

# Work Ahead: The Pitfalls Of Temporary Work Zones

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In August 2016, the top 50 mm asphalt layer on Main Street in Otterville, Ontario, had been removed in preparation for repaving with a new asphalt layer. One night during the repaving project, a pedestrian crossing Main Street tripped and fell as a result of a 50 mm height differential that was created where Main Street intersected with another side street. Later in August 2022, the Ontario Superior Court of Justice concluded that the paving contractors and the County of Oxford, the municipal jurisdiction where Main Street is located, were jointly liable for 65% of the damages related to that incident.

Temporary work zones may be associated with an increased risk to pedestrians due to the uneven walking surfaces as well as potential confusion created when temporary pedestrian paths are not properly marked with signs and pavement markings. Temporary work zones may also be associated with an increased risk to cyclists if the riding surface is uneven, if adequate signage and lane markings are not provided, or if there are unexpected or unusual conflicts between bicycle paths and traffic lanes.

## Did you know?



Book 7 of the Ontario Traffic Manual (OTM) provides details on how road authorities must develop and implement a Transportation Management Plan (TMP) to protect road users and site personnel in temporary work zones.

Temporary work zones are also associated with an increased risk to motorists due to the unexpected and unusual traffic conditions, combined with restricted geometric and operational features. Examples of those restricted features include sudden reduction in operating speeds, reduced number of lanes, reduced lane and shoulder widths, and the provision of temporary detour curves with sharp radii. This is in addition to the possibility that some drivers may mistakenly drive their vehicles into the work area, exposing themselves as well as site personnel to a great risk. For instance, a transport truck driver was injured in March 2022 after driving his truck into the work area in a temporary work zone along Highway 401 in Mississauga, Ontario. A similar



A worker holds a sign advising motorists to go slow through the temporary construction area.

incident occurred a few months later, in December 2022, when another transport truck driver was injured after driving his truck into the work area in a temporary work zone along Highway 401 in Chatham-Kent County, Ontario.

Given the increased risk to all road users, road authorities across Ontario are exposed to increased liability claims resulting from incidents in temporary work zones. The claims typically allege that the incident was caused, in whole or in part, by the lack of proper safety measures (including proper signage and pavement markings) in the temporary work zone where the incident occurred.

Book 7 of the Ontario Traffic Manual (OTM) provides details on how road authorities must develop and implement a Transportation Management Plan (TMP) to protect road users and site personnel in temporary work zones. This includes the development and implementation of a Traffic Protection Plan and a Traffic Control Plan. A Traffic Protection Plan is a mandatory requirement, under Ontario Regulation 213/91, to ensure that site personnel are protected from the hazard of vehicular traffic while working in a temporary work zone. A Traffic Control Plan is required to provide guidance and protection for all road users in a temporary work zone. Currently, there is no standardized system in place for road authorities or contractors to ensure that site personnel in temporary work zones receive mandatory training on developing and implementing traffic protection and control plans. This may compromise the safety of road users and site personnel, potentially resulting in costly claims for municipalities and contractors in the event of an incident.

To address this gap, I was pleased to collaborate with Good Roads to develop a one-day professional development workshop with the title “*Municipal Liability: Temporary Work Zones*”, which will cover the safety requirements for temporary work zones in Ontario. The workshop will be offered on October 16, 2023, at the Centre for Health & Safety Innovation (CHSI) located at 5110 Creebank Road in Mississauga, Ontario. This workshop will not only help municipal staff understand how to develop and implement essential safety plans, but also provide guidance on how municipalities and contractors can require all site personnel to undergo proper safety training and obtain certification before working on the site. The course will also provide guidance for municipalities and contractors on maintaining records of essential safety plans and training certificates, which may be useful in defending the municipality or the contractor during potential litigation resulting from an incident in a temporary work zone.

The workshop will utilize several case studies to demonstrate real-life examples on how to properly develop and implement the necessary safety plans in temporary work zones. To obtain a certificate indicating successful completion of the workshop, participants will need to pass an online test at the end of the workshop. This certificate can be used by municipalities and contractors as proof of participants’ competency to develop and implement essential safety plans in temporary work zones to ensure their own safety as well as the safety of all road users. [GR](#)

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