

THE CORPORATION OF THE TOWNSHIP OF WELLESLEY

BY-LAW 57/2017

A BY-LAW TO REGULATE AND GOVERN THE HOLDING OF SPECIAL EVENTS IN
THE TOWNSHIP OF WELLESLEY
AND TO ESTABLISH A PERMIT SYSTEM FOR SPECIAL EVENTS

WHEREAS the Council of the Corporation of the Township of Wellesley deems it necessary to regulate special events within the boundaries of the Township of Wellesley;

AND WHEREAS The *Municipal Act, 2001 S.O. 2001, c.25, as amended*, authorizes municipal councils to pass By-laws regulating cultural, recreational and educational events, including public fairs, and requiring a permit to be obtained for such special events;

AND WHEREAS Section 10(2) of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public including regulating events, for the health, safety and well-being of persons in the municipality and the protection of persons and property;

AND WHEREAS Section 150 of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, allows a municipality to license, regulate and govern any event wholly or partially carried on within the municipality;

AND WHEREAS, pursuant to Section 150 of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, the Council of the Corporation of the Township of Wellesley is exercising its powers including imposing conditions, for the following reasons, as identified in Section 11 of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*:

- Economic, social and environmental well-being of the municipality;
- Health, safety and well-being of persons; and
- Protection of persons and property, including consumer protection.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WELLESLEY ENACTS AS FOLLOWS:

Short Title

This By-law shall be known and may be cited as the "Special Event By-law."

Section 1 - Definitions

For the purposes of this By-law,

- 1.1 "AGCO" shall mean the Alcohol and Gaming Commission of Ontario;
- 1.2 "Applicant" shall include a person seeking a Special Event Permit or a person whose Special Event Permit is being considered for revocation or suspension;
- 1.3 "Application" shall mean an application for a Special Event Permit;
- 1.4 "Agricultural Fair" shall mean an agricultural or horticultural exhibition hosted by an agricultural society or fair board or a similar organization recognized by the Alcohol and Gaming Commission of Ontario;
- 1.5 "Certificate of Insurance" shall mean a document issued by an insurance company licensed to provide insurance in the Province of Ontario that certifies that an insurance policy has been purchased for the Special Event, or which applies to the property or premises on which the Special Event shall occur, and which provides an abstract of the liability provisions of the insurance contract;

- 1.6 "Charitable Organization" shall mean a registered organization that provides for the Relief of Poverty, the Advancement of Education, the Advancement of Religion, or other charitable purposes beneficial to the community as defined by Order in Council 1413/08;
- 1.7 "Competent Person" means the Special Event supervisor or his/her designate;
- 1.8 "Council" or "Township Council" shall mean the Council of the Corporation of the Township of Wellesley;
- 1.9 "Director of Public Works" means the person who holds that position and his/her delegate(s) appointed by Council;
- 1.10 "Fees" shall mean an application fee, administrative fee or processing fee paid by the Applicant for a Special Event Permit, as set out in the Fees & Charges By-law, as amended from time to time;
- 1.11 "Fire Chief" shall mean the person who holds that position and his/her delegate(s) appointed by Council;
- 1.12 "Lane" means that part of a roadway that accommodates a single line of moving or parked vehicles;
- 1.13 "Liquor License" shall mean a license issued by the Province of Ontario in the form of a Special Occasion Permit (SOP) or a Liquor License for the purpose of serving alcohol;
- 1.14 "Motor Vehicle" shall mean an automobile, a motorcycle, a motor assisted bicycle unless otherwise indicated in this By-law, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine;
- 1.15 "Person" includes, but is not limited to, an individual, sole proprietorship, partnership, association or corporation;
- 1.16 "Police Chief" shall mean the Police Chief or commanding officer of the Waterloo Regional Police Service and his or her delegate(s);
- 1.17 "Property" shall mean a parcel of land which is shown as a lot or block On a registered plan of subdivision or described in a transfer/deed of land of legal effect registered in the Land Registry Office;
- 1.18 "Officer" shall mean a Municipal By-law Enforcement Officer appointed by the Council of the Township of Wellesley, the Director of Public Works or his/her designate, and a Police Officer pursuant to s. of the Police Services Act, R.S.O. 1990, c P15, as amended
- 1.19 "Special Event" means any one time or reoccurring public or private event, gathering, festival, competition, contest, exposition or similar type of activity, held outdoors in whole or in part, on Township of Wellesley property or private property and which is expected to result in or include any of the following:
- i. impact to traffic or pedestrian flows requiring partial or full road closures;
 - ii. impact to public use of City infrastructure or services;
 - iii. high risk activity or structure such as fireworks, pyrotechnics, inflatable bouncers, tents/canopies/stages; and/or
 - iv. noise that will likely exceed permitted noise levels;
- but does not include:

- v. an event or activity that has been expressly authorized by the Township pursuant to the terms of a lease, license, or facility or green space rental;
 - vi. an event, game, race, tournament, or similar type of competition held at a location which has been specifically designed or built to be used for hosting such events;
- 1.20 "Special Event Permit" shall mean a Special Event Permit authorizing the holding of a Special Event, and includes any conditions imposed as a condition of obtaining and continuing to hold the Special Event Permit and any agreements respecting the Special Event that are attached to the Special Event Permit;
- 1.21 "Special Event Permit Holder" shall mean the Applicant and holder of a Special Event Permit issued by the Township;
- 1.22 "Township" or "Township of Wellesley" shall mean the Corporation of the Township of Wellesley;
- 1.23 "Township Facility" shall mean any land owned or leased by the Township of Wellesley which is accessed by the public or provided for public use, including but not limited to an arena, community centre, park or green space, parking lot, public library, office, cultural buildings, opened and unopened road allowances, and those facilities under agreement with any club or organization.

Section 2 - Purpose

- 2.1 The purpose of this By-law is to ensure public safety, to control noise, traffic, odour and nuisance or any applicable by-law of the Township of Wellesley, to mitigate any negative impact on the community and the environment, and to ensure that the Township is able to prepare for a Special Event when necessary.

Section 3 - General Provisions

- 3.1 No person shall hold or cause to be held any Special Event without first obtaining a Special Event Permit as set out in this By-law.
- 3.2 No person shall hold or cause to be held a special event except in accordance with the terms and conditions of a valid permit.
- 3.3 No Special Event Permit shall be issued for a Special Event that would contravene the provisions of certain applicable Region of Waterloo By-laws or a Provincial or Federal Statute.
- 3.4 No Special Event Permit shall be issued for a Special Event that would contravene the provisions of the Township of Wellesley Zoning By-law that regulates the use of land, buildings or structures or certain other applicable Township By-laws.
- 3.5 A Special Event Permit shall not be granted for the purposes of circumventing the requirements of the Township of Wellesley Zoning By-law or any other applicable Township By-law on a recurring basis.

SPECIAL EVENT PERMIT - POWERS

- 3.6 The Township system of Special Event Permits may:
- a) prohibit the carrying on of or engaging in a Special Event without a Special Event Permit;
 - b) refuse to grant a Special Event Permit, revoke and/or to suspend a Special Event Permit;
 - c) impose conditions, including special conditions as a requirement of obtaining a Special Event Permit;

- d) impose event specific conditions on the Applicant or the Property in order to obtain, and,
- e) regulate to the extent permitted by this By-law and the Township's authority to regulate a Special Event as authorized by the Municipal Act provisions.

MUNICIPAL SPECIAL EVENT PERMIT POWERS

- 3.7 The Director of Public Works may refuse to issue, revoke or suspend a Special Event Permit under the provisions of this By-law. Where a Special Event Permit is refused, revoked or suspended, the Director of Public Works shall provide the reason for the refusal, revocation or suspension of the Special Event Permit.
- 3.8 The Council of the Corporation of the Township of Wellesley may issue, refuse to issue, revoke or suspend a Special Event Permit under the provision of this By-law. Where a Special Event Permit is refused, revoked or suspended, Council shall provide the reason for the refusal, revocation or suspension of the Special Event Permit.

SPECIAL EVENT PERMIT SHALL BE DISPLAYED

- 3.9 Every person granted a Special Event Permit shall display the Special Event Permit in a conspicuous place in or on the said premises and/or property.
- 3.10 Every person granted a Special Event Permit shall, when requested by any Officer, produce the Special Event Permit for inspection.

TERM OF SPECIAL EVENT PERMIT

- 3.11 A Special Event Permit issued under the provisions of this By-law shall be valid only for the period of time specified by the Special Event Permit.

