

AMENDED

By By-Law No. 2786-90

THE CORPORATION OF THE TOWN OF WHITBY

BY-LAW NUMBER 661-71

BEING A BY-LAW TO AUTHORIZE AND REGULATE THE ERECTION AND MAINTENANCE UPON, ACROSS OR ALONG ANY HIGHWAY OR PUBLIC PLACE OF CERTAIN TRANSMISSION EQUIPMENT.

NOW, THEREFORE, BE IT ENACTED AND IT IS HEREBY ENACTED as a By-law of the Corporation of the Town of Whitby by the Council thereof as follows:-

1. "Highway" shall mean any public street or public highway owned by or under the jurisdiction and control of the Corporation of the Town of Whitby.
2. "Person" shall mean any human being, association, firm, partnership, and incorporated company.
3. The erection and maintenance upon, across or along any highway of poles, towers, wires, cables, amplifiers and other accessory equipment, and the construction and laying down of pipes, ducts and conduits for enclosing wires, cables, amplifiers and other accessory equipment, for the purpose of transmitting electrical or electric impulses, signals and messages of every nature and kind, including those of alarm and protective systems, radio programmes or parts thereof, and television programmes or parts thereof, subject to the conditions hereinafter set out, is hereby permitted.
4. The placing and maintenance of such equipment upon and within any poles, towers, pipes, ducts and conduits erected, constructed or laid down, with the consent of the owner and the body in which is vested the management and control of such poles, towers, pipes, ducts and conduits, subject to the conditions hereinafter set out, is hereby permitted.
5. No person shall erect, maintain or place anything permitted under this By-law unless they possess a current license from the Canadian Radio-Television Commission.
6. No person shall make any installation or remove anything installed unless they have filed with the Director of Public Works for the Town of Whitby an application for a permit.
7. No person shall commence any installation permitted under the provisions of this By-law until he has by permit received the express permission of the Director of Public Works of the Town of Whitby, or remove anything permitted under the provisions of this By-law or remove any work installed until he has by permit received the express permission of the Director of Public Works of the Town of Whitby.
8. Every application for a permit for any installation to be made under the provisions of this By-law or for the removal of any installation already made where the services are to be located underground shall file two (2) copies of a plan to scale showing the proposed location of such equipment including the specifications of the equipment indicating the dimensions thereof, the material comprising the same, and the depth or height and the geodetic elevation to which such equipment is to be constructed or laid.

The applicant shall also file with the Director of Public Works of the Town of Whitby, within three months of the completion of any such installations, a plan showing the works as completed and indicating all the information referred to above.

9. Every application for a permit for any installation to be made above ground shall indicate the location of such equipment, pole line or transmission line or other facility upon which such equipment is to be located, the location, the extent of such pole line and the name of the person, corporation or public utility owing the facility on which the installation is to be made and the height at which such installation is to be made, and copies of a plan to scale showing the location of any equipment in connection therewith which will be located on or under the highway. The applicant shall also file with the Director of Public Works of the Town of Whitby, within three months of the completion of any such installations, a plan showing the works as completed and indicating all the information referred to above.
10. Any application for a permit to remove any installation already made under the provisions of this By-law shall indicate the location and nature of the installation and the date upon which the original application for a permit for the installation to be removed was made.
11. The said wires and cables shall be installed and maintained in such location or at such depth that they will not cause interference to or damage to any existing services and will not interfere with the normal use and enjoyment of the highway.
12. Subject to the provisions of Section 13, all installations made under the provisions of this By-law shall be located underground.
13. Notwithstanding the provisions of Section 12, where either the Whitby Public Utilities Commission or The Bell Telephone Company of Canada maintain aerial cable on above ground pole lines, it shall be permissible for the installations covered by this By-law to be installed above ground, providing the poles of The Whitby Public Utilities Commission or The Bell Telephone Company of Canada are used for such installations, and provided further that if at anytime such above ground poles are relocated underground, then the installations made under this By-law on any such poles shall also be relocated underground, at the owner's expense.
14. All installations including house connections for any services to a subscriber made pursuant to the provisions of this By-law shall conform in the manner and location, and shall meet all technical requirements, standards, and methods employed for public service works or public utilities on the highway.

