal container and construction supply placement. The draft By-law and Road Occupancy Permit will enable staff to improve road safety by reducing the illegal activities and solidifying the existing process.

**SUSTAINABILITY IMPLICATIONS:**

The Town is committed to implementing our Community Sustainability Strategy, Imagine Halton Hills. Doing so will lead to a higher quality of life.

The recommendation outlined in this report advances the Strategy's implementation.

This report supports the Social Well-Being pillar of Sustainability and in summary the alignment of this report with the Community Sustainability Strategy is good.

**COMMUNICATIONS:**

Notification to the residents and contractors will be undertaken via Council meeting agenda, Town's website, social media, and local newspapers.

**CONCLUSION:**

The draft By-law which implements the Road Occupancy Permit, along with the proposed set fines, will improve road safety by reducing the number of illegally placed disposal containers and construction supplies on the road allowance and allow by-law enforcement to issue tickets for infractions. The new application process will streamline public inquiries and expedite the approval of disposal containers or construction supplies for both residents and contractors.

Reviewed and Approved by,

A handwritten signature in cursive script, appearing to read "Maureen Van Ravens".

**Maureen Van Ravens, Manager of Transportation**

A handwritten signature in cursive script, appearing to read "C. Mills".

**Chris Mills, Commissioner of Transportation and Public Works**

A handwritten signature in cursive script, appearing to read "Brent Marshall".

**Brent Marshall, CAO**