

THE CORPORATION OF THE TOWNSHIP OF PUSLINCH

BY-LAW 2023-058

A by-law to regulate Road Activity.

WHEREAS Section 8(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, (“the Act”) provides the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to ensure them to govern their affairs as they consider appropriate, and to enhance their 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 the Act;

AND WHEREAS Section 11(3) 1 of the Act, provides that a municipality may pass by-laws within the following sphere of jurisdiction: Highways, including parking and traffic on Highways;

AND WHEREAS Section 23.2 (1)(c) and 23.2(5)1 of the Act authorizes a municipality to delegate its powers and duties to an individual who is an officer, employee or agent of the municipality to close a Highway temporarily;

AND WHEREAS Section 127 of the Act provides that a municipality may require the owner or occupant of land to clean and clear the land, clear refuse or debris from the land, prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land and to define “refuse”;

AND WHEREAS Section 128 of the Act provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

AND WHEREAS Section 444 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 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;

WHEREAS Section 425 of the Act, permits a municipality to pass by-laws providing that any person who contravenes any by-law the municipality passed under the Act, is guilty of an offence; and

WHEREAS Section 426 (4) of the Act deems that any Person that hinders or obstructs, or attempts to hinder or obstruct, any Person who is exercising or performing a duty under this By-law created under the Act is guilty of an offence;

NOW THEREFORE, the Council of the Corporation of the Township of Puslinch HEREBY ENACTS AS FOLLOWS:

PART 1 – TITLE, INTERPRETATION AND SEVERABILITY

1. This By-law may be referred to as the “**Road Activity By-law**”.
2. Wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in Part 2 of this By-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.
3. Wherever a word defined in Part 2 of this By-law is used in the form of a noun, verb, adverb, or adjective, it shall be interpreted as having a corresponding defined meaning even if it is in ordinary case.
4. All words importing the singular shall include the plural, and words imparting the masculine gender shall include the feminine, and the converse of the foregoing also applies, unless the context of the By-law requires otherwise.
5. Headings are for reference purposes and shall not affect in any way the meaning or interpretation of the provisions of this by-law.
6. This By-law applies to all Properties and Highways within the Township.
7. If a court of competent jurisdiction declares any provision or part of a provision 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 this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

PART 2 – DEFINITIONS

8. For the purpose of this By-law:

“Applicable Law” means all federal, provincial and municipal by-laws, rules, regulations, orders, approvals, permits, standards and all other governmental requirements applicable to any activity on or occupancy of a Highway;

“Applicant” means the Owner of a Property and includes a Person authorized in writing to act on behalf of the Owner of a Property to apply for a Permit;

"Application" means a written submission to request or amend a Haul Route Permit, in a form prescribed by the Township;

"Boulevard" means that portion of every road allowance which is not used as a Sidewalk, driveway, traveled roadway or shoulder including any area where grass is growing or is seeded, or where an earth surface exists;

"By-law" means this by-law;

"Condition(s)" means the mandatory performance requirements outlined in a Permit or Order and may include the requirement for monetary deposits or Security(s) in connection with the Application;

"Director of Public Works" means the Director of the Township of Puslinch Public Works Department, or authorized representative;

"Fill" means any type of material that can be removed from (cut) or placed on (in-fill) land and may include, but is not limited to Soil, Excess Soil., Liquid Soil, Rock, Sod, Compost, Aggregate and Topsoil.

"Haul Route" means a route designated or approved by the Township for the purposes of ingress or egress to a Site Alteration as a condition of the Permit;

"Haul Route Permit" means a permit issued by the Township pursuant to the provisions of this By-law.

"Highway" " means a common and public highway and includes a street, bridge or other structure forming part of a highway over or across which a highway passes and includes the whole of a road allowance under the jurisdiction of the Township;

"Occupant" means the lessee, tenant, mortgagee in possession or any other Person who appears to have care and control of the Property;

"Officer" means a Person designated by the Township to enforce this By-law;

"Owner" means the registered Owner(s) of the Property;

"Performance Security" means a financial guarantee or assurance provided by an Applicant and/or Permit Holder to the Township.