15. No house connections above ground for providing service shall cross the travelled portion of any highway unless other public service works or public utilities are already provided in that manner on the highway at that location.
16. After any entry upon a highway for the purpose of making any installations or removing any installation has been made, the person making such entry shall restore all the soil and shall restore the surface of the land to the same state, which existed immediately prior to such installation. In the event that any installation or removal involves the breaking up of pavement, sidewalks or curbs or gutters, the person making such installation shall replace and compact the soil and temporarily surface the area to such break with cold mix asphalt pavement, and shall thereupon notify the Town who will in turn restore the highway to its original condition.
17. Any person making any installations pursuant to the provisions of this By-law shall,
 - (a) pay the full cost of restoring the highway to its original condition after any work in connection with the installation, maintenance or removal of the wires or cables is completed.
 - (b) pay the full cost of inspection of the work by the Town.
 - (c) pay all other costs incurred by the Town in dealing with the application or in connection with work done thereunder.
18. Any person making an installation pursuant to the provisions of this By-law, shall install and maintain the same in a safe and proper condition.
19. Any person making any installation permitted by this By-law shall be entirely responsible for obtaining full and accurate information as to the existence, location and nature of other services and, without limiting the responsibility shall comply with any directions as to such matters given to such person by the Town of Whitby. The Town assumes no responsibility for furnishing information as to existing services and assumes no responsibility as to the accuracy of any information obtained from the Town.

20. Where in the course of constructing, reconstructing, changing, altering or improving any highway or any storm or sanitary sewer or other municipal works thereon, it becomes necessary to take up, remove or change the location of any installation made under this By-law, on or under the highway by any operating corporation or road authority as defined by The Public Service Works on Highways Act, a person maintaining any installation under the provisions of this By-law, shall upon request with 30 days notice remove or relocate such installation at his own expense.
21. Every person making any installation under the provisions of this By-law shall indemnify and save harmless The Corporation of the Town of Whitby from and against all loss, costs, damages, suits, or other proceedings, charges and expenses which The Corporation of the Town of Whitby may suffer or incur or for which it may become liable arising out of or by reason of the construction, maintenance, repair, operation or removal of any installation permitted under the provisions of this By-law, whether the same be caused by the negligence except gross negligence of the Corporation of the Town of Whitby, its agents, or employees or otherwise, the intent being that The Corporation of the Town of Whitby shall be at no expense or loss to which it would not have been put had the said equipment as detailed above not been in existence or under construction.
22. No person shall erect, maintain or place anything permitted under this By-law unless they have first filed with The Corporation of the Town of Whitby evidence that he has liability insurance with inclusive limits of not less than \$1,000,000.00 indemnifying from all such loss or claim by any person in any way arising out of the erection, maintenance, placing or removal of any installation permitted by this By-law, the Town shall be named insured in every such policy and every such policy shall contain a condition that the policy shall enure to the benefit of The Corporation of the Town of Whitby as if a separate policy had been issued to the Corporation of the Town of Whitby. The said policy shall be kept in force as long as any installation permitted pursuant to this By-law is maintained.
23. The erection, maintenance or placing of any installation permitted by this by-law shall be subject to the control and supervision of the Director of Public Works of the Town of Whitby.

24. Any person making any installation in breach of any of the terms of this By-law shall remove all such installations within one month of such non-compliance being brought to the attention of such person, unless within the time prescribed of such termination, the breach has been remedied to the satisfaction of the Corporation of the Town of Whitby, and in the event that any person fails to remedy such breach, the Town may at its option remove such installations and recover from the owner or the person failing to remedy the breach, the costs or expenses incurred by the Town for effecting such removal.
25. The Corporation of the Town of Whitby reserves the right to terminate any permit issued pursuant to the provisions of this By-law by giving three months notice of termination.
26. Upon the termination of any permit or any license of the Canadian Radio-Television Commission anything installed, erected or maintained or placed pursuant to the provisions of this By-law shall be removed by the person making such installation at such person's expense and restore the highway, unless other arrangements have been made with the Town of Whitby. In the event that such person fails to remove any installations as required by the Town, the Town shall be at liberty to remove such installations and to recover from the owner thereof any cost or expense incurred by the Town in effecting such removal.
27. The provisions of this By-law shall not apply to Bell Telephone Company of Canada in their construction of their telephone lines including installation of coaxial cable, providing the Bell Telephone Company have received permission from the Town of Whitby to install such wiring, and provided further that such coaxial cable shall not be used by any person or corporation for the purpose of operating a commercial community antenna television service commonly known as "Cable T.V.", without first complying with all the provisions of this By-law.
28. Nothing in this By-law shall be deemed to in any way prevent the Corporation of the Town of Whitby, in the event that legislation is passed permitting the taxation of installations permitted under this By-law, to levy any tax, or to prevent the Corporation of the Town of Whitby from requiring any agreement or accepting any consideration lawfully permitted under legislation hereinafter passed, and the Corporation of the Town of Whitby may require any person making any installations hereunder to enter into such an agreement upon thirty days notice and any charge pursuant to such agreement shall take

effect from the date upon which such notice expires, and in the event that such agreement cannot be reached, the person maintaining any such installation shall be deemed to be in violation of the provisions of this By-law and shall remove such installations as required by paragraph 25 hereof.

