

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 04-093

BEING A BY-LAW TO AMEND BY-LAW 90-334 TO AUTHORIZE THE DELEGATION OF CERTAIN AUTHORITY TO THE CITY ENGINEER, AND A COMMITTEE OF COUNCIL, PURSUANT TO SECTION 42 OF THE MUNICIPAL ACT, 2001, IN RELATION TO THE TEMPORARY CLOSING OF HIGHWAYS

WHEREAS the Municipal Act authorizes a Municipal Council to pass a By-law for closing to vehicular traffic, on a temporary basis, for such period as shall be specified in the By-law, any highway under the jurisdiction of the municipality for any period during the construction, repairing or improvement of such highway, or portion thereof, or of any works under, along, over, across, or upon such highway, or portion thereof, and for authorizing a Committee of Council, or a Municipal Officer or servant, subject to such conditions as Council may impose, to exercise any of the powers of Council under that specific provision;

AND WHEREAS it is deemed desirable to delegate such authority as recited in this By-law;

NOW THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL ENACTS AS FOLLOWS:

1. In this By-law:

- (a) "City Engineer" means the City Engineer of The Corporation of the City of Peterborough, as so appointed;
- (b) "Committee of Council" (Highway Closing) shall mean the Mayor, the Chairman of Public Works, and the City Engineer.

2. For the purposes of this By-law, the temporary closing of such a highway may include a closing, for the purposes of the requisite repair of a bridge, or for the removal of trees on or off a road allowance which may, because of its, or their condition, pose a danger to use of the road allowance by vehicular or pedestrian traffic.

3. The Corporation of the City of Peterborough hereby delegates to the City Engineer the authority to close a highway, for a temporary period, not to exceed seven (7) continuous calendar days, for the purposes of the construction, repair, or improvement of such highway, or portion thereof, or for any works incidental to, under, along, over, across or upon such highway, or portion thereof, as deemed to be requisite by the said City Engineer.

4. The Committee of Council (Highway Closing), as defined in Section 1 (b) is hereby delegated and provided the authority to temporarily close a highway, or highways, within the jurisdiction of the municipality, when the same is required in excess of seven (7) continuous days, but no more than thirty (30) days, which, by majority certification of such members is required for the construction, repair, or improvement of such highway, or portion thereof, or of any works under, along, over, across, or upon such highway or portion thereof, as specified pursuant to Section 208-43 of the Municipal Act. Such certification shall be provided to the City Clerk, and shall be appropriately completed in accordance with the Certification Form attached hereto as Schedule "A" to this By-law, and shall indicate that at least two (2) members of the Committee authorize such closing. The certification by, the majority of the members of the Committee, as expressed in Schedule "A", shall be placed on deposit with the City Clerk by the City Engineer, or his or her designate.

5. The City Engineer, acting pursuant to Section 3 of this Bylaw, shall provide to the City Clerk, a permit indicating the nature of the road closing authorized by him/her in accordance with Schedule "B" attached to this By-law,

6. Where a highway, or a portion thereof, is closed pursuant to this By-law, then the Municipality shall provide, and keep in repair, a reasonable temporary alternative route for traffic and for all property owners who cannot obtain access to their property by reason of such closing.
7. While a highway, or a portion thereof, is so closed to traffic, there shall be erected at each end of such highway, or portion thereof, and where an alternative route deviates therefrom, a barricade upon which an adequate warning device shall be exposed and kept in good working order, continuously, from sunset until sunrise and at such points there shall ^{K^}erected a detour sign indicating the alternative route of vehicular traffic, and the said detour-sign shall contain a notice that the highway is "closed to traffic".
8. The City Engineer, or his or her delegate, or other employees of the City acting under the direction of the City Engineer, shall do all acts to fulfill the obligations of the City as recited in Sections 6 and 7 of this By-law.
9. Every person who uses a highway, or portion of a highway, so closed to traffic, does so at his or her own risk and the Municipality having jurisdiction over the highway is not liable for any damage sustained by a person using the highway or a portion thereof so closed to traffic.
10. Every person who, without lawful authority; n^es a highway, or a portion thereof, so closed to traffic pursuant to this By-law, while it is protected in accordance with this By-law, or who removes or defaces any barricade, device, detour sign, or notice placed thereon by a lawful authority, is guilty of an offence, and is also liable, to the Municipality having jurisdiction, for any damage or injury occasioned by such wrongful use, removal, or defacement.
11. Where a municipal highway is closed pursuant to this By-law, or any part thereto, and the said closing shall be in excess of forty-eight (48) continuous hours, then the City Engineer shall be obligated to inform the Ward Alderman, where the road has been closed, of the said road closure, and the nature of the work to be undertaken.

By-law read a first and second time this 31st day of May, 2004

By-law read a third time and finally passed this 31st day of May, 2004

(Sgd.) Sylvia Sutherland, Mayor

(Sgd.) Nancy Wright-Laking, City Clerk



City of
Peterborough

SCHEDULE "A"

**CERTIFICATION BY A MAJORITY
OF
THE COMMITTEE OF COUNCIL
(HIGHWAY CLOSING)**

SECTION 42 OF *THE MUNICIPAL ACT, 2001*

HIGHWAY TO BE CLOSED:

AREA OF THE HIGHWAY TO BE CLOSED:
(Describe)

DATE AND TIME OF COMMENCEMENT OF CLOSURE:

Date

Time

DATE AND TIME OF END OF CLOSURE:

Date

Time

We/I concur and hereby certify that the closure may be undertaken pursuant to Bylaw No. 04-093.

