BY-LAW No. 2018-031

OF THE

CORPORATION OF THE TOWN OF COLLINGWOOD

Being a by-law to regulate the activity on municipal right of ways and public lands.

WHEREAS Section 8 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the "Act") provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the Act provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Section 11 (2) of the Act provides that a municipality may pass by-laws respecting, inter alia, the health, safety and well-being of persons;

AND WHEREAS Section 11 (3) of the Act provides that a municipality may pass by-laws respecting, inter alia, highways, including parking and traffic on highways;

AND WHEREAS Section 118 of the Act provides that a municipality may, inter alia, regulate the excavating, construction and use of trenches and may by by-law prohibit the same unless a permit is obtained from the municipality which may also impose conditions including requiring submission of plans;

AND WHEREAS Section 126 of the Act provides that a local municipality may regulate cultural, recreational and educational events including public fairs and may by by-law prohibit the same unless a permit is obtained from the municipality which may also impose conditions including requiring submission of plans;

AND WHEREAS Section 391 (1) of the Act provides that a municipality may pass by-laws imposing fees or charges on any person for services or activities provided by the municipality or done on behalf of it;

AND WHEREAS Section 429 (1) of the Act provides that a municipality may establish a system of fines for a by-law passed under the Act;

AND WHEREAS Section 436 (1) of the Act provides that a municipality may pass by-laws providing for the entry onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;

AND WHEREAS Section 444 (1) of the Act provides that a municipality may make an order to require a person to discontinue contravening a by-law and to do the work required to correct the contravention;

AND WHEREAS Section 445 (1) of the Act provides that a municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention;

AND WHEREAS Section 446 of the Act provides that a municipality may proceed to do things at a person's expense which that person is otherwise required to do under a by-law but has failed to do and the costs incurred by a municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as taxes

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF COLLINGWOOD ENACTS AS FOLLOWS:

1.Short Title

This By-law may be cited as the "Road Occupancy By-law"

2.Definitions

"activity" includes the temporary occupancy of a highway for any purpose for a defined period of time outside its normal intended use by the Town, utility company, or person(s);

"applicant" means any person, utility company , or corporation making application for a road occupancy permit (permit);

"article" means an item of tangible personal property other than a fixture;

"boulevard" means the portion of the highway between a property line and the edge of the curb, or where there is no curb, that portion of the highway which is travelled or designed to be travelled by vehicles;

“contractor” means a person who makes an agreement with another to do a piece of work, retaining in himself control of the means, method and manner of producing the results to be accomplished;

“County” means the Corporation of the County of Simcoe;

“date of final acceptance” means the date that is 24 months after the date of reinstatement;

“date of reinstatement” means the day, following the period of occupancy or closure, that the highway has been repaired or restored to the satisfaction of the Director;

“Director” means the Director of Public Works, Engineering & Environmental Services for the Town or their designate;

"emergency" means a situation that poses a threat to public health or safety and includes a disruption of utility service;

“Engineering Department” means the Engineering Department for the Town of Collingwood;

“highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“landscape or construction material” includes, without limitation, gravel, soil, sod, bricks, paving stones, landscaping rocks, wooden planks, and boards;

“municipal consent” means the written consent of the Engineering Department with or without conditions, for access to and use of the municipalities’ Right-of-Way, subject to the obtaining of a Road Occupancy Permit.

“obstruction” includes encumber, damage, foul, or alter;

“occupant” means a lessee, tenant, mortgagee in possession or any other person who appears to have care and control of any property;

“Officer” means a Municipal Law Enforcement Officer appointed by the Town as a Municipal Law Enforcement Officer pursuant to S. 15 of the Police Services Act, R.S.O. 1990, c. P. 15, as amended, or an Ontario Provincial Police Officer;

“O.P.S.S.” means Ontario Provincial Standard Specification, as amended;

“order” includes work order, order to comply, stop work order and an order to discontinue;

“permit holder” means the applicant named in a permit;

“public lands” means any property under the care and control of the Town of Collingwood.

“road occupancy permit (“permit”)” means a document issued and authorized by the Town, for the occupancy or closure of any highway for any purpose or the landscaping of a boulevard;

"security" means one or more of the following: cash, certified cheque, or letter of credit (in the form approved by the Town) provided to the Town to secure the performance by the permit holder of all its obligations under a permit and this by-law

“Town” means the Corporation of the Town of Collingwood;

“Town of Collingwood Standards” means the Town of Collingwood development standards, as amended, and is intended as Guidelines for land development and Town projects to aid in uniform designs throughout the municipality;

