

# Office Consolidation of Road Occupancy By-Law 2014-022



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Co-Ordinator at 905-623-3379 ext. 2131

## **The Corporation of the Municipality of Clarington**

### **By-Law 2014-022**

Being a by-law regulating temporary road occupancy

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Passed, by Council, on: March 6, 2014

Consolidated as of: October 18, 2021

Amendments:

Amending By-Law	Date	Amendment Details
2021-075	October 18, 2021	Add sections 2.14 and 6.2, replace section 5.4, add Schedule A

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**THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON****BY-LAW 2014-022**

A by-law regulating temporary road occupancy

**WHEREAS** paragraph 1 of subsection 11(3) of the *Municipal Act, 2001*, S.O. 2001, c.25 authorizes municipalities to pass by-laws respecting highways under their jurisdiction; and

**WHEREAS** sections 23.1 and 23.2 of the *Municipal Act, 2001*, S.O. 2001, c.25 authorize municipalities to delegate the power to close a highway temporarily; and

**WHEREAS** the Municipality wishes to regulate the temporary closure of highways under its jurisdiction for construction activity.

**NOW THEREFORE** the Council of The Corporation of the Municipality of Clarington hereby enacts as follows:

**PART 1 - INTERPRETATION****Definitions**

1.1. In this by-law, unless otherwise specified,

"applicable laws" means all federal, provincial and municipal laws, by-laws, rules, regulations, orders, approvals, permits, standards, and all other governmental requirements applicable to any construction activity and a temporary highway closure or occupancy;

"applicant" means a person applying for a permit;

"application" means an application for a permit;

"construct" includes erect, install, repair and maintain;

"construction activity" means any construction or other activity that requires temporary closure of a portion of a Municipal highway to the public including,

- a) construction of any utility company infrastructure;
- b) installation of municipal services in accordance with an approved site plan, subdivision plan or other development agreement;
- c) construction on residential properties including pools, fences, gate posts and mailboxes;
- d) felling of trees;
- e) installation of drainage works;
- f) erection of banners or signs;

- g) erection of scaffolding or hoarding;
- h) parking of construction vehicles;
- i) placement of construction equipment (e.g. mobile cranes);
- j) placement of dumpsters; and
- k) storage of construction materials;

"Director" means the Municipality's Director of Engineering Services or a designate;

"highway" has the same meaning as in subsection 1(1) of the *Municipal Act, 2001*, S.O. 2001, c.25;

"Municipality" means The Corporation of the Municipality of Clarington or the geographic area of Clarington, as the context requires;

"permit" means a permit issued under this by-law to temporarily close a portion of highway for construction activity or to occupy a highway to transport vehicles, loads, objects or structures in excess of the load and dimension limits set out in Parts VII and VIII of the *Highway Traffic Act*, R.S.O. 1990, c. H.8;

"person" includes an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors or legal representatives; and

"work area" means the area of a highway that is to be temporarily closed.

## References

- 1.2. In this by-law, reference to any Act or Manual is reference to that Act or Manual as it is amended or re-enacted from time to time.
- 1.3. Unless otherwise specified, references in this by-law to Parts or sections are references to Parts or sections in this by-law.

## Word Usage

- 1.4. This by-law shall be read with all changes in gender or number as the context requires.
- 1.5. In this by-law, a grammatical variation of a word or expression defined has a corresponding meaning.

**Severability**

- 1.6. Each section of this by-law is an independent section, and the holding of any section or part of any section of this by-law to be void or ineffective for any reason shall not be deemed to affect the validity of any other sections of this by-law.

**Application**

- 1.7. This by-law applies to all highways under the jurisdiction of the Municipality.

**PART 2-PERMITS****Permit Required**

- 2.1 No person shall undertake, or permit to be undertaken, any construction activity on a Municipal highway without a permit.
- 2.2 No person shall use any Municipal highway to transport any vehicles, loads, objects or structures in excess of the load and dimension limits set out in Parts VII and VIII of the *Highway Traffic Act*, R.S.O. 1990, c. H.8 without a permit.

**Application - Minimum Requirements**

- 2.3 Every application shall be completed and submitted on forms prescribed by the Director.
- 2.4 Every application shall include,
- a) a sketch showing the proposed work area and the proposed location of any barricades or other barriers;
  - b) the date(s) and time(s) that the work area needs to be temporarily closed or occupied;
  - c) proof of the insurance described in section 3.1;
  - d) satisfactory proof that the applicant is at least 18 years of age or, if the applicant is a corporation, copies of the letters of incorporation or other incorporating documents that have been duly certified by the proper authorities and that show the full corporate name, officers and directors of the applicant;
  - e) contact information for the applicant; and
  - f) any other information or documentation that the Director deems necessary.

