



By-Law 2025-50

TO AMEND BY-LAW 2018-109 A BY-LAW TO REGULATE THE USE, ALTERATION, AND OCCUPANCY OF HIGHWAYS WITHIN THE CITY OF MARKHAM

WHEREAS Section 8(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, hereinafter the ("Municipal Act, 2001") provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM ENACTS AS FOLLOWS:

That the Road Occupancy By-law 2018-109 be amended as follows:

- 1) The preamble "**AND WHEREAS** The Council of The Corporation of the City of Markham desires to repeal and replace By-laws 2013-136 as amended, with an updated Road Occupancy By-law." to be deleted in its entirety, as no longer applicable.
- 2) The following definitions are to be amended:

The definition of "**Boulevard**" should be deleted in its entirety:

Boulevard means the portion of the highway between a property line and the edge of the curb, or where there is no curb, that portion of the highway which is travelled or designed to be travelled by motor vehicles.

and should be replaced with the following definition:

Boulevard means the portion of the highway located between the property line and the curb. Where there is no curb, it refers to the area between the property line and the edge of the roadway designed for motor vehicles. This area may include features such as sidewalks, Multi-Use Paths (MUPs), and cycle tracks.

The definition of “**Boulevard Patio**” should be amended by adding the words “or highway” after the word “boulevard”.

The amended definition is to be read as follows:

Boulevard Patio means a designated area within a boulevard or highway associated with an abutting eating establishment where food and drink are offered for sale and/ or consumed, no wider than the width of the eating establishment’s storefront.

The definition of “**Highway**” should be deleted in its entirety:

Highway includes a common and public highway, street, avenue, parkway, lane, driveway, square, place, bridge, viaduct or trestle, including the area between the lateral property lines thereof and includes unopened and unassumed road allowances.

and should be replaced with the following definition:

Highway includes 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.

The definition of “**Landscape or Construction**” should be amended by adding the following terms: “decorative features, structures, machineries, motorized equipment and trailers”.

The amended definition should be read as follows:

Landscape or Construction Material includes gravel, soil, sod, bricks, interlocks and paving stones, landscaping rocks, decorative features, structures, wooden planks and boards or any other materials, machineries, motorized equipment and trailers used in implementation of landscaping or construction.

The definition of “**Municipal Access Agreement**” should be amended by deleting the word “person” and replacing it with the term “utility company”, adding a word “infrastructure” and by deleting the reference to the repealed “Energy Act”.

The amended definition should be read as follows:

Municipal Access Agreement means an existing written agreement established between the City and a utility company related to construction and maintenance of utilities infrastructure deemed to be essential under the CRTC, or other federal or provincial legislation.

The definition of “Municipal Law Enforcement Officer (“Officer”)” should be deleted in its entirety:

Municipal Law Enforcement Officer (“Officer”) includes an employee of the *City* who has been appointed by Council to enforce the provisions of *City* by-laws **Notice of Obstruction** includes an order issued under this by-law.

and should be replaced with the following definition:

Municipal Law Enforcement Officer (“MLEO”) means any officers employed by the City in the appropriate business unit or department and appointed pursuant to the Community Safety and Policing Act, 2019, s. 55, Provincial Offences Act R.S.O. 1990, c.P.33, and Bylaw 2018-74.

The definition of “Obstruction” should be amended by adding a word “encroachment”.

The amended definition should be read as follows:

Obstruct(ion) includes encumber, damage, encroachment, foul, or alteration.

The definition of “Over-Dimensional Vehicle” should be amended by adding references to by-law 2012-53 and by-law 2012-54.

The amended definition should be read as follows:

Over-Dimensional Vehicle means any combination of vehicle and load having a width, length, height or weight in excess of limits provided for in the Highway Traffic Act or in contravention to By-law 2012-53 Spring Load Restrictions on Town Roads and By-law-2012-54 Year-Round Load Restriction on Town Roads.

The definition of “Person” should be deleted in its entirety:

Person includes a corporation and its directors, officers and designates unless the context otherwise requires.

and should be replaced with the following definition:

Person includes an individual, a sole proprietorship, a business entity, a corporation, a non-profit corporation, a registered charity, and their respective heirs, executors, administrators, assigns, or other appointed representatives.