"Person" includes individuals, firms, sole proprietorships, partnerships, associations, trusts, corporations, directors and officers of corporations, trustees, and agents, and the heirs, executors, assigns or other legal representatives of a person to whom the context can apply in law;

"Property" means lands including all buildings and structures on the land;

“Roadway” means that part of the Highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder or where a Highway includes two or more separate roadways, the term “Roadway” refers to any one roadway separately and not to all of the roadway collectively;

“Refuse” means waste, garbage, litter, rubbish, debris, material, refuse, and any other discarded or abandoned commodities of any kind whatsoever;

“Sidewalk” means that part of a Highway set aside by the Township for the use of pedestrians;

“Site Alteration” means any alteration to the existing grade of land through the removal(cut), placement (filling) or movement (relocation) of Fill;

“Snow Plow Driveway Marker” means a temporary, non-illuminated indicator or guide inserted with a vertical orientation into the ground on private Property or Township right of way that serves to mark the edge of a driveway for a licenced snow plow contractor;

“Township” means the Corporation of the Township of Puslinch or lands within the geographic limits of the Corporation of the Township of Puslinch, as the context requires;

“Vehicle” means a motor vehicle, trailer, traction engine, farm tractor, road building equipment, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or street car.

PART 3 – PROHIBITIONS

9. Any Person that is subject to this By-law is guilty of an offence, if that person

- a. Permits oils, chemicals or substances to be deposited or spilled on a Highway including such substances deposited as a result of car maintenance activities, car rust prevention measures and the spillage of rust protecting substances and the general spillage of substances from vehicles;
- b. Throws, pushes, plows, dumps or otherwise deposits snow or ice on a Highway;
- c. Deposits, drops, scatters, stores, spills or throws any Refuse, filth, earth, ashes, manure, leaves, or garbage except as permitted in any Township by-law and except as allowed in the most current County of Wellington Waste By-law, or any amendment or re-enactment thereof, paper, hand bill, advertisement, or any vegetable matter, stone, lime, sand, tin, wood, the carcass of any dead animal, fish or fowl, in or upon a Highway;
- d. Encumbers or damages a Highway by animals, Vehicles or other means;

- e. Permits or allows any Refuse, paper, hand bill, advertisement or any container, whether made of plastic, cardboard or paper, to be blown from private Property onto a Highway;
- f. Obstructs a drain, gutter or water course along or upon a Highway;
- g. Walks upon, rides, drives, or loads an animal, or moves, drives, runs or propels a vehicle upon, over or across a newly constructed Sidewalk or pavement before it has been opened for use by the public;
- h. Throws, piles, stores or causes any Refuse, material to be thrown or piled upon a Highway, except for the purpose of having it immediately delivered upon adjacent premises, nor shall any Person saw or split any cordwood or firewood upon a Highway or being the Owner of cordwood, firewood or topsoil shall be deposited on any Highway, or permit it to remain thereon for a longer time than is necessary for its immediate removal to the premises adjacent thereto;
- i. Places or exposes, or causes any merchandise or articles of any kind, to be placed or exposed upon a Highway or outside of a building so that the same shall project over any part of the Highway;
- j. Moves, or cause to be moved, a Vehicle equipped with cleats, flanges, or tracks on its wheels, or rollers, or any of them, on or along the traveled portion of the Highway, except by means of a float, trailer, or other similar device, providing that a Vehicle is so equipped including a Vehicle for the digging and backfilling of trenched, may be moved directly across the traveled portion of the Highway, if a preventative mat has first been laid on the surface of the portion of the Highway to be crossed, provided however that this paragraph shall not be applied when a Vehicle is operating with the written permission of the Director of Public Works;
- k. Removes a barricade or notice or enters upon or uses a Highway temporarily closed under the provisions of this or any Township by-law;
- l. Removes or moves a barricade, sign or light placed around any construction on a Highway;
- m. Allows any part of a tree, shrub, sapling, hedge or any other plant to extend over or upon any Highway, so as to interfere, with, impede or endanger Persons using the Highway.
- n. Breaks, digs up, destroys or damages the sod or grass of a boulevard, or a fence, or railing erected and maintained for the protection of the boulevard;

