

To: Corporate Services Committee

From: Tracy Adams, Commissioner,
Corporate Services Department

Report Number: CORP-19-59

Date of Report: June 12, 2019

Date of Meeting: June 17, 2019

Subject: Maintenance of Boulevard Fixtures

File: D-2000

1.0 Purpose

This report provides information on Boulevard By-law 136-2006 (“Boulevard By-law”) and details on the maintenance of boulevard fixtures and applicable utility services agreements as directed by the Corporate Services Committee at its April 15, 2019 meeting that:

“That a future meeting of the Corporate Services Committee be called in the second quarter of 2019 to review the Boulevard By-law and utility services agreement.” (CORP-19-44)

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

1. That report CORP-19-59, dated June 12, 2019, “Maintenance of Boulevard Fixtures” be received for information;
2. That Utility Service Providers be requested to take a more proactive approach to maintaining utility pedestals and plant within City and Regional boulevards including dealing with graffiti, damage and vandalism; and,
3. That a copy of this report be provided to the Region of Durham and all the Utility Service Providers.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

The following were consulted in the preparation of this report:

- Engineering Services
- Operations Services
- Service Oshawa
- Corporate Communications

5.0 Analysis

5.1 Background

At its April 15, 2019 meeting, the Corporate Services Committee (“Committee”) provided the following direction:

“That a future meeting of the Corporate Services Committee be called in the second quarter of 2019 to review the Boulevard By-law and utility services agreement”

The purpose of this report is to provide background information on the City of Oshawa’s (“City”) Boulevard By-law (appended as **Attachment 1**), its administration, and applicable utility services agreements.

5.2 Boulevards and Boulevard Fixtures

The boulevard is generally described as the section of land from the street to the edge of the property line and may or may not contain a sidewalk under the jurisdiction of a municipality. Boulevards are typically viewed as the “front door” of the community and contributes to the overall image of the City. The boulevards throughout the City of Oshawa play an important role in the operation of the City by providing:

- access for pedestrians;
- a green corridor adjacent to roads;
- accommodates above ground and underground utility services;
- public space for street trees;
- public space for street furniture (signs, benches, transit shelters etc.); and,
- snow storage in winter and provides an attractive edge to all private property.

There are a range of agencies and individuals that have interest in and benefit from the provision of the boulevards from utility companies to homeowners. These benefits relate to the ability to provide services on the boulevard in the form of fixtures which are defined in the Boulevard By-law as:

“any structure or other fixture affixed to the Boulevard including a utility box, newspaper vending box, bench, transit shelter, telephone box, telephone booth, transformer box or vault, telephone, hydro, streetlight, stoplight, poles and street sign.”

5.2.1 Responsibilities

Although the management of utilities in the right-of-way is the responsibility of the road authority, it is in the public interest to accommodate others, notably utility companies, within the right-of-way where practical. The accommodation of utilities within the public right-of way is recognized in both federal and provincial legislation including the Telecommunications Act (S.C. 1993, c.38).

Boulevards adjacent to local roads are the responsibility of the City whereas, those adjacent to Regional roads are the responsibility of the Region of Durham (“the Region”). In the context of the City, several City Branches and agencies have responsibilities for the identified boulevard issues; these responsibilities are detailed in **Table 1**.

Table 1 City Boulevard Responsibilities

Branch	Responsibility
Engineering Services	<ul style="list-style-type: none"> • Designs the boulevard and undertakes the road construction and reconstruction and approves utility works.
Operations Services	<ul style="list-style-type: none"> • Perform routine patrols of the road allowance, repair damaged areas, investigate public complaints, and administers the grass cutting contract for City owned boulevards. Additionally, Operation Services administers Road Occupancy Permits through Service Oshawa. • Manages driveway curb cut program. • Parks Forestry perform routine maintenance on City-owned trees and provides technical expertise to support the City’s tree network.
Municipal Law Enforcement (M.L.E.) Services	<ul style="list-style-type: none"> • Is responsible for the enforcement of complaints related to parking on boulevards, visual obstructions such as signs, long grass and weeds, debris, and alterations to the boulevard area which are contrary to the By-law.
Planning Services	<ul style="list-style-type: none"> • Provides technical expertise as it relates to development and new subdivisions.
Legal Services	<ul style="list-style-type: none"> • Provides assistance if charges under the Boulevard By-law are required.
Service Oshawa	<ul style="list-style-type: none"> • Receives resident complaints and assigns cases to appropriate Branch and/or Region for action.

The Region is responsible for the maintenance of boulevards located on Regional Roads. In addition to the City and the Region, there are many agencies that maintain fixtures on the boulevard. These agencies and the Region’s responsibilities and applicable fixtures are detailed in **Table 2**.

Table 2 Durham Region and Other Agencies Boulevard Responsibilities and Applicable Fixtures

