

BY-LAW NO. 2003 - 445

A by-law of the City of Ottawa to regulate road activity on City highways.

The Council of the City of Ottawa enacts as follows:

DEFINITIONS

1. In this by law,

“Arterial” means a Highway classified as an Arterial road under the Official Plan for the City of Ottawa, as amended, or any subsequent version thereof;

“City” means the municipal Corporation of the City of Ottawa or the geographic area as the context requires;

“City Freeway” means a Highway classified as a City Freeway under the Official Plan for the City of Ottawa, as amended, or any subsequent version thereof;

“Collector” means a Highway classified as a Collector road under the Official Plan for the City of Ottawa, as amended, or any subsequent version thereof;

“Corrective Work Order” means an order issued pursuant to this by-law to do work to correct a contravention;

“Date of Final Reinstatement” means the day that the finished surface is satisfactorily reinstated on any Road Cut that has been opened ~~unless the road cut has to be re-excavated in order to execute repairs, in which case the “date of final reinstatement” means the day the repairs are satisfactorily completed;~~

“Deleterious Material” means subsurface soils of an undesirable nature such as, but not limited to, highly organic silts, sensitive or ultra sensitive clays, peat or other highly compressible soils, and soils containing noxious or hazardous chemical or waste products;

“General Manager” means the General Manager of the City’s Planning, Infrastructure and Economic Development Department or the General Manager of Transportation Services Department, Department of Transportation, Utilities and Public Works or their authorized representative;

“Heave” means any rise in the surface of a Road Cut in relation to the grade of the adjacent undisturbed Highway;

“Highway” means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway, and except as otherwise provided, includes a portion of a highway and includes the area between the lateral property lines thereof;

“Local” means a Highway classified as a Local road under the Official Plan for the City of Ottawa, as amended, or any subsequent version thereof;

“Major Collector” means a Highway classified as a Major Collector road under the Official Plan for the City of Ottawa, as amended, or any subsequent version thereof;

“O.P.S.S.” means Ontario Provincial Standard Specifications, as amended;

“Pathway” means the parts of a Highway set aside by the City for the use of pedestrians and cyclists;

“Public Works” means works supplying the general public with necessities or conveniences and includes, but is not limited to, works for the production, supply and transmission of gas, oil, sewer, water and electric power or energy, and all telephone, cable television and other telecommunications lines;

“Public Utility” means a board, commission, or corporation that provides a Public Work under the authority of any statute, charter, by-law or franchise;

“Road Activity” includes the temporary occupancy of the Highway for work of any nature by the City or any Public Utility or person but does not include a Road Cut;

“Road Cut” means a surface or subsurface cut in any part of a Highway made by any means, including any excavation, reconstruction, cutting, saw cutting, overlaying, crack sealing, breaking, boring, jacking or tunneling operations;

“Road Cut Completion Report” means the report containing the information required by the General Manager and submitted by a Road Cut permit holder in accordance with this by-law;

“Roadway” means the part of a Highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a Highway includes two or more separated roadways, the term “Roadway” refers to any one roadway separately and not to all of the roadways collectively;

“Security” or “Securities” means,

- (a) cash or certified cheque payable to the City of Ottawa;
- (b) bearer bonds of the Government of Canada, with the exception of savings bonds, provincial bonds or provincial guaranteed bonds, or other municipal bonds, provided that,
 - 1. the interest coupons are attached to all bonds, and
 - 2. the bonds are acceptable to the City's Director of Financial Services;
- (c) an irrevocable letter of credit issued by a chartered bank, ~~credit union or Caisse Populaire,~~ acceptable to the City's Manager Treasury~~Director of Financial Services;~~ or
- (d) Road Cut permit bonds from institutions acceptable to the City's Director of Financial Services, which guarantees that the applicant will carry out and maintain the work authorized by any permit issued under this by-law in conformity with the provisions of this by-law;

"Settlement" or "Settled" means any sinking of the surface of a Road Cut in relation to the grade of the adjacent undisturbed Highway;

"Shoulder" means that part of a Highway immediately adjacent to the Roadway and having a surface, which has been improved for the use of Vehicles with asphalt, concrete or gravel;

"Sidewalk" means all parts of a Highway set aside by the City for the use of pedestrians;