“traffic management plan” means a document outlining the particulars of a proposed highway occupancy or closure that is submitted to the Town for review by the applicant. The traffic management plan shall contain such information as may be required by the Director respecting the applicant's proposed occupancy or closure including but not limited to:

a) description of the nature of the work or activity that necessitates highway occupancy/closure;
b) proposed start and completion times of highway occupancy/closure;
c) proposed location of occupancy/closure;
d) requirement to occupy or close a highway during peak hours, if any;
e) lane use requirements;
f) extent of public notification proposed to be undertaken;
g) identification of parking meters affected by occupancy/closure;
h) identification of temporary signage requirements;

i) identification of any public transit routes and bus stops affected by the highway occupancy/closure; and

j) proposed traffic re-routing and detour requirements where necessary

"utility company" means a municipality, a municipal board or commission, or a corporation that provides utility service under the authority of any statute, charter, by-law or franchise;

"utility service" means the production, transmission or supply to the public by a utility company of necessities or conveniences and includes, but is not limited to, the production, transmission and supply of gas, oil, water, electricity, sewage and storm water services, telephone service, cable television, and any other telecommunications service;

"warranty period" means the 24 month period commencing the date of reinstatement and terminating on the date of final acceptance during which period the permit holder guarantees the satisfactory performance of the highway repairs.

3.Prohibition

3.1.Unless otherwise exempted by this by-law, no person shall use, alter, obstruct or damage, or cause or permit the use, alteration, obstruction or damage, or interfere with winter operations of any highway without first having obtained a permit, pursuant to this by-law.

3.2.Without limiting the generality of subsection 3.1, no person shall use, alter, obstruct or damage, or cause or permit the use, alteration, obstruction or damage of any highway by any of the following:

a. the depositing, throwing, spilling or tracking of any material, including but not limited to, waste, oil, chemical, soil, debris, or other substance onto any travelled portion of a highway;

b. the depositing of snow or ice onto any sidewalk, travelled portion of a highway, or onto a boulevard not contiguous with the property from where the snow was moved from;

c. the placement of snow or ice, or any material or equipment, or any structure within 1.0m, in any direction of a fire hydrant;

d. the altering of any boulevard without having obtained a permit, pursuant to this by-law;
e. the placement of any equipment, container, trailer, or any landscape or construction material on a highway without having obtained a permit, pursuant to this by-law;
f. the cutting, altering, extending, in any manner whatsoever, of a concrete curb, open or contained culvert, culvert overpass, driveway, or similar structure or landscape without having obtained a permit, pursuant to this by-law;
g. the allowance of a crane boom or any portion of a stationary tower crane to travel over, hoist, or otherwise occupy the space above a highway or any part thereof without having obtained a permit, pursuant to this by-law;
h. the excavation or damage to any portion of a highway, including sod, trees, light poles, street signs or other objects within the highway without having obtained a permit, pursuant to this by-law;
i. the closure or occupancy of any highway or portion thereof without having obtained a permit, pursuant to this by-law; and
j. the placement of unattended sporting equipment, including but not limited to basketball nets, skateboard ramps and bicycle ramps, on a highway.

4. Permits

4.1. The Town hereby delegates to the Director or his or her designates, the power to issue a permit under this by-law and to impose conditions to such permits.

4.2. The Director reserves the right to issue an annual permit to a utility company.

4.3. A utility company that is issued an annual permit shall pay a non-refundable permit fee as indicated in The Town of Collingwood Fees and Services By-Law and any revisions thereto. Proper notification of time, date, and locations of all work is to be submitted to Director no less than five (5) days prior to commencement of work.

4.4. Any person or contractor undertaking any type of work or activity for or on behalf of the Town is not required to obtain a permit. All other requirements still apply.

5.Application Process

5.1.Every person who wishes to use, alter, obstruct or damage, or cause or permit the use, alteration, obstruction or damage of any highway shall first complete and submit an application for a permit in the form approved by the Director.

5.2.An application for a permit shall:

a. be made in the name of the contractor or the individual completing the work. If the homeowner is the individual that will be completing the work they will be named as the applicant;

b. be submitted on such form(s) as the Director may require;

c. be submitted at least five (5) working days in advance of any proposed work or activity that requires a permit;

d. be accompanied by the applicable non-refundable fees and charges as provided for in Collingwood Fees and Service Charges By-law and any revisions thereto;

e. state the purpose for which the permit is required;

f. contain a description of the proposed work or activity;

g. include a traffic management plan in accordance with Ontario Traffic Manual Book 7 if required by the Director; and

h. include such other documentation and information as the Director may require.

5.3.The Director may require separate applications for any type of work or activity that the Director, in their discretion, considers to be discrete.

5.4.If an applicant does not provide all the documentation required by the Director within the timeframe as may be specified by the Director, or if the application is sixty (60) days old and the applicant has not taken any action to provide the Director with all of the required documentation in the last thirty (30) days, the applicant shall be deemed to have withdrawn the applicant's application and shall not be entitled to a refund of the applicant's application fee and the Director may close the application file.

6.Permit Fees

6.1.The fees for the Road Occupancy permit, and for any inspections required under it, shall be such an amount as determined by the Town of Collingwood Fess and Services By-law and shall be payable to the Town of Collingwood at the time of application. No Road Occupancy permit shall be issued, or inspection carried out until such fees have been paid and there shall be no refund of any fees for any cause.

