

**THE CORPORATION OF THE COUNTY OF LANARK
BY-LAW NO. 2025-06**

**BEING A BY-LAW TO AUTHORIZE THE ADOPTION OF THE WORK IN
RIGHT-OF-WAY POLICY FOR THE CORPORATION OF THE COUNTY OF
LANARK**

WHEREAS, Section 5 (3) of the Municipal Act 2001 S.O. Chapter 25 as amended states that the powers of a municipality shall be exercised by by-law;

AND WHEREAS, the Corporation of the County of Lanark deems it expedient to adopt a policy to regulate activity within the County of Lanark's Rights-of-Ways;

NOW THEREFORE BE IT RESOLVED THAT, the Council of the Corporation of the County of Lanark enacts as follows;

- 1.** The Work in Right-of-Way Policy is hereby adopted and attached hereto as Schedule "A" and forming part of this By-Law.
- 2.** The By-law shall come into full force and effect on the day of its passing.
- 3.** Should any sections of this by-law, including any section or part of any schedules attached hereto be declared by a court of competent jurisdiction to be ultra vires, the remaining sections shall nevertheless remain valid and binding.

By-law read a first and second time this 12th day of February, 2025.

By-law read a third time and finally passed this this 12th day of February, 2025.

Jasmin Ralph, Clerk

Toby Randell, Warden

SUBJECT:

WORK IN RIGHT-OF-WAY POLICY

1.0 PURPOSE

To establish an accountable and transparent policy which regulates activity within the County of Lanark’s Rights-of-Way.

2.0 POLICY STATEMENT

The County of Lanark is committed to the safe, efficient, and sustainable use of public rights-of-way to benefit residents, businesses, and visitors. The Work in Right-of-Way Policy provides a clear framework for planning, permitting, and executing activities within County-owned rights-of-way, ensuring public safety, infrastructure protection, and environmental sustainability.

The policy ensures all work such as, construction, maintenance, utility installations, and events, complies with regulations, protects public assets, and minimizes disruptions to traffic and communities. It serves as a guide for staff, applicants, and contractors.

3.0 DEFINITIONS

“Act” - shall mean the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

“Activity” - The temporary occupancy of a right-of-way for any purpose for a defined period, outside its normal intended use by the County, person(s), Utility Companies or Contractors.

“Applicant” - Any person(s), Utility Company or Contractor applying for a Work in Right-of-Way Permit.

“County” or **“County of Lanark”** - The Corporation of the County of Lanark.

“County Staff” - Employee(s) of the County of Lanark.

“Contractor” - Any person hired to do a piece of work, retaining in their control of the means, method and manner to complete an Activity.

“Costs” - shall mean all costs incurred including but not limited to cost of insurance, equipment rental, granular material, asphalt, traffic control, temporary signage; and HST.

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"Director of Public Works" - Shall mean the Director of Public Works or his/her Designate.

"Emergency Situation or Event" - an unexpected event that poses a risk of death or injury and requires immediate response and management.

"Excavation" - Any activity within the Right-of-Way that involves the removal of Earth, Rock or other materials through methods including but not limited to, Excavator, Tractor, Skid Steer etc.

"Excavation within R.O.W Outside of Travelled Lanes " - Any Excavation that takes place outside of the travelled portion of the Roadway. May include but is not limited to Entrance installation or modification,

"Excavation within R.O.W within Travelled Lanes " - Any Excavation that takes place within the travelled portion of the road including driving surface, shoulder, curb, sidewalk or multi-use paths. Construction may include but is not limited to Asphalt Road cuts, installation of manholes, Asphalt paving of entrances, Installation of Subsurface utilities etc.

"Excavation" within ROW, Per Km Parallel with Road" - Any Excavation that takes place outside of the travelled portion of the road which crosses one or more properties.

"Highway(s)" - shall, in accordance with s. 1(1) of the Act, mean a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, includes a portion of a highway

"Municipal Consent" - The written consent of the County, given by an appropriately authorized employee of the County, with conditions, for access to and use of the Municipality's rights-of-way, subject to obtaining a Work in Right-of-Way Activity Permit as applicable.

"O.P.S.S." - Ontario Provincial Standard Specifications, as amended. Refer to <https://www.library.mto.gov.on.ca/SydneyPLUS/TechPubs/Portal/tp/opsSplash.a.spx>;

"Permit Holder" - An Applicant that holds an approved Right-of-Way Activity Permit.

"Person" - Means any individual, Contractor, Utility Company, Owner, Occupant, Association, firm, Partnership, Corporation, Agent or Trustee or legal representative of a person to whom the context can apply.