Agency	Responsibility and Applicable Fixtures
Durham Region	<ul style="list-style-type: none"> • Traffic light poles, power supply boxes, electrical handwells, conduit, maintenance hole covers, water valves, and hydrants. • Durham Region Transit (D.R.T.) is responsible for maintaining their structures located on boulevards as well as concrete bus pads and adjacent hard-surface areas.
Rogers	<ul style="list-style-type: none"> • Telecommunications pedestals, cabinets, grade level boxes, conduit, service drops, and maintenance hole covers.
Bell	<ul style="list-style-type: none"> • Telecommunications pedestals, cabinets, grade level boxes, handwells, conduit, service drops, maintenance hole covers, poles, guy and anchors.
telMAX	<ul style="list-style-type: none"> • Telecommunication grade level boxes, handwells, conduit, and service drops.
Oshawa Public Utility Commission (O.P.U.C.)	<ul style="list-style-type: none"> • Electrical transformer boxes, vaults, conduit, service drops, maintenance hole covers, poles, guy and anchors, and transfers stations.
Canada Post	<ul style="list-style-type: none"> • Mailboxes and other mail-related fixtures.
Hydro One	<ul style="list-style-type: none"> • Electrical transformer boxes, vaults, conduit, service drops, maintenance hole covers, poles, guy and anchors, transfers stations.
Enbridge	<ul style="list-style-type: none"> • Regulation station, gas main, valve boxes, test points, and pipeline markers.
Go Transit	<ul style="list-style-type: none"> • Signage, bus stops, and bus shelters.
C.N. Railway	<ul style="list-style-type: none"> • Signage, railway lines, traffic signals, and fencing.
Various Vendors	<ul style="list-style-type: none"> • Newspaper boxes.

5.2.2 Oshawa Municipal Services Coordinating Committee

As detailed above, given that a number of agencies maintain their services within the boulevard, the City has established an Oshawa Municipal Services Coordinating Committee (O.M.S.C.C.) which meets quarterly to discuss any issues within the road right-of-way and ensure safe and efficient management and use of the infrastructure within right of ways. The first 2019 meeting of the O.M.S.C.C. was March 27, 2019. Since then, City staff met with representatives from each utility company on May 22, 2019 to discuss utility restoration within City boulevards. The next O.M.S.C.C. meeting is scheduled for June 27, 2019 and the restoration and maintenance of existing infrastructure will continue to be key discussion points.

The O.M.S.C.C. is chaired by Engineering Services and attended by City Branches, Durham Region and agencies identified in **Table 1** and **Table 2** as required. The O.M.S.C.C. provides a forum for City officials and Agencies/Utilities to meet and discuss common issues or project related matters which assists in serving and protecting the

residents and businesses while constructing and maintaining infrastructure. Objectives of the O.M.S.C.C. include but are not limited to the following;

- Maximize the lifecycle of all infrastructure in and on the public road allowance and minimize the total lifecycle cost of both the Road Authority and the Utility capital works projects through improved coordination and communication.
- Improve communication and the exchange of information among the road allowance stakeholders.
- Provide a forum for the resolution of problems with the installation/restoration of utility/plant within the public road allowance.
- Implement and monitor damage prevention programs for the protection of the boulevard and utility and street facilities.
- Coordinate the scheduling of the road allowance, capital improvement and maintenance projects.
- Implement and maintain standard procedures for the municipal consent process.
- Minimize disturbance, inconvenience and cost to the public in the provision of service.
- Improve safety conditions during completion of works in the public road allowance.

5.3 Approval Process for Boulevard Fixtures and Maintenance Requirements

The approval of fixtures on City boulevards is a joint process administered by both Engineering and Operations Services. The approval process for the placement of new fixtures is as follows:

1. The applicant must first apply for a Municipal Consent Approval which ensures that the fixture(s) is placed in an appropriate location on the boulevard and complies with the rules and requirements for the installation of utility infrastructure. The applicant must comply with certain conditions of the Municipal Consent Agreement (appended as **Attachment 2**) which includes but is not limited to:
 - Restoring in kind, all areas the applicant has disturbed, to the satisfaction of the City and in compliance with all City of Oshawa design standards.
 - Responsible for complying with the City's Road Occupancy By-law 37-2007 and obtaining the appropriate approvals from applicable public authorities (provincial government, federal government, etc.).
2. When Municipal Consent is approved, the applicant must apply for a Road Occupancy Permit (R.O.P.). If approved, the applicant must comply with the terms and conditions of the R.O.P. (detailed in **Attachment 3**). These conditions include but are not limited to:
 - The applicant must notify in writing the adjacent property owner(s) along the affected frontage providing the name of the applicant and contractor / utility where applicable including a contact phone number. **Note:** In effort to increase communication with local residents, some utility companies will place a door knocker on the effected residents advising of work and some have included a 1-800 number to receive complaints.

- All barricades, signs, and signals required to direct or guide pedestrian or motorist around the work site when required shall be erected and maintained by the Applicant in accordance with the Ontario Traffic Manual Book 7, City policies and Ontario Regulation 429/07.
 - The applicant shall maintain pedestrian access, and where practical, vehicular access, to all public and private properties.
 - If to carry out the work it is necessary to alter, break, or disturb an existing pavement, curb and gutter or sidewalk, the applicant shall undertake a permanent repair immediately upon completion to the satisfaction of the City unless alternative arrangements are made with the City.
3. Operation Services staff inspects the applicable site where an R.O.P. has been issued to ensure compliance with applicable standards.

5.4 Boulevard Calls-for-Service, Issues and Remediation

Given the broad range of agencies that maintain fixtures on the boulevard and the various responsibilities, calls-for-service are referred to and tracked by the City, Durham Region and various agencies. Staff examined calls-for-service received by Service Oshawa and approximate figures are provided in **Table 3**. It is important to note that some calls such as those that relate to traffic signal graffiti/damage and transit shelter issues, are not tracked and are referred to the Region/D.R.T. Furthermore, some boulevard-related calls such as those related to downtown benches are tracked under a general classification “roads general” and therefore may not be reflected in the following figures.

