

OFFICE CONSOLIDATED COPY
January 2014 - Amending By-law #6-2014

THE CORPORATION OF THE TOWN OF AJAX

BY-LAW NUMBER 59-2013

Being a by-law to govern uses that occupy or require the temporary closure of, or otherwise affect highways within the Town of Ajax (Road Occupancy/Road Closure By-law).

WHEREAS pursuant to the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the "Act"), a municipality may pass a by-law with respect to highways within the municipality's jurisdiction, including temporary and permanent opening and closing; and

AND WHEREAS it is necessary from time to time to temporarily close all or part of a highway in order to facilitate construction, storage or other purposes; and

AND WHEREAS Council deems it desirable to delegate to a designated municipal employee the authority for approving the temporary closure of a highway for construction, storage or other purposes;

NOW THEREFORE, the Council of The Corporation of the Town of Ajax hereby enacts as follows:

1. SHORT TITLE

1.1 This by-law may be cited as the "Road Occupancy/Road Closure By-law".

2. DEFINITIONS

2.1 In this by-law:

- (a) "Applicant" means the person applying for a Permit;
- (b) "apron" means an area of the boulevard consisting of a hard surface leading from the travelled portion of the highway to a private driveway;
- (c) "Apron Widening Permit" means a Permit issued for an alteration of the Town's apron or the cutting of any of the Town's curbs;
- (d) "boulevard" means that the portion of a highway between the travelled portion of the highway and the limit of the highway line;
- (e) "Council" means, the Council of the Town;
- (f) "Designated Employee" means the Manager of Engineering, Capital Projects or Manager of Engineering, Development of the Town, or an authorized representative;
- (g) "driveway" means that portion of a lot used to provide vehicular access from a highway to an off-street parking or loading area located on the same lot;
- (h) "expense" means the cost of carrying out the work to be done and an administrative charge as outlined in the Town of Ajax Fee By-law;
- (i) "Event/Parade Permit" means a Permit issued for the closure of a highway for the purpose of but not limited to, parades, community walks, concerts and street parties;
- (j) "Film Location Permit" means a Permit issued for the purpose of an filming activity;
- (k) "highway" means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

- (l) “newspaper box” means any type of vending box or other receptacle used for the purpose of displaying or distributing any newspapers, magazines or other publications;
- (m) “Officer” means a person appointed as a Municipal Law Enforcement Officer or a Police Officer in the Province of Ontario;
- (n) “Permit” means a document as issued and authorized by the Town pursuant to this by-law, for the occupancy or closure of any highway for any purpose, the widening of any apron, the placement of one or more newspaper boxes upon a highway, or filming activities and “permit holder” means the person named in the Permit;
- (o) “person” means a natural individual, and their heirs, executors, administrators or other legal representatives, a corporation, partnership or other form of business association or a receiver or mortgagee in possession and includes a service company;
- (p) “Principal Applicant” means the person that requires the work to be done and not to the person performing the work on their behalf;
- (q) “Region” means The Regional Municipality of Durham;
- (r) “road closure” means the temporary closing of a highway;
- (s) “Road Occupancy Permit” means a Permit to occupy a highway;
- (t) “service company” means a person providing the services of water, sewage, fuel, energy, electricity, heating and cooling, telephone, cable and internet connections and includes the Region, Veridian or its agents, Bell Canada or its agents, Enbridge Gas and its agents and Rogers Cable or its agents;
- (u) “Town” means The Corporation of the Town of Ajax;
- (v) “vehicle” includes a motor vehicle, trailer, traction engine, farm tractor, road building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a street car; and,
- (w) “work” means the work described in the application for a permit or in the Permit.

3. AUTHORITY FOR APPROVING REQUESTS

- 3.1 The authority for approving requests to temporarily close all or part of a highway for the purpose of construction, storage or other purposes shall be as follow:
 - (a) All partial road closures shall be approved by the Designated Employee;
 - (b) All total road closures for a period not exceeding thirty (30) days in duration shall be approved by the Designated Employee; and,
 - (c) All total road closures for a period in excess of thirty (30) days in duration shall be approved by resolution of Council.
- 3.2 The authority to permanently close all or part of a highway will continue to require Council to pass a by-law therefore.

4. GENERAL

- 4.1 No person, except the Town, or an authorized person acting in an emergency situation, shall close, occupy, obstruct, encumber, injure or foul any highway, or any part thereof by:
 - (a) construction, repair or improvement of the highway or a portion thereof or any works under, over, along or upon the highway;
 - (b) excavation or any disturbance of the surface or the soil or material thereon;

- (c) storage of materials;
- (d) hosting parades, community walks, concerts and street parties, events, displays, sales, or other similar activities;
- (e) placing any newspaper box, tent, lean to, fence boarding, structure, or any other chattel thereon;
- (f) widening any apron or cutting any curb abutting private property; or
- (g) any filming activities;

without first applying for and receiving a Permit.