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“Right-of-Way (ROW)” - The highway including the roadway, bike lane, sidewalk or multi-use path, shoulder, boulevard, pathway and curb.

“Road Cut” - A surface or subsurface cut in any part of the Highway made by any means, including but not limited to any excavation, reconstruction, cutting, saw cutting, overlaying, breaking, boring, directional drilling, jacking or tunneling operations.

“Roadway” - Part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the curb, shoulder, boulevard or sidewalk.

“Security” - Any cash deposit, certified cheque, credit card or bond and insurance, to be provided by the Applicant pursuant to the requirements of this policy.

“Settlement or Settled” - Any sinking of the surface of the road cut in relation to the grade of the adjacent undisturbed Highway.

“Shoulder” - Part of the highway immediately adjacent to the roadway and having a surface, which has been improved for the use of vehicles, with asphalt, concrete or gravel.

“Temporary Encroachment” Any encroachment into the Right-of-Way that is not installed permanently will be subject to proof of insurance and indemnity as well as a deposit as per the fee schedule.

“Traffic Control Plan” - A Traffic Control Plan as defined in the Ontario Traffic Manual Book 7.

“ Temporary Road Occupation” - Any activity that occupies of any portion of a county road for the placing or operation of any machinery, vehicles, storage containers, waste bins, materials, mobile cranes, or temporary/mobile construction office trailers.

“Utility/Utilities” - Any structures above or below ground which exist on a right-of-way and include buried and aerial hydro cable and ducts, telephone cable, television, and internet communication cables, water, including underground pipes, hydrants and valves, sanitary and storm sewer pipes, gas pipes, meters and valves.

“Utility Company” - Any company with the authority to construct within the right-of-way pursuant to provincial or federal legislation, by-law, franchise agreements or municipal access agreements

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4.0 REQUIREMENTS TO OBTAIN A WORK IN RIGHT-OF-WAY PERMIT

- 4.1 Except as provided in this policy, A work in Right-of-Way Permit is required by any person, utility company or contractor performing any activities within a Lanark County Right-Of-Way.
- 4.2 An application for a Right-of-Way Activity Permit shall be filed with The County of Lanark no less than ten (10) working days in advance of the start of an activity within the County of Lanark’s right-of-way.
- 4.3 The application will not be considered complete until the Applicant pays the Work in Right-of-Way permit fee according to the attached schedule of fees. Additionally, the Applicant must cover the estimated cost for site inspection of the proposed work, as outlined in the schedule of fees and determined by the director of public works or designate.
- 4.4 A Work in Right-of-Way permit shall not be issued until security has been provided as per this policy, the associated fees have been paid, Proof of Insurance has been provided as required by this policy, approval by the director of public works of the traffic protection plan, and all applicable documentation has been submitted to the County.
- 4.5 Necessary approvals have been issued which may include but are not limited to Municipal Consent applications or entrance enquiries and applications.

5.0 WORK NOT REQUIRING A PERMIT

- 5.1 The following situation(s) are exempt from the Work in Right-of-Way Permit.
 - A. **Emergency Situations or Events.** Work may take place without prior consultation. The County of Lanark must be notified within 24-hours of work commencement via email to roads@lanarkcounty.ca outlining the following.
 - A.1 The name of the Person(s), Utility company or Contractor undertaking the work.
 - A.2 The Nature and Location of the work.
 - A.3 The estimated duration of the work.
 - A.4 Adequate reasoning for proceeding with work in the Right-of-Way without a valid permit.

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- B. Should adequate reasoning not be provided, the County of Lanark reserves the right to subject the Person(s), Utility Company or Contractor to the same restrictions and penalties as described within a Work in Right-of-Way Permit.

6.0 RENEWAL AND EXTENSION OF PERMITS

- 6.1 Any Permit Holder seeking to renew or extend a previously approved Work in Right-of-Way Permit shall submit a written request to the County of Lanark before their approved permits expiration date.
- 6.2 If the County of Lanark is satisfied that the Permit Holder is entitled to obtain a renewal or Extension the permit shall be amended.

7.0 FEES AND SECURITY

- 7.1 The Applicant shall deposit with the County of Lanark security in the amount determined as per the Fee Schedule for the work outlined in the Work in Right-of-Way Permit application.
- 7.2 The Applicant shall agree to have their deposit held for a period of up to 1 year from the date final works are completed on the roadway, or applicable infrastructure, as determined by the Director of Public Works or Designate.
- 7.3 Applicants whose work has not been completed to the satisfaction of the Director of Public Works or Designate shall complete the necessary repairs within 1 year. If repairs are not completed the Applicant is considered to have forfeited their deposit and shall be responsible for the costs associated with necessary repairs.