29. Every person who contravenes any of the provisions of this By-law shall be guilty of an offence and shall be liable upon conviction to a penalty of not more than \$300.00 for each offence.

BY-LAW READ A FIRST TIME THIS 22ND DAY OF NOVEMBER , 1971.

BY-LAW READ A SECOND TIME THIS 22ND DAY OF NOVEMBER , 1971.

BY-LAW READ A THIRD TIME AND FINALLY PASSED THIS 22ND DAY OF NOVEMBER, 1971


CLERK


MAYOR

THE CORPORATION OF THE TOWN OF WHITBY

BY-LAW NO. 2786-90

BEING A BY-LAW TO PROVIDE FOR THE IMPOSITION OF FINES FOR THE
CONTRAVENTION OF VARIOUS BY-LAWS OF THE CORPORATION OF THE TOWN
OF WHITBY

WHEREAS, Section 321 of the Municipal Act, R.S.O. 1980, c. 302, as amended, provides that by-laws may be passed by the councils of all municipalities for providing that any person who contravenes any by-law of the council passed under the authority of the Municipal Act is guilty of an offence;

AND WHEREAS, Section 62 of the Provincial Offences Act, R.S.O. 1980, C. 400, as amended, provides that except where otherwise expressly provided by law, every person who is convicted of an offence is liable to a fine of not more than \$5,000.00;

AND WHEREAS, the Council of the Corporation of the Town of Whitby considers it desirable to amend the fine provisions of certain by-laws in accordance with the provisions of the Municipal Act and the Provincial Offences Act;

NOW THEREFORE, the Council of the Corporation of the Town of Whitby enacts as follows:

1. The sections, subsections or clauses of the by-laws set out in Schedule "A" to this by-law are revoked and the following substituted therefor:

"Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction thereof is liable to a fine of not more than \$5,000.00, exclusive of costs, which shall be recoverable under the provisions of the Provincial Offences Act and all the provisions of the said Act shall apply to any prosecution for any offence under the provisions of this by-law."

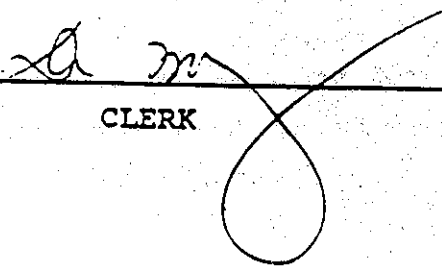
REPEAL OF EXISTING BY-LAWS

2. By-law Nos. 660-78 and 1334-82 are repealed.

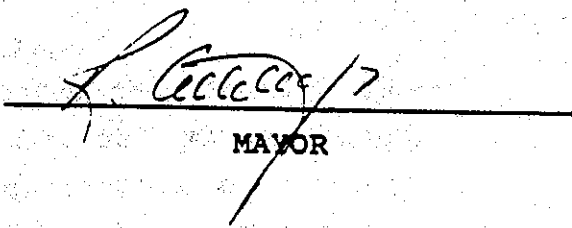
EFFECTIVE DATE

3. The provisions of this by-law shall come into force and take effect on the day Section 18 of the Provincial Penalties Adjustment Act, 1989, comes into force.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 15TH DAY OF JANUARY, A.D., 1990.



CLERK



MAYOR

SCHEDULE "A"

TO

BY-LAW NO. 2786-90

<u>BY-LAW NUMBER</u>	<u>SECTION, SUBSECTION OR CLAUSE NUMBER</u>
258-69, as amended	6
280-69, as amended	5
292-70, as amended	6
326-70, as amended	5
332-70, as amended	11
378-70, as amended	9
559-71	8
661-71, as amended	29
702-72, as amended	10(b)
51-74, as amended	3
96-74, as amended	7
185-75, as amended	22
488-77, as amended	8
749-78, as amended	15
1258-81, as amended	4
1639-84	6
1745-84	11
1846-85, as amended	5
1878-85, as amended	15
1912-85	3(1)

<u>BY-LAW NUMBER</u>	<u>SECTION, SUBSECTION OR CLAUSE NUMBER</u>
2059-86	5(1)
2263-87	10
2617-89	4
2695-89	3