Table 3 Approximate Number of Calls-for-Service for Boulevard-related Issues

Boulevard Fixture	2016	2017	2018	2019 (to April 30)	Open Cases ¹
Utility Boxes: <ul style="list-style-type: none"> • Electrical transformer box or vault • Telecommunications boxes (telephone, cable, and fibre optics) 	No data ²	No data	30	11	0
Newspaper Vending Boxes	1	1	0	0	0
Streetlights ³	18	12	21	3	0
Street Signs ⁴	127	143	142	52	4
Boulevard Maintenance – City Roads	386	414	298	64	33 ⁵
Boulevard Maintenance – Regional Roads ⁶	58	77	77	30	No Data ⁷
Total Calls-for-Service	590	647	538	160	47

A review of boulevard maintenance has determined the following issues as factors which contribute to the delayed response in addressing damaged/vandalized fixtures:

- There are a significant number of boulevard fixtures located on approximately 1,200 km of City boulevards. Despite proactive patrols, the City relies on the public to report maintenance issues and historically, there has been an under-reporting of boulevard fixture maintenance issues.
- Responsible agencies may “batch” maintenance requests to reduce costs and more efficiently address damaged/vandalized fixtures.
- Some agencies do not have local representative to address issues and in some cases, maintenance may be a low priority.

¹ As of May 28, 2019.

² Service Oshawa began tracking Utility Box issues in May of 2018. Prior to that, such calls were classified as a “Roads General” call-for-service which could include a variety of other issues.

³ Includes calls related to: graffiti/vandalism, motor vehicle damage, pole damaged or down. **Does not include** malfunctioning lights.

⁴ Includes calls related to: graffiti/vandalism, wear and tear, and motor vehicle damage.

⁵ 24 Files related to clean up after Forestry activities.

⁶ Includes a broad range of maintenance issues such as: utility work damage (e.g. tire ruts), low/depressed area causing flooding, heaving, motor vehicle damage, sinkhole, unknown reason for damage. Calls that relate to the Region’s Boulevards are sent to the Region’s Operations department.

⁷ Region does not provide data related to closed files.

The City undertakes a number of proactive and reactive approaches to address and remediate boulevard related issues on the approximately 1,200 km of boulevards. These efforts are detailed in **Table 4**.

Table 4 City's Current Approach to Address Boulevard Issues

Branch	Approach to Address Boulevard Issues
Engineering Services	<ul style="list-style-type: none"> • Chairs the O.M.S.C.C. comprised of various agencies that maintain fixtures on the boulevard and reviews current issues with the goal of improving the boulevard maintenance and aesthetics to an acceptable level. • Negotiates and administers agreements for all new fixtures to be placed on the boulevard. Establishes rules and requirements for the installation of utility infrastructure within the cities boulevard. • Maintains database of City/utility owned infrastructure with the boulevard. • Participates in the Public Utility Coordinating Subcommittee⁸ which establishes industry best standards and address ongoing utility concerns with the right of way.
Operations Services	<ul style="list-style-type: none"> • Conducts regular proactive patrols to repair damaged areas (initiated in 2019). • Responds to complaints related to the maintenance of fixtures on the City's boulevards. • Administers grass cutting contracts for City boulevards. • Administers Road Occupancy Permits via Service Oshawa allowing agencies to maintain fixtures on the boulevard subject to maintenance standards. The number of R.O.P.s issued by year is as follows: <ul style="list-style-type: none"> ○ 2016: 3,454 ○ 2017: 3,568 ○ 2018: 3,713 ○ 2019 to April 30: 1,113 • Inspects boulevard fixtures for compliance with maintenance standards. If compliance with maintenance standards is not achieved despite efforts to notify fixture owners, Operations Services may suspend the agency's Road Occupancy Permit.
M.L.E.	<ul style="list-style-type: none"> • Periodically conducts proactive projects and undertakes complaint-based enforcement to address the maintenance (e.g. graffiti remediation) of boulevard fixtures. This typically involves advising appropriate agencies of the need to address damaged/vandalized fixtures and/or the issuance of administrative orders.
Legal Services	<ul style="list-style-type: none"> • Provides assistance if charges under the Boulevard By-law are required.

⁸ The Public Utilities Coordinating Subcommittee is a collaboration of Ontario municipalities that meets regularly to discuss and develop best practice.

5.5 Current Efforts to Enhance the Maintenance of Boulevard Fixtures

The maintenance of City boulevards is an important objective for the City. Accordingly, in addition to the efforts detailed in Section 5.4, a number of important initiatives are presently underway to further enhance current efforts to ensure the City's boulevards are maintained in accordance with applicable standards.

Engineering Services is finalizing its consolidated Municipal Consent Requirements (M.C.R.) for installation of utility/plant within the City of Oshawa. The M.C.R. will bring together current standards and guidelines from across the City into one document and identify industry best practices for dealing with utilities in boulevards. The document has been circulated to members of the O.M.S.C.C. and staff are awaiting comments before finalizing the draft. This document lays out the requirements for the Municipal Consent Process. This includes but is not limited to the following:

- General Requirements
- Emergency Work
- Requirements for Application Submission
- Drawing/Construction Requirements
- Resident and Business Notification
- Reporting impacted/damages to Existing Infrastructure
- Boulevard Restoration
- Maintenance of Existing Utility Infrastructure
- Non-compliance

Engineering Services has engaged utility service providers who maintain fixtures on City boulevards to develop their own maintenance programs to proactively address their fixtures to address issues related to graffiti, damage and vandalism.

Furthermore, Operations Services initiated proactive patrols in 2019 to address damaged fixtures on the boulevard. In most cases, roads patrol staff are able to report issues to the applicable agencies to achieve timely resolutions.