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8.0 INSURANCE AND INDEMNIFICATION

1. The Applicant shall be, at its own expense, responsible for any loss, costs, damages, charges or expenses whatsoever which may be sustained by County as a result of any environmental contamination, spill or hazard as may be created by the Applicant during its use of that part of County Property set out in the Work in Right-of-Way Permit.
2. Execution of this Agreement constitutes confirmation that any environmental damage occurring as a result of the Applicant's occupation of that part of County Property set out in the Work in Right-of-Way Permit, shall be remedied upon the expiration of this Agreement at the sole cost of the Applicant.
3. The Applicant shall, at all times, maintain General Liability Insurance, underwritten by an insurer licenced to conduct business in the Province of Ontario, for a limit of not less than Five Million (\$5,000,000.00) Dollars per occurrence, an aggregate limit of not less than Five Million (\$5,000,000.00) Dollars, within any policy year with respect to completed operations. This policy shall include but not be limited to:
 - a. Name the County as an additional insured;
 - b. Cross-liability and severability of interest;
 - c. Blanket contractual;
 - d. Premises and operations liability;
 - e. Personal injury liability;
 - f. The policy shall include 30 days' notice of cancellation.

In addition, the Applicant shall, at all times, maintain Standard Form Automobile Insurance that complies with all the requirements of the current legislation of the Province of Ontario, having an inclusive limit of not less than Two Million (\$2,000,000.00) Dollars per occurrence for Third Party Liability, in respect of the use or operation of vehicles owned, operated or leased by the Applicant.

The Applicant acknowledges and agrees that the amount of commercial generality liability insurance and standard form automobile insurance are subject to review and change every five (5) years at the sole option of County.

The Applicant's insurance shall be primary coverage and not additional to and shall not seek contribution from any other insurance policies available to County.

In addition, the Applicant acknowledges and agrees that County reserves the right to require additional insurance to address any potential exposures.

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The Applicant shall provide County with proof of insurance within seven (7) days of a request from County to do so.

4. The Applicant shall defend, indemnify and save harmless County, its elected officials, officers, and employees from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs including legal costs, interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service resulting from or attributable to any term or provision of this Agreement or arising out of the use of that part of County Property set out in the Work in Right-of-Way Permit by the Applicant or their employees, agents, contractors, guests, invitees or other parties which the Applicants are responsible. This indemnity shall be in addition to and not in lieu of any insurance to be provided to County in accordance with this Agreement and shall survive this Agreement.

5. The Applicant shall defend, indemnify and save harmless County from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever arising out of or related to the Applicant's status with Workplace Safety and Insurance Board ["**WSIB**"]. This indemnity shall be in addition to and not in lieu of any proof of WSIB status and compliance to be provided by the Applicant in accordance with this Agreement and shall survive this Agreement.

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9.0 TRAFFIC CONTROL REQUIREMENTS

- 9.1 Any Applicant requiring a Work in Right-of-Way Permit is required to provide a Traffic Control Plan in compliance with the Ministry of Transportation’s Ontario Traffic Manual, Book 7 (Temporary Conditions), and any other relevant regulations or laws.
- 9.2 The Permit Holder shall supply, erect and maintain all warning devices, barricades and traffic signs in accordance with the Occupational Health and Safety Act, R.S.O. 1990, c. 0.1 as amended from time to time and any applicable provincial traffic regulations, including but not limited to the Ministry of Transportation’s Ontario Traffic Manual, Book 7 (Temporary Conditions).
- 9.3 No Person(s), Utility Company or Contractor shall Close or obstruct a portion of County Road unless granted through an approved Work in Right-of-Way Permit.
- 9.4 The Applicant is required to provide competent workers who have received adequate training to carry out traffic control measures, at the sole expense of the Applicant.

10.0 UTILITY LOCATES AND PROTECTION

- 10.1 It shall be the sole responsibility of the Permit Holder to request, from the appropriate utility company, marking or other location information to determine the location and to provide safeguards for all utilities. The permit holder must comply with Ontario One Call requirements.
- 10.2 Existing Utilities must not be damaged or disrupted. Any Damage must be reported to the appropriate utility company and repaired immediately at the sole cost of the Applicant.

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11.0 SUSPENSION, REVOCATION AND NON-COMPLIANCE

11.1 Any Work in Right-of-Way permit pursuant to this policy may be suspended or revoked by the County of Lanark for the following reasons:

- a. Violation of any of the conditions set out in the Work in Right-of-Way Permit.
- b. Violation of any laws, by-laws and or legislation relating to the work.
- c. Where the work taking place is contrary to the work outlined in the application for Work in Right-of-Way Permit

11.2 Upon Suspension of a Work in Right-of-Way Permit, the permit holder must immediately cease all activities permitted in the Work in Right-of-Way Permit; and restore the County Right-of-Way to its original condition. At the sole expense of the applicant.