~~"Standards for Utility Cut Reinstatement" means the City's City of Ottawa Standard Tender Documents for Unit Price Contracts design and construction standards for the rehabilitation of road surfaces depending on construction methods;~~

"Stop Work Order" means an order issued pursuant to this by-law to stop Road Activity, a Road Cut, or associated work;

~~"Traffic Management Plan" means a standard document outlining the particulars of proposed work on any Highway described on Schedule "B" annexed hereto that is submitted by or on behalf of the contractor to the City for approval. The traffic management plan shall contain the information respecting how the applicant intends to comply with this by-law including but not limited to the following:~~

- ~~(a) start and completion times of work;~~
- ~~(b) specific location of work;~~
- ~~(c) requirement to work during peak hours, if any;~~
- ~~(d) lane use requirements;~~
- ~~(e) requirements for road closure;~~
- ~~(f) public notification undertaken;~~

- ~~(g) — parking meters affected by work;~~
- ~~(h) — requirement for temporary no stopping signs;~~
- ~~(i) — identification of any bus route(s) and bus stops affected by work activity; and~~
- ~~(j) — traffic routing and detour requirements where required.~~

Moved to subsection 4(1)

“Vehicle” includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a street car; and

“Warranty” means a guarantee by the permit holder that the work for which a permit has been issued has been carried out in accordance with the City’s requirements.

ROAD ALLOWANCE CUTS

2. Except as provided in Section 3, no person shall undertake any Road Cut without obtaining a Road Cut permit.

EMERGENCY WORK

3. (1) Subject to subsections (2) and (3) hereof, where public safety or health, or a major business interruption in Public Works is concerned, a Road Cut or Road Activity may be carried out without regard to the prior notification provisions of this by-law.
- (2) Where an emergency Road Cut or Road Activity has been undertaken, the person undertaking the Road Cut or Road Activity shall, on the same day the work is commenced, or if the City offices are closed, no later than the start of the next working day, notify by telephone the City’s permit issuance unit of the following: (a) the name of the Public Utility or contractor undertaking the Road Cut or Road Activity;
- (b) the nature of the work;
 - (c) the location of the proposed Road Cut or proposed Road Activity;
 - (d) the estimated duration of the work; and
 - (e) the reason for proceeding without obtaining a permit or, in the case of Road Activity, without providing the required notice.
- (3) The General Manager may require any or all information to confirm the validity of an emergency Road Cut or Road Activity. Should insufficient proof of an emergency be submitted the applicant would be notified in writing that they are subject to the same restrictions and penalties as no permit.

- (4) Where work has proceeded under this section, a Road Cut permit shall be applied for or notice provided of a Road Activity on the same day the work is commenced, or if the office of the General Manager is not open for the issuance of permits, on the morning of the next day on which the office is open.

ROAD CUT PERMIT

4. (1) When applying for a Road Cut permit, the applicant shall,
- (a) complete the prescribed application form;
 - (b) furnish to the City such information as the General Manager may require;
 - (c) submit a Traffic Management Plan where the work is on a City Freeway, Arterial, Major Collector, or Collector Highway, or where required by the General Manager that provides information on how the applicant intends to comply with this by-law, including, but not limited to: including but not limited to a traffic management plan
 - a. contact information of a representative of the applicant who can speak to the contents of the Traffic Management Plan
 - b. start and completion times of work;
 - c. specific location of work;
 - d. requirement to work during peak hours, if any;
 - e. lane use requirements;
 - f. where requested, requirements for road closure including detour requirements;
 - g. public notification undertaken;
 - h. parking payment devices affected by work;
 - i. requirement for temporary no stopping signs;
 - j. identification of any bus route(s) and bus stops affected by work activity; and
 - k. traffic routing requirements where required; and,
 - ~~(e)~~(d) file the completed application.
- (2) When filing the completed application, the applicant shall pay the following fees:
- (a) a non-refundable permit fee as indicated on Schedule "GA" of this by-law; and
 - (b) where the work is located on a City Freeway, Arterial, Major Collector, Collector or Local Highway, a pavement degradation fee as indicated in Schedule "GA" of this by-law and based on the greater of the size of the Road Cut or five (5) square metres for those highways identified in Schedule "A" of this by-law.
- (3) The pavement degradation fee described in paragraph 4(2)(b) is not payable for,
- (a) a Road Cut which does not affect the Roadway pavement;

