

The Township of Horton Policy and Procedures			
SECTION: TRANSPORTATION			POLICY #: T-03
POLICY: Road Occupancy Policy			
DATE: July 2020	REV. DATE: By-Law 2020-35	COVERAGE: Transportation & Environmental Services	PAGE #: 1 of 6

1.0 POLICY STATEMENT

The Township of Horton requires that a Road Occupancy Permit be obtained by all upper tier road authorities, persons, contractors, utilities, and agencies prior to commencing any work or detour within the Township of Horton's road allowances.

2.0 BACKGROUND

As a Municipal Road Authority, the Township of Horton has a duty and responsibility to be an informed owner and to ensure that the roads, ditches, and all infrastructure under its jurisdiction are kept in a reasonable state of repair. The Municipal Act, 2001, states the following regarding the Townships obligations and liabilities:

Maintenance

44. (1) The municipality that has jurisdiction over a highway or bridge shall keep it in a state of repair that is reasonable in the circumstances, including the character and location of the highway or bridge. 2001, c. 25, s. 44(1).

Liability

(2) A municipality that defaults in complying with subsection (1) is, subject to the *Negligence Act*, liable for all damages any person sustains because of the default. 2001, c. 25 s. 44(2).

Defence

(3) Despite subsection (2), a municipality is not liable for failing to keep a highway or bridge in a reasonable state of repair if,

- (a) it did not know and could not reasonably have been expected to have known about the state of repair of the highway or bridge.
- (b) it took reasonable steps to prevent the default from arising; or
- (c) at the time the cause of action arose, minimum standards established under subsection (4) applied to the highway or bridge and to the alleged default and those standards have been met. 2001, c. 25, s.44(3)."

In order to ensure that the Township is adequately informed and exercising due diligence, a formal process is necessary for the approval of works within the Townships Road Allowances .Of particular concern is any work or rerouting of traffic which may occur within the travelled portion of the highway or any works that may contribute to spring melt and overwhelm the Townships drainage plans. It is also important to ensure that adequate and appropriate measures are implemented to ensure the safety of both road users and those carrying out the work.

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3.0 PROCEDURES

The following are the procedures to be followed to acquire a Road Occupancy Permit to undertake work within the Township of Hortons Road Allowances:

Entrances

Applications for entrances to Township Roads are subject to the conditions and process outlined in the Townships Entrance By-Law 2011-37

Emergency Work

Emergency work is considered as those types of repairs to existing infrastructure, required to restore essential services provided to the public. This work is normally performed by or on behalf of utility companies. The work often involves repairs to broken or damaged water systems, sewer systems or utility lines. The urgent and timely repair of these facilities is often key to minimizing possible further damage and the subsequent increased repair costs.

All emergency work is subject to the following submission and approval process:

1. As soon as possible after becoming aware of an emergency the utility shall inform the Public Works Manager or Public Works Superintendent of the nature and extent of the work required.
2. As soon as possible after becoming aware of the need for urgent work or repairs to its infrastructure, the municipality or utility responsible shall submit an "Emergency" Road Occupancy Application to the Public Works Department. Faxed or electronic submission of the application are acceptable.
3. The submitted application shall include a brief description of the location, nature and extent of the emergency repair work needed and the measures to be taken to protect the safety of the public and the workers on site.
4. The application shall be signed by the applicant, which acknowledges that the applicant is responsible for notifying all affected emergency services and utility companies, and that the applicant is responsible for all damages and liabilities which may occur as a result of the work.

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5. The applicant shall be responsible for completing all restoration work to the Township of Hortons satisfaction at the earliest possible date and for the condition of the repair for a period of one (1) year from the completion date.
6. After the Township has been notified and the completed application has been received by the Public Works Department, the applicant may proceed with the emergency repairs.
7. An “Approved” copy of the “Emergency” Road Occupancy Application will be returned to the applicant within two (2) business days. The approval shall indicate any additional issues or conditions that may be deemed necessary by Public Works Manager or Public Works Superintendent.

Planned Work

Planned work is those activities that can be planned and scheduled in advance of construction. Planned work would include new infrastructure projects as well as the expansion, reconstruction, and rehabilitation of existing infrastructure. Work in this category may be performed by a variety of agencies or organizations, including utility companies, developers, and private contractors.

Work that can be planned or scheduled in advance will be subject to a more detailed and formal review process as follows:

1. All applications must be submitted in writing and accompanied by a “Planned” Road Occupancy Application.
2. The application must be supported by plans and specifications that sufficiently detail the proposed work and how it is to be completed.
3. The applicant will be required to provide a detailed Traffic Management Plan and a Traffic Protection Plan, which identifies the measures to be implemented to protect the health and safety of the road users and the workers on site.
4. The applicant will be required to provide liability insurance, indemnifying the Township of Horton from all liabilities arising out of the work, in the amount of \$2,000,000. A Certificate of Liability Insurance in which the Township of Horton is named a co-insured is required.