11.3 Where work completed is deemed not to meet the conditions as per the procedures outlined in this policy, the Person(s), Utility Company or Contractor will be required to repair the infrastructure at their own expense.

11.4

11.5 The County of Lanark may refuse to grant a Right-of-Way Activity Permit to any Applicant for any of the following reasons:

- a. Persistent and/or serious violations of any condition of a Work in Right-of-Way Permit previously issued to the Applicant, or for any provisions to this policy applicable to a Work in Right-of-Way Permit previously issued.
- b. Non-payment or late payment of monies due to the County.
- c. Such other reasons as the County may deem proper.

12.0. ENFORCEMENT AND PENALTIES

12.1. The County of Lanark reserves the right to enforce this policy, and all terms and conditions defined within it. In cases of willful non-compliance or repeated violations, the County reserves the right to pursue legal action.

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13.0. INSPECTION

- 13.1. County Staff may enter onto any site for the purpose of carrying out an inspection to determine whether the conditions and provisions of this policy or the Work in Right-of-Way Permit have been followed.
- 13.2. Following completion of the proposed work County Staff shall inspect all installations for compliance with specifications. Installations that do not meet acceptable standards shall be repaired to meet the conditions for acceptance as outlined by the County.

14.0. CONDITIONS FOR ACCEPTANCE

- 14.1. All County of Lanark Roads will be backfilled only with acceptable approved granular backfill material to a width and depth as approved by the Director of Public Works. This backfill material shall be placed within all roadways, shoulders and a minimum of two feet (0.6 meters) beyond the edge of all curbs and sidewalks with a maximum slope of 2:1. All backfill will be thoroughly compacted by mechanical methods to the satisfaction of the Director of Public Works or Designate.
 - a. For all roadway cuts, the pavement shall be cut in a straight line to form a rectangle enclosing the entire disturbed area and then the pavement restored to the entire width of the traffic lane. The entire roadway width shall be replaced if the excavation crosses the centreline of the roadway.
 - b. For roadway cuts parallel to the centerline the entire width of the traffic lane shall be so treated and restored. The entire roadway width shall be replaced if the excavation crosses the centreline of the roadway.
 - c. For Boreholes, the requestor is responsible for:
 - I. Either decommissioning all boreholes or installing necessary instrumentation (e.g., monitoring wells) in compliance with O-Reg 903. The requestor is responsible for decommissioning instrumented boreholes when they are no longer needed.
 - II. Surface patches must be constructed with a minimum of 0.3 m of compacted OPSS Granular A material, topped with cold patch or hot mix asphalt concrete as specified below, matching the existing thickness.

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- III. The requestor is accountable for the performance of all surface patches or installations for a period of one year following the completion of boreholes or the decommissioning of instrumented boreholes.
- IV. Any non-performing patches (e.g., settled, heaved, or broken) or damaged installations (regardless of cause) must be repaired to the County’s satisfaction within 72 hours of notification by the County.

d. Asphalt pavement shall be restored with the same thickness or minimum thickness of 50mm of compacted Superpave 12.5mm (or approved equivalent) hot laid asphaltic concrete when placed between the months of May and October or restored with a cold asphaltic concrete patch between the months of November and April and re-excavated and restored as outlined before with hot asphalt mix in the month of May. Pavement so placed shall overlap the excavation by at least 300mm, and the area of the existing pavement to be covered as well as the face of the asphalt cut shall be thoroughly and uniformly painted with an approved liquid asphalt emulsion. All work must be to the satisfaction of the Director of Public Works or Designate.

14.2. If the roadway cannot be backfilled by 4:00pm, the roadway must be kept open to two lanes of traffic by methods approved in advance and in writing by the Director of Public Works or Designate (i.e. steel plates across a narrow cut, detour, etc.)

14.3. All requirements, contained in the Occupational Health and Safety Act, Chapter, O.1, R.S.O. 1990, and amendments thereto, are to be followed.

15.0 POLICY REVIEW

Council will review this policy once per term of Council.

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SCHEDULE A: SCHEDULES OF FEES

Permit Fees	
Work in R.O.W Permit	\$25.00
Inspection (per occurrence, as required)	\$75.00
Permit Deposit Requirements	
Excavation within R.O.W, outside of Travelled Lanes	\$1,000.00
Excavation within R.O.W, within Travelled Lanes	\$2,500.00
Excavation within R.O.W, Per Km Parallel with Road	\$2,000.00
Temporary Encroachment	\$500.00
Temporary Road Occupation	As Required by the PW Director

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