- 4.2 No person shall alter, disturb, injure, or landscape in any way or permit to be altered, disturbed, injured, or landscaped in any way, any grass portion of any boulevard abutting private property including but not limited to planting of trees, shrubs, flowers, the building of fences, the building of retaining or decorative walls, tree rings, the installation of an irrigation system, the installation of electrical wiring in or over a boulevard, etc.
- 4.3 Every Principal Applicant shall complete the required application form provided by the Town, as may be changed from time to time, in accordance with the requirements of this By-law and shall provide all information requested thereon.
- 4.4 The Principal Applicant shall take all reasonable measures to protect persons and property from injury or damage, and shall be responsible for all losses and damage which may arise as a result of the work. Further, the Principal Applicant shall indemnify and hold harmless the Town and its employees from and against all claims, demands, actions, suits or proceedings which may be brought against or made by third parties, directly or indirectly arising or alleged to arise out of the performance of or the failure to perform the Work.
- 4.5 A Road Occupancy Permit for the temporary closure of a highway shall be applied for at least 15 days prior to the intended date of the road closure. A Road Occupancy Permit, for all other purposes shall be applied for at least 7 days prior to the intended date of the occupancy.
- 4.6 An Apron Widening Permit shall be applied for and issued prior to the commencement of any work.
- 4.7 The Designated Employee may approve or deny an application for a permit or may approve an application subject to any terms or conditions that the Designated Employee deems necessary or appropriate.
- 4.8 An Event/Parade Permit shall be applied for at least 30 days prior to the event.
- 4.9 A Permit to place or install a newspaper box on a highway shall be applied for and issued prior to the newspaper box being placed on a highway.
- 4.10 All subsurface road crossings are to be completed using trenchless technology techniques wherever possible. Open cut excavations across highways shall only be permitted when specifically approved by the Designated Employee.
- 4.11 If during the process of any work it is necessary to alter, break or disturb in any way an existing pavement, curb, boulevard, sidewalk, or other surface within the highway, the extent of such disturbance shall be set out on the Permit, and the Principal Applicant shall be responsible for the full restoration thereof.
- 4.12 An application for a Permit shall be accompanied by the appropriate fee as set out in Schedule "A" to this by-law.
- 4.13 The Town may revoke a Permit under the following circumstances:
 - (a) The Permit has been issued in error by the Town;
 - (b) The Permit does not conform with this by-law or any other applicable regulation or legislation; or,

- (c) The Permit has been issued as a result of false, mistaken, incorrect, or misleading statements, information or undertaking on the application;
 - (d) The Permit holder is not operating in accordance with any or all conditions placed on the Permit or complying with any of the information contained in the application.
- 4.14 Where a breach of any of the provisions of this by-law causes a Permit to be revoked or withdrawn, no portion of the cost of such Permit will be refundable.

5. ROAD OCCUPANCY PERMITS

- 5.1 The Town will not issue a Road Occupancy Permit for the storage of any vehicle on a highway.
- 5.1 The application for the Road Occupancy Permit shall be made in the name of the Principal Applicant, and not in the name of any agent for the Principal Applicant.
- 5.3 The Principal Applicant shall:
- (a) Notify the Region's police, the Region's emergency medical services, Region's waste collection and recycling, the Town's Fire and Emergency Services department, the Town's Operations and Environmental Services department, any person operating a public transportation service or school bus service and any person whose plant or installations may be affected by the closure or occupancy, of the commencement and termination of said closure or occupancy, and shall comply with all conditions of the Permit, as specified thereon;
 - (b) For road closures, formally notify all individual residents, organizations and businesses affected by the closure at least (10) days prior to the proposed closure. In addition, formally notify all individual residents, organizations and businesses affected by the closure of any closure extension(s) and the termination of the road closure;
 - (c) For road closures, cause to be provided signs along all approaches with the details of the closure including road name, dates of closure and contact information of the Applicant. Signs must be in place a minimum of ten (10) days prior to the intended commencement of the road closure and in a location approved by the Designated Employee.
 - (d) When required by the Designated Employee, provide a traffic management plan and detour route, for Town approval, in accordance with Book 7, Ontario Traffic Manual as amended;
 - (e) Cause to be provided all signs, barricades, traffic control devices, flag persons, and the use or operation of other persons and equipment as required for the proper and safe movement and control of pedestrians and traffic in the area, prior to the commencement of and at the location of the closure or occupancy;
 - (f) File with the Town, a liability insurance certificate for a minimum amount of \$2,000,000.00 in a form approved by the Town, naming the Town as an additional insured.
 - (g) When required by the Designated Employee, provide security in a form and amount acceptable to the Designated Employee;
 - (h) Ensure that access for emergency vehicles, to all public and private properties, is available at any and all times;
 - (i) Cause to be maintained vehicular and pedestrian, including pedestrians with special needs, access to public and private properties at all times and shall keep such access free and clear of all mud, debris and other materials;
 - (j) Not place or store or permit the placement or storage of any material or storage bin on a highway where it creates a real or potential hazard for pedestrians or vehicles;