6.2.The permit holder shall maintain or repair the work completed under the terms of the Road Occupancy permit as set out in section 9.0 General Conditions, until accepted as satisfactory by the Engineering department, and shall restore the Right of Way to Town of Collingwood Standards. Pursuant to Section 8.0 item i), the Permit Holder may be required to deposit a security deposit to cover the faithful performance of the terms of the Road Occupancy permit including maintenance, repair , or restoration of the works carried out by the Permit Holder. Such security shall be provided forthwith prior to the issuance of any Road Occupancy permit, as determined by the Engineering Department.

7.Issuance of Permit

7.1.The Director shall not issue a permit where:

a. the application is incomplete;
b. the permit fee(s) has not been paid;
c. proof that the applicant has obtained the required insurance has not been provided to the Director in such form as the Town may require;
d. any required security has not been provided; and
e. a 24-hour emergency contact telephone number has not been provided.
f. approval for municipal consent has not been provided.

7.2.The Director, in their sole discretion, may refuse to issue a permit where:

a. the applicant or contractor have persistently violated the conditions of previously issued permits;
b. the applicant or contractor has committed a serious violation of a condition of any previously issued permit;

c. the applicant or contractor has otherwise committed a serious offence under this by-law;
d. the applicant has failed to reimburse the Town for costs and expenses incurred in the administration of any previously issued permit;
e. the applicant proposes to damage a highway which highway was constructed, reconstructed or resurfaced within the previous three years; and/or,
f. for such other reason as the Director may deem proper which reasons shall be delivered in writing to the applicant upon request.

7.3. If an applicant who has been refused a permit in accordance with subsection 5.2 wishes to appeal such refusal, such appeal shall be to the Council of the Corporation of the Town of Collingwood, and the decision of the Council shall be final.

7.4. The issuance of a permit under this by-law does not relieve any person from the necessity of acquiring any other license or permit or complying with any other applicable laws, by-laws, regulations and requirements of other governmental authority.

8. Specific Conditions

8.1. The Director may issue a permit subject to specific conditions that they deem advisable, including but not limited to:

a. hours of work, occupancy and/or closure;
b. specifying who may perform the work/activity and specifying the manner in which the work/activity shall be performed;
c. specifying the quality of the work to be performed and the equipment and materials that may be used;
d. the requirement of notice to affected parties;
e. the date when the work or activity may be commenced;
f. the requirement of field inspections by the Town or its agents, and payment by the applicant of any associated fees;
g. the requirement of laboratory tests and engineering reports and certificates;

h. the provision of barricades, warning devices, signage and other measures in the interest of public health and safety; and/or,

i. requiring the deposit of security with the Town sufficient to cover the faithful performance by the permit holder of the terms of the permit including the cost of highway repairs and the cost of any maintenance or repairs that the Director may require during the warranty period, together with a reasonable contingency not to exceed 20% of the estimate cost to complete the highway repairs.

9.General Conditions

9.1.It shall be a condition of every permit that the permit holder and its officers, directors, employees, contractors and agents shall:

a. comply with all conditions of the permit specified thereon and the provisions of this by-law;

b. comply with and be bound by the provisions of the Occupational Health and Safety Act. R.S.O. 1990.Chap. 0.1, as amended;

c. comply with the and be bound by the provisions of the Ministry of Transportation's Ontario Traffic Manual, Book 7 (Temporary Conditions)

d. be liable for all costs, losses and expenses incurred by the Town, which costs and expenses shall be payable by the permit holder forthwith upon demand, failing which the Town may, without limit to its legal recourse, draw upon any security and/or add any outstanding amount to the tax roll for any real property of the permit holder situated within the municipality which amount may be collected in like manner as municipal taxes;

e. hold harmless, indemnify and defend the Town, its elected officials employees and agents, from and against any action, claim, loss, damage, cost or expense arising directly or indirectly as a result of the issuance of a permit to the permit holder;

f. notify the County, police, emergency medical services, the fire department, any person operating a public transportation service or school bus service, and any person whose access to their own property may be affected by the

closure or occupancy, of the commencement and termination of the said closure or occupancy;

g. cause to be provided all signs barricades, traffic control devices, flag persons, and such other persons and equipment as may be required by the Town, prior to the commencement of, and for the duration of, the closure or occupancy;

h. maintain access to all private and public properties during any highway closure and occupancy and to keep such access free and clear of all debris and other materials;

i. ensure the highway is kept clean and safe, and sources of dust and mud shall be controlled at all times until the final reinstatement has been completed. All dust and mud that is tracked from the site shall be promptly cleaned;

j. ensure that no road cut remains open for more than twenty-four (24) hours unless the work is actively in progress and that all work proceeds expeditiously;

k. maintain and answer a telephone at all times (24 hours, seven days-a-week) during the period of occupancy/closure so that the permit holder may respond to an emergency and /or be notified by the Director or an Officer of any necessary repairs or remedial work;

l. keep the permit available on site for inspection during the period of occupancy and closure;

m. in the event the permitted work or activity cannot be completed within the time set out in the permit, to notify the Director of the additional required time and the reasons therefor, and shall request an extension of the permit which extension may be granted at the discretion of the Director who may impose additional conditions upon the permit including the requirement to pay an additional fee(s);

n. effect all repairs and make all improvements to the highway as may be deemed necessary by the Director to reinstate the highway to Town of