The definition of “Publication” should be amended by adding the words “at regular intervals” at the end of the definition.

The amended definition should be read as follows:

Publication means a newspaper or other similar printed document which is published at regular intervals.

The definition of “**Publication Dispensing Device**” should be changed to “**Publication Dispensing Box**”. The words “a single” and “to the public” should be deleted.

The amended definition should be read as follows:

Publication Dispensing Box means a container placed, installed, used or maintained for the dispensing of publication either for financial consideration or free of charge.

The definition of “**Publication Dispensing Unit**” should be deleted in its entirety.

The definition of “**Road Occupancy Permit (“Permit”)**” should be deleted in its entirety.

Road Occupancy Permit (“Permit”) includes a *road occupancy permit* and any other *permit* as required to undertake work on a *highway*.

And should be replaced with the following definition:

Road Occupancy Permit (“Permit”) means a permit required for the temporary use or occupation of any portion of the highway or boulevard, or for undertaking any type of work on a highway or boulevard. This permit is inclusive of Curb Modification Permit, Culvert Modification Permit and Excess Load Permit.

The definition of “**Street Furniture**” should be amended by adding the words “lighting infrastructure”.

The amended definition should be read as follows:

Street Furniture includes benches, garbage containers, hand rails, tables, signs, posts, lighting infrastructure or any other above ground appurtenance that is owned and used for public purpose.

3) The following definitions should be added:

Banner means a temporary sign made from cloth, plastic or a similar lightweight non-rigid material that is suspended on or along a highway or suspended from a rigid arm fixed to a light pole.

Device means camera, publication dispensing box, traffic measuring

equipment, environmental monitoring instrument, or other appurtenances and ancillary facility as determined by the director.

Dumpster Bin mean any large outdoor receptacle used for the purpose of collection and temporary storage of waste or recyclable contents of any type.

Driveway means a define stable surface that provides access for motor vehicles from a street, a private street or a lane to a private garage, carport, parking pad or parking space on a lot containing residential uses, including the portion of the driveway upon a boulevard, which is referred to as the Driveway Apron.

Emergency means an unforeseen situation or an impending situation where immediate action must be taken to preserve the environment, public health, safety or an essential service.

Encroachment means any device, equipment, structure, object, banner, fence, construction material or landscaping placed or installed on, over, along, across, under or in a boulevard or highway, or any portion thereof by a person without the City's Road Occupancy Permit, but excluding any permitted device, equipment, structure, object, banner, fence or landscaping installed and maintained by the City.

Landscaping includes trees, shrubs, flowers, grass or other horticultural elements, decorative stonework, interlocking, screening, irrigation system, snow melting system, light post or other landscape-architectural elements or combination of these, all of which are designed to enhance the visual amenity of a property and shall not be used for the parking of motor vehicles or outdoor patios.

Multi-Use Path (MUP) means a path with multiple users of different types including pedestrians, bicycles, and similar user types.

Notice of Obstruction includes an Order issued under this by-law.

Officer means:

- (a) A Municipal Law Enforcement Officer of the City or other person(s) appointed by or under the authority of a City by-law to enforce City by-laws; or
- (b) A Municipal Police Officer (York Regional Police), Ontario Provincial Police or the Royal Canadian Mounted Police.

Owner means a person having any right, title, interest or equity in land or property, or any such person's authorized representative or agent.

Order includes notice, work order, order to comply, and notice of obstruction.

Road Closure means temporary full closure of a highway for an approved duration.

Winter Maintenance Season means the period of time annually between November 1 and April 15.

