

# THE CORPORATION OF THE MUNICIPALITY OF SOUTHWEST MIDDLESEX

## BY-LAW NO. 2019/068

### MUNICIPAL ROADWAY BY-LAW

A BY-LAW to Provide for the Regulation of Activities Upon, Under, Over or Nearby Municipal Roadways.

WHEREAS Part II of the Municipal Act, 2001, S.O. 2001, c.25, as amended (the "Municipal Act") authorizes a municipality to pass By-Laws for the regulation of matters under its jurisdiction and to provide for a system of licenses, permits, approvals or registrations regarding matters that are so regulated;

AND WHEREAS Section 78 of the Municipal Act authorizes a municipality to require utilities installing new facilities and infrastructure or opening up areas of the public road allowance to obtain permits and remit security deposits;

AND WHEREAS Part IV of the Municipal Act authorizes a municipality to require persons who sell goods or services from any road allowance to obtain permits;

AND WHEREAS Section 101 of the Municipal Act authorizes a municipality to pass By-Laws regulating the removal and impounding of vehicles parked or stored on or nearby a public highway;

AND WHEREAS Part XII of the Municipal Act authorizes a municipality to charge permit fees and require security deposits under all of the municipality's By-Laws;

NOW THEREFORE the Council of The Corporation of the Municipality of Southwest Middlesex enacts as follows:

#### 1. GENERAL

##### 1.1 Short Title

1.1.1 This By-Law, including all schedules attached hereto and forming part of this By-Law, may be cited as the "Municipal Roadway By-Law".

##### 1.2 Interpretation

1.2.1 The captions and headings in this By-Law are inserted for convenience only and do not define, limit or enlarge the scope, meaning or intent of any provision.

1.2.2 In this By-Law, words used in the present tense include the future tense, words in the masculine gender include the feminine and neuter and the singular number includes the plural and the plural the singular.

1.2.3 In this By-Law, the word "shall" is mandatory and not discretionary.

##### 1.3 Application of Other Legislation

1.3.1 Nothing in this By-Law shall relieve any person from any obligation to comply with the requirements of any other By-Law or legislation or with the requirement to obtain any license, permit, certificate, authority, approval, consent, variance or remit any fee, security deposit, letter of credit or any other security or payment otherwise required.

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1.4 Validity

Should any section, clause or provision of this By-Law be held by a Court of competent jurisdiction to be invalid, in whole or in part, the validity of the remainder of that section, clause or provision and the validity of the remainder of the By-Law shall not be affected thereby. Each section, clause or provision of this By-Law are hereby deemed to be separate and distinct sections, clauses or provisions.

1.5 Conflicting By-Laws

Where any section, clause or provision of this By-Law conflicts with any section, clause or provision of any other By-Law of The Corporation of the Municipality of Southwest Middlesex, the section(s), clause(s) or provision(s) that establish(es) the higher standard shall prevail.

1.6 Change in Statutes

Where any Act or any portion of any Act is referred to in this By-Law, such reference shall be interpreted as referring to any subsequently renumbered sections of the Act and/or changes to the date of the Act and/or amendments or revisions to the Act or re-enactments of the Act or any legislation that replaces the Act.

1.7 Effective Date

This By-Law shall come into full force and effect as of the date of passing hereof.

2. DEFINITIONS

**"Municipality"** shall mean the Corporation of the Municipality of Southwest Middlesex or any employee of The Corporation of the Municipality of Southwest Middlesex who acts at the direction of the Corporation of the Municipality of Southwest Middlesex.

**"Public Works Manager"** shall mean the person appointed by the Council of The Corporation of the Municipality of Southwest Middlesex to the position of Public Works Manager and any employee of The Corporation of the Municipality of Southwest Middlesex who acts at the direction of the Public Works Manager.

**"Municipal Roadway"** shall mean a public Roadway, road allowance, street, avenue, crescent, drive, place, lane or other public way under the jurisdiction of The Corporation of the Municipality of Southwest Middlesex. A Municipal Roadway shall include without limitation the Roadway, Road Works and any lands that form part of the public roadway but do not constitute part of the Roadway.

**"Municipal Roadway Line"** shall mean the boundary between the Municipal Roadway and land abutting the Municipal Roadway.

**"Private Entrance"** shall mean the portion of a Municipal Roadway which is improved to permit the passage of persons or vehicles from a Roadway or a sidewalk to an abutting property.

**"Refreshments"** shall mean take-out food, snacks and drinks intended to be consumed within a short time after purchase.