- (b) municipal works, including work done as a condition of City development control, the prime purpose of which is the provision of pavement or its preservation;
 - (c) the provision of a new pavement structure to subgrade level which is at least one full traffic lane wide, the new joints of which coincide with traffic lane markings, is thirty (30) metres long, and which meets current road pavement design standards as determined by the General Manager;
 - (d) works on Highways listed in the City's current year reconstruction and resurfacing programs if carried out prior to the municipal reconstruction or resurfacing;
 - (e) ~~trenchless works approved by the General Manager;~~
 - (f) the relocation of equipment to accommodate the City's use of the Highway;
 - (g) Road Cut repair work done pursuant to the Warranty requirements of this By-law; and
 - (h) ~~trench works where telecommunications ducts are installed, or provided for, and transferred to the City, but at the General Manager's discretion.~~
- (4) When the applicant is requesting multiple Road Cuts the City reserves the right to issue a single permit or multiple permits for the works, but in the case of utility pole installation, the Road Cut permit shall be for a Highway rather than for the individual pole.
- (5) A Road Cut permit shall not be issued until,
- (a) proof of insurance has been filed as required by Section 6;
 - (b) Security and, where applicable, an agreement havehas been provided as required by Section 7;
 - (c) the permit fee or fees required by subsection 4(2) hereof has or have been paid;
 - (d) proof has been provided to show that the person applying for the permit is a duly authorized representative of the applicant;
 - (e) a telephone number for the service required by Section 8 has been provided; and
 - (f) the applicant has certified that,
 - (i) all public utilities have been informed of the proposed Road Cut; and
 - (ii) work shall not commence until each Public Utility has given the applicant the position of its underground plant.
- (6) The provisions of paragraphs 4(5)(a) and (b) do not apply ~~to~~;
- (a) to the City Department for work being done by that Department, but do apply to a person doing work for a City Department as a contractor;

- (b) to a person doing work under a contract with the City as a contractor provided that the applicant submits a valid commence work order from the City; or,
- ~~(a)~~(c) where the General Manager is satisfied that these requirements have been addressed through a contract or agreement with the City, or through another City approval or permit.
- (7) ~~The provisions of paragraphs 4(5)(a) and (b) do not apply to a person doing work under a contract with the City as a contractor provided that the applicant submits a valid commence work order from a Department of the City. The General Manager may:~~
- (a) subject to subsection 4(5), issue a Road Cut permit with such conditions as the General Manager considers appropriate; or,
- (b) despite the applicant having satisfied all of the requirements of subsection 4(5), refuse to issue a Road Cut permit until the applicant has, to the satisfaction of the General Manager:
- (i) explored all other options for the work that will avoid cutting the Highway;
 - (ii) chosen a method of undertaking the work that limits the extent to which the Highway is cut;
 - (iii) completed work authorized under previously issued Road Cut permits;
 - (iv) paid any outstanding fees related to previously issued Road Cut permits;
 - (v) rectified any instances of non-compliance with this or any other applicable by-law, or a condition of a previously issued permit;
 - (vi) employed a contractor acceptable to the General Manager;
 - (vii) demonstrated that the applicant and individuals performing the work on the applicant's behalf understand:
 - i. the requirements of this and any other applicable by-law;
 - ii. the applicable requirements of the Occupational Health and Safety Act, R.S.O. 1990, chap. O.1, as amended, any applicable provincial traffic regulations, and the Ontario Traffic Manual Book 7, as amended;
 - iii. the applicable City standards and specifications and O.P.S.S.; and,
 - (viii) addressed any other matter identified by the General Manager, acting reasonably.
- (8) A Road Cut permit is not transferable.
- (9) A Road Cut permit shall become void if the work authorized by the permit is not commenced within sixty (60) calendar days of the date of its issue. An

administrative fee for the renewal as indicated on Schedule "C" will be charged and is not refundable in whole or in part.

