

The Corporation of the City of Hamilton

BY-LAW NO. 96-122

To Amend:

Streets By-laws No. 86-77

Respecting:

TEMPORARY HIGHWAY CLOSURES FOR EVENTS

WHEREAS the Council of The Corporation of the City of Hamilton has enacted "The Streets By-law" No. 86-77, on the 25th day of February 1986;

AND WHEREAS the Municipal Act, R.S.O. 1990, c. 45, section 207(44) states as follows:

"207. By-laws may be passed by the councils of all municipalities:

44. **Temporary closing of highway.** -- For closing to vehicular traffic on a temporary basis for such period as shall be specified in the by-law, any highway under the jurisdiction of the council for such social, recreational, community, athletic or cinematographic purpose, or combination of such purposes, as may be specified in the by-law and for authorizing a committee of council or a municipal officer or employee, subject to such conditions as council may impose, to exercise any of the powers of council under this paragraph.

- (b) A by-law under this paragraph may prohibit the use, except for pedestrian traffic, of the highway or portion of the highway so closed during the period of closure except under the authority of a Permit issued under the by-law upon such terms and conditions, including such fee for the Permit, as may be set out in the by-law."

AND WHEREAS the Municipal Act, R.S.O. 1990, c. 45, section 207(44)(a) provides that clauses (a) and (b) below, with necessary modifications, apply where closures of highways on a temporary basis to vehicular traffic are authorized pursuant to section 207 (44) of the Municipal Act:

- (a) Where a highway or portion thereof is closed by by-law under this paragraph, the municipality shall provide and keep in repair a reasonable temporary alternative route for traffic and for all property owners who cannot obtain access to their property by reason of such closing.
- (b) While a highway or portion thereof is so closed to traffic, there shall be erected at each end of such highway or portion thereof, and where an alternative route deviates therefrom, a barricade upon which an adequate warning device shall be exposed and in good working order continuously from sunset until sunrise and at such points there shall be erected a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic.

AND WHEREAS it is desirable to amend the said Streets By-law to provide for the matters referred to in section 207(44) as hereinafter provided;

AND WHEREAS Council at its meeting held on May 14, 1996, in adopting Item 27 of the 7th Report of the Transport and Environment Committee, resolved to amend the Streets By-law as follows.

NOW THEREFORE the Council of The Corporation of the City of Hamilton enacts as follows:

1. By-law No. 86-77 is amended by adding thereto the following definitions to section 1,

- (f) "Chief of Police" means the Chief of Police for the Regional Municipality of Hamilton-Wentworth;
- (g) "Fire Chief" means Chief of the Fire Department of the City of Hamilton;
- (h) "motor vehicle" means motor vehicle as defined in the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended.

2. By-law No. 86-77 is amended by adding thereto the following provision as section 6.1:

6.1 (1) In this section,

(a) "social, recreational, community, athletic or cinematographic purposes" shall be deemed to include the following events:

- (i) bicycle races;
- (ii) bicycle rides for charity;
- (iii) film making and television productions;
- (iv) hay rides;
- (v) music festivals;
- (vi) parades and processions regulated pursuant to By-law No. 75-42
- (vii) religious ceremonies;
- (viii) running races;
- (ix) soap box derbies;
- (x) street dances;
- (xi) street festivals - jugglers, magicians, etc.,
- (xii) walk-a-thons;

(b) the phrase, closure on a temporary basis, means a closure for a period or periods of time totalling less than thirty six hours and comprising no single period of closure in excess of 12 consecutive hours to a maximum of twenty-four hours closure within any forty-eight hour period;

(2) Except where otherwise lawfully permitted, a highway shall not be closed in whole or in part to vehicular traffic on a temporary basis and used for social, recreational, community, athletic or cinematographic purposes except under the authority of a Permit issued under this section upon the terms and conditions, including such fee for the Permit, as may be set out in this by-law.

