Date       June 11, 2019
Report No. 2019-197

To        Chair and Members
           Committee of the Whole – Operations and Administration

From      E. (Beth) Goodger, General Manager
           Public Works Commission

1.0 Type of Report

   Consent Item [ ]
   Item For Consideration [X]

2.0 Topic       Temporary Road Occupancy for Construction Policy
Update (Public Works-016) [Financial Impact – None]

3.0 Recommendation

   A. THAT Report 2019-197 titled “Temporary Road Occupancy for Construction
      Policy Update”, BE RECEIVED for information; and
   B. THAT Council APPROVE the updated Temporary Road/Sidewalk
      Occupancy for Construction Policy (Public Works-016) as outlined in
      Appendix “A” and the associated By-law provided in Appendix “B” of Report
      2019-197 BE PRESENTED to Council for Adoption; and
   C. THAT the By-law provided in Appendix “C” which outlines the changes to
      Schedule “1” (Engineering Services – General) of the Fees and Charges By-
      law 52-2019, BE PRESENTED to Council for Adoption.

4.0 Purpose and Overview

To provide Council with an updated policy and fees for review and approval of
the temporary occupancy of the road, boulevard or sidewalk. This report covers:
• an updated Temporary Road/Sidewalk Occupancy for Construction Policy (Public Works-016)

• updated fees and charges for temporary road occupancies

Upon approval, the Policy and fees and charges will take effect immediately following the public awareness campaign in July 2019.

5.0 Background

The Temporary Road Closure Policy for Construction and Emergency Purposes (Public Works-016) was originally approved by Council in April, 2015 (Report PW2015-035). The intent of the Policy was to establish a process, outlining the responsibilities of all parties occupying the municipal right-of-way, so that the work conducted was being performed in a safe and consistent manner.

On January 17, 2017, Council received and approved the Estimates Committee Report #2017-01-11, authorizing staff to charge a fee of $600 for a road occupancy permit for non-social events, not considered by the Special Events Advisory Team (SEAT). The intent of this fee was to recover costs associated with processing Road Occupancy Permits for constructions purposes.

In March 2017, previous applicants were emailed directly, informing them of the upcoming permit fee, proposed to start April 17, 2017. The application and website were also updated to reflect this new fee. Feedback from several contractors was received, expressing concern of the flat rate regardless of the nature of the occupancy as well as the cost. The subsequent awareness campaign and implementation of the fees was postponed until a review could be completed. The review has been completed and updates to the policy and fees and charges are recommended.

6.0 Corporate Policy Context

The following long term desired outcome from the Strategic Plan is addressed with the recommendation:

• Brantford will be supported by well-developed and maintained transportation and servicing infrastructure.

7.0 Input from Other Sources

In preparing this report, staff consulted with:
- Operational Services, Parking Operations and ROW Enforcement
- Engineering Services
- Legal & Real Estate Department
- Building Department
- Clerk’s Department

7.1 Comparison with Other Municipalities

Engineering Services staff researched existing fee structures for road occupancy purposes in neighbouring municipalities. The two (2) criteria that were considered when selecting the municipalities were as follows:

- The municipality has City status with a population that is either equal to or greater than the population of Brantford;

- The municipality is within a reasonable driving distance of Brantford.

Each of the noted municipalities has variations with respect to the permit name and fee structure as noted in Table 1.

Table 1 – Fee Comparison with Other Municipalities

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Permit Name</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brantford</td>
<td>Road/Sidewalk Occupancy Permit</td>
<td>None</td>
</tr>
<tr>
<td>Burlington</td>
<td>Road Occupancy Permit</td>
<td>$93.39/permit</td>
</tr>
<tr>
<td>Cambridge</td>
<td>Highway Occupancy Permit</td>
<td>$96.05/permit</td>
</tr>
<tr>
<td>Guelph</td>
<td>Street Occupancy Permit</td>
<td>$75/permit + $25 Admin</td>
</tr>
<tr>
<td>Hamilton</td>
<td>Road Occupancy Permit</td>
<td>$50/14 days Unrestricted; $50/lane/day Restricted; $104.05/14 days for sidewalk closure; $1,390.50/permit for full road closure</td>
</tr>
<tr>
<td>London</td>
<td>Approved Work Permit</td>
<td>$100/day; $275 if work exceeds 3 days</td>
</tr>
</tbody>
</table>
8.0 Analysis

An updated policy has been developed that builds upon the current procedures used by the Public Works Commission for the past five (5) years in reviewing and approving requests from various applicants. The revised Public Works Policy-15 is attached as Appendix “A” to the report. The associated By-law to implement the Policy is attached as Appendix “B”.

8.1 Permit Fee

Since inception, applying for a Road Occupancy Permit has been at no cost to the applicant regardless of the complexity; however, the applicant would be invoiced for Operational staff time to install and remove signage and barricades if required. In 2018, 756 hours in staff time (equivalent to 50% of a full time employee’s time) has been used in Engineering Services at a cost of approximately $34,045 in salary, benefits and expenses processing applications for occupancies for all purposes including SEAT events. Approximately 70% of this time/cost was associated with road occupancy for construction purposes last year.