5.6 Conclusion

Ensuring the maintenance of boulevard fixtures on the City's approximately 1,200 km boulevards is an important objective of the City. Notwithstanding this, the maintenance of boulevard fixtures requires a collaborative effort and is the responsibility of multiple agencies. Recognizing the need for a coordinated approach, the City coordinates regular meetings through the O.M.S.C.C. to amongst other things, address fixture maintenance issues and attends regular meetings with other municipal partners to discuss and develop best practices. Finally, the City has implemented additional measures to enhance the maintenance of boulevards through the development of a consolidated M.C.R. document and the initiation of proactive roads patrols to identify damaged fixtures. Additionally, the City's Corporate Communications will develop a plan to increase awareness for the maintenance of boulevard fixtures and to encourage residents to report damaged fixtures to Service Oshawa.

6.0 Financial Implications

There are no financial implications directly related to the recommendation in this report.

7.0 Relationship to the Oshawa Strategic Plan

The recommendations in this report directly responds to the Oshawa Strategic Plan Goals:

- 4.1 Economic Prosperity and Financial Stewardship: Safe and Reliable Infrastructure
- 4.2 Accountable Leadership: Deliberate Community Engagement



Jerry Conlin, Director,
Municipal Law Enforcement and Licensing Services



Tracy Adams, Commissioner,
Corporate Services Department

Attachments



As amended by By-law 93-2013 and 64-2016
By-law 136-2006
of The Corporation of the City of Oshawa

being a by-law to govern and regulate the maintenance, occupancy, use of, and other matters pertaining to, those portions of public highways under the jurisdiction of the City of Oshawa known as boulevards.

Be it enacted and it is hereby enacted as a by-law of the Corporation of the City of Oshawa by the Council as follows:

1.0 Administration, Interpretation, Enforcement

1.1 Short Title

1.1.1 This By-law may be cited as the "Boulevard By-law".

1.2 Scope

1.2.1 This By-law applies to all Boulevards under the jurisdiction of the City of Oshawa pursuant to the provisions of the *Municipal Act*, 2001 S.O. 2001, Chap. 25 unless otherwise indicated herein.

1.3 Enforcement

1.3.1 Where an Owner fails to comply with any provision set out in this By-law, an Order may be issued by an Officer to the Owner requiring compliance within the timeframe specified in the Order.

1.3.2 An Officer who finds that a Boulevard or a Fixture does not conform to any of the standards prescribed in this By-law may make an Order to an Owner or a Fixture Owner:

- (a) Stating the municipal address of the Property, a Street Line of which is located immediately adjacent to the subject Boulevard area or, in the case of a Fixture, the municipal address closest to that Fixture;
- (b) Giving reasonable particulars of the Repairs, Restoration or Maintenance to be made to the Boulevard or Fixture;
- (c) Indicating the time frame for complying with the terms and conditions of the Order; and
- (d) Giving notice that if the Order is not complied with within that time, the City may carry out the work at the Owner's or Fixture Owner's expense.

1.3.3 Any notice or document respecting this By-law may be given in writing in any of the following ways and is effective:

- (a) when a copy is delivered to the Person to whom it is addressed;
- (b) on the fifth (5th) day after a copy is sent by registered mail to the Person's last known address;
- (c) upon the conclusion of the transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number;
- (d) upon the sending of a copy by e-mail transmission to the Person's last known e-mail address; or
- (e) by posting a copy at or on the Property.

(64-2016)

1.3.4 Every Owner and Fixture Owner shall comply with an Order issued pursuant to Article 1.3.2 of this By-law within the time provided for therein.

- 1.3.4.1 A Person who is given an Order pursuant to article 1.3.2 of this By-law may appeal to the Hearings Officer against it pursuant to article 1.3.4.2.
- 1.3.4.2 The following applies to appeals to a Hearings Officer against an Order issued pursuant to article 1.3.2 of this By-law:
- i) An appeal to the Hearings Officer does not operate as a stay of the Order.
 - ii) An Order that is not appealed pursuant to this article is final and is not subject to review including review by any Court.
 - iii) A Person's right to appeal expires if it has not been exercised in the manner prescribed in clause 1.3.4.2.iv) before 4:30 p.m. on the tenth (10th) day after the Order is given to the Person at which time the Order is final and is not subject to review including review by any Court.
 - iv) A right to appeal is exercised by:
 - (a) giving to the Director written notice of appeal that includes particulars of all grounds upon which the appeal is made; and by
 - (b) paying the fee from time to time prescribed by the City's General Fees and Charges By-law.
 - v) The Person shall be given no fewer than seven (7) days' notice of the date, time and place of the hearing of the appeal.
 - vi) Where the Person fails to appear at the time and place scheduled for a hearing of the appeal, the Person's appeal shall be deemed to be dismissed and the Person shall pay to the City an administrative fee as from time to time prescribed by the General Fees and Charges By-law.
 - vii) Subject to clause 1.3.4.2.vi), the Hearings Officer shall not decide the appeal unless the Hearings Officer has given each of the Person, the Director and the Officer an opportunity to be heard at the time and place scheduled for the hearing of the appeal.
 - viii) The Hearings Officer may make any decision that the Director or an Officer could have made pursuant to this By-law.
 - ix) The decision of the Hearings Officer is final and not subject to review including review by any Court.
- 1.3.5 Where an Order has been issued by the City and compliance has not been achieved within the required time period as set out in the Order, the City may, through its employees and agents or persons acting on their behalf, carry out the work required by the Order at the expense of the Owner or Fixture Owner and, in the case of an Owner, all expenses so incurred may be added to the tax roll and collected from an Owner in the same manner as municipal taxes.
- 1.4 **Penalty**
- 1.4.1 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.
- 1.4.2 Administrative Penalty Process By-law 63-2013 applies to each administrative penalty issued pursuant to this By-law.
- 1.4.3 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 in the amount of \$125 for each day on which the contravention occurs or continues.
- 1.5 **Severability**
- 1.5.1 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, or inoperative

in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

1.6 Compliance with other By-Laws and Regulations

1.6.1 This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.

1.6.2 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 clean and tidy conditions on the Highway shall apply.