NUISANCE CONTROL

- 3.12 Every Special Event Permit Holder under this By-law is responsible for the due performance and observance of all the provisions of this By-law and any additional conditions as imposed by the Director of Public Works and/or by Council individually and by their employees, representatives, agents and/or all other persons in or upon the premises and/or property which are regulated by a Special Event Permit under the provisions of this By-law.
- 3.13 Every Special Event Permit Holder under this By-law, in addition to any other provisions or requirements expressed elsewhere in this By-law, shall at all times:
 - a) keep safe, clean, maintain and/or repair any object, vehicle, place, premises and/or property for which the Special Event Permit is issued;
 - b) refrain from any breach, violate or cause, suffer, or permit any breach or violation of any By-law of the Township or of any local board thereof, or of any Statute, Orders-in-Council, or Regulation of the Legislation of the Province of Ontario or the Parliament of Canada or of any Authority, Agency, Board or Commission thereof, in, upon, or in connection with the Special Event or premises and/or property for which, or in relation to which, such Special Event Permit was issued; and
 - c) not cause or commit any nuisance to arise in, or in connection with the object, vehicle, place or premises and/or property for which the Special Event Permit was issued.

ADDITIONAL CONDITIONS FOR SPECIFIC SPECIAL EVENTS

Competitive, Timed Events – Such as Marathons, Bicycle Races, Biathlons and Triathlons:

The roadways comprising the route of the race can be closed to vehicular traffic and adequate detours are required to be established.

Police are required to provide the necessary staffing to safely control the event.

The Applicant is responsible for the production, costs and placement of Advance Notice Signage, outlining the dates and times of road closures, which must be approved by Township staff in advance of posting. Advance Notice Signage must be posted at least two weeks prior to the Special Event.

Cyclists must adhere to the rules of the road contained within the Highway Traffic Act of Ontario, unless otherwise directed by Police.

Events shall be restricted from being held on Sundays on Township roadways outside of Settlement Areas unless the applicant can demonstrate to the satisfaction of the Township that adequate measures will be taken to avoid disruption of local travelers.

SPECIAL EVENT PERMIT FEES

3.14 All Special Event Permit fees are for administrative and processing purposes and are non-refundable if the application is refused for any reason or is withdrawn by the Applicant prior to the issuance of a Special Event Permit.

3.15 All Special Event Permit fees shall be as set out in Schedule 'A' to this By-law, and shall be reflected in the Township Fees and Charges By-law, as amended from time to time.

SPECIAL EVENT PERMIT APPLICATION - FULL INFORMATION REQUIRED

3.16 Every Applicant shall provide in full, within minimum ninety (90) days prior to the proposed Special Event, a complete application, inclusive of all the information required on the application and shall provide:

- a) payment of the prescribed Special Event Permit fees set out in Schedule 'A' of this By-law;
- b) any other document or information as may be required by any other Section of this By-law;
- c) the name under which the Applicant carries on or intends to carry on the Special Event; and
- d) any other affidavit, document or information as may be requested by the Director of Public Works at any time.

3.17 Applications for a Special Event Permit issued under the provisions of this By-law: shall be made to the Director of Public Works on forms to be provided; and when received by the Director of Public Works, shall be stamped with the date and time of receipt and processed in the order in which they are received.

CONDITIONS FOR SPECIAL EVENT PERMIT ISSUANCE

3.18 Every Special Event Permit that is issued is subject to the following conditions, all of which shall be performed and observed by the Applicant:

- a) the Applicant shall pay the applicable Special Event Permit fee;
- b) the Applicant or Special Event Permit Holder shall not carry on activities that are in contravention of this By-law or any other Municipal By-law;
- c) the Applicant or Special Event Permit Holder shall not construct or equip the premises and/or property used for the Special Event so as to hinder the enforcement of this By-law;

- d) the premises and/or property in which the Special Event is located shall be in accordance with the requirements the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, and Regulations thereunder, and any By-law of the Township or the Regional Municipality of Waterloo prescribing standards for the maintenance and occupancy of premises and/or property within the Township;
- e) where premises in which the Special Event is located are altered and a building permit is required to carry out the alterations, the premises, as altered, shall be in accordance with the *Building Code Act, 1991, S.O. 1992, c. 23, as amended*, and the Regulations thereunder, the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended*, and the Regulations thereunder, and any By-law of the Township of Wellesley or the Regional Municipality of Waterloo prescribing standards for the maintenance and occupancy of premises and/or property within the Township;