- 4) Section 3.1 should be amended as follows:
To include the word "encroachment" after the word "obstruction".
- 5) Section 3.4 should be amended as follows:
To include the word "encroachment" after the word "obstruction".
- 6) Sub-section 3.4.5 should be amended as follows:
To include the words "landscaping or" before the word "altering".
- 7) Sub-section 3.4.7 should be amended as follows:
To include the words "a portion of highway", "boulevard" and "driveway".
The amended version should be read as follows:

3.4.7 the cutting, altering, extending, in any manner whatsoever of a portion of highway, boulevard, concrete curb, driveway, open or contained culvert, culvert overpass, or similar structure or landscaping without having obtained a Road Occupancy Permit;
- 8) Sub-section 3.4.9 should be amended as follows:
To include the words "encroachment" and "street furniture". The amended version to be read as follows:

the excavation, damage or encroachment to any portion of a highway, including sod, street furniture, light poles, street signs, or other objects within the highway without having obtained a Road Occupancy Permit.
- 9) Sub-section 3.4.10 should be amended by adding the words "dumpster bin, landscape or construction material, moving containers, device and banner" and by deleting the words "material storage". The amended version should be read as follows:

3.4.10 the placement of donation bins, dumpster bins, landscape or

construction material, moving containers, device and banner on a highway;

- 10) Sub-section 3.4.11 should be amended by adding the words: “hockey nets, children play structures”. The amended version should be read as follows:

3.4.11 the placing or depositing of sporting equipment, including but not limited to basketball nets, hockey nets, skateboard ramps, bicycle ramps and children’s play structures on a highway;

- 11) Sub-section 3.4.12 should be amended by adding the words “alter” and “or affix devices on any street furniture”. The amended version should be read as follows:

3.4.12 place, move, alter any street furniture or affix device(s) on any street furniture on a highway without having obtained a Road Occupancy Permit;

- 12) Sub-section 3.4.16 should be added to this by-law:

enter an area within a highway or a portion of highway that has been closed to the public for construction, maintenance, emergency or other similar purposes;

- 13) Sub-section 3.4.17 should be added to this by-law:

move or remove a barricade, street sign, traffic sign or traffic control devices, within a highway.

- 14) Sub-section 4.1.2 should be amended by adding words “modify the curb”, “or widen”, “the allowable depressed curb”, and by adding a reference to the Comprehensive Zoning By-law and Curb Modification Standard Policy. The amended version should be read as follows:

4.1.2 modify the curb, construct or widen a Driveway Apron crossing the boulevard at width greater than the allowable depressed curb at the road edge and greater than the width of the driveway, as permitted under the applicable Comprehensive Zoning By-law and Curb Modification Standard Policy;

- 15) Sub-section 4.1.3 to be replaced with a new direction on use of a boulevard, which should be read as follows:

4.1.3 modify the ditch or culvert and construct or widen a driveway apron crossing the culvert and ditch to a width greater than the existing culvert, as permitted under the Culvert/Ditch Modification Policy;

- 16) Former sub-section 4.1.3 should be changed to 4.1.4 and include

reference to the new sub-section 4.1.3. The amended version should be read as follows:

4.1.4 item 4.1.2 and 4.1.3 above shall apply to driveways on rural roads with ditches, with the driveway width determined at the ditch centreline;

- 17) Former sub-section 4.1.4 should be changed to 4.1.5 and include reference to the Multiple Use Path (MUP) and cycle track. The amended version should be read as follows:

4.1.5 construct a raised curb or similar obstruction within 45 cm of a sidewalk, Multiple Use Path (MUP) and cycle track.

- 18) Former sub-section 4.1.5 should be changed to 4.1.6 and for the old version to be reworded as follows:

4.1.6 construct, install, or place any fence, post, light post, irrigation components, snow melting system/equipment, rock(s), and decorative / retaining wall, landscaping or modify boulevard sod to different material or enhance Driveway Apron surface material on a boulevard to a non-standard material that are not permitted and approved by the City;

- 19) Former sub-section 4.1.6 should be deleted in its entirety.

- 20) Section 4.2 should be added to this by-law and read as follows:

4.2 No Person shall fail to comply with provisions as set out in By-law 2024-50 Keep Markham Beautiful (Maintenance).

- 21) Sub-section 6.1.1 should be amended by adding the words “and related policies” after the words “this by-law”.

- 22) Sub-section 6.1.3 should be amended by adding reference to “the Comprehensive Zoning by-law” after the words “in conformity with”.

- 23) Sub-section 6.1.6 should be amended by deleting the reference to “April 1” and replacing it with “April 15”.