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5. Applications will be reviewed for conflicts with existing and future Township infrastructure, as well as compliance with Township of Hortons Policies. Applicants are encouraged to pre-consult with Township Staff to confirm the requirements, prior to submitting an application.
6. The applicant may be required to post a Performance Security to ensure that all work, including surface restoration, is completed to the Townships satisfaction. The security will be in the form of a letter of credit and be valid for a minimum period of one (1) year after the work is completed. Provided no problems are encountered within the one (1) year period, the securities will be returned to the applicant. Upper tier road authorities are exempted from this requirement and the Township may choose to waive this security at its sole discretion.
7. Once all the application requirements have been satisfied, a “Planned” Road Occupancy Permit will be issued and the applicant will be permitted to proceed with the work, subject to the terms and conditions listed in the permit.
8. Upon completion of the work, Township Staff will inspect the work zone to ensure that all conditions of approval, including surface restoration, have been complied with.

General Conditions

1. All subsurface road crossings are to be completed using trenchless technology techniques wherever possible. Open cut excavations across Township Roads will only be permitted when specifically approved by the Public Works Manager
2. The applicant is responsible for notifying all emergency services, school boards, transportation companies and the public of the proposed work, in advance of commencing any work.
3. Permits will be honoured for a period of one (1) year from the date of approval. It is the responsibility of the applicant to notify the Township when the work is completed and ready for final inspection. If a final inspection has not been requested by the applicant and one (1) year’s time has passed from the date of approval, the bond will be forfeited to the Township. If a final inspection has been requested and the work has been completed but not to the satisfaction of the Township, under the conditions of this application, the Township may elect to finish or restore the works with the applicant’s bond and without any prior notice.

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4. Under any permit application the Township may elect to exceed the minimum requirements and conditions as specified in this document. The Township may request additional insurance coverage, restoration, amount of cash bond or any other work deemed necessary to accommodate the application.
5. Township Roads will not be closed. A minimum of one (1) driving lane will always be open to traffic. All excavations within four (4) metres of any driving lane will be backfilled at each day's end. The applicant shall maintain pedestrian access and vehicle access to all public and private properties.
6. Roads will not be open cut without express written permission; therefore, all road crossings shall be bored or directionally drilled. All plant being located under the road surface shall be placed at a minimum of 1.2 metres under the road surface (that is 1.2 metres under the elevation of the shoulder rounding). If written permission has been granted to open excavate a road, restoration methods will be specified and a cash bond in the amount of the cost of restoration shall be submitted and retained for up to 12 months after the completion of the specified works. No planned excavations will be permitted within the roadway between November 1st and May 1st.
7. If, to carry out the work, it is necessary to alter, break or disturb any existing pavement, sidewalk or curb and gutter, the applicant will be responsible for temporarily and permanently restoring the site to its original condition. Material specifications shall be determined by the Township Public Works Staff. If weather dictates the permanent restoration cannot be accomplished, the applicant shall temporarily repair any disturbed asphalt or concrete surfaces with a 40-millimetre thickness of hot mix asphalt. Temporary and/or final repairs shall be to the satisfaction of the Township and at the expense of the applicant.
8. When required, a security deposit shall be given to the Township representing 100% of the cost to perform the necessary restoration. The Township shall set this deposit amount. The applicant will be responsible for any temporary and/or final restoration costs. The restoration shall be completed as per the direction of the Township. Upon completion of the final restoration the site will be inspected by Township Staff and if satisfied (interim acceptance) the security deposit will be returned within a 12-month period from the date of final inspection.
9. When conditions or unforeseen difficulties require a longer period of completion than is indicated on the permit, the applicant shall notify the County of the additional time required and the reason thereof.

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10. All barricades, signs and signals required to direct or guide motorists and/or pedestrians, shall be erected and maintained by the applicant in accordance with the “Ontario Traffic Manual, Book 7 – Temporary Conditions”, most current edition. All detour signing and materials when required, shall be supplied, erected, and maintained by the applicant.
11. Prior to the approval of the Road Occupancy Application, the applicant shall supply proof of liability insurance in the minimum amount of \$2,000,000.00.
12. It is the responsibility of the applicant not to damage any existing plant, survey markers of infrastructure, including drainage works. The applicant will assume all costs and liabilities from such damage. Utility locates are the responsibility of the applicant and this document will release the Township of Horton from all claims arising from the damage of any plant.
13. Excavated material shall not be piled in such a manner as to obstruct vehicular and/or pedestrian traffic at a minimum of four (4) metres from edge of pavement. All construction equipment and vehicles shall also maintain this “clear zone” when not in use.

Schedule ‘A’ – Road Occupancy Application/Permit