Date

Mayor

Date

Chairman, Public Works

Date

City Engineer



City of
Peterborough

SCHEDULE "B"

**PERMIT FOR TEMPORARY HIGHWAY CLOSING
BY
THE CITY ENGINEER**

SECTION 208-43 OF *THE MUNICIPAL ACT*

HIGHWAY TO BE CLOSED:

AREA OF THE HIGHWAY TO BE CLOSED:
(Describe)

DATE AND TIME OF COMMENCEMENT OF CLOSURE:

Date

Time

DATE AND TIME OF END OF CLOSURE:

Date

Time

I, the City Engineer of the City of Peterborough, do hereby certify and approve of the above noted closure and also hereby certify that the said closure shall not exceed seven (7) continuous calendar days as recited in this Permit.

Date

City Engineer

TO: **THE CITY CLERK**
CORPORATION OF THE CITY OF PETERBOROUGH

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 10-028

BEING A BY-LAW TO AUTHORIZE THE DELEGATION OF CERTAIN AUTHORITY TO THE CITY ENGINEER, IN RELATION TO THE TEMPORARY CLOSING OF HIGHWAYS

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

AND WHEREAS Section 10(2) of the *Municipal Act, 2001*, as amended, provides a municipality with the broad authority to pass by-laws respecting, among other things: the economic, social and environmental well-being of the municipality; the health safety and well-being of persons; and the protection of persons and property;

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 44 of Municipal Act, 2001 imposes a statutory duty upon the municipality to maintain its highways and bridges in a state of repair that is reasonable in the circumstances, including the character and location of the highway or bridge;

AND WHEREAS the Corporation of the City of Peterborough, by its municipal council has passed a by-law to delegate its authority to temporarily close a highway, or a portion thereof, to the City Engineer for such period as may be specified in the By-law, for the purpose of constructing, repairing or improving such highway, or portion thereof, or for the performance of any works under, along, over, across, or upon such highway, or portion thereof;

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF
HEREBY ENACTS AS FOLLOWS:

1. In this By-law:
 - a) "City Engineer" means the City Engineer of The Corporation of the City of Peterborough, as so appointed; and
 - b) "highway" means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway, and except as otherwise provided, includes a portion of a highway; and includes the area between the lateral property lines of it.
2. For the purposes of this By-law, the temporary closing of such a highway may include a closing, for the purposes of the requisite repair of a bridge, or for the removal of trees on or off a road allowance which may, because of its, or their condition, pose a danger to use of the road allowance by vehicular or pedestrian traffic.

3. The Corporation of the City of Peterborough delegates to the City Engineer the authority to close any highway or portion of a highway for any period during the construction, repair, or improvement of such highway, or portion thereof, or for any works incidental to, under, along, over, across or upon such highway, or portion of it, as initiated by the City of Peterborough; as initiated by a utility company with statutory rights or a municipal access agreement with the City of Peterborough allowing occupancy of the highway or as privately initiated.
4. The City Engineer, acting in compliance with Section 3 of this By-law, shall provide to the City Clerk, a permit indicating the nature of the road closing authorized by him/her in accordance with Schedule "A" attached to this By-law,
5. Where a highway, or a portion of it, is closed pursuant to this By-law, then the Municipality shall provide, and keep in repair, a reasonable temporary alternative route for traffic and for all property owners who cannot obtain access to their property by reason of such closing.
6. While a highway, or a portion of it, is so closed to traffic, there shall be erected at each end of such highway, or portion of it, and where an alternative route deviates from it, a barricade upon which an adequate warning device shall be exposed and kept in good working order, continuously, from sunset until sunrise and at such points there shall be erected a detour sign indicating the alternative route of vehicular traffic, and the said detour-sign shall contain a notice that the highway is "closed to traffic".
7. The City Engineer, or his or her delegate, or other employees, agents or contractors of the City acting under the direction of the City Engineer, shall do all acts to fulfill the obligations of the City as recited in Sections 5 and 6 of this By-law.
8. Every person who uses a highway, or portion of a highway, so closed to traffic, does so at his or her own risk and the Municipality having jurisdiction over the highway is not liable for any damage sustained by a person using the highway or a portion of it so closed to traffic.
9. Every person who, without lawful authority; uses a highway, or a portion of it, so closed to traffic pursuant to this By-law, while it is protected in accordance with this By-law, or who removes or defaces any barricade, device, detour sign, or notice placed thereon by a lawful authority, is guilty of an offence, and is also liable, to the Municipality having jurisdiction, for any damage or injury occasioned by such wrongful use, removal, or defacement.
10. Where a municipal highway is closed pursuant to this By-law, or any part of it, and the said closing shall be in excess of thirty (30) days, the road closure will be posted on the City of Peterborough webpage and each Member of Council will be notified of the said closure.
11. Every person who contravenes any provisions of this By-law is guilty of an offence and upon conviction is liable to pay a penalty recoverable under the provisions of the *Provincial Offences Act*.
12. By-law 04-093 is hereby repealed.
13. This By-law shall become effective immediately.

By-law read a first, second and third time this 1st day of March, 2010.

(Sgd.) D. Paul Ayotte, Mayor

(Sgd.) Nancy Wright-Laking, City Clerk

SCHEDULE "A"
PERMIT FOR TEMPORARY HIGHWAY CLOSING
BY
THE CITY ENGINEER
THE MUNICIPAL ACT, 2001

HIGHWAY TO BE CLOSED:

AREA OF THE HIGHWAY TO BE CLOSED: (Describe)

DATE AND TIME OF COMMENCEMENT OF CLOSURE:

Date _____ Time: _____

DATE AND TIME OF END OF CLOSURE:

Date _____ Time: _____

I, _____, the City Engineer of The Corporation of the City of Peterborough, do hereby certify and approve of the above noted closure.

Date

City Engineer

TO: **CITY CLERK**
THE CORPORATION OF THE CITY OF PETERBOROUGH