- 24) Sub-section 6.2.1 should be amended by adding references to “Comprehensive Zoning by-law, Ontario Traffic Council Patio Guidelines, Ontario Traffic Manual (OTM) Book 7, Accessibility for Ontarians with Disabilities Act (AODA), Ontario Heritage Act” after the words “this by-law”.

- 25) Section 6.3 should be amended by adding reference to “the Comprehensive

Zoning By-law” after the words “and in accordance with”

- 26) Sub-section 6.3.1 should be amended by adding the word “cyclist” after the word “pedestrian”.
- 27) The heading of the section 7.0 should be deleted in its entirety and replaced with the following heading:
PLACEMENT OF DEVICES WITHIN HIGHWAY
- 28) Section 7.1 should be deleted in its entirety and replaced with the following:
7.1 No person shall place, affix, maintain, or operate device(s), banner or other ancillary facilities within highway without obtaining a Road Occupancy Permit; except for to agencies approved by the City and subject to the discretion of director. The approved agencies are still required to comply with the permit application process.
- 29) Section 7.2 should be deleted in its entirety and replaced as follows:
7.2 The placement, maintenance and operation of device(s) shall be in accordance with policies established by the director, as amended.
- 30) Sub-section 11.1.2 should be amended by deleting a reference to “Schedule A of this by-law” and replacing it with the reference to “By-law 2012-137 Licencing, Permit and Service Fees”.
- 31) Section 11.5 should be amended by deleting the words “cash”, “certified cheque”, “debit card” and by adding the word “only” after the phrase “letter of credit”.
- 32) Section 12.1 should be amended by adding the words “and other related Acts, By-laws and policies” at the end of the section.
- 33) Section 12.2 should be amended by adding the words “and email address” after the words “contact phone number”.
- 34) Section 12.3 should be amended by adding the words “and related policies” after the words “permit or this by-law”.
- 35) Section 12.6 should be amended by adding the words “paid duty officers” after the words “flag persons”.
- 36) Former section 12.8 should be moved to a new section 12.9. The new section 12.8 should be amended as follows:

12.8 No permit holder, owner or occupier shall fail to seek a time extension of a permit from the director minimum two weeks prior to the permit expiry

date as specified in the Road Occupancy Permit. When seeking a time extension of a permit, the permit holder, owner or occupier shall state the reason for the time extension.

- 37) The new section 12.9, which is former 12.8 should remain the same and read as follows:

12.9 When required by the director, permit holder shall provide a Letter of Credit / Security Deposit as required in Schedule 'B' to this By-law.

- 38) Section 12.10 should be added to this by-law and read as follows:

12.10 During Winter Maintenance Season, the director at his/her sole discretion may restrict construction activities within highway and/or require special conditions to be satisfied for permitting any type of works on a highway.

- 39) Section 13.1 should be amended by deleting the reference to "Municipal Law Enforcement Officers and York Regional Police Officers" and replacing these words with the term "Officers".

- 40) Section 13.3 should be amended by deleting the reference to "Municipal Law Enforcement Officers" and replacing these words with the term "Officers".

- 41) Section 14.1 should be amended by deleting the reference to "Municipal Law Enforcement Officer" and replacing these words with the term "Officer".

- 42) Sub-section 15.1.1 should be amended by adding the word "occupier" after the word "owner".

- 43) Sub-section 15.1.3 should be amended by adding the word "occupier" after the word "owner".

- 44) Section 16.1 should be amended by adding the words "or encroachment" after the phrase "any Landscape or Construction Material" and by adding the words "or boulevard" after the word "highway".

- 45) Section 17.1 should be deleted in its entirety:

17.1 Work occurring within the *highway* that has been authorized through Municipal Consent by the City through a *Municipal Access Agreements* shall be considered as having obtained a *road occupancy permit*. Persons having obtained such authorization shall abide by all requirements of the *road occupancy by-law* as if a separate road occupancy permit had been

granted for construction or maintenance activities occurring on the highway;

and should be replaced as follows:

17.1 Utility work occurring within the highway (but not requiring full road closure) that has been authorized through a Municipal Consent Permit by the City through a Municipal Access Agreements shall be considered as having obtained a Road Occupancy Permit unless Municipal Access Agreement provides otherwise. For works requiring a full road closure, the person shall obtain a separate Road Occupancy Permit for road closure. Persons having obtained such authorization shall abide by all requirements of the road occupancy by-law as if a separate Road Occupancy Permit had been granted for construction or maintenance activities occurring on the highway;

46) Section 17.2 should be amended by deleting the last sentence of the section in its entirety.