Collingwood Standards, O.P.S.D. and O.P.S.S. Where conflict occurs, Town of Collingwood Standards will stand to govern;

o. effect all repairs to real and personal property adjacent to the highway that has been damaged or destroyed in the course of the highway occupancy or closure as may be necessary to restore it to its pre-occupancy/closure condition;

p. ensure any road cuts are done in such a manner as to do the least possible damage to the highway including any utility or municipal service;

q. request, from the appropriate utility, marking or other location information to determine the location and to provide safeguards for all utilities;

r. acknowledge that where a highway or utility service has been damaged by a permit holder or contractor, that the Town or the utility company shall, as the case may be, have the sole right to determine who, at the expense of the permit holder, may carry out any necessary repairs;

s. maintain and guarantee the performance of the highway repairs during the warranty period to the satisfaction of the Director and shall effect, at the applicant's sole cost and expense, any maintenance and/or remedial work to the highway repairs as may be required by the Director to the satisfaction of the Director;

t. acknowledge that the Director may give notice to the permit holder, before or after the date of reinstatement, specifying the maintenance or remedial work that the Director requires to be performed;

u. acknowledge that if the permit holder, having received notice from the Director, has not done the work required by the Director within such time as may be specified by the Director, the Director may arrange for the work to be done by the Town or a third party, all at the permit holder's expense; and

v. acknowledge that upon the date of final acceptance the Town shall assume responsibility for maintaining the highway repairs, any further maintenance or repair work and release the security or the remaining balance thereof to the permit holder.

w. A permit is the property of the Town and is not transferable unless authorized by the Director and any applicable fee(s) has been paid.

x. A permit shall become void if the work or activity authorized by the permit is not commenced within sixty (60) calendar days of the date that the permit issued and a new permit shall be required if the work or activity is to proceed

10.Compliance

10.1.In addition to any other enforcement proceedings against the permit holder as permitted by law, the Director may revoke a permit at any time:

a. for a violation of any condition of the permit or of any provision of this by-law;

b. for a violation of any provision of any other law relating to the permitted work or activity;

c. for the existence of any condition or the doing of any act: constituting a threat to public health and safety; is a nuisance; or endangers life or property;

d. where the permit has been issued on mistaken, false or misleading information; and/or,

e. where the permitted work or activity is not carried out in a diligent and workmanlike manner.

10.2.Where a permit has been revoked, the permit holder shall immediately cease all activities for which the permit was issued and, if applicable, immediately restore the highway and any services to Town of Collingwood Standards or to satisfaction of the Director. Such restoration shall be carried out at the permit holder's sole cost and expense, and if the permit holder should fail to carry out such restoration, the highway may be restored by the Town, and the entire cost of so doing shall be paid by the permit holder forthwith upon demand.

10.3.The permit holder of a revoked permit shall immediately cease or ensure the immediate cessation of all the activities for which a permit has been issued upon revocation of the permit under subsection 9.2.

11.Major Work

11.1.Where work is of a major nature or duration and will cause general inconvenience to any resident(s) and/or business(es) located beside or near the highway where the work will occur, every permit holder shall, at least ten (10) working days prior to commencing the work, notify every resident and business located beside or near the highway where the work will occur of the plan for:

a. description and rationale for the work;
b. the approximate start date;
c. the duration of the work;
d. access restrictions and service interruptions; and
e. contact information for the permit holder.

12.Emergency Work

12.1.In the case of an emergency, a road activity may be carried out without regard to the prior notification provisions and application timelines of this by-law, all other requirements still apply.

12.2.Where an emergency road activity has been undertaken, the person or contractor undertaking the road activity shall, on the same day work is commenced, or if the Town offices are closed, no later than the start of the next working day, notify by telephone the Director:

a. the name of the person or contractor undertaking the road activity;
b. the nature of the work;
c. the location of the road activity;
d. the estimated duration of the work;
e. the reason for proceeding without obtaining a permit and without providing required notice; and
f. retroactively comply with all requirements of this by-law including obtaining a permit.

12.3.The Director may require any or all information to confirm the validity of an emergency. Should insufficient proof of an emergency be submitted the applicant may be notified in writing that they are subject to the same restrictions and penalties as performing an activity without a permit.

13.Emergency Situations

13.1.If the Director or an Officer is of the opinion that any work or activity taken, or purportedly taken pursuant to a permit has created an emergency situation, the Director or an Officer may protect the area and take the necessary actions to make immediate repairs or take any other steps deemed necessary to protect persons and property.