- o. Erects a fence, constructs a wall or plants a hedge, in, over, or upon a Highway.
- p. Pulls down, destroys, or in any way interferes with, any municipal structure, including but not limited to, any post, surveyor's mark, bench mark, traffic sign, Highway name sign, sign board, regulatory sign, traffic signal, traffic cone, or any other traffic control device, affixed, or placed upon a Highway;
- q. Permits any flood light to directly or indirectly illuminate a Highway without the written approval of the Director of Public Works;
- r. Hauls earth, sand, stone, or other substances on a Highway, loads their Vehicle or drives the same as to permit or cause the contents thereof to fall, spill or be deposited on a Highway;
- s. Brings a Vehicle or permits it to be brought upon a Highway with mud, clay, lime and similar material, or any fertilizer or manure attached to the wheels, which is likely if not removed, to cause an obstruction or dangerous condition or nuisance on a Highway or cause damage to the surface of the Highway;
- t. While hauling earth, sand, stone, or other substance, loads or drives their Vehicle so as to permit damage to a Highway;
- u. Fails to obtain a Haul Route Permit;
- v. While undertaking Highway activity associated with a Haul Route Permit, performs work outside of hours of 8:30am to 5:00pm Monday-Friday, or performs work on a weekend or statutory holiday;
- w. Fails to maintain an approved Haul Route in a good state of repair in accordance with the Haul Route Permit.

PART 4 – HAUL ROUTE

Permit Required

- 10. No Person shall undertake, or permit to be undertaken, the movement of Fill in connection with any activity regulated by the most current Site Alteration By-law using any Township Highway, without a Haul Route Permit.
- 11. All Highway activity associated with the approved Haul Route Permit shall comply with the Highway Traffic Act, and its regulations.

Application — Minimum Requirements

12. Every Application shall be completed and submitted on forms prescribed by the Township;
13. Every Application shall include:
 - a. A map showing the proposed Haul Route indicating any barricades or signs; and
 - b. A copy of the most current Site Alteration Application; and
 - c. The date(s) and time(s) that the Haul Route will be utilized; and
 - d. The prescribed fee as listed in the Township User Fees and Charges By-law, described in Section 14;
 - e. A Security Deposit described in Section 15;
 - f. Proof of Insurance described in Section 16;
 - g. Any other information or documentation that the Township deems necessary;

Fees

14. The Applicant shall:
 - a. Pay a Permit Application Fee in accordance with Schedule "B" to this By-law; and
 - b. Where road activities occur in the absence of Township approval, violation fees shall be charged amounting in double all application fees.

Security Deposit

15. The Applicant shall provide the Township with securities in the amount to be determined by the Director of Public Works, in the form of cash or an irrevocable Letter of Credit on terms satisfactory to the Township ('Performance Security'). If the Performance Security is less than the amount determined by the Director of Public Works, at any point in time during the Haul Route Permit period, the Permit Holder shall be required to replenish forthwith.

Proof of Insurance and Indemnification

16. The Applicant shall maintain liability insurance in the minimum amount of \$5,000,000, naming the Township as an additional insured. Such policy shall include a cross-liability provision and 30 days' written notice to the Township prior to cancellation.
17. The Applicant shall indemnify the Township against any claims/action arising out the Highway activity (collisions, vehicle damage or accidents as a result of uncleared debris, lack of maintenance/repair, etc.)

Conditions of Haul Route Permit

18. In addition to any other Conditions that the Director of Public Works may deem appropriate, all Highway activity associated with the Haul Rout Permit shall be subject to the following conditions:

- a. The Permit Holder shall comply with all Applicable Laws.
- b. Highway activity associated with a Haul Route Permit shall only occur during the hours of 8:30am to 5:00pm Monday-Friday excluding weekends and statutory holidays.
- c. The approved Haul Route shall at all times be maintained by the Permit Holder in a dust/silt/mud/rock free condition, to the satisfaction of the Director of Public Works.
- d. The Permit Holder shall ensure that a street-sweeper or equivalent is utilized on a daily basis to clean the Haul Route of any tracked debris and shall regularly monitor for any larger foreign objects.
- e. The Permit Holder shall be required to maintain the Haul Route in a good state of repair, free from ruts/potholes, etc., to the satisfaction of the Director of Public Works,
- f. The Permit Holder shall be responsible for the cost associated to undertake such repairs/maintenance as the Director of Public Works may direct, within such time frame as the Township may specify, acting reasonably.
- g. The Applicant shall provide the Township with a 24/7 accessible phone number where Township staff can directly reach the Applicant to address any Highway activity concerns.