(3) **Committee.** A special committee of Council is hereby established to be known as the Highway Temporary Closures Committee. The Secretary of the Committee shall be the City Clerk or the Clerk's designate. This Committee shall be comprised of the following elected officials and decisions may be made by any three members of the Committee:

- (a) the Mayor, (or Acting Mayor);
- (b) the Chairman of the Transport and Environment Committee, (or Vice Chairman); and
- (c) the Aldermen of the Ward within which a highway is intended to be temporarily closed to vehicular traffic.

(4) (a) Applications to close a highway in whole or in part on a temporary basis to vehicular traffic for the social, recreational, community, athletic or cinematographic purposes listed below shall be under the jurisdiction of the Transport and Environment Committee for recommendation to Council:

- (i) events involving the sale and/or consumption of alcohol;
- (ii) events involving gambling;
- (iii) motor vehicle and motorcycle races;
- (iv) events with aircraft, including passenger balloons and parachutes;
- (v) events within the downtown area bounded by Bay, York, Wilson, Wellington and Main Streets;
- (vi) events taking place in more than one ward;

(b) **Delegation of Authority.** Subject to subsection (a) above, the power of Council to authorize the closing of highways in whole or in part on a temporary basis to vehicular traffic for social, recreational, community, athletic or cinematographic purposes is hereby delegated to the said Highway Temporary Closures Committee, pursuant to the Municipal Act, [R.S.O. 1990, c. M.45, s. 207(44)];

(c) Applications for closure of a highway to vehicular traffic shall not be approved pursuant to this by-law where the closure is for a period longer than "on a temporary basis" or the closure is for other than social, recreational, community, athletic or cinematographic purpose, or combination of such purposes.

(5) (a) An application for closing a highway in whole or in part on a temporary basis to vehicular traffic for an event may be,

- (i) approved, subject to the conditions herein together with such other conditions of approval which may reasonably be required as a condition of approval; or
- (ii) denied, or
- (iii) where an application is under the jurisdiction of the Highway Temporary Closures Committee, as an alternative to (i) or (ii) above, the special Committee may refer the application to the Transport and Environment Committee for consideration and recommendation to Council;

(b) No decision shall be made by the Highway Temporary Closures Committee until,

- (i) the applicant has submitted an application to the City;

- (ii) the applicant has paid an application fee at such rate as Council may require from time to time; and
- (iii) the Committee has received the appropriate staff report and recommendation on the application;

(c) All decisions of the Highway Temporary Closures Committee shall be reported to the Transport and Environment Committee for the information of that Committee;

(d) **Appeals.** A decision of the Highway Temporary Closures Committee under this section may be appealed by the applicant to the Transport and Environment Committee for its recommendation to Council, provided the applicant submits a Notice and grounds of appeal in writing to the Secretary of the Transport and Environment Committee.

(6) The closure and occupation of a highway for a greater area or for a longer period of time than may be necessary in the opinion of the Committee, having regard to the nature of the proposed purpose and the safety and convenience of the public, shall not be approved. Events upon a highway in a residential area shall be restricted to the period between 8:00 a.m. and 11:00 p.m. unless otherwise permitted as a condition of approval.

(7) All closures of highways in whole or in part on a temporary basis to vehicular traffic, approved by the Highway Temporary Closures Committee or Council, as the case may be, shall be subject to the conditions in this by-law and to additional specific conditions of approval, if any.

(8) (a) **Application.** Every application for a closure of a highway in whole or in part, to vehicular traffic on a temporary basis, shall be submitted to the City and shall include the following minimum information:

- name and street address of applicant (event sponsor) and the mailing address, (if different) ;
- charitable registration number of applicant, (if any), from Revenue Canada;
- name and contact address of applicant's agent or representative;
- proposed location(s) of the portion(s) of highway(s) to be closed on a temporary basis to vehicular traffic;
- proposed hours and date(s) of closure of highway to vehicular traffic;
- specific nature of proposed event;
- proposed hours and date(s) of event;
- where applicable, number of estimated participants and number of estimated spectators;
- the fees or charges (if any) intended to be received by the applicant from participants in the proposed event or from members of the public.