13.2.Any work done by the Town pursuant to subsection 9.1 shall be at the expense of the permit holder and the costs of the Town shall be paid by the permit holder forthwith.

14.Highway Obstruction

14.1.If the Director or an Officer determines that an obstruction of a highway exists, the Director or an Officer may issue a notice of obstruction requiring the owner, occupant and/or contractor of the property from which the obstruction comes from, relates to, or was created for, to discontinue causing the obstruction and to remove the obstruction and repair, as necessary, at the expense of the owner, occupant and/or contractor so that the highway is brought back to its former condition prior to the obstruction.

14.2.Where the notice of obstruction described in subsection 10.1 is not complied with within the time period stipulated therein, the Town may remove the obstruction and repair, as necessary, the highway and all the costs incurred by the Town in undertaking this work shall be expenses owed to the Town by the owner, occupant and/or contractor of property from which the obstruction comes from, relates to, or was created for.

15.Snow Removal and De-Icing

15.1.Where the Permit holder’s work impedes snow removal and de-icing by the Town on areas where vehicular and pedestrian traffic are being maintained, as reasonably determined at the sole discretion of the Public Works Department, the Permit Holder shall be responsible for providing ice and snow removal services within the limits of the work site. Such areas shall be cleared of ice and snow to the satisfaction of the Town.

16.Watermains

16.1.The permit holder shall not operate watermain valves, service water valves and/or hydrants. If operation of any water supply valves is required, the Permit Holder must contact the Town of Collingwood water Department by phone at 705-445-1581.

16.2.No person shall operate valves, hydrants or interfere with a potable water system in any manner that will cause the water to become non-potable.

17.Trenchless Installations

17.1.Where work being undertaken uses trenchless installation methods, preservation and protection of existing facilities shall be according to OPSS 491.

17.2.Minimum horizontal and vertical clearances to existing facilities as specified in OPSS shall be maintained. Clearances shall be measured from the nearest edge of the largest backreamer required to the nearest edge of the facility being paralleled or crossed.

17.3.Existing underground facilities shall be exposed to verify its horizontal and vertical locations when the bore path comes within 1.0m horizontally or vertically of the existing facility. Existing facilities shall be exposed by non-destructive methods. The number of pilot holes required to monitor work progress and the proposed location of such pilot holes must be clearly depicted in the application drawing. All pilot hoes and any other damage to the street infrastructure shall be restored as per the requirements of this By-law.

18.Transit

18.1.The Permit Holder shall coordinate with the issuer of Permits all staging with any transit company or school board known to the Permit Holder that may have a bus stop.

18.2.The permit holder shall maintain access to all existing bus stops within the work area. Where it is not practical to maintain access, the Permit Holder will be responsible for relocation and reinstatement of the bus stops, under the direction of the Engineering Department.

19.Boulevards

19.1. No person shall permit anything to remain on a boulevard which is dangerous, that may injure pedestrians, or vehicular traffic.

19.2. No person shall permit anything to remain on a boulevard which impairs the ability to see pedestrians or vehicular traffic.

19.3. No person shall place inorganic ground covering exceeding 19mm in diameter and shall ensure that any inorganic ground cover located within a boulevard is confined to that area and does not overflow on to the travelled portion of the road or sidewalk.

19.4. No person shall place concrete, interlocking stone, gravel stone, or soil to protrude above the existing boulevard grade.

19.5. An owner may plant herbaceous plants in a boulevard so long as;

a. Plants and shrubs do not exceed a height of 45cm.
b. Plants do not impair drainage.
c. Sod or grass does not exceed 15cm.

19.6. No person shall alter a boulevard so as to create a parking area or expand a driveway or driveway apron without first obtaining a permit.

19.7. No person shall damage any landscaping or improvement on a boulevard except the property owner, a contractor hired by the Town, the County, or a public utility or Service Company while engaged in construction, maintenance or repairs.

19.8. No person shall damage remove or replace any landscaping or plant placed in the boulevard by the Town without the Town's written consent.

19.9. If any sod from a boulevard or asphalt from the apron of a driveway located within the boulevard is removed or damaged for any reason in the course of any undertaking by the Town, the County, or any public utility or Service Company, it shall be replaced as nearly as may be to the condition in which it was prior to that undertaking. Neither the Town nor any public utility or Service Company shall be obligated to restore any improvements located on any boulevard other than sod and asphalt.

19.10. No person shall install an irrigation system or electrical wiring in or over a boulevard without written permission from the town.

19.11. Every property owner shall contact all public utilities and Service Companies, and the Town for the purpose of locating all pipes, cables and other property owned or installed by one or more of them not less than 5 days before excavating any part of a boulevard.

19.12. No person shall damage or destroy any pipe, wire, cable, or property located on or beneath the surface of a boulevard.

19.13. Where the Town or County regularly maintains that section of a boulevard abutting a property, no person shall landscape or alter that portion of the boulevard.