- 2.5 Without limiting the generality of clause 2.4(f), the Director may require an applicant to submit a traffic safety plan providing for the control of traffic and parking, including all vehicular, pedestrian and cyclist movements to, from and within the work area and additional insurance described in Part 3.
- 2.6 The deadline for submitting the information and documentation required by sections 2.4 and 2.5 is 10 days prior to the date that work area needs to be temporarily closed.

### **Fee**

- 2.7 (1) In this section, "charity" means a registered charitable or registered not-for-profit organization that operates for cultural, educational, or religious goals, social welfare, recreation, amateur sport or any other similar community initiative for any purpose except profit.
- (2) Unless the construction activity is solely for the benefit of a charity, the Director may require, as a permit condition, that an applicant pay for any municipal services (e.g. resources provided by the Municipality's Engineering Services Department, Operations Department or Emergency and Fire Services Department) that are required as part of the temporary highway closure or occupancy.

### **Security Deposit**

- 2.8 The Director may require the permit holder to provide a refundable deposit as security for possible damage to Municipal property or equipment, possible damage to adjacent private property, clean up costs, and all other obligations of the permit holder under this by-law and the permit.

### **Review**

- 2.9 The Director is authorized to receive and consider all applications, and to conduct all investigations necessary to determine whether a permit should be issued.
- 2.10 The Director may issue or refuse to issue any permit, and may include any conditions in a permit that he deems appropriate.
- 2.11 Prior to making a decision on any application, the Director shall consult with such other persons or agencies as he considers necessary.
- 2.12 When reviewing an application, the Director shall consider,
- a) any potential adverse effect on public health and safety;
  - b) any potential inconvenience to the public;

- c) any potential traffic impacts, including the adequacy of detour routes;
- d) any concerns for the security of persons or property; and
- e) whether the past or present conduct of the applicant affords reasonable grounds to believe that the special event may not be carried in a lawful, safe, secure, peaceful and controlled manner.

### Conditions

2.13 In addition to any other conditions that the Director may deem appropriate, every permit issued to temporarily close a portion of a highway for construction activity shall be subject to the following conditions:

- a) The permit holder shall comply with all applicable laws.
- b) The permit holder shall comply with all of the timeframes, guidelines, signage and layout requirements of the Ontario Traffic Manual, Book 7 as they relate to temporary highway closures.
- c) The permit holder shall notify (either personally or by mail) all owners and occupiers of property (including churches) whose access may be affected by the temporary closure at least 10 days in advance of the temporary closure.
- d) The permit holder shall ensure that no construction equipment is of such height as to interfere with official signs, traffic control signal displays, electric, light, telephone or other wires or cables on the highway.
- e) The permit holder shall indemnify and save harmless the Municipality, its officers, employees and agents from and against all manner of actions, causes of action, claims, demands, losses and costs that may arise, be sustained, or prosecuted against the Municipality for or by reason of the granting of the permit or the performance of the permit holder under the permit whether with or without negligence on the part of the permit holder.
- f) The permit holder shall maintain the work area in a clean and sanitary condition for the duration of the permit.
- g) The permit holder shall remove all debris from the work area and, where required, adjacent properties prior to the expiration of the permit.

2.14 No person shall contravene a condition of a permit issued under this By-law.

**Refusal**

- 2.15 Without limiting the generality of section 2.10, the Director may refuse to issue a permit if,
- a) the applicant has not provided information or documentation required under sections 2.4 and 2.5 or did not provide such information or documentation within the time frame set out in section 2.6;
  - b) the applicant has not provided the security required under section 2.8;
  - c) the applicant has submitted false, mistaken, incorrect or misleading information in support of the application;
  - d) the applicant or any principal, director or officer of the applicant has an outstanding debt to the Municipality relating to a permit; or
  - e) the requested temporary occupancy poses an unacceptable risk to the health and safety of any person or damage to property.

**Revocation**

- 2.16 The Director may revoke a permit at any time without prior notice to the permit holder if,
- a) it was issued in error;
  - b) it was issued as a result of false, mistaken, incorrect or misleading information in the application;
  - c) there are reasonable grounds to believe that the continuation of the temporary occupancy or closure poses an unacceptable risk to the health and safety of any person or damage to property; or
  - d) the permit holder is not in compliance with any permit condition.
- 2.17 The Director shall immediately inform the permit holder of a revocation and the reasons for it by means of contacting the permit holder at the address or at the coordinates provided in the application.