PART 5 – EXEMPTIONS

- 19. The Director of Public Works 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.
- 20. Site Alteration activities exempt from permits and/or legal agreements in accordance with the Site Alteration By-law, may be exempt from the requirement for a Haul Route Permit at the discretion of the Director of Public Works.
- 21. Notwithstanding subsection 20, Site Alteration activities that do not exceed 20 cubic metres of fill importation (2 truckloads) and are exempt from permits in accordance with the Site Alteration By-law, are exempt from requiring a Haul Route Permit.
- 22. The provisions of subsection 19 shall not apply to an employee or an agent of the Township who is engaged in moving snow or ice. An exemption is not required

by a Person undertaking any works on behalf of the Township or for closures ordered by the Director of Public Works.

23. The provisions of subsection 19 shall not apply to any Person putting sand or salt on the icy portions of a Highway to reduce the danger of pedestrians falling or to enable a Vehicle to use a Roadway.
24. The provisions of subsection 19 shall not apply to the placement of a snow plow driveway marker.

PART 6 – ADMINISTRATION AND AUTHORITY

25. The cleaning and repair of all Highways shall be performed under the direction of the Director of Public Works.
26. The Director of Public Works may temporarily close to traffic any Highway by reason of any work or improvement being carried out thereon or by reason of the condition thereof and the Director of Public Works may cause to be erected or kept thereon, any barricade or notice warning the public that the Highway is closed to traffic and no Person shall enter upon or use a Highway so temporarily closed.
27. The Director of Public Works shall be responsible for the administration of PART 4 – Haul Route.
28. The Director of Public Works is authorized and has delegated authority to receive, consider and approve any Application for a Haul Route, including any Conditions, and exempt/waive, issue, extend, renew, amend, a Haul Route Permit.
29. The Director of Public Works is authorized and has delegated authority to revoke a Haul Route Permit at any time without prior notice to the Permit Holder if:
 - a. It was issued in error or as a result of false, mistaken, incorrect or misleading information in the Application;
 - b. There are reasonable grounds to believe that the continuation of the Highway activity poses an unacceptable risk to the health and safety of any Person or damage to property; or
 - c. The Permit Holder is not in compliance with any Haul Route Permit Condition.

PART 7 – RECOVERY OF COSTS

30. Where an Order is not complied with, the Director of Public Works will do the work or arrange for the work to be done

31. The Township may recover all costs associated with doing the work, including administrative fees, by action or it may collect them in a like manner as municipal taxes.
32. Failure to pay any invoice associated with Haul Route repair or housekeeping maintenance within 30 days, the costs may be drawn from Securities held by the Township and/or collected in a like manner as municipal taxes.
33. The Township has priority lien status in accordance with section 1(3) of the Act on the Property for the amount spent to do the work (and administrative fees).

PART 8 - ORDERS

34. If an Officer determines that a Property or Person or Permit Holder is not in compliance with any of the standards or requirements of this By-law, the Officer may issue an order requiring a Person or Permit Holder to comply with standards or requirements of this By-law and to discontinue an activity or action prohibited by this By-law.
35. Every Person who fails to comply with an order made under Section 32 is guilty of an offence.

PART 9 – SERVICE OF DOCUMENTS

36. Service of any document, including an order, under this By-law shall be given in writing by registered mail and will be deemed served on the 5th day after a copy is mailed to the Permit Holder or Person's last known address.
37. In addition, service of any document may be given in any of the following ways and is effective:
 - a. When a copy is delivered to the Permit Holder or Person to whom it is addressed;
 - b. By email to the last known email address of the Permit Holder or Person to whom service is required to be made.
38. Where service is unable to be done under subsections 35 (a) or (b), notice may be given by placing a placard containing the terms of the document or order in a conspicuous place on the Property to which the document or order relates and shall be deemed to be sufficient service on the Permit Holder or Person..