20. Disposing Of Material and Equipment

20.1. Any landscape or construction material removed by the Town from a highway under this by-law may be directly deposited onto the property from which the obstruction comes from, relates to, or was created for, or the material may be treated as refuse by the Town or become property of the Town which can be disposed of in any manner or used for any Town purpose.

20.2. Any landscape or construction material, equipment, container, trailer, or other article removed by the Town may, at the discretion of the Director or the Officer, be deposited at the property from which the obstruction comes from, relates to, or was created for, or be stored at a Town facility for sixty (60) days at the owner's expense.

20.3. Any item in subsection 16.2 shall only be released to the owner or permit holder after the owner or permit holder has paid the Town any applicable expense for the removal and storage of the item.

20.4. Any item in subsection 16.2 that is stored at a Town facility for more than sixty (60) days and for which an owner has not been identified may be disposed of by the Town in any manner that it deems appropriate

20.5. Any item in subsection 16.2 that is stored at a Town facility for more than sixty (60) days and for which the owner, having been notified, has failed to pay the applicable expenses and claim the item, the Town may be dispose of the item pursuant to the provisions of the Repair Storage and Liens Act, R.S.O. 1990, c.R.25, as amended.

21.Insurance

21.1.The Permit holder, unless exempt from subsection 28.2 shall provide and maintain insurance until the date of final acceptance:

Comprehensive/Commercial General Liability insurance acceptable to the Town and subject to limits of not less than five million dollars ($5,000,000.00) inclusive per occurrence. The policy shall include an extension for a standard provincial and territorial form of non-owned automobile liability policy. This policy shall include but not limited to:

a. Name the Owner as an additional insured
b. Cross-liability and severability of interest
c. Blanket Contractual
d. Products and Completed Operations
e. Premises and Operations Liability
f. Personal Injury Liability
g. Contingent Employers Liability
h. Owners and Contractors Protective
i. Broad Form Property Damage
j. 30 days' notice of cancellation
k. Attached Machinery

21.2.If the applicant applying for the road occupancy permit is the home / land owner and no contractor or third party is performing the work on their behalf, no Commercial / Comprehensive General Liability insurance will be required. Homeowner's liability insurance will be required that is satisfactory to The Town of Collingwood and underwritten by an insurer licensed to conduct business in the Province of Ontario. The policy shall provide coverage for Bodily injury, Property Damage, and Personal injury and shall have a limit of liability of not less than $2,000,000.

The individual/homeowner must provide proof of a Homeowners Liability Policy by way of a letter from the Broker.

22.Indemnification

22.1.The applicant shall defend, indemnify and save harmless The Town of Collingwood, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the Applicant, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the delivery or performance of the work being completed under the permit terms. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Applicant in accordance with this By-Law, and shall survive this By-Law.

22.2.The Applicant agrees to defend, indemnify and save harmless The Corporation of The Town of Collingwood from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever arising out of or related to the Applicants' status with WSIB. This indemnity shall be in addition to and not in lieu of any proof of WSIB status and compliance to be provided by the Applicant in accordance with this By-Law, and shall survive this By-Law.

23.Orders and Remedial Action

23.1.If a person contravenes any of the provisions of this by-law, the Director or an Officer may issue an order to the person or to the permit holder requiring them to discontinue the contravening work or activity. The order shall set out the reasonable particulars of the contravention adequate to identify the contravention, the location of the property on which the contravention occurred, and the date by which there must be compliance with the order.

23.2.If a person has contravened a provision of this by-law, the Director or an Officer may issue a work order to the person who contravened the by-law, or to the

permit holder, requiring them to do work to correct the contravention. The order shall set out the reasonable particulars of the contravention adequate to identify the contravention, the location of the property on which the contravention occurred, and the date by which there must be compliance with the order. The order may also provide that if the person or permit holder fails to correct the contravention, the Town may do the work to correct the contravention at the expense of the person or the permit holder.

23.3. If the Director or an Officer has issued an order directing or requiring that a person or permit holder do a matter or thing to correct a contravention of this by-law, and the person or permit holder fails to correct the contravention, the Town may do all work necessary to correct the contravention, and the Town may recover the cost of the doing of the matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll of property owned by the person or permit holder located in the municipality and collecting them in the same manner as property taxes.

23.4. The Director or an Officer may, at their own discretion, issue a stop work order. Stop work orders are issued where the Director or an Officer finds an activity occurring that is not in accordance with the conditions of a permit or where an activity is taking place without a permit. A stop work order shall be lifted once the Director determines and is satisfied that all contraventions of this by-law have been rectified.

23.5. An order may be given verbally or served by:

a. delivering it personally to the permit holder and/or the person in contravention of the by-law;
b. sending it by registered mail to the last known address of the permit holder and/or the person in contravention of the by-law, which service shall be deemed effective five (5) days after mailing, which deemed service may be rebutted by the person proving on the balance of probabilities that they did not receive the order; and/or
c. posting it at the site where the contravention has occurred.