1.7 Gender and Number

1.7.1 In this By-law, unless the contrary intention is indicated, words used in singular shall include the plural and words used in the male gender shall include the female gender and vice versa.

1.8 Measurements

1.8.1 Where the By-law provides metric and imperial units of measure, the metric unit of measure shall prevail. For convenience only, approximate imperial measurements may have been provided in parentheses but are of no force or effect. The abbreviation “mm” stands for millimetres, “cm” stands for centimetres, “m” stands for metres, “in” stands for inches and “ft” stands for feet.

1.9 And/Or

1.9.1 The word “and” is an inclusive conjunction, the use of which indicates that all items or phrases in that subsection, article, or list in which it appears are permitted or required as the case may be. The word “or” is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word “or” may also be an inclusive conjunction having the same meaning as the word “and”.

1.10 Repeal of Existing By-Laws

1.10.1 By-law 165-70 is hereby repealed.

1.11 Effective Date

1.11.1 This By-law shall come into force on the date of passage by Council.

2.0 Definitions

2.1.1 For the purpose of interpreting the provisions set forth in this By-law, the following definitions shall apply:

“Boulevard”	Means that part of a Highway (whether assumed or unassumed by the City) between a Street 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 Vehicles. A Boulevard may or may not contain a sidewalk.
“City”	Means the Corporation of the City of Oshawa.
“City Street”	Means a Highway under the jurisdiction of the City.
“Director”	Means the City’s Director, Municipal Law Enforcement and Licensing Services.
“Fixture”	Means any structure or other fixture affixed to the Boulevard including a utility box, newspaper vending box, bench, transit shelter, telephone box, telephone booth, transformer box or

vault, telephone, hydro, streetlight, stoplight poles and street sign.

“Fixture Owner”	Means the owner of a Fixture.
“Grade Height”	Means the surface of the ground measured at any point, or when associated with an object, plant or other thing, the surface of the ground at the base or bottom of that object, plant or thing.
“Hard Surface”	Means an area covered in whole or in part with asphalt, concrete, interlocking brick or block, crushed or solid stone, gravel, slag, ground asphalt, wood or any non-porous material.
“Hearings Officer”	Means “Hearings Officer” as defined in paragraph 1(e) of Hearings Officer By-law 26-2008, as amended.
“Highway”	Means a common and public Highway, street, avenue, or parkway any part of which is intended for use by the general public for the passage of vehicles and includes the area between the lateral Property lines including any Boulevard.
“Landscaping”	Means vegetation in the form of lawns, grasses, shrubs, flowers, ornamental plantings, or any combination thereof.
“Maintenance”	Means an action required to or maintain a Boulevard or Fixture, or an action to sustain the Landscaping on a Boulevard, including, but not limited to, cutting, watering, removing debris or graffiti there from, or repairing damage to any driveway located on the Boulevard area and “Maintain” has a corresponding meaning.
“Officer”	Means “Officer” as defined in paragraph 1(h) of Inspection By-law 64-2008.
“Owner”	Means lawful owner but also includes a lessee, tenant, mortgagee in possession or occupant who appears to have care and control of the property.
Person”	Means an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors, or legal representatives of the Person to whom the context can apply according to law.
“Post”	Means the act of erecting an Order under this By-law and “Posted” has a corresponding meaning. Posting includes either: <ul style="list-style-type: none"> (i) affixing an Order to a building or structure on the Property abutting the subject Boulevard; or (ii) the erection of a post on the subject Boulevard or Property abutting the subject Boulevard and affixing an Order to that post; or (iii) in the case of a Fixture, affixing an Order to that Fixture located on the Boulevard.
“Property”	Means any Land, including the buildings and structures thereon, registered to a person on title in the Land Registry Office or Land Titles Division, as the case may be.
“Regional Road”	Means a Highway under the jurisdiction of the Regional Municipality of Durham.
“Repair”	Means the taking of any action to ensure that the Boulevard area or Fixture conforms to the standards contained in this By-law.
“Restore”	Means taking action to remove unlawful materials and objects and by planting Landscaping or installing materials and objects in compliance with this By-law.

“Standards”	Means the standards for Boulevard and Fixture maintenance as prescribed by Section 4.0 of this By-law.
“Street Line”	Means the boundary between a lot and the street or streets upon which the lot abuts provided that, where a lot abuts a 0.3 metre reserve, the Street Line shall be deemed to be the boundary between the 0.3 metre reserve and the street or streets upon which the 0.3 metre reserve abuts.
“Vehicle”	Means an automobile, truck, or other motor vehicle, including farm implement or equipment, motor home, motorized construction equipment, motorcycle, snowmobile, boat, recreational vehicle, aeroplane, trailer and any other device which is capable of being driven propelled or drawn by any kind of power, excluding devices powered solely by means of human or animal effort, such as bicycles, wheelchairs, wagons, carts or skateboards.