**"Refreshment Vehicle"** shall mean a Vehicle from which Refreshments are sold. A Refreshment Vehicle does not include a Vehicle from which meals, groceries and other food products intended to be consumed over a long period of time are sold.

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"**Retail Sales**" includes but is not limited to sales conducted from a Refreshment Vehicle, vending box, cart, stand or any temporary or permanent structure.

"**Roadway**" shall mean the traveled portion of a Municipal Roadway which is improved for the travel of Vehicles.

"**Road Works**" shall mean the physical improvements which have been made to a Municipal Roadway including pavement, curbs (if applicable), signs, gutters, ditches, trees, culverts, trees and graded surfaces, swales, utility apparatus, utility infrastructure, graveled surfaces.

"**Utility**" means a system that is used to provide for any of the following services or things for the public:

- (i) water;
- (ii) sewage, stormwater and other drainage from property;
- (iii) fuel, including natural and artificial gas;
- (iv) energy;
- (v) electricity;
- (vi) heating and cooling; and
- (vii) telephone.
- (viii) telecommunications

"**Vehicle**" shall mean a wheeled self-propelled vehicle for the transportation of passengers or goods and, without limiting the generality of the foregoing, may include automobiles, motorcycles trucks, buses, ambulances, hearses, motor homes, trailers and tractors.

**3. PROHIBITED MATTERS**

**3.1 Excavation — Municipal Roadway**

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, make any excavation upon or under a Municipal Roadway except as herein specifically provided for and permitted.

**3.2 Road Works — Municipal Roadway**

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, commence or undertake any Road Works upon, under or over a Municipal Roadway except as herein specifically provided for and permitted.

**3.3 Removal of Material — Municipal Roadway**

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, remove, disturb or otherwise displace any earth, gravel, pavement, Utility infrastructure, equipment or other material located upon, under or over a Municipal Roadway except as herein specifically provided for and permitted.

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**3.4 Landscaping — Municipal Roadway**

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, commence or undertake any landscaping, grading or other similar work upon or under a Municipal Roadway except as herein specifically provided for and permitted.

**3.5 Closing and Obstruction — Municipal Roadway**

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, close, obstruct or cause or permit the closing or obstruction of any Municipal Roadway, except as herein specifically provided for and permitted.

**3.6 Crane — Municipal Roadway**

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, operate a crane, boom, heavy equipment or other similar equipment above a Municipal Roadway except as herein specifically provided for and permitted.

**3.7 Sale of Items — Municipal Roadway**

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, sell, display or offer for sale any goods or otherwise conduct any Retail Sales in or upon a Municipal Roadway except as herein specifically provided for and permitted.

**3.8 Private Entrance - Properties Abutting Municipal Roadways**

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, construct a Private Entrance upon a Municipal Roadway except as herein specifically provided for and permitted.

**3.9 Parking or Storage of Unlicensed Vehicles — Municipal Roadway**

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, park or store (temporarily, permanently or otherwise) an unlicensed Vehicle upon a Municipal Roadway.

**3.10 Parking or Storing of Vehicles — Municipal Roadway**

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, park or store (temporarily, permanently or otherwise) a Vehicle upon a Municipal Roadway unless otherwise permitted at law.

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3.11 Unlicensed Vehicles - Obstructing Lands Abutting Municipal Roadway

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, park or store (temporarily, permanently or otherwise) any unlicensed Vehicle upon lands abutting a Municipal Roadway where the parking or storing of such unlicensed Vehicle obstructs or otherwise interferes with public travel on the Municipal Roadway or obstructs or otherwise interferes with snow and ice removal or the use of the abutting lands by emergency Vehicles.

3.12 Vehicles - Obstructing Lands Abutting Municipal Roadway

No person, firm, corporation, partnership, Utility or any other entity shall, directly or indirectly, or by permitting or authorizing others, park or store (temporarily, permanently or otherwise) any Vehicle upon lands abutting a Municipal Roadway where the parking or storing of such Vehicle obstructs or otherwise interferes with public travel on the Municipal Roadway or obstructs or otherwise interferes with snow and ice removal or the use of the abutting lands by emergency Vehicles.

3.13 Removal of Unlicensed Vehicles — Municipal Roadway

Any unlicensed Vehicle which is parked, stored or otherwise located (temporarily, permanently or otherwise) upon a Municipal Roadway shall be removed from the Municipal Roadway by the owner of the unlicensed Vehicle. If the owner of the unlicensed Vehicle does not so remove the unlicensed Vehicle, the Municipality shall, upon delivery of the requisite notice as set out herein, have the right to remove the unlicensed Vehicle from the Municipal Roadway and store and impound the unlicensed Vehicle in a location to be determined at the discretion of the Municipality at the owners risk and expense.