24.Service Fees

24.1.The municipal service fees for the administration and enforcement of this bylaw shall be in accordance with the fees established in Schedule “A” and any revisions thereto.

24.2.Service fees for the administration and enforcement of this by-law may be applied when a contravention has been confirmed by an Officer.

25.Recovery Of Costs

25.1.Where the Town, its employees or authorized agents have performed the work required for compliance with this by-law, all expenses incurred by the Town in doing the work as well as any related fees, shall be deemed to be a debt to the Town and may be collected by action or the costs may be added to the tax roll for the property and collected in the same manner as taxes.

26.Power Of Entry

26.1.The Town may enter on a property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

a. the provisions of this by-law;
b. an order issued under this by-law; or
c. an order made under section 431 of the Municipal Act, 2001.

26.2.Where an inspection is conducted by the Town, the person conducting the inspection may:

a. require the production for inspection of documents or things relevant to the inspection;
b. inspect and remove documents or things relevant to the inspection for the purpose of making copies and extracts;
c. require information from any person concerning a matter related to the inspection including their name, address, phone number and identification; and,
d. alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

26.3. The Town may undertake an inspection pursuant to an order issued under section 438 of the Municipal Act, 2001.

26.4. The Town's power of entry may be exercised by an employee, officer or agent of the Town or by any member of the Ontario Provincial Police, as well by any person acting under their direction.

27. Enforcement

27.1. A Municipal Law Enforcement Officer, Provincial Offences Officer, Police Officer, Director, or other duly appointed individual shall enforce the provisions of this by-law.

27.2. No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this by-law.

27.3. No person shall fail to comply with a Notice or an Order issued pursuant to this by-law.

27.4. An Officer who has reasonable grounds to believe that a person has contravened any provision of this by-law may require that person to provide identification.

27.5. Every person who is required by an Officer to provide identification under Section 18.4 shall identify themselves to the Officer. Giving their correct name, date of birth and address shall constitute as being sufficient identification. Failure to do so shall constitute obstruction of the officer as per section 18.2 of this by-law.

28. Penalties

28.1. Every person who contravenes any provision of this by-law is guilty of an offence and liable on conviction to a penalty not exceeding $5,000, exclusive of costs and the provisions of the Provincial Offences Act, R.S.O 1990, c P.33, as amended shall apply to said fine.

28.2. Every person who contravenes the provisions of any section of this by-law and every Director or Officer of a Corporation, who knowingly concurs in the contravention by the Corporation, is guilty of an offence under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

28.3. Every person who contravenes the provisions of any section of this by-law and every Director or Officer of a Corporation, who knowingly concurs in the contraventions by the Corporation, is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not exceed $500 and a maximum fine shall not exceed $100,000 exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

28.4. For the purpose of continuous offences, every person who contravenes any provision of this by-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding $10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25 as amended.

28.5. Notwithstanding the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended the total of all daily fines for the offence is not limited to $100,000.

28.6. For the purpose of multiple offences, every person who contravenes any provision of this by-law and every Director or Officer of a Corporation who knowingly concurs in the contravention of a by-law of the Corporation is guilty of an offence and liable on conviction to a penalty not exceeding $10,000, exclusive of costs under the provisions of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.

28.7. In addition to any other remedy or penalty provided by law, the court in which the conviction has been entered, or any other court of competent jurisdiction may make an order:

a. prohibiting the continuation or repetition of the offence by any person; and/or,

b. require the person to pay a special fine, in addition to a regular fine, which fine shall eliminate any economic gain or advantage derived by the person as a result of contravening this by-law.

29. Exemptions

29.1. The Director may grant an exemption to any person from any provision of this by-law and impose conditions for such exemption as may be considered

reasonable and necessary, provided such exemption does not interfere with the general integrity of this by-law.

29.2. A utility company is not required to obtain a permit to undertake the following types of work:

a. overhead line maintenance, line installation on existing poles where no new poles are required;
b. raising or lowering utility service boxes;
c. work on shut-off valves except for repair work on valves within the travelled portion of the roadway or within a sidewalk;
d. initial work conducted in new subdivisions to installation of sidewalk, curb, and gutter and asphaltic concrete pavement; and,
e. work in manholes, valve chambers, and transformer vaults.
f. pulling of cables in existing conduit or

29.3. Notwithstanding subsection 4.4 and 20.2, every person, contractor and utility company shall comply with the requirements of the Ministry of Transportation's Traffic Control Manual for roadway work operations as amended or replaced from time to time as well as any other applicable law(s) and / or regulation(s).

30. Validity And Interpretation

30.1. Schedule ’A’ attached to this by-law shall form part of this by-law.

30.2. Words importing the singular number shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the by-law requires otherwise.

30.3. Definitions of words and phrases used in this by-law that are not included in the list of definitions in this by-law shall have the meaning that are commonly assigned to them in the context in which they are used, taking into account the specialized terms by the various trades and professions to which the terminology applies.