47) Former section 17.3 should be moved to section 17.4 and the former section 17.3 should be replaced and to be read as follows:

17.3 The City's contractors are obligated to obtain a Road Occupancy Permit. However, the director under this by-law may grant an annual blanket Road Occupancy Permit subject to an annual fee for the City's regular operations and maintenance projects undertaken through the City's contractors.

48) Former section 17.4 should be moved to a new section 17.5.

49) Sub-section 19.1.4 should be deleted in its entirety.

50) Section 19.2 should be amended by deleting the words "action or the costs may". The amended version should read as follows:

19.2 Where the City, its employees or authorized agents have performed the work required for compliance with this by-law, all expenses incurred by the City in doing the work as well as any related fees, shall be deemed to be a debt to the City and may be collected by being added to the tax roll for the property and collected in the same manner as taxes.

51) Section 19.3 should be added to this by-law and read as follows:

19.3 The Director under this by-law may authorize to waive permit application processing fees and allow fee exemptions for Post Secondary

Institutes located in Markham, York Regional Police (YRP), Ontario Provincial Police (OPP), Royal Canadian Mounted Police (RCMP) or government agencies as approved by the director.

52) Section 20.3 should be amended by deleting the reference to the repealed by-law 2016-84 and by adding a reference to the new by-law “2024-137, as amended, A By-law to establish an Administrative Monetary Penalty System (AMPS) for Contraventions of Designated By-laws in the City of Markham.”

53) Section 20.4 should be amended by deleting the reference to the repealed by-law 2016-84 and by adding a reference to the new by-law “2024-137, as amended, A By-law to establish an Administrative Monetary Penalty System (AMPS) for Contraventions of Designated By-laws in the City of Markham.”

54) Section 21.1 should be deleted in its entirety:

21.1 Every person who contravenes any of the provision of this by-law or fails to comply with a Notice of Obstruction or an Order issued under this by-law or who obstructs or attempts to obstruct an Officer or an employee or agent of the City in carrying out his or her duties under this By-law is guilty of an offence and is liable, upon conviction to a maximum fine as established pursuant to the Provincial Offences Act, R.S.O., 1990, c.P.33.

and should be replaced with the new section as follows:

21.1 Every person who contravenes any of the provisions of this by-law or fails to comply with a Notice of Obstruction or an order issued under this by-law or who obstructs or attempts to obstruct an officer or an employee or agent of the City in carrying out his or her duties under this By-law is guilty of an offence and is liable to a fine as established pursuant to the Provincial Offences Act, R.S.O., 1990, c.P.33, or committed a contravention and responsible to pay an administrative monetary penalty pursuant to By-Law No. 2024-137, A By-law to establish an Administrative Monetary Penalty System (AMPS) for Contraventions of Designated By-laws in the City of Markham.

55) Section 23.2 should be added to this by-law and read as follows:

23.2 An Administrative Penalty that is not paid within fifteen (15) days after the day it becomes due and payable constitutes a debt of the person to the City and may be added to the tax roll and collected in the same manner as

municipal taxes.

56) Section 24.4 should be amended by deleting a reference to "Schedule A".

57) Section 26.0 should be deleted in its entirety.

58) Section 28.1 should be deleted in its entirety.

59) Schedule "A" of this by-law should be repealed in its entirety.

60) Schedule "B" of this by-law should be amended. Section 1 of the Schedule "B" should be amended by adding the dollar amount of "\$5,000" after the words "minimum deposits of".

Further, Section 1 of the Schedule "B" should be amended by deleting the subsections "i, ii and iii" in their entirety.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS 24th DAY OF JUNE, 2025.

KIMBERLEY KITTERINGHAM
CITY CLERK

FRANK SCARPITTI
MAYOR