- (10) No permit holder shall work at a job site without the road cut permit on-site and available for inspection.
- (11) Where two (2) or more cuts are proposed, the General Manager may state the order in which the work is to be performed.
- (12) ~~The applicant shall be responsible for ensuring that all provisions of this and any other applicable by-law are met.~~ **Moved to subsection 4(19)**
- (13) ~~The applicant is to be notified by the General Manager at the time of permit issuance if an overlay of a road is required in accordance with the provision of Section 12, paragraph (e) of this by-law.~~
- (14) Road Cut permits shall not be issued within the Roadway of a City Freeway, Arterial, Major Collector, Collector or Local Highway~~the highway described in Schedule "A":~~
 - (a) where Roadway construction, reconstruction or resurfacing has occurred within the year of and the three (3) calendar years following the proposed Road Cut; or
 - (b) for the installation of telecommunication duct where the trenching of a City Highway for the installation of telecommunications duct has occurred within the year of and the three (3) calendar years following the proposed Road Cut.
- (15) The limits imposed by subsection 4(14) shall not apply where,
 - (a) the applicant applies to the General Manager in writing for an exemption from the provisions of subsection 4(14) and receives written notification from the General Manager that those provisions are waived. An exemption will be granted by the General Manager if satisfied that,
 - (i) the proposed work must be done within the time period prescribed in subsection 4(14); and
 - (ii) alternatives such as trenchless installation, the use of alternative Highways, or the use of abandoned or other active plant is not available to the applicant; or
 - (iii) where the City has not provided the applicant with notice of its plans for rehabilitation, construction or reconstruction.
 - (b) a Road Cut is made pursuant to the emergency provisions of Section 3, provided that the subsequent permit application is accompanied by a written description of the emergency and the reasons why the requirements of sub-paragraphs 4(15)(a)(i) and (ii) were met and could not be met respectively;

- (c) the work proposed is the maintenance, rehabilitation, construction or reconstruction of a City Highway, or the carrying out of other municipal works, the primary purpose of which is pavement provision or preservation;
 - (d) the subject of the application is the necessary repair or maintenance of existing underground works;
 - (e) the work is a utility work involving the repair of fluid or gas leaks; or
 - (f) the work is necessary because of a major interruption to any Public Works.
- (16) When granting an exemption pursuant to paragraph 4(15)(a) hereof, the General Manager may, on a review of the pavement to be cut, impose special conditions to that exemption relating to,
- (a) the restoration of special pavement surfacing;
 - (b) the collection of financial Security and additional cost compensation; and
 - (c) the restoration of aesthetics and other environmental features.
- (17) No applicant shall knowingly furnish false or incorrect information for the purposes of obtaining a Road Cut permit.
- (178) The permit holder shall display at the job site an easily read sign showing:
~~the names of,~~
- (a) the name of the permit holder;
 - (b) the name of the person making the Road Cut; and
 - (c) the name of the entity for which the Road Cut is made;
 - (d) a brief description of the work; and,
 - (e) a telephone number that will be maintained and answered at all times (24 hours, seven days-a-week) during the period of the work.
- (19) The permit holder shall comply with, and ensure that anyone doing work on their behalf complies with all provisions of this and any other applicable by-law, as well as the conditions of the Road Cut permit.
- (20) The General Manager may alter or revoke the terms and conditions of a permit after it has been issued, or impose new terms and conditions in a permit.
- (21) The General Manager may suspend or revoke a Road Cut permit where there are reasonable grounds to believe:
- (a) the work poses a danger to the health and safety of any person;
 - (b) the work poses a danger to City or private property;
 - (c) the permit was issued in error;
 - (d) the permit was issued on false, misleading, mistaken or incorrect information; or

~~(a)(e) the permit holder, or anyone working on behalf of the permit holder, has failed to comply with a condition of the permit, or with this or any other applicable by-law.~~

NOTICE REQUIREMENTS FOR ROAD CUT AND ROAD ACTIVITY

5. (1) No permit holder shall commence work on a Road Cut until at least two (2) working days after the permit for the Road Cut has been issued unless otherwise authorized by the General Manager.
- (2) Subject to subsection 5(9), every permit holder shall, at least two (2) working days prior to commencing a Road Cut, or ten (10) working days where subsection 5(6) hereof applies, notify the General Manager of the exact time it intends to start the work, and no work shall be started within that two (2) working days notice period unless otherwise authorized by the General Manager.
- (3) For road activities on highways described on Schedule "B" to this by-law a City Freeway, Arterial, Major Collector or Collector Highway where the proposed activity will have an impact on traffic-Vehicle and pedestrian movement, the person responsible for the Road Activity shall, at least two (2) working days prior to commencing the activity, notify the General Manager of the exact time it intends to start the work, and no work shall be started within that two (2) working days notice period.
- (4) Subject to subsection 5(65), where a Road Cut or Road Activity will affect private property or its access or egress, the permit holder or the person responsible for the Road Activity shall, at least two (2) working days prior to commencing a Road Cut or Road Activity, notify the residents, tenants and businesses beside or near the work of the affected property in writing and in both official languages of the plan for,
 - (a) the work and its location,
 - (b) the anticipated approximate start date
 - (c) the duration of the work
 - (d) the name of the permit holder;
 - (e) the name of the person doing the work; and,
 - (f) a telephone number that will be maintained and answered at all times (24 hours, seven days-a-week) from the date of the notice until the completion of the work.
- (5) Where a Road Activity will affect private property or its access or egress the person responsible for the Road Activity shall, at least two (2) working days prior to commencing the Road Activity, notify the residents, tenants or businesses of the affected property in writing and in both official languages of the plan for:
 - (a) the work and its location,

