



being a by-law to delegate authority for the temporary closure or occupancy of highways including sidewalks and boulevards under the jurisdiction of the City of Oshawa for construction or maintenance purposes, including establishing a licensing system, and the movement of heavy or oversize vehicles and loads.

IT IS HEREBY ENACTED as a by-law of The Corporation of the City of Oshawa, by its Council, as follows:

## **SECTION 1.0 INTERPRETATION**

- 1.1 Short Title: This by-law may be cited as the “Road Occupancy By-law”.
- 1.2 Severability: If any provision or part of a provision of this by-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, the balance of the by-law shall not be affected and shall continue to be in full force and effect.
- 1.3 Plurals/Gender: 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 and vice versa.
- 1.4 Legislation: Unless otherwise indicated, all references to provincial legislation in this bylaw are references to the Revised Statutes of Ontario, 1990, as amended from time to time, including successor legislation. Similarly, all references to CITY by-laws are references to those by-laws, as amended from time to time, including successor by-laws.
- 1.5 Headings: Section and paragraph headings are inserted solely for ease of reference.

## **SECTION 2.0 DEFINITIONS**

- 2.1. Capitalization of defined terms: Where the words listed in this section appear in this bylaw printed in capital letters, they are used as defined in the lettered paragraphs of this sub-section. Words printed in regular case should be read in the context of their ordinary, everyday meanings.
  - (a) “CITY” means The Corporation of the City of Oshawa.
  - (b) “COMMISSIONER” means the CITY commissioner responsible for public works services or his designate.
  - (c) “CONSTRUCTION OR MAINTENANCE PURPOSES” means any construction, repair or improvement of the HIGHWAY or a portion thereof or any works under, over, along, across or upon the HIGHWAY, and also includes building construction, repair or maintenance operations by the owner or occupant of land adjoining the HIGHWAY, including the storage of materials used for such building or the erection of hoardings, which require HIGHWAY occupancy or closure.
  - (c.1) GENERAL OCCUPANCY PURPOSES" means any activities that cause a temporary obstruction, occupancy or closure of a HIGHWAY for any purpose other than permitted parking or events for which a Special Event Permit has been issued. (125-2022)
  - (d) “HIGHWAY” means a common and public highway, street, avenue, parkway, driveway, boulevard or any part thereof, which is intended for or used by the general public for the passage of vehicles and pedestrians and includes the area between the lateral property lines thereof.
  - (e) “LICENSEE” means the person who has been issued a Road Occupancy Permit or a Moving Permit pursuant to this By-law. (71-2012)
  - (f) “M.T.O.” means the Ontario Ministry of Transportation.
  - (f.1) PERSONS means an individual, association, firm, partnership, corporation, trust, organization, trustee or agent, and heirs, executors or legal representatives of the Person to whom the context can apply. (71-2012)

- (g) "WORKING DAYS" shall exclude Saturdays, Sundays and statutory holidays, Family Day, Easter Monday, the August Civic Holiday and Remembrance Day. (71-2012)

### SECTION 3.0 APPROVALS

- 3.1 For the purpose of this By-law, the COMMISSIONER shall have authority to grant Road Occupancy Permits and Moving Permits under this By-law, and to impose conditions thereon.
- 3.2 The COMMISSIONER shall have the authority to order the stoppage of work on the HIGHWAY where a Road Occupancy Permit has not been issued or where the conditions of a Road Occupancy Permit, or provisions of this By-law, have not been complied with, and to revoke a Road Occupancy Permit if the LICENSEE does not meet the requirements of the permit or of this by-law.
- 3.3 The COMMISSIONER is authorized to approve and administer permits for any HIGHWAY under the jurisdiction of the CITY for the movement of heavy vehicles, loads, objects or structures which are in excess of the dimensional limits set out in Section 109 of the Highway Traffic Act, or the weight limits set out in Part VIII of the Highway Traffic Act.
- 3.4 Notwithstanding the delegation of authority under this By-law to the COMMISSIONER, the Council of the City of Oshawa shall retain the capacity to exercise all of the powers delegated to the COMMISSIONER under this By-law.
- 3.5 The powers delegated to the COMMISSIONER under this By-law are, in the opinion of City Council having regard to the number of people, the size of geographic area and the time period affected by an exercise of the powers, of a minor nature.

