

Office Consolidation of By-Law 2014-021



The Corporation of the
Municipality of Clarington
By-Law 2014-021

Being a By-law to regulate special events on municipal highways within
the Municipality of Clarington.

Passed, by Council, on: March 6, 2014

Consolidated as of: November 16, 2016

Amendments:

Amending By-Law	Date	Amendment Details
2015-017	February 9, 2015	Section 2.11 was amended by deleting the phrase "peddlers (By-law 2005-206)."

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The Corporation of the Municipality of Clarington

By-Law 2014-021

A by-law regulating special events on municipal highways

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 the Municipality wishes to ensure cooperation among the various agencies involved in and affected by special events in order to (a) enhance the quality of life for residents; (b) further tourism and economic development; (c) protect public health and safety; and (d) avoid unnecessary disruptions in the community.

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 occupancy of highways under its jurisdiction for special events.

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,

“amusement device” has the same meaning as in subsection 1(1) of O. Reg. 221/01 passed under the *Technical Standards and Safety Act, 2000*, S.O. 2000, c.16;

“applicable laws” means all federal, provincial and municipal laws, by-laws, rules, regulations, orders, approvals, permits, standards, and all other governmental requirements applicable to a special event;

“applicant” means a person applying for a permit;

“application” means an application for a permit;

“Chief of Police” means the Chief of Police of the Durham Regional Police Service or a designate;

“Director” means the Municipality’s Director of Engineering Services or a designate;

“Director of Emergency and Fire Services” means the Municipality’s Director of Emergency and Fire Services or a designate;

“Director of Finance” means the Municipality’s Director of Finance or a designate;

“Director of Operations” means the Municipality’s Director of Operations 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;

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“permit” means a permit issued under this by-law to temporarily occupy a portion of highway for a special event;

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

“Region” means The Regional Municipality of Durham;

“special event” means a demonstration, parade, procession, organized walk or run, bicycle ride or race, filming event, street dance, residential block party, rally, fair, sidewalk sale, festival, carnival, and any cultural, recreational, educational or similar event; and

“vehicle” means a motor vehicle, as defined under the *Highway Traffic Act*, R.S.O. 1990, c. H.8, a trailer, traction engine, farm tractor, or any other vehicle that is dawn, propelled or driven by any kind of power including motorized snow vehicles, all-terrain vehicles and electric vehicles.

References

- 1.2 In this by-law, reference to any Act, By-law or Policy is reference to that Act, By-law or Policy 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 hold or carry on, or permit to be held or carried on, a special event that requires temporary closure of a Municipal highway without a permit.

Application – Minimum Requirements

- 2.2 Every application shall be completed and submitted on forms prescribed by the Director.
- 2.3 Every application shall include,
 - (a) a sketch showing,
 - (i) the area of the highway on which the special event will be held or the route to be followed;
 - (ii) the proposed location of any marshals and volunteers;

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- (iii) the proposed location of any barricades or other barriers; and
- (iv) any proposed detours of public transit routes (Durham Region Transit and GO Transit) and highways;
- (b) details of the special event including a description of any proposed,
 - (i) fireworks;
 - (ii) amusement devices;
 - (iii) food sales or service;
 - (iv) sound equipment;
 - (v) generators, propane appliances and any other specialized equipment to be used during the special event, including the type of fuel used to operate the equipment;
 - (vi) vendors of any type;
 - (vii) vehicles of any type including floats and displays
 - (viii) signage;
 - (ix) use of exotic pets; and
 - (x) temporary structures such as tents larger than 30 m² or 323 ft² (Fire Code) or larger than 60 m² or 646 ft² (Building Code);
- (c) an estimate of the number of persons expected to attend the special event;
- (d) an estimate of the number of volunteers expected to participate in the special event;
- (e) the date(s) and time(s) of the special event;
- (f) proof of the insurance described in section 3.1;
- (g) 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;
- (h) contact information for the applicant; and
- (i) any other information or documentation that the Director deems necessary.

Application – Additional Requirements

- 2.4 Without limiting the generality of clause 2.3(i), the Director may require an applicant to submit as part of an application,
- (a) a traffic safety plan providing for the control of traffic and parking, including all vehicular, pedestrian and cyclist movements to, from and within the special event location; and
 - (b) a waste management (including recycling) plan.
- 2.5 The deadline for submitting the information and documentation required by sections 2.3 and 2.4 is 60 days prior to the special event.

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Fees and Charges

2.6 (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; and

“exempt applicant” means a charity, a local board of the Municipality (which includes a board of management of a business improvement area), the Bowmanville Santa Claus Parade Committee and the Courtice Santa Claus Parade Committee.

(2) If an applicant is not an exempt applicant, an application shall include an application review fee of \$500.00.

(3) If an applicant is not an exempt applicant, the Director may require 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.

(4) If an applicant is not an exempt applicant, it shall, at its expense, take all necessary action to ensure public safety and 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 occupancy.

(5) If an applicant is an exempt applicant, the Municipal Operations Department shall, at no cost, dedicate the necessary resources to ensure public safety and ensure compliance with all of the timeframes, guidelines, signage and layout requirements of the Ontario Traffic Manual, Book 7 as they relate to temporary highway occupancy.

Review

2.7 The Director is authorized to receive and consider all applications, and to conduct all investigations necessary to determine whether a permit should be issued.