- (k) Follow all requirements of Federal, Provincial and Municipal Health and Safety Regulations, Acts and By-laws;
- (l) Post a copy of the Road Occupancy Permit at the work site in a visible location and shall, if required, produce the permit at the request of an Officer or by Town staff;
- (m) Identify the existence and location of all underground and aboveground utilities at or adjacent to the work site and protect those utilities from damage during the work;
- (n) Expeditiously carry out completion of all work;
- (o) Not permit storage bins, moving pods, material, or any equipment to occupy the travelled portion of a highway or any portion of the grass boulevard area abutting private property between November 1st and March 30th of each year;
- (p) Be responsible for the repairs of any nature to all disturbed areas for a period of two years from the date of completion of the work;
- (q) Assume all liability for any resulting maintenance and/or required permanent repairs, to the work which shall be carried out to the satisfaction of the Town all at the cost of the Principal Applicant. Upon final approval and acceptance of the work, the Town shall assume any further maintenance or repair of the work;
- (r) In the event the work cannot be carried out within the time set out in the Road Occupancy Permit, notify the Town of the additional time required and the reason therefore, and shall obtain an extension of the Permit, at no charge, upon the approval by the Designated Employee;
- (s) Comply with all conditions as outlined on the Road Occupancy Permit and all requirements of the most current version of the Ontario Traffic Manual; and
- (t) Repair all damaged areas of the highway no later than 5 days from the completion of the work;
- (u) Not place or store or permit the placement of storage of bins, moving pods, equipment, materials on the travelled portion of a highway if the area is designated as a no stopping or no parking zone.

5.4 Where a Service Company occupies or closes a highway as a result of an emergency, a formal application for a Permit shall be made on the next business day unless the Designated Employee agrees that such an application is not necessary.

6. EVENT/PARADE PERMITS

6.1 The application for an Event/Parade Permit shall be submitted to the Town's Manager of By-law Services or delegate, whose decision is final on any submission.

6.2 The Applicant applying for an Event/Parade Permit shall:

- (a) Receive approval from the Region in regard to the use of the highways under the jurisdiction of the Region within the Town's boundaries prior to applying for an Event/Parade Permit with the Town;
- (b) Make satisfactory arrangements with Durham Regional Police Services; and
- (c) Restore the highway to the same condition or better as existed prior to the holding of the said event/parade.

6.3 The Applicant shall contact the Town's Operations & Environmental Services Department to arrange for the pick-up of all traffic barriers. It is the Applicant's responsibility to erect barriers. The Applicant shall assume all costs of repairing or replacing any damaged or missing traffic barriers

6.4 The Applicant must file with the Town, a liability insurance certificate for a minimum amount of \$2,000,000.00 in a form approved by the Town, naming the Town as an additional insured.

- 6.5 If the Town has not received a copy of the liability insurance certificate 14 days prior to the event, the Applicant will be contacted, and if a copy of the liability insurance certificate is not available, the Event/Parade Permit will be revoked.
- 6.6 The Town may place any conditions it deems appropriate on any Event/Parade Permit.
- 6.7 Every Permit Holder shall follow any and all conditions at all times as outlined on the Event/Parade Permit.
- 6.8 During the event/parade the Permit Holder shall have the Event/Parade Permit available at all times and shall produce it for inspection at the request of an Officer or Town Employee.