### SECTION 4.0 APPLICATION

- 4.1 Road Occupancy Permits required: Subject to sub-sections 6.1, 6.2 and 6.4 hereof, no person shall, for CONSTRUCTION OR MAINTENANCE PURPOSES, and/or GENERAL OCCUPANCY PURPOSES, close, occupy, obstruct, encumber, injure or foul any HIGHWAY or bridge or any part thereof by any means whatsoever without first obtaining an approved Road Occupancy Permit from the CITY. (125-2022)
- 4.2 Conditions on Road Occupancy Permit: No LICENSEE shall fail to comply with any of the conditions set out in a Road Occupancy Permit.
- 4.3 Moving Permits: No person shall move any oversize or overweight vehicle or load on any HIGHWAY under the jurisdiction of the CITY, without first obtaining a Moving Permit.
- 4.4 Conditions on Moving Permit: No LICENSEE shall fail to comply with any of the conditions set out in a Moving Permit.
- 4.5 Production of Permit: No LICENSEE shall fail to produce a Road Occupancy Permit or Moving Permit if requested to do so by the COMMISSIONER or by any other person who is authorized to enforce the by-laws of the City.

### SECTION 5.0 PERMIT FEES

- 5.1 Fees: The fee for obtaining a Road Occupancy Permit or Moving Permit shall be as set out in the City's Fees and Charges By-law from time to time.
- 5.2 DELETED (71-2012)

SECTION 6.0 ROAD OCCUPANCY FOR CONSTRUCTION OR MAINTENANCE PURPOSES

- 6.1 CITY Works: A Road Occupancy Permit is required by a PERSON undertaking any works for on behalf of the CITY. There shall be no fee payable for such a Road Occupancy Permit.
- 6.2 Exemptions: The Regional Municipality of Durham, the Oshawa Public Utilities Commission, Bell Canada, Telus, Rogers Cablesystems, Enbridge Consumers Gas or any other utility or their respective agent will not require a Road Occupancy Permit to undertake the following types of work, providing the work does not block the traveled portion of the roadway or prevent the use of a sidewalk:
- (a) DELETED (71-2012)
  - (b) DELETED (71-2012);
  - (c) work on shut-off valves;
  - (d) initial work conducted in new subdivisions prior to installation of sidewalk, curb and gutter and asphaltic concrete pavement;
  - (e) work in manholes, valve chambers and transformer vaults, any non-invasive maintenance work.

The above agencies shall comply with the requirements of the M.T.O. Traffic Control Manual for Roadway Work Operations, Occupational Health and safety Act, R.S.O. 1990, c.O.1, as may be amended or replaced from time to time, as required. (71-2012)

- 6.3 Extensions of time: No LICENSEE shall fail to notify the CITY in the event that additional time is required to complete the work than contemplated on the permit, and the reason therefor.
- 6.4 Emergency works: Subject to subsection 6.2, when the Regional Municipality of Durham, the Oshawa Public Utilities Commission, Bell Canada, Telus, Rogers Cablesystems, Enbridge Consumers Gas or their respective agent closes or occupies a HIGHWAY as a result of an emergency, telephone notice shall be given immediately to the CITY and on the next WORKING DAY application for a permit as required by this bylaw shall be made.
- 6.5 Deviation from permit: No LICENSEE shall fail to notify the CITY of the extent of any alteration, breaking or disturbance of an existing pavement, boulevard or sidewalk, immediately upon completion of the works, if the works undertaken deviate from those set out on the permit.
- 6.6 Repairs: Where the LICENSEE alters, breaks or otherwise disturbs any portion of the existing pavement, curb and gutter, any underground service, sidewalk or boulevard, the LICENSEE shall within seventy-two (72) hours of the completion of its work effect a permanent repair to the satisfaction of the CITY. (71-2012)
- 6.6.1 Temporary Repairs: Notwithstanding subsection 6.6, where the LICENSEE alters, breaks or otherwise disturbs any portion of existing pavement, curb and gutter, any underground service, sidewalk or boulevard between December 15 and April 29, the LICENSEE may effect a temporary repair of the altered, broken or otherwise disturbed area provided that the LICENSEE effects a permanent repair of the area to the satisfaction of the CITY no later than April 30. The LICENSEE shall maintain the temporary repair until it can effect the permanent repair. Any proposal for temporary repair during this period shall be communicated to the CITY in writing. (71-2012)
- 6.6.2 Warranty: The LICENSEE shall maintain and warranty the permanent repair for a period of two (2) years from the date of completion of the permanent repair. Any and all costs associated with the maintenance and warranty of the permanent repair shall be at the expense of LICENSEE. The LICENSEE shall attend to the

maintenance and warranty of the permanent repair at any time during the two year period at the request of the City acting reasonably. (71-2012)