(b) The application shall be reviewed, circulated for comments to the appropriate departments and public agencies and a recommendation on each application shall be made for a decision:

(9) **Application Fees.** Every applicant shall pay such application fee at such rate as may be prescribed from time to time by Council. Council may set fees for the following classes of applicants:

- (i) applications by a commercial organization, (including non profit companies comprised of commercial organizations);

- (ii) applications by a charitable organization registered as a charity with Revenue Canada, or by a board or commission as defined in the Municipal Affairs Act;
- (iii) applications by a person not within either of the above two groups.

(10) **Agreement to cover costs and indemnify City.**

(a) Every applicant shall, prior to the issuance of a Permit, enter into a Licence Agreement with and satisfactory to the City in accordance with the conditions of approval, in respect of the temporary closing and the proposed event, regarding the standard and additional specified conditions, (if any), of approval, including, the following minimum conditions:

- (i) the area of the highway to be closed on a temporary basis, the hours and date of such closure, the purpose of the closing, ie social, recreational, community, athletic or cinematographic purpose, and the nature of the proposed event;
- (ii) payment of application fee for this privilege at such rate as may be fixed by Council from time to time;
- (iii) set up, maintenance, dismantling and clean up of applicant's equipment, including clean up of the highway;
- (iv) reimbursement of the City for any costs incurred or to be incurred by the City as a result of such occupation and the deposit with the City the estimated amount of such costs prior to issuance of the Permit;
- (v) indemnification of the City, Regional Police, The Regional Municipality of Hamilton-Wentworth, and any board, commission or utility from any action, claim, damage, or loss whatsoever which may be sustained as a result of the applicant's event, arise from closing of the highway to traffic, issuance of the Permit or from the occupation of the highway thereunder;
- (vi) where the applicant is not incorporated, the licence agreement shall be signed by not less than two persons who shall assume the obligations in the licence agreement in favour of the City.

(b) In addition, as a condition of approval, an applicant may be required to provide the following, (details of which shall be included in the said Licence Agreement):

- (i) payment of cash or letter of credit satisfactory to City, as security that conditions of approval will be fulfilled, including clean up of highway and that expenses incurred by the City shall be paid;
- (ii) agreement of a bonding company acceptable to the City and licensed to carry on business in Ontario, in such sum as may be required, to indemnify and save harmless the City, from any and all actions, claims, damages and loss whatsoever, arising from such use of the highway;

- (iii) a consent and waiver from owners of adjoining lands of all claims against the City for any damages which may result, whether directly or indirectly, from such closure and use of that part of the highway, which shall be filed with the City before the Permit is issued;
- (iv) such other conditions as may reasonably be required in the opinion of the Committee or Council, as the case may be.

(11) **Insurance.** Every applicant shall, prior to issuance of a Permit, obtain and file with the City, a Comprehensive General Liability, Property Damage, Bodily Injury insurance in the amount of \$2,000,000.00, (or such larger amount as may be required as a condition of approval), covering the activity -- with a company and in a form satisfactory to the City, in the name of the applicant and providing The Corporation of the City of Hamilton and The Regional Municipality of Hamilton-Wentworth as additional insured, subject to cross liability and severability of interest provisions.

(12) **Issuance of Permit.**

After an application is approved, a Permit shall not be issued for an event until the following matters have been completed and/or received as required from the applicant:

- (a) evidence satisfactory to the City of compliance with the conditions in this provision and the conditions of approval, if any, specified in the decision, including in particular, the filing of a Certificate of the required Insurance and entering into the indemnification agreement;
- (b) a declaration confirming that owners, tenants, or occupants of premises adjacent to City highway intended to be closed have been notified of the intended closure of the highway to vehicular traffic and of the proposed event, including their respective times and details;
- (c) evidence of approval from the Chief of Police or his designate, to the closure and that such special duty police officers as may be deemed necessary by the Chief of Police will be provided at the applicant's expense.