3.14 Removal of Vehicles — Municipal Roadway

Any Vehicle which is parked, stored or otherwise located (temporarily, permanently or otherwise) upon a Municipal Roadway shall be removed from the Municipal Roadway by the owner of the Vehicle unless otherwise permitted at law. If the owner of the Vehicle does not so remove the Vehicle, the Municipality shall, upon delivery of the requisite notice as set out herein, have the right to remove the said Vehicle from the Municipal Roadway and store and impound the Vehicle in a location to be determined at the discretion of the Municipality at the owners risk and expense.

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3.15 Removal of Unlicensed Vehicles - Obstructing Lands Abutting Municipal Roadway

Any unlicensed Vehicle which is parked, stored or otherwise located (temporarily, permanently or otherwise) upon lands abutting a Municipal Roadway shall be removed from the lands abutting a Municipal Roadway by the owner of the unlicensed Vehicle where the parking or storing of such unlicensed Vehicle obstructs or otherwise interferes with public travel on the Municipal Roadway or otherwise interferes with snow and ice removal or the use of the abutting lands by emergency Vehicles. If the owner of the unlicensed Vehicle does not so remove the unlicensed Vehicle, the Municipality shall, upon delivery of the requisite notice as set out herein, have the right to remove the unlicensed Vehicle from the lands abutting the Municipal Roadway and store and impound the unlicensed Vehicle in a location to be determined at the discretion of the Municipality at the owners risk and expense.

3.16 Removal of Vehicles - Obstructing Lands Abutting Municipal Roadway

Any Vehicle which is parked, stored or otherwise located (temporarily, permanently or otherwise) upon lands abutting a Municipal Roadway shall be removed from the lands abutting the Municipal Roadway by the owner of the Vehicle where the parking or storing of such Vehicle obstructs or otherwise interferes with public travel on the Municipal Roadway or otherwise interferes with snow and ice removal or the use of the abutting lands by emergency Vehicles. If the owner of the Vehicle does not so remove the Vehicle, the Municipality shall, upon delivery of the requisite notice as set out herein, have the right to remove the said Vehicle from the lands abutting the Municipal Roadway and store and impound the Vehicle in a location to be determined at the discretion of the Municipality at the owners risk and expense.

4. REMOVAL OF OBSTRUCTIONS

4.1 Projections - Over Municipal Roadway

Any structure, equipment, crane, boom, heavy equipment or other thing which projects into, onto or over a Municipal Roadway or is located upon a Municipal Roadway shall be removed by the owner of the land where such structure, equipment, crane, boom, heavy equipment or other thing is located except as herein specifically provided for and permitted.

4.2 Structure - Obstruction — Municipal Roadway

Any fence, structure or other thing which obstructs a Municipal Roadway or which interferes with public travel on a Municipal Roadway shall be removed by the person who owns the fence, structure or other thing or the person who has built, maintained, placed or deposited such fence, structure or other thing.

4.3 Pre-existing Structure — Municipal Roadway

Any structure which projects into, onto or over a Municipal Roadway or obstructs or is located upon a Municipal Roadway prior to the date of the passing of this By-Law shall not contravene this Section 4. For the purpose of this Section 4.3, "structure" shall include a building, shed, soffits and eaves troughs or any portion thereof.

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**5. PERMITTED ACTIVITIES**

**5.1 Maintenance — Municipal Roadway**

It shall be lawful for an owner or occupant to plant and maintain a grassed area upon the portion of the Municipal Roadway which abuts his premises that is not part of the Road Works. It shall be lawful for an owner to maintain sidewalk for snow removal upon the portion of the Municipal Roadway which abuts his/her premises.

**5.2 Private Entrances — Municipal Roadway**

It shall be lawful for an owner or occupant to construct and maintain at his own risk and expense a Private Entrance to his premises which conforms to the requirements of any permit issued by The Corporation of the Municipality of Southwest Middlesex.

**5.3 Work — Municipal Roadway**

It shall be lawful for work to be done under, upon or over a Municipal Roadway pursuant to a permit issued by The Corporation of the Municipality of Southwest Middlesex in accordance with Schedule "A" of this By-Law and upon remittance of the requisite fees, costs and expenses to The Corporation of the Municipality of Southwest Middlesex.

**5.4 Work - Utility — Municipal Roadway**

It shall be lawful for a Utility to undertake and complete work upon, under or over a Municipal Roadway pursuant to a permit issued by The Corporation of the Municipality of Southwest Middlesex. The Utility company must complete the required permit and submit drawings outlining the proposed work. There will be no charge to the Utility company for accessing the public right away of the road.