- (b) the anticipated start date and duration of the work,
 - (c) the name of the person undertaking the Road Activity; and,
 - (d) a telephone number that will be maintained and answered at all times (24 hours, seven days-a-week) from the date of the notice until the completion of the work.
- (6) Where work as part of a Road Cut requires permission to temporarily close a Highway under section 23, the rerouting of buses, the closing of a sidewalk with a detour, or where the work is anticipated to take more than seven (7) days to complete, the work is of a major nature or duration and will cause general inconvenience to all the residents and businesses located beside or near the Highway where the work will occur, every permit holder or person responsible for the road activity the permit holder shall, at least ~~ten~~ ~~two~~ (210) working days prior to commencing the work, notify in writing and in both official languages every resident, tenant and business located beside or near the Highway where the work will occur, as well as the Ward Councillor, of the plan for,
- (a) the work and its location;
 - (b) the ~~anticipated~~ approximate start date;
 - (c) the duration of the work;
 - (d) the name of the permit holder and the person undertaking the work;
and,
 - (e) a telephone number that will be maintained and answered at all times (24 hours, seven days-a-week) from the date of the notice until the completion of the work.
- (76) Despite subsections 5(1) through 5(6) inclusive hereof, the General Manager may determine, for reasons of public safety or the effective operation of the public transportation system, when a Road Cut, Road Activity or reinstatement of a Road Cut shall occur.
- (8) Where work under a Road Cut permit is temporarily stopped for a period exceeding three months notification in accordance with the applicable requirements of section 5 shall be provided before work may recommence.
- (97) Despite subsections 5(1) and 5(2) hereof, where it is required to reroute buses, or where permission is required under Section 23 to temporarily close a Highway there is significant disruption to traffic, the City or a Public Utility, the permit holder or the person responsible for the Road Activity shall ~~provide~~ submit such requests to the General Manager at least five (5) fifteen (15) working days notification to the General Manager to undertake in advance of commencing any Road Activity or Road Cut, and no work shall be started within that period unless otherwise authorized by the General Manager.

- (9) Where subsection 5(6) hereof applies, and the work is cancelled or postponed, the permit holder shall, at least two (2) working days prior to the originally scheduled date for the commencement of the work, or in accordance with any condition of approval for the temporary closure of a Highway under section 23 or the rerouting of buses, notify in writing and in both official languages every resident, tenant and business located beside or near the Highway where the work will occur, as well as the Ward Councillor of the cancellation or postponement.
- (10) Where subsection 5(9) hereof applies, and the work is cancelled or postponed, the permit holder shall, at least two (2) working days prior to the originally scheduled date for the commencement of the work, or in accordance with any condition of approval for the temporary closure of a Highway under section 23 or the rerouting of buses, notify the General Manager of the cancellation or postponement, and no work requiring the rerouting of buses or the temporary closure of a Highway may occur at a later date without re-submitting a request in accordance with subsection 5(9) hereof.
- (9) The General Manager may identify additional residents, businesses, facilities and organizations to be notified by a permit holder or person responsible for Road Activity before work pursuant to a Road Cut permit or Road Activity is commenced.
- (10) Where the General Manager advises a permit holder or person responsible for Road Activity of the need to identify additional residents, businesses, facilities and organizations under subsection 5(9), the permit holder or person responsible for Road Activity shall notify in accordance with subsections 5(4), 5(5) and 5(6), or as directed by the General Manager.
- (11) A permit holder or person undertaking Road Activity shall maintain for a period of two years following the work:
- (a) a copy of the notification provided under this section, where provided in writing; and,
 - (b) a list of addresses notified, how notification was provided, and the date of notification.
- (12) Upon the request of the General Manager a permit holder or person responsible for Road Activity shall provide the information under subsection 5(10), and such information shall be provided within two working days of the request, or the time specified by the General Manager.
- (13) Where work is being done by a permit holder under contract with the City, the General Manager may relieve the permit holder from all or some of the requirements of this section where notice of the work is being provided by the City.