Taking into account the public feedback received, staff experience, as well as the permit fee from other municipalities, staff is proposing the fee structure outlined in Table 2 in order to recover the City’s cost for processing these permits and to reduce the burden on taxpayers:
### Table 2 – Proposed Permit Fees

<table>
<thead>
<tr>
<th>Occupancy Type</th>
<th>30 Days or Less</th>
<th>More Than 30 Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partial Occupancy, No Detour required</td>
<td>$85</td>
<td>$170</td>
</tr>
<tr>
<td>Full Occupancy (closure) with Posted Detour</td>
<td>$275</td>
<td>$550</td>
</tr>
<tr>
<td>Permit Amendment or Extension</td>
<td></td>
<td>$46</td>
</tr>
<tr>
<td>Expedited Permit</td>
<td></td>
<td>$21-$138</td>
</tr>
<tr>
<td>Restoration Fee Due to Damage</td>
<td></td>
<td>(Labour and equipment rates plus 40% benefits plus materials) x overhead charge of 35%</td>
</tr>
<tr>
<td>Work Completed by City for Compliance</td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>Plus percentage for admin fee</td>
<td></td>
<td>25%</td>
</tr>
</tbody>
</table>

The proposed fees are an effort to deter full road closures as well as long duration occupancies. Implementation of the fees require an amendment to Schedule “1” (Engineering Services – General) of the Fees and Charges By-law 52-2019 as outlined in Appendix “C”.

Following Council approval of the by-law amendment, a public awareness campaign will be rolled out in July. It is expected that the permit fees for Road Occupancies for Construction will begin on August 1, 2019.

#### 8.2 Permit Exemptions

Based on past applications and discussions with various internal departments, the following exemptions are identified in the updated policy.

- **A.** Occupancies expected to take less than 30 minutes. As per the Ontario Traffic Manual, Book 7 Temporary Conditions, work expected to take less than 30 minutes is considered very short duration.

- **B.** Partial occupancies performed by or on behalf of the City of Brantford. Notification requirements would still be required in these situations. Full road closures would require a permit however would be exempt from permit fees

- **C.** Emergency Services
D. Emergency Situations/Events

8.3 Enforcement

Historically, Public Works has received numerous concerns regarding occupancies including work being completed within the City’s road right-of-way (ROW) with an expired permit or without a permit all together. This creates liability and asset risks for the City and safety risks to the public.

Parking Operations and ROW Enforcement will be responsible for enforcing the policy on a complaint basis, subject to availability of resources. There are currently no dedicated resources for enforcement on the ROW and future needs will be assessed as the Policy implementation evolves. The initial focus is education, however, introduction of enforcement fees will provide consequences for not following the permit approval process. Proposed enforcement fees are provided in Table 3 and would apply if a construction work is in contravention of an approved permit or starts prior to a permit being issued. These enforcement fees are included in the recommended Fees and Charges by-law update in Appendix “C”.

Table 3 – Proposed Enforcement Fees

<table>
<thead>
<tr>
<th>Occupancy Enforcement Fee Description</th>
<th>Fine Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-compliance of Approved Permit</td>
<td>$50/day</td>
</tr>
<tr>
<td>Construction Started Prior to Permit Issuance</td>
<td></td>
</tr>
<tr>
<td>Stop Work Order</td>
<td>None</td>
</tr>
<tr>
<td>Prosecution</td>
<td>$1,500</td>
</tr>
</tbody>
</table>

Non-compliance situations would apply to any work that proceeds in a manner that differs from the approved permit. This could include extending the occupancy locations without approval, not following the proper traffic control, or working beyond the permitted time frame.

If work is occurring without a permit, ROW Enforcement will make a Stop Work Order, informing the person, contractor or company that a Road Occupancy Permit is required. As this is the initial warning, no fee is proposed.

Should construction continue 24 hours after a Stop Work Order has been issued, ROW Enforcement would proceed with Prosecution.
The proposed enforcement model is intended as a tool to encourage compliance and a potential mechanism to recover enforcement costs. The model can be updated at a later time depending on effectiveness.

### 8.4 Additional Permits and Consents

The City of Brantford has three other types of permits that allow contractors to do work within the road allowance:

- Driveway Permit Application
- Site Alteration Permit
- Street Excavation Permit

Although not considered a permit, the City’s Municipal Consent process would also be applicable for all new utility infrastructure being proposed within the municipal right-of-way.

### 9.0 Financial Implications

With a fee implementation on August 1, 2019, it is expected that the fees will add approximately $8,500 in revenues, which has been accounted for in the Transportation Services Operating Budget in 2019.

Any potential revenue generated from the enforcement fees will be directed to Parking Operations and ROW Enforcement to recover the costs associated with the enforcement effort.

A public awareness campaign will be developed including a notice in the Civic News section of the Brantford Expositor, as well as on social media at an estimated cost of approximately $600, which is already included in the Transportation Services 2019 Operating budget.

There are no other financial requirements with the passing of any related amended policies or by-laws.

### 10.0 Conclusion

To maintain the integrity and intent of the various acts and by-laws, it is recommended that the existing Public Works-016 Temporary Road/Sidewalk Occupancy for Construction Policy be amended as attached in Appendix “A”. This will ensure that the responsibilities of all parties are agreed to and
understood including new exemptions, fees, and the required steps for potential enforcement.

R. Loukes, P. Eng.
Director, Engineering Services

E. (Beth) Goodger
General Manager, Public Works Commission

T. Ku, P. Eng., PTOE
Manager, Transportation Services

Attachments

Appendix A – Updated Policy for Road Occupancy for Construction

Appendix B – By-law to amend the Road Occupancy for Construction Policy

Appendix C – Amendment to Fees and Charges By-law #188-2017

In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required [X] yes [ ] no

Agreement(s) or other documents to be signed by Mayor and/or City Clerk [ ] yes [X] no

Is the necessary by-law or agreement being sent concurrently to Council? [X] yes [ ] no