



REPORT

Council

Meeting Date: November 18, 2024

FROM: Transportation and Engineering Department

DATE: November 5, 2024

SUBJECT: **Proposed Municipal Right of Way By-law Update 2024-002**

LOCATION: Town Wide

WARD: Town-wide

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RECOMMENDATION:

That the proposed Municipal Right of Way By-law, By-law 2024-002 attached as Appendix B to the report from the Transportation and Engineering Department dated November 5, 2024, be approved and passed.

KEY FACTS:

The following are key points for consideration with respect to this report:

- This report presents a consolidation of previous Municipal Right of Way by-laws and related clauses in a single, comprehensive by-law.
- The intent of the changes to the Municipal Right of Way By-law is to improve clarity in the language used in the terms and clauses of the by-law to increase compliance and assist with enforcement of the by-law.
- The key amendments are:
 - Adding section titles, additional definitions and reorganizing the existing provisions for clarity and readability
 - Modifying the existing prohibition of obstructions to the municipal right of way (MRW) for clarity while maintaining the effectiveness of its generality
 - Modifying existing and adding new prohibition subsections to clarify the types of prohibited acts / activities that have a negative impact on the function of the MRW
 - Identifying more clearly the authorized activities that may occur in the MRW
 - Adding new sections that cover delegation of authority, permit provisions, offence, inspection, removal of items and hazards, and remedial action, to provide clarity regarding the town's current processes and practices to maintain the safety and function of the MRW and of enforcement provisions

- The repeal of the current Municipal Right of Way By-law 2009-072, as amended, will not affect any charges laid or orders issued prior to the new By-law coming into force.
- A copy of the current By-Law 2009-072 is included in Appendix A of this report.
- A copy of the new By-Law 2024-002 is included in Appendix B of this report.
- A copy of a list of amendments is included in Appendix C of this report.

BACKGROUND:

The existing Municipal Right of Way By-law 2009-072 was created in 2009 to consolidate the “applicable by-laws” that govern the use and occupancy of a municipal right of way. These applicable by-laws are listed in the recitals of the current By-law 2009-072. Since 2009, a *Use of Municipal Right of Ways and Municipal Parking Lots Policy* was created, along with a number of procedures for permits and agreements, which are reviewed and updated from time to time.

The review of the 2009 MRW By-law was conducted to ensure that the by-law and associated practices were aligned. The updated MRW By-law includes clearer terminology and definitions, has been structured to improve readability and aligns the enforcement provisions and permitted and non-permitted actions and activities with current practice.

The changes to the prohibitions and provisions are essentially housekeeping revisions. No prohibitions or provisions from the current by-law have been removed. Three new prohibitions have been added to provide clarity to similar prohibitions by identifying the specific activities. These new prohibitions include subsections 2.2 j) for busking, 2.2 m) for soliciting, and 2.2 s) for road cuts/excavation.

New definitions are added to the new by-law to increase clarity. New sections are added to include provisions that align with current procedures and practices and enhance the effectiveness of enforcement, such as Section 5 - Permits, which provides clarity on the types of permits that are required under the by-law and includes provisions on permit administration.

COMMENT/OPTIONS:

A detailed breakdown of the amendments and the new additions for each section of the new by-law is provided in Appendix C of this report, titled “*Municipal Right of Way By-law – List of Amendments*”.

When comparing the current and new by-law, the amendments to the existing prohibitions are mainly to ensure that the wording and definitions are in their intent and meaning. For example, the current Section 1 s. is a prohibition to “*discharge water directly onto a municipal right of way in a manner that is deemed hazardous*”. The intent is to prohibit unauthorized discharging of water into the MRW. However,

the words “*in a manner is deemed hazardous*” creates a limitation to enforcement to first demonstrate how the action is in a manner that is deemed hazardous. To that end, the amended prohibition is Section 2.2 u), “*discharge water directly onto a municipal right of way, except for the purpose of discharging water from a swimming pool or a sump pump*”. The exemption for swimming pool and sump pump discharge is a current practice, and the controlled pump release flow of the discharge is not expected to be excessive. This was added to align with current practice. Similar amendments are completed in Section 2 of the new by-law. The table under item 4 in Appendix C identifies the types of amendments made to the prohibitions.

The new Section 7 – *Order*, new Section 8 - *Administration Penalties (AMPS)*, and new Section 9 – *Service of Penalty Notices and Other Notices* were created to reorganize the enforcement related sections in the current by-law. Only minor revisions have been made to the current sections.

The new Sections 4 – *Delegated Authority*, 5 – *Permits*, 6 – *Revocation of Permits*, 10 – *Offense*, 11 – *Inspection*, 12 – *Removal of Items*, 13 – *Removal of Hazardous Condition*, and 14 – *Remedial Action*, provide provisions for permit administration and the handling of infractions and contraventions. These provisions align with the Town’s current procedures and practices and are intended to increase clarity for both the public and for staff who administer and enforce the by-law.

Under Section 5 – *Permits*, the current Town procedures related to the permits and agreements that are issued under this by-law are listed. These procedures are updated from time to time. They are currently being updated through the Town’s process with the Policy Review Administration Group. New procedures may also be added from time to time to provide clarity to the by-law under the Town’s *Use of Municipal Right of Ways By-Law and Municipal Right of Ways and Municipal Parking Lot Policy*.

Other new sections in the new by-law are only new headings added to the current sections to align with the new formatting.

CONCLUSION

It is a good practice to review and update existing by-laws, policies and procedures in order to remain current with changes that meet the needs of the residents and current practices and regulations. This update to the Municipal Right of Way By-Law allows an opportunity to better organize and format the by-law and add applicable provisions that help with public understanding for compliance and the town to carry out effective enforcement.

CONSIDERATIONS:

(A) PUBLIC

The initiatives described in this report are all aimed at improving community livability. Staff will provide ongoing communications and education programs.

(B) FINANCIAL

There are no costs associated with this new by-law.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The new by-law provides enforcement personnel with necessary supporting authority to pursue matters of non-compliance.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal for an:
Engaged Community through the provision of providing an effective licensing and enforcement framework to maintain community safety, protection and enjoyment.

(E) CLIMATE CHANGE/ACTION

There is no impact to climate change

APPENDICES:

Appendix A – Consolidated Existing Municipal Right of Way By-Law 2009-072 as amended

Appendix B – Proposed Municipal Right of Way By-law 2024-002

Appendix C – Municipal Right of Way By-law - List of Amendments

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