INSURANCE

6. (1) ~~Every applicant for a road cut permit shall provide and maintain Comprehensive/ Commercial General Liability insurance acceptable to the City and subject to limits of not less than two million dollars (\$2,000,000) inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof. Such Comprehensive/Commercial General Liability insurance policy shall be in the name of the applicant and shall name the City of Ottawa as an additional insured thereunder.~~ Every applicant for a Road Cut permit shall, at its own cost, provide and maintain Commercial General Liability insurance acceptable to the City and subject to limits of not less than \$5,000,000.00 inclusive per occurrence for bodily injury, death and damage to property including loss of use. Such insurance shall be in the name of applicant and shall name the City, its elected officials, agents, officers and employees as an additional insured thereunder. Such insurance shall include, but is not limited to, premises, property and operations; products and broad form completed operations; broad form property damage; personal injury; blanket contractual liability; owners' and contractors' protective coverage; medical payments; employees as additional insured; non-owned automobile; contingent employers liability; occurrence property damage; cross liability and severability of interests clauses.
- (2) The insurance coverage referred to in subsection (1) hereof shall be maintained for ~~three~~ two (23) years following the Date of Final Reinstatement of the Highway.
- (3) The insurance policy referred to in subsection (1) hereof shall contain an endorsement to provide the City with thirty (30) days written notice of cancellation.
- (4) Evidence of the insurance referred to in subsection (1) hereof shall be provided to the City prior to issuance of a Road Cut permit and in subsequent years, including the ~~three~~ two (23) year period referred to in subsection (2) hereof. Such evidence of insurance shall be satisfactory to the City and if requested by the City, the applicant shall provide certified copies of the ~~Comprehensive/Commercial General Liability~~ policy.

SECURITY

7. (1) Every applicant for a Road Cut permit shall provide Security in ~~the an amount acceptable to the General Manager of twenty five thousand (\$25,000.00) dollars~~ to guarantee that the applicant will carry out and maintain the work authorized by the permit and that the Highway is left in a proper state of repair to the satisfaction of the General Manager, and in no

case shall the Security be less than the amount shown in Schedule "A" for a Road Cut permit. The security referred to hereof shall cover up to ten (10) permits for which the guarantee period has not been completed.

- (2) Despite subsection (1), in the case of a single cut an applicant for a permit may provide security in the amount of two thousand five hundred (\$2,500.00) dollars. Despite subsection (1), the General Manager may accept an amount of not less than:
- (a) fifty thousand (\$50,000.00) dollars as Security for up to twenty (20) Road Cut permits the applicant possesses for which the Warranty period has not been completed; or,
- (b) one hundred thousand (\$100,000.00) dollars as Security regardless of the number of Road Cut permits the applicant possesses for which the Warranty period has not been completed.
- ~~(3) Despite subsection (1) hereof, the maximum amount of security to be provided by an applicant for road cut permits is fifty thousand (\$50,000.00) dollars regardless of the number of permits the applicant possesses for which the guarantee period has not been completed.~~
- (3) In addition to subsections (1) and (2) hereof, where the General Manager has determined in accordance with Section 12, paragraph (f) that a property owner must resurface Road Cuts, the General Manager may also require the property owner provide Security in an amount acceptable to the General Manager and based on a rate not less than that shown in Schedule "A" to guarantee the resurfacing of the Roadway and to leave the Highway in a proper state of repair, both to the satisfaction of the General Manager.
- (4) The owner of a property required to provide Security in accordance with this section shall enter into an agreement with the City subject to such terms and conditions as the General Manager considers appropriate.
- (5) A person who has entered into an agreement under subsection (5) hereof shall abide by the terms and conditions of that agreement.
- (6) Despite subsections (3) and (4) hereof, the General Manager may not require Security or an agreement with the City from the owner of a property for the resurfacing of Road Cuts where the Road Cuts are done as part of the construction, addition to, or alteration of a building subject to an agreement as part of subdivision or site plan control approval.
- ~~(47) The City shall hold the any Security referred to in this section for a period of ~~three~~two (32) years following the Date of Final Reinstatement, as a guarantee that the Highway is left in a proper state of repair, and where~~

applicable, that the resurfacing of the Roadway has been completed, both to the satisfaction of the General Manager.