31. Severability

31.1. If a court of competent jurisdiction declares any provisions of this by-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this by-law that the remainder of the by-law shall continue in force and be applied

and enforced in accordance with its terms to the fullest extent possible according to law.

32.Repeal

32.1.By-law No. 2637 and 88-44 are hereby repealed.

33.Scope and Authority

33.1.Where a matter is subject to provincial regulation, any provision of this by-law is without effect to the extent that it prohibits or regulates the matter in substantially the same way as or in a more restrictive way that the provincial regulation.

34.Force and Effect

34.1.This By-law shall come into full force and effect on the date of final passage hereof at which time all By-laws and/or resolutions that are inconsistent with the provisions of this By-law and the same are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this By-law.

ENACTED AND PASSED this 30th day of April, 2018.

_____

Mayor's Signature

_____

Clerk's Signature

SCHEDULE 'A'

A. Disposal of Excavated Material

All excavated material from street cuts within the limits of the existing roadway shall be loaded directly on to trucks and removed and disposed of by the Permit Holder outside the limits of the road allowance. On no account shall the excavated material from these locations be piled on the adjacent roadway for disposal at a later time. Upon completion of the backfill and restoration, the roadway shall be cleaned up to the satisfaction of the Town.

B. Backfill

Trench backfill to be (OPSS 401 as applicable) to be select native material or imported select subgrade to OPSS 1010. Backfill to be placed in maximum 200mm thick lifts and compacted to 95% material's Standard Proctor Maximum Dry Density (SPMDD). The Town also reserves the right to specify unshrinkable fill.

C. Sidewalks

1. Concrete Sidewalks

   Concrete sidewalk to be 125mm thick except for 150mm thick at residential driveways and adjacent curbs, and 200mm thick at commercial and industrial driveways. Sub base to consist of a minimum of 150mm Granular "A" or as per OPSD 310.010 , 310.030, and OPSS 351.

2. Asphalt Sidewalks

   Asphalt sidewalks or pathways shall be reinstated to the proper grade with hot mix HL3 asphalt, which shall have a minimum thickness of fifty (50) millimeters.

D. Curbs

Concrete curbs shall be restored to the lines, depths, thicknesses and grades of existing curbs. Concrete shall conform to OPSD 600.040 or OPSD 600.070 and OPSS 353.

E. Boulevards

Reinstatement of all disturbed boulevards to include regrading, 100mm topsoil

and sod as per OPSS 570 & 571. The completed boulevard must be such that no water pockets will result and the area left in a satisfactory condition.

F. Asphalt and Surface Treated Roadways

Final Reinstatement of asphalt and surface treated roadways shall meet the following requirements:

1. final reinstatement shall be undertaken immediately after backfilling, and unless otherwise specified by the Director, resurfacing shall be in accordance with the Town of Collingwood Standards.
2. the asphalt shall be laid in accordance with all applicable Town of Collingwood Standards and OPSS standards.
3. the road cut shall be reinstated to the same level as the adjacent surface and the riding surface shall be to the satisfaction of the Town.
4. the Director may allow the permit holder to resurface at a later date, due to supply of materials, weather conditions, or any other condition beyond the control of the permit holder.

G. Concrete Surface

Final reinstatement of roadways with a concrete surface shall meet the following requirements:

Final reinstatement shall be undertaken immediately after backfilling by resurfacing with Portland cement concrete with nominal minimal strength in conformity with OPSS standards or as specified by the Director.

The road cut shall be reinstated to the same level as the adjacent surface and the riding surface shall be to the satisfaction of the Director

The Director may allow the permit holder to resurface at a later date, due to supply of materials, weather conditions, or any other condition beyond the control of the permit holder.

H. Grassed Surface

Grassed Surfaces shall be reinstated as follows:

Reinstatement of grass areas shall be in accordance with Town of Collingwood Standards.

If conditions warrant, the Town may allow the areas to be seeded.

The permit holder shall maintain and water the seeded or sodded area until the grass is properly established.

I. Excavated Material and Road Cut Methods

Where a road cut is made in any concrete surface, the permit holder shall break out and remove all concrete:

1. to the nearest expansion joint, or contraction joint, using a concrete saw if necessary, to provide on all sides of the road cut, a clean vertical surface; or,
2. as specified by the Director

Where a road cut is made in asphalt pavement, the asphalt shall be cut with a mechanical cut device to produce:

a. a rectangular opening with edges which are vertically straight; and
b. a cut which is large enough to accommodate the proposed work without undermining the adjacent asphalt pavement.

Where boring, directional drilling, jacking, or tunneling is used for any sub surface road cut:

1. the method shall be approved by the Director; and
2. if a cave-in, settlement. or heaving results there from, the surface in the affected area shall be removed and reinstated by the permit holder in accordance to this by-law to the satisfaction of the Director.

Where two (2) or more connections for sewer or water are to be made, the Director may state the order in which these connections are made. The lowest utility should generally be built first.