(13) **Terms of Permit**

- (a) Every Permit shall indicate which part of the highway may be so used, during what period of time, and every Permit shall be during the pleasure of the City, subject to cancellation at any time by the Highway Temporary Closures Committee;
- (b) A permit issued under this by-law is not transferable. The City reserves the right to require the applicant to fulfill such additional conditions of approval as may be specified at any time.

- (c) **Cancellation of Permit.** In case of emergency or where it is believed that the applicant is or will be in breach of any condition of the Permit or that an unsafe or hazardous condition has or is about to arise, the Highway Temporary Closures Committee, staff, or any police officer, may, at any time, require an applicant to cease activities covered by the Permit in whole or in part for such period(s) as may be directed.

(14) **Closure of highway to vehicular traffic on temporary basis.**

After a Permit is issued hereunder, staff,

- (a) is authorized to and shall take steps necessary to prohibit vehicular traffic in order that the said highway or that portion of it being so closed, shall be temporarily closed and, for that purpose to cover such traffic signs and parking meters as may be necessary to give effect to the approved closure of the highway to vehicular traffic;
- (b) shall immediately forward a copy of the approved decision, the additional specified conditions of approval if any, and the Permit, to the appropriate departments and agencies, including, the Ward Aldermen;

(15) **Standard Conditions of Approval.** All closures of highways to vehicular traffic on a temporary basis for an event are subject to the applicant fulfilling each of the following standard conditions of approval:

- (a) **Notice.**
 - (i) Prior to the issuance of the Permit, that all property owners and tenants adjacent to the highway intended to be closed on a temporary basis be notified by the applicant of the temporary highway closing and the proposed event, in a form and at date(s) satisfactory to the City. Such notification shall not be less than a full fourteen day's notice prior to the event;
 - (ii) such other Notice to the public on such dates, in such form and in such media as may reasonably be required in the opinion of the City;
 - (iii) wherever an applicant recognizes or credits in any form of media, contributors whose assistance made the event possible, the applicant shall include the City among those credits.
- (b) **Admission Charges.** That the applicant shall not collect any admission charges except when expressly permitted in the City's decision;
- (c) **Consent of Participant.** That prior to the event, where the event is a race or other competitive athletic event or sport, the applicant shall obtain from each participant a Release, Waiver and Indemnity of the City from any and all claims resulting from the event, satisfactory to the City and file such Releases with the City;

(c) **Alternative Route.**

- (i) That no property owner or resident adjacent to the highway closed to vehicular traffic shall, because of the temporary highway closing and the event, be denied access by foot to their property. Further, the applicant shall take all reasonable action required to ensure the safety of and minimize interference with owners, tenants, and occupants of adjoining properties;
- (ii) That where a highway or portion thereof is so closed, the applicant shall provide and keep in repair within the portion of the highway closed to vehicular traffic, to the extent required, a reasonable temporary route satisfactory to staff for the use of emergency vehicles and for all property owners to obtain pedestrian access to their property;

(Note: The Municipal Act states that, with necessary modification, "Where a highway or portion thereof is closed by by-law under this paragraph, the municipality shall provide and keep in repair a reasonable temporary alternative route for traffic and for all property owners who cannot obtain access to their property by reason of such closing." Municipal Act, R.S.O. 1990, c.45, section 207(44)(a))

- (d) **Supervision, Inspection, and Inspection Fees.** That all temporary closings be carried out under the direction of and satisfactory to staff; the applicant shall not in advance or during the event erect any traffic or parking signs upon or adjacent to the highway.
- (e) **Other By-Laws.** That the applicant comply with the other by-laws of the City and the Region, including The Noise Control By-law and the bylaw titled, The City of Hamilton Licensing Code.
- (f) **Other Requirements.** That the applicant comply with such other conditions that may be specified in writing as a condition of approval and such additional conditions that may be required in writing or verbally by the City before or during the event;
- (g) **During the temporary closing of highway.**
 - (i) That the applicant use only the permitted part(s) of a highway in accordance with the terms of the Permit, the conditions of approval and provisions of this By-law.
 - (ii) That regular reports shall be given by the applicant to the City of the progress of compliance with conditions for the event and subsequently, restoration of the highway;
 - (iii) That the temporary closings be carried out in a proper workmanlike manner, with all property precautions and safety measures for the protection of public and private property, including maintenance of all necessary warning lights and watchmen, all under the direction and to the satisfaction of staff;