7. NEWSPAPER BOX PERMITS

- 7.1 The application for a Newspaper Box Permit shall be submitted to the Town's Manager of Operations or delegate, whose decision is final on any submission.
- 7.2 At the time of the application, the Applicant must pay in full, a one-time inspection and processing fee for each newspaper box location requested. Upon approval of the application and prior to the issuance of the Permit, the Applicant must pay in full the cost of standard installation plus an annual administration and maintenance fee for each approved newspaper box location. The annual administration and maintenance fee, which covers the period from January 1st to December 31st in each calendar year, may be set by the Town from time to time for each Permit year, and must be paid in full by January 31st of each Permit year. New Permits issued after January 31st will be subject to a monthly pro-ration of the annual administration and maintenance fees.
- 7.3 The Applicant shall, at all times during the Permit term:
- (a) Maintain public liability insurance to the satisfaction of the Town in the amount of \$2,000,000.00 naming the Town and the Region as an additional insured, and shall file with the Town and the Region a certificate of insurance setting out the essential terms and conditions thereof; and
 - (b) The maintenance of such a policy shall not be construed as relieving the Applicant of liability or responsibility for other or larger claims, if any, for which the Applicant may be held liable or responsible.
- 7.4 The Applicant must also agree in writing to indemnify and save harmless the Town from any actions, claims, damages or loss whatsoever arising from the issuance of the Permit or anything done or neglected to be done in connection with the permitted use.
- 7.5 The Permit shall be subject to the following terms and conditions:
- (a) The specific location of each newspaper box shall be subject to the approval of the Town, who may approve or deny any location or the continuance of any location as in its absolute discretion it deems advisable, and, without limiting the generality of the foregoing, it may take into consideration such factors as public safety, traffic patterns, utility locations and pedestrian convenience;
 - (b) The Permit Holder shall place each newspaper box on a concrete pad or other approved surface which will be installed by the Town at the expense of the Permit Holder. The Permit Holder will also be responsible for the costs associated with providing an acceptable mounting system. If multiple Applicants, to a maximum of 4, request the same location at the time of the installation, the costs will be shared equally;
 - (c) Each newspaper box shall be securely fastened by the Permit Holder to the mounting system, concrete base, or other approved surface, in a manner which is acceptable to the Town. Under no circumstances shall it be affixed to any traffic control device, street name signpost, bus shelter, telephone booth, tree, or any other post, pole or equipment maintained by the Town, the Region, Veridian, Bell Canada, Enbridge Gas, Rogers Cable or any other agency authorized by the Town to maintain equipment on, over, or under the highway;

- (d) Newspaper boxes shall be maintained by the Permit Holder in a neat, clean and rust free condition at all times; and
 - (e) Should a newspaper box location become vacated and its approved location is unwanted by the Permit Holder or others, within 30 days thereof, its concrete pad, if applicable, may be removed by the Town at the expense of the Permit Holder. All other necessary boulevard restorations will also be completed to the Town's satisfaction by the Town at the sole expense of the Permit Holder.
- 7.6 The Town, the Region, Veridian, Bell Canada Enbridge Gas, Rogers Cable or any other agency authorized by the Town shall be allowed to enter the area occupied by the newspaper box for the purpose of maintenance or installation of services. If it is necessary for the Town or any other authorized agency to move any newspaper box for such entry, they will not be held responsible for any damage to the newspaper box, or their contents.
- 7.7 Any Permit issued for a newspaper box may be revoked by the Town if any of the provisions of this by-law are not complied with by the Permit Holder, or should, in the absolute discretion of the Town the location of any newspaper box no longer deemed appropriate. In such event, the Permit Holder shall remove at his/her own cost any newspaper boxes as directed by the Town within 30 days after receiving written notice from the Town to do so. If the Permit Holder neglects, refuses or fails to do so, then the Town may remove all such newspaper boxes and restore the area occupied by such newspaper boxes to a safe and proper condition and may charge the cost thereof to the Permit Holder. The Town may recover such costs from the Permit Holder in any court of competent jurisdiction as debt owing to the Town.
- 7.8 The Applicant agrees to follow any and all conditions as outlined on the Permit for a newspaper box.

8. APRON WIDENING PERMIT

- 8.1 The application for an Apron Widening Permit shall be completed by the property owner, and shall include diagrams, written description or photographs necessary to describe the project. For the purposes of this Part 8 property owner shall mean the registered owner or owners of the real property abutting the apron.
- 8.2 The application for an Apron Widening Permit shall be submitted to the Town's Development Approvals Coordinator or delegate whose decision is final on any submission.
- 8.3 The Applicant must file with the Town, a liability insurance certificate for a minimum amount of \$2,000,000.00 in a form approved by the Town, naming the Town as an additional insured.
- 8.4 If any sod from a boulevard or asphalt from the apron of a driveway located within the boulevard is removed or damaged for any reason in the course of any undertaking by the Town, the Region, or any Service Company, it shall be replaced as nearly as may be to the original condition as which it was installed. Neither the Town, the Region, nor any Service Company, shall be obligated to restore any improvements located on any boulevard other than sod and asphalt.
- 8.5 Every property owner shall contact all Service Companies, the Region and the Town for the purpose of locating all pipes, cables and other property owned or installed by one or more of them not less than 5 days before excavating any part of a boulevard.
- 8.6 No person shall damage or destroy any pipe, wire, cable, or property located on or beneath the surface of a boulevard.