**5.5 Sale of Goods - Refreshment Vehicle**

It shall be lawful for Refreshments to be sold from a Refreshment Vehicle upon a Municipal Roadway (subject to the requirements of other laws) at a location approved by The Corporation of the Municipality of Southwest Middlesex upon: (i) the issuance of any permit required by The Corporation of the Municipality of Southwest Middlesex; and (ii) the issuance of any license required by The Corporation of the Municipality of Southwest Middlesex.

**5.6 Sale of Goods — Municipal Roadway**

It shall be lawful for goods to be sold and Retail Sales to occur upon a Municipal Roadway (subject to the requirements of other laws) from a cart, vending box or stand approved as to location by The Corporation of the Municipality of Southwest Middlesex upon: (i) the issuance of any permit required by The Corporation of the Municipality of Southwest Middlesex; (ii) the payment in advance of such fees as may be prescribed by The Corporation of the Municipality of Southwest Middlesex from time to time; (iii) the delivery of proof of insurance in a form and amount that is satisfactory to the Municipal Treasurer; and (iv) an agreement in writing to indemnify and save harmless The Corporation of the Municipality of Southwest Middlesex from all claims and judgments arising from such activity.

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**5.7**    Exception - Municipal Employees - Agents - Contractors

The provisions of this By-Law shall not apply to works undertaken by employees of The Corporation of the Municipality of Southwest Middlesex, or by any agents or contractors employed by The Corporation of the Municipality of Southwest Middlesex, acting under the direction of the Public Works Manager.

**5.8**    Liability - Requirements - Municipality Indemnified

All authority conferred under this By-Law is subject to the condition that each person who exercises a right to use a Municipal Roadway in the manner provided is liable to any person who consequently suffers injury or loss. Any person who exercises a right to use a Municipal Roadway shall also indemnify The Corporation of the Municipality of Southwest Middlesex from all such claims and actions.

**5.9**    Restoration — Municipal Roadway

It shall be a condition of any activities undertaken by any person, firm, corporation, partnership, Utility or any other entity upon any Municipal Roadway or upon lands abutting any Municipal Roadway that such person, firm, corporation, partnership, Utility or any other entity shall restore the Municipal Roadway to the same condition that the Municipal Roadway was in prior to the time that the person, firm, corporation, partnership, Utility or any other entity entered upon the said Municipal Roadway or the lands abutting the Municipal Roadway and undertook such activities.

**6.**    **TEMPORARY CLOSING - REPAIRS**

**6.1**    Public Works Manager - Authority

The Public Works Manager, in his or her sole discretion, may close any Municipal Roadway to public travel for the purposes of repairing or improving it, installing Road Works, utilities, Utility infrastructure, to facilitate cultural, social, recreational, community and athletic events and, if necessary, to maintain public safety.

**6.2**    Use - Closed Municipal Roadway - At Own Risk

Every person, firm, corporation, partnership, Utility or any other entity who uses a Municipal Roadway or a portion of a Municipal Roadway, so closed to traffic does so at his own risk.

**6.3**    Use - Closed Municipal Roadway - Offence

Every person, firm, corporation, partnership, Utility or any other entity who uses a Municipal Roadway, or a portion of a Municipal Roadway which has been closed to traffic or who removes or defaces any barricade, device, detour sign or notice, is guilty of an offence and is also liable for any damage or injury occasioned by such wrongful use, removal or defacement.



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**7. ENTRANCE POLICIES**

**7.1 Guidelines**

The Public Works Department will consider the following guidelines when reviewing all applications for new or alterations to entrances.

- a. Protection of the public through the orderly control of traffic movements onto and from the Municipal Road System.
- b. Maintenance of the traffic carrying capacity of the Municipal Road Network.
- c. Protection of the public investment in Municipal Road Facilities.
- d. Minimizing Municipal expenditures on maintenance and installation of Private Entrances.
- e. Provide legal access onto Municipal Roads from adjacent private property.
- f. Ensure uniform practices in the design and construction of accesses.

**7.2 Entrance Policies Statements**

The Public Works Department will consider the following directional statements in determining the responsibility in replacing or altering private accesses.

- a. Is the Private entrance, culvert working properly.
- b. Does the requester want an improvement to the entrance.
- c. Does the requester want an extension of the Private Entrance.

**7.3 Entrance Work Responsibilities**

The Public Works Department will consider and use the following guidelines when reviewing entrance requests and who will be financially responsible for the proposed work.

**7.3.1. Private Entrance Culvert and Drainage Working Properly Upon Receiving Request.**

The work to be completed by the requester at their cost.