**General**

- 2.18 Where a permit has been issued, the Director may temporarily close any portion of a highway to pedestrians or vehicular traffic, or both, and may cause to be erected such barricades and other barriers as may be needed to preserve public order and protect persons and property.

- 2.19 Every permit shall specify the name of the permit holder, the location of the work area, and date(s) and time(s) that the highway may be temporarily occupied or closed.
- 2.20 The issuance of a permit does not represent a commitment by the Municipality or the Director to issue a permit for any subsequent, continuing or similar construction activity.
- 2.21 Permits are not transferrable.
- 2.22 No amendment shall be made to a permit without prior authorization by the Director.

### **PART 3 - INSURANCE**

#### **Insurance**

- 3.1. Every applicant shall provide proof of commercial general liability insurance acceptable to the Director of Finance and subject to limits of not less than 2 million dollars inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof, for the duration of the special event.
- 3.2. If deemed necessary by the Director of Finance, the applicant shall provide liability insurance in respect of licensed, owned or leased motor vehicles subject to a limit of not less than 2 million dollars inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof.
- 3.3. If deemed necessary by the Director of Finance, the insurance shall include coverage for premises and operations liability, products and completed operations liability, cross liability, severability of interest clause, employees as additional insured, contingent employer's liability, personal injury liability, incidental medical malpractice, owners and contractors malpractice, blanket contractual liability, and non-owned automobile liability.
- 3.4. All insurance shall be in the name of the permit holder and shall name the Municipality as an additional insured. This insurance shall be non-contributing with, and apply as primary and not as excess of, any insurance available to the Municipality.
- 3.5. All insurance shall contain the endorsement to provide the Municipality with 30 days prior written notice of any cancellation or change.
- 3.6. The Director of Finance may vary the monetary limits set out in section 3.1 or 3.2.

## **PART 4- REGULATIONS**

### **Applicants**

- 4.1. No applicant shall give false or misleading information for the purpose of obtaining a permit.
- 4.2. Every applicant shall notify the Director in writing of any change in any of the information contained in an application within two days of the change.

### **Permit Holders**

- 4.3. A permit holder shall comply with all permit conditions.

## **PART 5 - ENFORCEMENT**

### **Officers**

- 5.1. This by-law may be enforced by a police officer, a municipal law enforcement officer or the Director.

### **Inspections**

- 5.2. A police officer, a municipal law enforcement officer or the Director may,
  - a) enter upon any property (other than a dwelling unit) for the purpose of carrying out an inspection under this by-law;
  - b) require the production for inspection of any document or thing relevant to the inspection;
  - c) require the production of information relevant to the inspection; and
  - d) make examinations or take tests, samples or photographs necessary for the inspection.
- 5.3. No person shall prevent, hinder or interfere or attempt to prevent, hinder or interfere with an inspection undertaken in accordance with this by-law.

### **Offences and Penalties**

- 5.4. Without limiting any other section of this By-law, every Person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine in accordance with the *Provincial Offences Act*, R.S.O. 1990, c. P.33.

- 5.5. When a person has been convicted of an offence under this by-law, the Ontario Court of Justice or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

## **PART 6 - GENERAL**

### **Short Title**

- 6.1. The short title of this by-law shall be the "Road Occupancy By-law".

### **Schedules**

- 6.2. The following Schedules are attached to and form an integral part of this by-law:

Schedule "A" – Set Fines

### **Effective Date**

- 6.3. This by-law shall be effective on the date that it is passed.

By-law passed this 5th day of March, 2014.

ORIGINAL BY-LAW SIGNED

**Schedule "A"**  
**MUNICIPALITY OF CLARINGTON**  
**PART I Provincial Offences Act**  
**By-law #2014-022, as amended: Road Occupancy By-law**

<b>ITEM</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 Provision creating of defining offence</b>	<b>COLUMN 3 Set Fine</b>
1	Undertake, or permit to be undertaken, any construction activity on a Municipal highway without a permit	s.2.1	\$500.00
2	Transport vehicles, loads, objects or structures in excess of load and dimension limits	s. 2.2	\$500.00
3	Contravene a condition of a permit	s. 4.3	\$300.00

\*NOTE: The penalty provision for the offences indicated above is section 5.4 of by-law no. 2014-022, as amended, a certified copy of which has been filed".