2.8 The Director may issue or refuse to issue any permit, and may include any conditions in a permit that he deems appropriate.

2.9 Prior to making a decision on any application, the Director shall consult with such other persons or agencies as he considers necessary.

2.10 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;
- (e) the adequacy of police security for the special event including the adequacy of arrangements for assembly and disassembly;
- (f) the adequacy of alternate fire and emergency response;
- (g) if the highway is a public transit route, the adequacy of an acceptable alternate public transit route;
- (h) whether the special event may result in the breach of any applicable law;

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- (i) the adequacy of arrangements for the convenience and comfort of participants in the special event; and
- (j) whether the past or present conduct of the applicant or the organization sponsoring or conducting the special event affords reasonable grounds to believe that the special event may not be carried in a lawful, safe, secure, peaceful and controlled manner.

Additional Approvals

2.11 The applicant shall ensure that all permits, licenses, approvals or other requirements under Municipal by-laws or policies in relation to the special event have been obtained or met, including (if applicable) those relating to noise (By-law No. 2007-071), refreshment vehicles (By-law No. 2004-114), exotic pets (By-law No. 2012-045), signs (Community Festival/Event Promotional Temporary Signage Policy adopted by Council in 2010 through Report COD-046-10) and fireworks (By-law No. 92-160).

2.12 Prior to issuing a permit, the Director shall ensure (where applicable) that,

- (a) all emergency and fire safety issues have been addressed to the satisfaction of the Director of Emergency and Fire Services;
- (b) all road and sidewalk safety issues have been addressed to the satisfaction of the Director of Operations;
- (c) the waste management plan is satisfactory to the Regional Health Department;
- (d) arrangements have been made to provide adequate police protection to the satisfaction of the Chief of Police;
- (e) any proposed detours of public transit routes are acceptable to GO Transit or Durham Region Transit as the case may be;
- (f) all requirements of the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7 have been met to the satisfaction of the Regional Health Department;
- (g) appropriate arrangements for the provision of medical services or medical transport or the provision of first aid services by non-paramedic staff have been made to the satisfaction of Durham Emergency Medical Services;
- (h) the Region's Works Department has issued any necessary water hydrant, sign or road occupancy permits in relation to highways under its jurisdiction;
- (i) the Municipality's Chief Building Official or a designate has issued all permits required under the *Building Code Act, 1992*, S.O. 1992, c. 23;
- (j) the Director of Finance has received any additional insurance required under Part 3;
- (k) the Technical Standards and Safety Association has issued all required licenses and permits for amusement devices, vessels, fuels or other matters regulated under the *Technical Standards and Safety Act, 2000*, S.O. 2000, c.16;
- (l) the Electrical Safety Authority has issued all approvals required under the Ontario Electrical Safety Code, O. Reg. 164/99 relating to any electrical work; and
- (m) all other Municipal permits, licenses, approvals or other authorizations that

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are required for the special event have been obtained.

Conditions

- 2.13 In addition to any other conditions that the Director may deem appropriate, every permit shall be subject to the following conditions:
- (a) The permit holder shall comply with all applicable laws.
 - (b) 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 occupancy at least 10 days in advance of the special event.
 - (c) The permit holder shall ensure that no vehicle, float, trailer or other display shall be used that 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.
 - (d) 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.
 - (e) The permit holder shall maintain the special event site in a clean and sanitary condition for the duration of the special event.
 - (f) The permit holder shall remove all debris from the special event site and, where required, adjacent properties immediately upon completion of the special event.
 - (g) The permit holder shall not use Clarington's corporate logos in any material advertising the special event without prior approval of Council.

Refusal

- 2.14 Without limiting the generality of section 2.8, the Director may refuse to issue a permit if,
- (a) the applicant has not provided information or documentation required under sections 2.3 and 2.4 or did not provide such information or documentation within the time frame set out in section 2.5;
 - (b) the applicant has not satisfied the requirements of section 2.6, 2.11 or 2.12;
 - (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 special event;
 - (e) there is reason to believe that the carrying on of the special event may result in a breach of any applicable law; or
 - (f) the special event poses an unacceptable risk to the health and safety of any person or damage to property.

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Revocation

- 2.15 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 holding or continuation of the special event poses an unacceptable risk to the health and safety of any person or damage to property;
 - (d) the permit holder is not in compliance with any license, permit, approval or authorization required under section 2.11 or 2.12; or
 - (e) the permit holder is not in compliance with any permit condition.
- 2.16 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

- 2.17 Where a permit has been issued, the Director may temporarily close or restrict access to 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 during the special event.
- 2.18 Every permit shall specify the name of the permit holder, and the nature, location, date(s) and time(s) of the special event.
- 2.19 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 event.
- 2.20 Permits are not transferrable.
- 2.21 No amendment shall be made to a permit without prior authorization by the Director.
- 2.22 The Director shall notify Council of all permits prior to the date of the special event.

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.

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- 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 of a special event during its' set-up, occurrence or dismantling in order to determine whether the provisions of this by-law have been complied with;
 - (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.

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Offences and Penalties

- 5.4 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in 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 “Special Events on Municipal Highways By-law”.

Repeal

- 6.2 By-Law No. 83-32 (as amended) and By-Law No. 83-57 (as amended) are repealed.

Effective Date

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

By-law passed this 6th day of March, 2014.