3.0 Boulevard Standards

3.1.1 Every person may landscape or improve that portion of a Boulevard abutting his/her Property, subject to the regulations contained hereafter:

- i) No hedge, shrub, tree, planting, post, fence, wall, or any other thing shall be permitted:
 - (a) Where a sidewalk is located on the Boulevard, within 0.6m (2 ft) of either edge of the sidewalk or within 1.2m (4 ft) of the curb or travelled portion of the Highway, or
 - (b) Where no sidewalk is located on the Boulevard, within 1.8m (6 ft) of the curb or travelled portion of the Highway;
- ii) No hedge, shrub, tree planting, post, fence, wall or other thing, exceeding 0.9m (3 ft) in height above the Grade of the Boulevard shall be permitted on any Boulevard;
- iii) Nothing shall be maintained on any Boulevard which is protruding, sharp, dangerous in any way, or which may otherwise injure a Person; and
- iv) No Person shall alter a Boulevard by adding or maintaining any Hard Surface material or artificial turf, in whole or in part, to the surface. (64-2016)

4.0 Boulevard and Fixture Maintenance Standards

4.1.1 Every Owner shall maintain the Boulevard that abuts that Owner’s Property (hereinafter called the Abutting Boulevard) in accordance with the requirements of this By-law.

4.1.2 Every Owner shall:

- i) Clean and Clear the Abutting Boulevard of all debris, waste, refuse and litter;
- ii) Clean and Clear the Abutting Boulevard of any abandoned items, machinery, equipment or other thing;
- iii) Maintain grass and weeds on any Abutting Boulevard at a Height which is not greater than twenty (20)cm {eight (8) in} in Height provided that this section shall not prevent the growth of grasses and plant material in excess of the aforementioned height in areas the maintenance of which is deemed to be a hazard by the Commissioner of Community Services of the City, or such other City staff person designated by the City Manager;
- iv) Maintain the Landscaping on any Abutting Boulevard so that Landscaping materials do not encroach over that portion of an adjacent Highway that is travelled or designed to be travelled by Vehicles, adjacent driveway or sidewalk;

- v) Subject to Sentence (iii) of this Article 4.1.2, maintain all Landscaping on the Boulevard to a height not exceeding 0.9m (3 ft) above the Grade of the Boulevard; and
- vi) Maintain or Restore Landscaping and Hard Surface areas on the Boulevard to the Standards required by this By-law.

4.1.3 Every Fixture Owner shall maintain all Fixtures owned by it in a condition which is free from all defacing marks, tagging and graffiti.

4.1.4 Notwithstanding Articles 3.1.1 and 4.1.2, this By-law shall not be interpreted as preventing or prohibiting:

- i) The placement or erection of Signs in compliance with the City and Regional Sign By-laws;
- ii) The creation and use of a driveway apron, the width and location of which has been approved by the City;
- iii) The creation and use of Hard Surfaced areas on Boulevards, other than a driveway apron, the width and location of which has been approved by the City;
- iv) The creation and use of Hard Surfaced areas on Boulevard areas used for bus stops, bus stop shelters, or bus stop bench seating;
- v) The creation and use of Hard Surface areas in unique locations which have been approved by the Commissioner of Community Services of the City, or such other City staff person designated by the City Manager;
- vi) The temporary placement of Refuse for collection in compliance with the standards of the City of Oshawa Refuse Collection By-law;
- vii) The placement of structures placed or utilized by the City, the Regional Municipality of Durham, a Transportation Commission, GO Transit, utilities, Canada Post, or newspaper boxes if approved by the Commissioner of Community Services of the City, or such other City staff person designated by the City Manager; or
- viii) Trees planted on the Boulevard in compliance with the City's Tree By-law.

5.0 Boulevard Damage

5.1 Damage – Offence

5.1.1 No person shall damage any landscaping, structure, tree, sidewalk or other improvement on any Boulevard. For the purpose of this Article, "Damage" shall include placing any permanent mark or otherwise defacing, tagging or placing graffiti on any structure or other fixture affixed to the Boulevard including a utility box, telephone box, telephone booth, transformer box or vault, telephone, hydro, streetlight, stoplight poles or street sign.

6.0 Exemptions

6.1 Notwithstanding Articles 3.1.1 and 4.1.2, the Director or the Commissioner of Community Services (or his or her delegate) may grant an exemption to an Owner where the Director or the Commissioner of Community Services (or his or her delegate) is satisfied that the granting of the exemption would maintain the general intent and purpose of this By-law. (64-2016)

6.2 The Director or the Commissioner of Community Services (or his or her delegate) may impose such conditions as the Director or the Commissioner of Community Services (or his or her delegate) determines are appropriate in relation to an exemption granted by him or her pursuant to section 6.2. (64-2016)

6.3 An Owner may appeal to the Hearings Officer pursuant to section 1.3.4.1 against a decision made by the Director or the Commissioner of Community Services (or his or her delegate) respecting an exemption pursuant to section 6.1 including any condition imposed pursuant to section 6.2. (64-2016)

- 6.4 A decision of the Director or the Commissioner of Community Services (or his or her delegate) respecting an exemption pursuant to section 6.1 including any condition imposed pursuant to section 6.2 that is not appealed pursuant to section 1.3.4.1 is final and is not subject to review including review by any Court. (64-2016)

By-law approved this second day of October, 2006.