PART 10 - Enforcement and Penalty Provisions

39. The enforcement of this By-law shall be conducted by an Officer.
40. (1) Every Person who contravenes any provision of this By-law and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act, R.S.O. 1990, c.P.33, as it may be amended from time to time.
- (2) In addition to subsection 38(1), any Person who is charged with an offence under this by-law in accordance with Part III of the Provincial Offences Act and is found guilty of the offence, is liable, in addition to any other penalties:
- a. On a first offence, to a fine not less than \$500.00 and not more than \$50,000.00; and
 - b. On a second offence and each subsequent offence, to a fine not less than \$1000.00 and not more than \$100,000.00.
41. No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.
44. Every Person who is alleged to have contravened any of the provisions of this By-law shall identify themselves to an Officer upon request, failure to do so shall be deemed to have hindered or obstructed an Officer in the execution of his or her duties.
43. Upon conviction, any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.
44. If a Person is convicted of an offence under this By-law, the court in which the conviction has been entered and any court of competent jurisdiction may, in addition to any other remedy and to any penalty imposed, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

PART 11 - SCHEDULES

45. Schedule "A" (Short Form Wording and Set Fines) attached hereto do not form part of this By-law.

PART 12 – EFFECTIVE DATE

46. This by-law shall come into effect on ENTER DATE.

READ a FIRST time this 20 day of DECEMBER, 2023

READ a SECOND time this 10 day of JANUARY, 2023

READ a THIRD time and FINALLY PASSED this 7 day of FEBRUARY, 2024.

James Seeley, Mayor

Courtenay Hoytfox, Clerk

**SCHEDULE "A" TO BY-LAW
2023-058 TOWNSHIP OF
PUSLINCH**

**PART 1 PROVINCIAL OFFENCES ACT – BY-LAW 2023-058: ROAD ACTIVITY
BY-LAW Being a by-law to regulate Road Activity**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provisions Creating or Defining Offence	COLUMN 3 Set Fine
PROHIBITIONS			
1	Permits oils, chemicals or substances to be deposited or spilled on a Highway	9.a.	\$300.00
2	Deposits snow or ice on a Highway	9.b.	\$300.00
3	Deposits Refuse on a Highway	9.c.	\$300.00
4	Encumbers or damages a Highway	9.d.	\$500.00
5	Permits or allows refuse to be blown from private property onto a Highway	9.e.	\$300.00
6	Obstructs a drain, gutter or water course along or upon a Highway	9.f.	\$300.00
7	Walks upon, rides, drives, loads, runs or propels any animal or vehicle on a newly constructed Sidewalk or pavement before it is open for use by the public.	9.g.	\$200.00
8	Cause any Refuse material to be thrown or piled on a Highway, saw or split firewood upon a Highway, or permit it to remain longer than necessary.	9.h.	\$300.00
9	Place any merchandise or article upon a Highway or outside a building so that the same projects over any part of the Highway	9.i.	\$300.00
10	Move a Vehicle with cleats, flanges, tracks or rollers along the traveled portion of the Highway	9.j.	\$500.00
11	Remove a barricade or notice, or enter upon a Highway that is temporarily closed	9.k.	\$500.00
12	Remove a barricade, sign or light placed around any excavation on a Highway	9.l.	\$500.00
13	Allow a trees, shrub, sapling, hedge or any other plant to extend	9.m.	\$300.00

	over or upon a Highway		
14	Breaks, digs up, destroy or damage the sod or grass of a boulevard, fence or railing erected to protect the boulevard	9.n.	\$300.00
15	Erect a fence or wall or plant a hedge upon a Highway	9.o.	\$300.00
16	Interfere with any municipal structure affixed or placed upon a Highway	9.p.	\$500.00
17	Permit any flood light to illuminate the Highway	9.q.	\$200.00
18	Haul earth, sand, stone, or other substance upon a Highway, load a vehicle or drive a vehicle as to permit the contents to fall or spill on the Highway	9.r.	\$500.00
19	Bring a Vehicle upon a Highway with mud, clay, lime, fertilizer, manure attached to the wheels on a Highway	9.s.	\$500.00
20	While hauling earth, sand, stone or other substance, loads or drives so as to damage a Highway	9.t.	\$500.00
21	Owner fails to obtain a Haul Route Permit	9.u.	\$700.00
22	Applicant/Permit Holder fails to maintain a Haul Route in a good state of repair	9.v.	\$700.00
23	Applicant/Permit Holder performs activity associated with a Haul Route Permit outside of the hours of 8:30am-5:00pm, Monday-Friday, or on a statutory holiday	9.w.	\$700.00
ORDERS			
24	Failure to comply with an order issued under Section 32	33.	\$700.00
ENFORCEMENT AND PENALTY PROVISIONS			
25	Hinder or obstruct, or attempt to hinder or obstruct an Officer	93.	\$900.00

NOTE:

The general penalty provision for the offences indicated above is Section 38 of By-law 2023-058, a certified copy of which has been filed.