SPECIAL EVENT PERMIT APPLICATION - SUBJECT TO APPROVAL

- 3.19 Every Special Event Permit application may be subject to investigations by and comments or recommendations from such other persons, departments, boards, commissions and authorities, or as directed by Council, including but not limited to:
 - a) Waterloo Regional Police;
 - b) Waterloo Region Health Department;
 - c) Township of Wellesley Fire Department;
 - d) Township of Wellesley Public Works Department;
 - e) By-law Enforcement Department;
 - f) Conservation Authorities;

SPECIAL EVENT - GRANTING OF SPECIAL EVENT PERMIT

- 3.20 The Chief Administrative Officer, if satisfied that all information has been submitted pursuant to this By-law, and that the use of the premises and/or property of the proposed Special Event will not contravene the Township of Wellesley Zoning By-law or any other applicable law, and that it would be appropriate and desirable to do so, and that the Special Event will not result in undue or adverse impacts on surrounding lands or to the public, shall issue a special event permit;
- 3.21 It is the responsibility of the Applicant to obtain all documents required pursuant to this By-law and attach them to the application for the Special Event Permit, where applicable;

INCOMPLETE APPLICATION

- 3.22 Any Special Event Permit application that has not received approvals from all persons, departments, board, commission, authority or other agency or municipal or provincial departments as the Director of Public Works deems necessary within ninety (90) days from the date of the filing of the application shall be deemed to be incomplete.

INFORMATION HELD BY DIRECTOR OF PUBLIC WORKS IS OPEN TO INSPECTION

- 3.23 Any application, comment, recommendation, information, document or thing in the possession of the Director of Public Works pursuant to the provisions of this By-law shall be made available by the Director of Public Works for an inspection:
 - by any person or Officer employed in the administration or enforcement of this By-law; and

- by any other person upon the consent, satisfactory to the Director of Public Works., of the person, department, board, commission, authority or other agency which produced or submitted the application, comment, recommendation, information, document or thing; subject only to the limitations imposed by the *Municipal Freedom of Information and Protection of Privacy Act. R.S.O. 1990, CHAPTER M.56, as amended.*

NOTICE

- 3.24 Every Applicant or Special Event Permit Holder shall notify the Director of Public Works, in writing, of any proposed changes to the arrangements for the Special Event no later than ten (10) business days prior to the Special Event.

Director of Public Works
Township of Wellesley
4639 Lobsinger Line, RR#1
St. Clements, ON N0B 2M0
kbeggs@wellesley.ca

- 3.25 The Chief Administrative Officer shall amend the Special Event Permit in writing if the proposed changes to the arrangements for the event comply with this By-law and upon payment of the Special Event Permit Amendment fee as outlined in Schedule "A" attached hereto.

TRANSFER OF SPECIAL EVENT PERMIT IS PROHIBITED

- 3.26 Every Special Event Permit, at all times, is owned by and is the property of the Township and is valid only with respect to the person and the premises and/or property named therein and for the Special Event stated in the Special Event Permit.
- 3.27 No Special Event Permit may be sold, purchased, leased, mortgaged, charged, encumbered, assigned, pledged, transferred, seized or otherwise dealt with.

CONTRAVENTION OF OTHER LAWS PROHIBITED

- 3.28 The issuance of a Special Event Permit under this By-law is not intended and shall not be construed as permission or consent by the Township for the Special Event Permit Holder to contravene or to fail to observe or comply with any law of Canada or Ontario or any other By-law of the Township or the Regional Municipality of Waterloo.

REVOCAION OF SPECIAL EVENT PERMIT

- 3.29 The Director of Public Works may revoke a Special Event Permit:
- which is voluntarily surrendered by the Special Event Permit Holder for revocation;
 - at any time when the Special Event Permit Holder fails to meet any provision of this By-law, any other Municipal By-law, any Federal or Provincial Statute or other Legislation; or
 - that was obtained by any mistake or misstatement.

NOTICE OF SPECIAL EVENT PERMIT REFUSAL OR REVOCATION

- 3.30 Where the Director of Public Works decides to refuse to issue or to revoke a Special Event Permit, he/she shall give notice of the reason for refusal to the Applicant and to such other persons, departments, boards, commissions, authorities or agencies as appear to have an interest in the decision.

Section 4-Fee Exemption or Reduction

- 4.1 Any applicant may request an exemption or reduction of fees after first paying the fee but prior to the issuance of the Special Event Permit. In the event of a request for fee exemption or reduction, the Applicant must demonstrate why the fee is unreasonable to the satisfaction of the Township.