- a) Permit must be purchased.
- b) Fees based on Fee and Services By-Law.
- c) Inspection and meeting with landowner by Team Leader prior to any work being completed.
- d) Final inspection by Team Leader once project has been completed.

Note that a deposit may be required at the discretion of the Public Works Manager based on the type of work required.

**7.3.2. Private Entrance Culvert Not Working and Road Drainage Being Compromised.**

If the culvert has been damaged by the resident revert to Entrance Work Responsibilities #1.

- a) The work listed in #2 to be completed and constructed by the Municipality of Southwest Middlesex.

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**8 ENFORCEMENT**

**8.1 Fine - For Contravention**

Any person who contravenes any provision of this By-Law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the Provincial Offences Act and Part XIV of the Municipal Act.

**8.2 Continuation - Repetition - Prohibited - By Order**

The Court in which the conviction has been entered, and any Court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.

**8.3 Performance of Covenants**

If any person, firm, corporation, partnership, Utility or any other entity, by any act or omission, contravenes any section, clause or provision of this By-Law, without in any way limiting the obligations of such person, firm, corporation, partnership, Utility or any other entity, The Corporation of the Municipality of Southwest Middlesex shall have the right, but not the obligation, to take such actions as may be necessary to remedy the contravention of the section, clause or provision of this By-Law. In the event that The Corporation of the Municipality of Southwest Middlesex takes such actions as are necessary to remedy any contravention of any section, clause or provision of this By-Law, The Corporation of the Municipality of Southwest Middlesex shall have the right to collect any costs, disbursements or other expenses incurred in like manner as the collection of municipal taxes.

**8.4 Notice**

In the event that The Corporation of the Municipality of Southwest Middlesex exercises its rights to remedy any contravention of this By-Law, before taking such action, The Corporation of the Municipality of Southwest Middlesex shall make reasonable efforts to deliver notice to the person, firm, corporation, partnership, Utility or any other entity which has contravened this By-Law. Notice under this Section shall be effectively given when:

- (a) personally delivered to the intended recipient;
- (b) mailed pre-paid registered mail to the intended recipient at his last known address shown on the records of The Corporation of the Municipality of Southwest Middlesex;  
or
- (c) by posting a notice on any Vehicle (licensed or unlicensed) owned by the intended recipient.

Notice personally delivered to the intended recipient shall be deemed received on the date of delivery. Notice given by pre-paid registered mail shall be deemed received on the second business day following the mailing thereof. Notice posted on any Vehicle owned by the intended recipient shall be deemed received the day following delivery thereof.

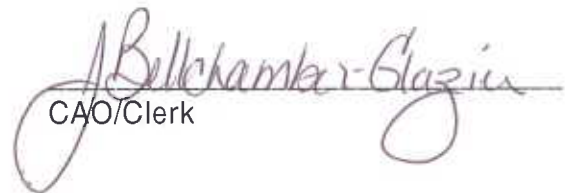
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PASSED IN COUNCIL this 26<sup>th</sup> day of June, 2019.



Handwritten signature in dark ink, appearing to read "D. Mayhew".

Mayor



Handwritten signature in dark ink, appearing to read "J. Bellchamber-Glazier".

CAO/Clerk

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**SCHEDULE "A"**



**THE MUNICIPALITY OF SOUTHWEST MIDDLESEX  
 WORK PERMIT**

(AUTHORIZING WORK AND/OR SERVICE ON MUNICIPAL ROAD ALLOWANCES)

PERMIT NUMBER \_\_\_\_\_

NAME OF APPLICANT			
FULL ADDRESS			
POSTAL CODE		TEL NO.	

LOCATION OF WORK			
911# (if available)		ROAD NAME	
Exact Location Along Road Or Limits Of Work			

REASON FOR PERMIT (State Type of Work Service Below):						
Select Side Of Road Affected						
North		South		East		West
Distance From Road Centreline		Depth Below Road/Grade				
NOTE: A plan/sketch showing the location and extent of the work and/or service MUST accompany this application						

DATE OF WORK		
	Proposed Start Date	Estimated Completion Date
NOTE: CLOSURE OF ANY DRIVING LANE OR CUTTING OF ANY PAVEMENT IS NOT PERMITTED UNLESS SPECIFICALLY AUTHORIZED IN THE CONDITIONS		

PERMIT FEE		DEPOSIT AMOUNT <small>(Amount to be set by the Municipality)</small>	
Deposit amounts less than \$1,000.00 shall be cash or cheque. Amounts greater than \$1,000.00 may be cheque or an approved Letter of Credit			