- (iv) That the applicant not allow any portion of the event, including spectators, participants, vehicles, partitions, barricades, signs, or other equipment used in connection with the event, to block any fire hydrants, access/egress ramps, snow and garbage removal, or interfere with the installation, maintenance, or repair to any plant or equipment of the City, The Regional Municipality of Hamilton-Wentworth or any other utility in the City highway .
- (v) That the applicant not allow any of the applicant's event, its participants, spectators or equipment, to impede emergency vehicles;
- (vi) **Barricades and Detour Signs.** That prior to and during the closure of the highway to vehicular traffic, the City shall erect and maintain sufficient warning signs and devices to adequately warn the public of the occupation and obstruction of the highway, at each end of the highway or portion thereof so closed to traffic, and where an alternative route deviates therefrom, a barricade upon which an adequate warning device shall be exposed and in good working order continuously (except during full daylight), and at such points shall be erected detour signs indicating the alternative route and containing a notice that the highway is closed to traffic.

All barricading, temporary highway closure signs, detour signs warning signs and devices, including labour and materials for their construction, erection, maintenance and removal, shall provided by and at the expense of the applicant and the applicant shall pay the City those costs.
- (vii) That all barricading, detour signing equipment and other property of the applicant and traffic control be subject to the direction of the Chief of Police or his/her designate;
- (ix) That if it is necessary for the City to relocate, remove or alter the signs, barricades or other equipment or property of the applicant for any reason whatsoever, either before, during or after the event, the applicant shall re-imburse the City against such costs and against any loss, cost or damage arising from such work;
- (x) That the applicant comply with all other provisions of the Streets By-law and obtain all other applicable approvals to the temporary closing and the event;
- (h) **After event.** That the applicant, at its expense, carry out clean up operations immediately after the event to restore the highway to as good condition as before as expeditiously as possible and before re-opening of the highway(s) to vehicular traffic.

The applicant, upon demand, after the event, pay to the City all costs incurred by the City pursuant to this by-law in excess of the cost pre-estimate monies or security already received by the City, (if any).

(16) In the event of non-compliance with the provisions herein, by any person, an Order to Comply may be issued and served upon such person, by,

- (a) the City Clerk or any authorized by-law enforcement officer for the City; or
- (b) the Chief of the Fire Department, or the Chief Fire Prevention Officer, or any Officer or Inspector of the Fire Department; or
- (c) the Chief of Police or any other police constable.

(17) Every person to whom an Order to Comply is issued, or upon whom an Order to Comply is served, shall, forthwith, take such steps as are necessary to comply with the Order within the time provided for compliance.

(18) Where any holder of a permit fails to comply with an Order to Comply issued pursuant to this by-law, in addition to any other remedy or penalty under this by-law, the City may immediately revoke their permit and shall forthwith cause them to be served with a written notice of such revocation and upon service of the notice of revocation the permit holder shall forthwith surrender the permit to the City.

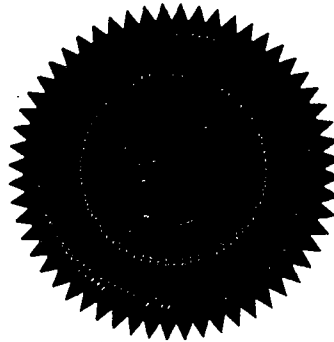
2. This by-law comes into force and effect on the date of its passing and enactment in respect of all applications submitted to the City on or after the said date.

3. Except as amended herein, Streets By-law No. 86-77 is hereby confirmed.

PASSED this 9th day of July A.D. 1996

D. J. Hollonell

Acting CITY CLERK



[Signature]
Acting MAYOR