Section 5-Insurance

- 5.1 Prior to the issuance of a Special Event Permit, the owner shall maintain insurance, and continue to maintain such insurance until cessation of the Special Event and expiry of the Special Event Permit, against all damages or claims for damage, (including injury to participants and/or spectators) with an insurance company satisfactory to the Township. Such policy or policies shall include the Township and the Region as additional insured and a certified copy of such insurance policy shall be delivered to the Township and be in full force and effect during the set up and until cessation of the Special Event, and including completion of all clean up and Special Event related activities, and expiry of the Special Event Permit. Such policy of insurance shall be in a form acceptable to the Township and without limiting the generality of the foregoing, shall provide:
- a) that the minimum limits shall be not less than five million (\$5,000,000.00) dollars for any single occurrence;
 - b) if Council deems that in their opinion the event warrants a higher limit, they may at their discretion increase the minimum insurance requirement;
 - c) that the insurance premium has been prepaid;
 - d) that the policy will provide that it is not cancellable unless prior notice by registered mail has been received by the Township from the insurer not less than thirty (30) days prior to the cancellation date;
 - e) the policy shall not contain a deductible clause, provided however, if the policy does contain a deductible clause, the same shall be approved by the Township, and the Owners shall provide an additional cash deposit payable to the Township in an amount to be determined by the Township. In the event of claims made against the Township to which the deductible applies, the Township shall appoint an independent adjuster to investigate such claim, and the finding of the independent adjuster shall authorize the Township to pay such claims deemed valid by such adjuster out of the additional cash deposit posted with the Township. In the event such additional cash deposits are deemed to be insufficient by the Township at any time and from time to time, the Owner hereby agrees to pay such additional cash deposits forthwith to the Township. All costs of the adjuster shall be borne by the Owner.

Section 6-Indemnification

- 6.1 The Owner shall indemnify and save harmless the Township against all actions, causes of action, suits, claims and demands whatsoever which may arise directly or indirectly by reason of an Agreement or of the Owner undertaking the Special Event.

Section 7-Enforcement and Penalties

- 7.1 This By-law may be enforced by a Municipal Law Enforcement Officer or a Police Officer or Director of Public Works or designate
- 7.2 No person shall hinder or obstruct, or attempt to hinder or obstruct any Officer while exercising any power or performing any duty under this By-law.
- 7.3 Inspections conducted by an Officer, the Director of Public Works, the Chief Building Official, or the Fire Chief, may be required based on the size, location and nature of the event and may be conducted prior to, during and upon the completion of the Special Event.

- 7.4 Every person, other than a corporation, who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to the penalties prescribed in the *Municipal Act, 2001 S.O. 2001, c.25*, as amended, for each offence.
- 7.5 Every corporation, who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to the penalties prescribed in the *Municipal Act, 2001 S.O. 2001, c.25*, as amended, for each offence.
- 7.6 A director or officer of a corporation who knows that the corporation is violating or has violated any provision of this By-law is guilty of an offence, and upon conviction is liable for the penalties prescribed in the *Municipal Act, 2001 S.O. 2001, c.25*, as amended, for each offence.

Section 8-Interpretation

- 8.1 The regulations established by this By-law apply to Special Events throughout the Township.
- 8.2 In this By-law, unless the contrary intention is indicated, words used in the singular shall include the plural and words used in the male gender shall include the female gender or vice versa, where applicable.
- 8.3 If there is a conflict between a provision in this By-law and a provision of any other Township By-law, the provision that establishes the highest standard to protect the health, safety and welfare of the general public shall apply.

Section 9-Severability

- 9.1 If a court of competent jurisdiction should declare any section or part of a section of this By-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this By-law and it is hereby declared that the remainder of this By-law shall be valid and shall remain in force.

Section 10-Administration

- 10.1 The Director of Public Works is responsible for the administration of this By-law.
- 10.2 This By-law comes into force and effect on January 1, 2018.

Read a first and second time this 5th day of December, 2017.

Mayor Joe Nowak

Clerk, Grace Kosch

Read a third and final time and passed 5th day of December, 2017.

Mayor Joe Nowak

Clerk, Grace Kosch

**SCHEDULE "A" TO
BY-LAW 57/2017**

Special Event Permit:

Organizations that provide direct services to the Township of Wellesley residents

\$0.00

Organizations that **DO NOT** provide direct services to the Township of Wellesley residents

Minimum Fee \$500.00

OR

3% of entry/participation fee

(Whichever is greater)

**All Fees are subject to HST