2006 10 05

City of Oshawa
Conditions of Municipal Consent Approval

- 1) The proposed utility plant must be constructed in the approved location as detailed in the Municipal Consent drawings. It is understood when a plant is installed in a location other than the approved location, all future relocation costs will be 100% the responsibility of the utility company
- 2) The applicant is responsible for the restoration in kind to all disturbed areas all to the satisfaction of the City of Oshawa and in compliance with all City of Oshawa design standards. Written permission from the City of Oshawa, Engineering Services Branch must be obtained if the paved surface of any roadway is to be cut.
- 3) The applicant assumes responsibility for the location and interference with all existing services within the construction area. The applicant is also responsible for accurately locating all existing underground and overhead services. This approval does not imply that the City has verified the location of existing services, other than those services that fall under the jurisdiction of the City of Oshawa.
- 4) The applicant shall also be defined as the "licensee" and agrees to comply with the conditions as set out in the City of Oshawa "Road Occupancy By-law 37-2007".
- 5) Where curb and gutter exists auger pits shall be a minimum of one-metre away from the back edge of curb and gutter for each vertical metre of excavation or a minimum of 3-metres from edge of pavement where gravel shoulders exist.
- 6) A "**Road Occupancy Permit**" must be obtained from Service Oshawa 72-hours prior to commencing work. A copy of the **Municipal Consent** approval letter must be attached to ROP permit applications.
- 7) Traffic control must be in accordance with the Ontario Traffic Manual-Book 7 published by the Ministry of Transportation Ontario.
- 8) In accordance with Section 69(2) of the Highway Traffic Act, no tracked vehicles will be allowed on the traveled portion of the highway pavement and shoulder.
- 9) A minimum of 0.50 m of vertical clearance and 2.0 m of horizontal clearance is required from any sanitary, watermain or storm sewer and in accordance with the Public Utilities Act R.S.O. 1990, Chapter P.52, Section 56, As Amended Horizontal tolerance of 0.15 m will be accepted but vertical depth must be as shown on the approval plan.
- 10) It is the applicant's responsibility to contact the City Parks Branch, 919 Farewell Street South, regarding all trees which need to be protected, trimmed, removed or replaced. The location, size and type of trees in conflict with proposed utility construction must be shown on the approval drawings. (NOTE: Requirements under Chapter M45, Section 312, Municipal Act, as amended).
- 11) It is the applicant's responsibility to obtain all approvals required under Local, Provincial or federal legislation.
- 12) The Utility Company agrees that **within 2 months** of the completed installation to deposit with the City of Oshawa, Engineering Services section, a "**Certificate of Installation**". In the event the installation is other than the approved location, the Utility Company agrees to provide the City with a set of "as constructed" drawings indicating the approved location and the as constructed location.

Certificate of Installation: (Completed copy to be returned to **City of Oshawa, Engineering Services**)

Municipal Consent No: _____ Date: _____

Location: _____

The above mentioned plant was installed in the approved location and all disturbed areas within the limits of the above MC have to be restored to the satisfaction of the City of Oshawa. Where a plant is installed in a location other than the approved location, all future relocation costs will be 100% the responsibility of the Utility Company.

Name of Utility Company: _____ Telephone No: _____

Representative: _____ Name: _____
Signature (Please print)



Item: CORP-19-59 Attachment 3
Road Occupancy Permit

Community Services Department
 50 Centre St. S., Oshawa, ON L1H 3Z7
 905-436-3311, service@oshawa.ca

The Contractor shown below is under contract to, or working for or on behalf of the Applicant				Year	Month	Day
Applicant (<i>LICENSEE</i>)			Contact person			
Address			City		Postal code	
Telephone	Cell phone		Email			
Contractor (for the LICENSEE)						
Address			City		Postal code	
Telephone	Cell phone		Email			
Work Details						
Occupy Date From			Occupy Date To			
Type of Work (* requires M.C. number)						
<input type="checkbox"/> Repair to existing <input type="checkbox"/> Service connection <input type="checkbox"/> New conduit/plant* <input type="checkbox"/> New pedestal/cabinet*						
Municipal Consent No./Contract No.			Work Description/Additional Comments			
Occupy Only <input type="checkbox"/>	Estimated Size of Cut					
Excavation <input type="checkbox"/>	Length	Width	Area			
Boulevard						
Sidewalk						
Road						
Curb						
<input type="checkbox"/> Road closure <input type="checkbox"/> Sidewalk closure <input type="checkbox"/> No closures – restrictions/occupy only						
Occupying on-street paid parking spaces <input type="checkbox"/> Yes <input type="checkbox"/> No				If yes, # of spaces:		
Location						
<input type="checkbox"/> Single Address <input type="checkbox"/> Intersection <input type="checkbox"/> Block to Block						
Municipal Address / Intersection						
Street		Between			And	
Intersection: <input type="checkbox"/> North/West <input type="checkbox"/> North/East <input type="checkbox"/> South/West <input type="checkbox"/> South/East						
Side of street: <input type="checkbox"/> North <input type="checkbox"/> South <input type="checkbox"/> East <input type="checkbox"/> West						
Authorization						
The undersigned has read and agrees to all the Terms and Conditions set forth on the back of this Road Occupancy Permit (ROP) and has the authority to bind the Contractor and the Applicant.						
Print Name of Person signing this Permit			Signature of Approval by City of Oshawa			
Signature			Date of Approval			
Office Use Only						
Fee Paid	<input type="checkbox"/> Simple <input type="checkbox"/> Complex <input type="checkbox"/> No charge			Permit No:		

Personal information contained on this form is collected under the authority of Section 11 of the Municipal Act, 2001 and will be used by the City of Oshawa to issue a road occupancy permit. Questions about this collection should be directed to the City of Oshawa's Freedom of Information Co-ordinator at 50 Centre Street South, Oshawa, Ontario, L1H 3Z7 or by phone at 905-436-3311