- 6.7 Sodded areas: No LICENSEE shall fail to permanently restore all sodded areas with topsoil and sod to the satisfaction of the CITY within 7 working days unless alternative arrangements are made with the CITY. The LICENSEE shall be responsible for adequately grading the area and maintaining the sod until it has re-established and maintained a functioning root system, to the satisfaction of the CITY, for one year from the date of installation or re-installation
- 6.8 Failure to effect Repairs: Where the LICENSEE fails to effect a permanent repair in accordance with subsection 6.6, a temporary repair in accordance with subsection 6.6.1, or permanent restoration of sodded areas as provided in subsection 6.7, the CITY may restore the sodded areas and maintain them at the expense of the LICENSEE or any other person who benefited from or who contracted for the works. In addition to any other penalty and without limiting any collection remedy otherwise available to the CITY, the cost to effect the repairs to, and maintenance of, the sodded areas, may be added to the tax roll for any real property within the municipality owned by the LICENSEE or any other person responsible for paying the expense, and the amount may be collected in like manner as municipal taxes.
- 6.9 Traffic control required: No LICENSEE shall fail to provide all signs, barricades, traffic control devices, flagmen, and other persons and equipment as required by the COMMISSIONER prior to the commencement of and at the location of the HIGHWAY closure or occupancy.
- 6.10 LICENSEE assumes all costs: The LICENSEE shall be responsible for all costs incurred by the CITY as a result of the road closure or occupancy and upon default in payment, the CITY may add the outstanding expense to the tax roll for any real property within the municipality owned by the PERSON responsible for paying the expense, and the amount may be collected in like manner as municipal taxes.
- 6.11 Access to public/private properties: No PERSON shall fail to maintain access to all public and private properties during the course of the HIGHWAY closure or occupancy.
- 6.12 Delegation of Road Closing Authority: Each of the City Manager, the Commissioner, Community Services, and the Director, Works and Transportation Services or any of their designate is authorized to close temporarily a HIGHWAY for the purpose of this by-law. (71-2012)
- 6.13 Notwithstanding the delegation of authority set out in Subsection 6.12, the Council of the CITY shall retain the capacity to exercise the authority delegated in Section 6.12 herein. (71-2012)
- 6.14 The authority delegated in subsection 6.12 herein is, in the opinion of the Council having regard to the number of people, the size of the geographic area and the time period affected by an exercise of the power, of a minor nature. (71-2012)

## SECTION 7.0 GENERAL REQUIREMENTS

- 7.1 Insurance: The LICENSEE shall provide Commercial General Liability (CGL) Insurance written on an occurrence basis with a liability limit in an amount and form satisfactory to the COMMISSIONER and such insurance shall name the CITY as an additional insured.
- 7.2 Parking Control Devices: If a project requires that parking control devices be removed or reserved, the LICENSEE shall reimburse the CITY for all revenue lost during the period the parking control devices are out of service, based upon the prevailing hourly rate for the parking control devices, plus any additional administrative costs incurred by the CITY. The LICENSEE is responsible for

setting out, removing and returning any parking control device covers required to reserve the parking control devices and any costs of repairing or replacing damaged or missing covers.

- 7.3 Compliance with other Statutes: LICENSEES shall comply with the requirements of the Public Transportation and Highway Improvement Act and any other relevant Provincial statute.
- 7.4 Conflict: If there is a conflict between a provision of this By-law and a provision of any other City By-law, the provision that establishes the higher standard to protect the health and safety of the public and to maintain safe and functional condition of the pavement, sidewalk, curb, and underground services or boulevard. (71-2012)

## SECTION 8.0 PENALTIES

- 8.1 Every PERSON who contravenes any of the provisions of this By-law is guilty of an offence and, upon conviction, is liable to the penalties as prescribed by the Provincial Offences Act, R.S.O 1990, c. P.33. (125-2022)
- 8.2 Administrative Penalty Process By-law 63-2013 applies to each administrative penalty issued pursuant to this By-law. (125-2022)
- 8.3 Each PERSON who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 63-2013, be liable to pay to the City an administrative penalty. If a PERSON receives a penalty notice in accordance with the City's Administrative Penalty Process By-law for a contravention of this By-law, and the PERSON has not received a penalty notice for the same contravention within one (1) calendar year or less, the PERSON shall be liable to pay to the City a tier one (1) administrative penalty amount for that contravention in the amount of \$250. If a Person receives an additional penalty notice for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier one (1) administrative penalty amount, the PERSON shall be liable to pay to the City a tier two (2) administrative penalty amount for that contravention in the amount of \$350. If the PERSON receives a subsequent penalty notice for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier two (2) administrative penalty amount, the PERSON shall be liable to pay to the City a tier three (3) administrative penalty amount for that contravention in the amount of \$450. If the PERSON receives any subsequent penalty notices for the same contravention of the By-law within one (1) calendar year or less from the date of the penalty notice containing a tier three (3) administrative penalty amount, the PERSON shall be liable to pay to the City a tier three (3) administrative penalty amount for that offence in the amount of \$450. (125-2022)

## SECTION 9.0 MISCELLANEOUS PROVISIONS

- 9.1 By-law 25-99 is hereby repealed.
- 9.2 This by-law shall take effect on the date of its passage.

By-law read a first, second and third time and finally passed this thirtieth day of April, 2007.

20012-06-26