9. FILM LOCATION PERMITS

- 9.1 The Applicant applying for a Film Location Permit and every permit holder shall:
- (a) The Applicant must file with the Town, a liability insurance certificate for a minimum amount of \$5,000,000.00 in a form approved by the Town, naming the Town as an additional insured;

- (b) Not close, occupy, obstruct, encumber, injure or foul any highway, or any part thereof by without first applying for and obtaining a Film Location Permit. Upon obtaining a Film Location Permit, the Applicant shall follow all terms and conditions outlined with respect to the Film Location Permit;
- (c) Not stop traffic in any direction for longer than three minute intervals;
- (d) Provide pay duty police officers on site when traffic is stopped for any length of time, in any direction;
- (e) Not cover, remove or alter any permanent or temporary fixtures, or road signs in any way without express written approval from the Town;
- (f) When refuse collection will be interrupted as a result of the filming activities, be responsible for making alternative arrangements which are satisfactory to the Town and the affected property owners;
- (g) Ensure a police escort to and from the film location for all vehicles which are a part of the production, which exceed the maximum width as per the Highway Traffic Act;
- (h) Be responsible for the removal of litter and restoration of the filming location and any other site used for the filming activities;
- (i) Notify in writing any resident, organization or business that may or will be affected during the process of the filming; and
- (j) At all times comply with the local regulations regarding parking, restricted areas, fire hydrants, etc. unless otherwise specified by the Town.

10. PENALTY

- 10.1 Any person who contravenes any provisions of this by-law is guilty of an offence and on conviction is liable to a fine as provided for pursuant to the Provincial Offences Act, R.S.O. 1990, c. P.33 as may be amended from time to time.
- 10.2 Where any person has contravened any provision of this By-law, the Town may without notice affect compliance and the expense of doing so may be recovered by adding the expenses to the tax roll for such property and collect them in the same manner as taxes.
- 10.3 Where any person fails to comply with a notice issued pursuant to a requirement of this By-law, the Town, in addition to other remedies:
- (a) Shall have the right to recover the expense of carrying out the work as required by the notice in the same manner as taxes.
- 10.4 The Town shall not be liable to compensate any person by reason of anything done or on behalf of the Town under the provisions of this By-law.
- 10.5 A person is guilty of an offence if the person:
- (a) hinders or obstructs, or attempts to hinder or obstruct, an Officer, or any person in the exercise of a power or the performance of a duty under this By-law;
 - (b) makes a false or intentionally misleading recital or fact, statement or representation or produces any falsified or fictitious agreement or document; or
 - (c) fails to perform a duty imposed within this By-law or who performs an act prohibited herein.

11. VALIDITY

- 11.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law, that each and every other provision of this by-law authorized by

law, be applied and enforced with its terms to the fullest extent possible according to law.

12. REPEAL

12.1 That By-law 134-2009 is hereby repealed.

READ a first and second time this
Tenth day of June, 2013.

READ a third time and passed this
Tenth day of June, 2013.

Mayor

D-Clerk

SCHEDULE "A"
THE CORPORATION OF THE TOWN OF AJAX
BY-LAW NUMBER 59-2013
ROAD OCCUPANCY/ROAD CLOSURE BY-LAW
(as amended by By-law #6-2014)

PERMIT FEES

1. No fee is required by this by-law for a Road Occupancy Permit taken out by The Regional Municipality of Durham or Veridian Hydro.
2. The fee for a Road Occupancy Permit shall be set out in the Town's General Fees By-law.
3. The fee for an Event/Parade Permit shall be \$25.00.
4. The fees for a Newspaper Box Permit shall be:
 - (a) \$25.00 for an initial inspection
 - (b) \$400.00 for the construction of the pad and hitching post.
 - (c) \$25.00 for an annual inspection.
5. There shall be no fee for a Filming Location Permit unless the Permit requires a Road Occupancy Permit, which fee shall be set out in the Town's General Fees By-law.
6. The fee for an Apron Widening Permit shall be set out in the Town's General Fees By-law.
7. The fee for a Curb Cut shall be set out in the Town's General Fees By-law.
8. This By-law shall come into force and take effect immediately upon the passing thereof.