Terms and Conditions

1. The Applicant agrees that the Contractor named on this Permit is acting as an agent on behalf of the Applicant.
2. The provisions of this permit are authorized under the City of Oshawa Road Occupancy By-law as amended.
3. An application for a permit shall be completed and returned not later than 5 working days prior to the closure or occupancy of arterial or collector roads and 2 days in advance on local roads. This notice is exclusive of Saturdays, Sundays, and holidays. Where the project requires amendment of a Traffic By-law, 8 weeks notification is required. This permit must be retained for inspection at the work site.
4. When the Region of Durham or a utility or public service company 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 By-law shall be made.
5. When conditions or unforeseen difficulties require a longer period for completion than is indicated on the permit, the applicant shall notify the City of the additional time required and the reason therefore.
6. The City shall, when required on behalf of the applicant, notify emergency service and transportation agencies. Any required public advertisement shall be at the applicant's expense.
7. The Applicant must notify in writing the adjacent property owner(s) along the affected frontage providing the name of the Applicant and Contractor / utility where applicable including a contact phone number.
8. All barricades, signs, and signals required to direct or guide pedestrian or motorist around the work site when required shall be erected and maintained by the applicant in accordance with the Ontario Traffic Manual Book 7, City policies and Ontario Regulation 429/07.
9. The Applicant shall maintain pedestrian access, and where practical, vehicular access, to all public and private properties.
10. If to carry out the works it is necessary to alter, break, or disturb an existing pavement, curb and gutter or sidewalk, the applicant shall undertake a permanent repair immediately upon completion to the satisfaction of the City unless alternative arrangements are made with the City. Temporary repairs are permitted after December 15th but must be reinstated to a permanent repair no later than April 30th.
11. The Applicant/Utility Service Provider (USP) shall maintain the temporary repair to the satisfaction of the City until the permanent restoration can be undertaken within the stipulated timeframe, all of which shall be at the cost of the Applicant/USP. All ditches, culverts, and driveway entrances shall be repaired or replaced promptly. All surplus material shall be removed, the area cleaned and returned to its original state.
12. The Applicant undertaking the permanent repair shall carry a two (2) year warranty from the date of completion of the permanent repairs.
13. All work shall comply with the O.H.S.A and its relevant Regulations pertaining to Construction. Backfill operations and compaction shall be in accordance with City Standards and OPSS specifications. Excavated material may not be piled in such a manner as to obstruct vehicular or pedestrian traffic. All sidewalk, curb and gutter, boulevard and asphalt repairs shall meet all City Standards and OPSS specifications. All granular materials used shall be in accordance with City Standards and OPSS specifications. Asphalt repairs and materials shall be in accordance with City Standards and OPSS specifications. Asphalt repairs larger than 25m² in size shall be permanently repaired by the City at the expense of the Applicant.
All Standards located on City website, www.oshawa.ca
14. If it is necessary to disturb an existing sodded area a permanent repair must be undertaken a layer of topsoil with a minimum thickness of two hundred (200) millimetres and a minimum of twenty (20) millimetres of sod. The Applicant is responsible for the sodded area until the root system is established. The applicant is required to provide a minimum one year warranty from the date of installation or re-installation. Sodded areas must be restored within 7 working days between April 15 to November 15 unless alternative arrangements are made with the City. During the off season area must be graded to a level surface and sod installed when sod becomes available.
15. The Applicant is responsible to insure that all reasonable precautions are taken to protect all survey markers including Horizontal Control Monuments (HCM) which are located within the road allowance. The applicant must also advise the Development Services Department, Survey Section, if an HCM is to be removed or otherwise affected. Notwithstanding notice to the Development Services Department, the applicant will be responsible for all costs associated with the replacement or repair of any survey marker including an HCM.
16. If a project requires parking meters to be removed or reserved, the applicant shall be responsible for all costs for the period the parking meters are out of service based upon the prevailing hourly rate plus any additional administrative costs incurred by the City. Applicants may be responsible for setting out, removing and returning any parking meter hoods required to reserve the parking meters and will be responsible for any costs of repairing or replacing damaged or missing hoods.
17. The Applicant agrees that it shall continuously save and keep harmless and fully indemnify the City from and against all claims, actions, suits, demands, proceedings, losses, liabilities, damages, costs and expenses, which may be brought against or made upon or incurred by the City resulting from or arising out of the issuance of this Permit or in any way related to the work performed by the Applicant or its Contractor.
18. In conjunction with this Permit, the Applicant shall have in place Commercial General Liability (CGL) insurance written on an occurrence basis with a liability limit of not less than five million dollars (\$5,000,000) per accident or occurrence. The City shall be named on the policy as an additional insured. Policy coverage shall include, but will not be limited to, third party bodily injury including death, property damage, products and completed operations. The Applicant must verify with the City that valid insurance coverage is in place by submitting an Insurance Certificate which must be acceptable in all respects to the City's Insurance Officer.
19. If City staff is required to visit the site at anytime due to non-compliance of permit, expenses will be charged back to the applicant.
20. The Road Occupancy Permit shall be null and void if the applicant should fail to meet the requirements of the permit, and in that case, a new application for a permit shall be made.
21. All applicants must display signing on-site (minimum size – 90cm x 120cm) clearly showing name of contractor and who they are working for along with a 24 hour contact phone number, as per City procedure.
22. Municipal Consent approval is necessary when work requires an excavation for the placement of additional infrastructure. Municipal Consents are only issued to utility companies, commissions and agencies which have the authority to construct, operate and maintain their infrastructure on a public road allowance.