(8) The City will not pay interest on any monies held as Security.

HIGHWAY MAINTENANCE AND REPAIR DURING DEVELOPMENT

7.1 (1) No person undertaking the construction, alteration, addition to, or repair of a building or structure shall fail to:

(a) maintain the Highway in a condition that allows the safe passage of vehicle and pedestrian traffic, except where otherwise permitted, during the period of work;

(b) repair any damage to the Highway as a result of the work; and,

(c) maintain the temporary reinstatement of a Road Cut and undertake the final reinstatement of a Road Cut in accordance with section 11(2).

(2) Nothing in subsection (1) hereof shall be construed as permission to use or occupy a Highway, or to undertake the repair or reinstatement of the Highway except in accordance with this or any other applicable by-law.

(3) The General Manager may require any person undertaking the construction, alteration, addition to, or repair of a building or structure to provide Security in an amount not less than that set out in Schedule "A" to guarantee the obligations set out in subsection (1) hereof are undertaken to the satisfaction of the General Manager.

(4) Upon completion of the construction, alteration, addition to, or repair a person may make a written request for the return of the Security taken in accordance with subsection (3) hereof to the General Manager, and upon receipt of such request, the General Manager shall, if satisfied that no further repair or reinstatement of the Highway is required, return any unused portion of the Security.

(5) The City will not pay interest on any monies held as Security.

(6) Despite subsection 7(1), a permit holder for a Road Cut being done in association with the construction, alteration, addition to, or repair of a building or structure for which Security is held by the City in accordance with subsection 7.1(3) hereof, or as part of a Site Plan Control or subdivision agreement is not required to provide Security identified as being for work within the boulevard in Schedule "A" for an individual Road Cut permit.

(7) Despite subsection 7.1(3) the General Manager may not require Security from a person undertaking the construction, addition to, alteration of, or repair of a building that is subject to an agreement as part of subdivision or site plan control approval.

TELEPHONE

8. The permit holder shall maintain and answer a telephone at all times (24 hours, seven days-a-week) during the period for which the permit holder is responsible for the

Road Cut, including the ~~guarantee~~ Warranty period, so that the City can advise the permit holder of any necessary repairs to the Road Cut.

GENERAL ROAD CUT REQUIREMENTS

9. (1) The permit holder shall open a Road Cut in such a manner as to do the least possible damage to the Highway and to any Public Utility or municipal service.
- (2) The work shall proceed expeditiously and no permit holder shall allow a Road Cut to remain open for more than twenty-four (24) hours unless the work is actively in progress.
- (3) The site shall be kept clean and safe, and sources of dust controlled at all times until the final reinstatement has been completed.
- (4) The permit holder and any person working on their behalf~~contractor~~ shall comply with and be bound by the provisions of the Occupational Health and Safety Act, R.S.O. 1990, chap. O.1, as amended.

EXCAVATED MATERIAL AND ROAD CUT METHODS

10. (1) No permit holder shall place material or equipment on any Roadway or Sidewalk at any time or in a location where, in the opinion of the General Manager, it will create a traffic or safety hazard.
- (2) Where a Road Cut is made in any concrete surface, the permit holder shall break out and remove all concrete,
 - (a) to the nearest expansion joint, or dummy expansion joint, using a concrete saw if necessary, to provide on all sides of the Road Cut, a clean vertical surface; or
 - (b) as specified by the General Manager.
- (3) Where a Road Cut is made in asphalt pavement, the asphalt shall be cut with a concrete saw to produce,
 - (a) a rectangular opening with edges which are vertically straight; and
 - (b) a cut, which is large enough to accommodate the proposed works without undermining the adjacent asphalt pavement.
- (4) Where boring, jacking or tunneling is used for any subsurface Road Cut,
 - (a) the method used shall be approved by the General Manager; and
 - (b) if a cave-in, Settlement or heaving results therefrom, the surface in the affected area shall be removed and reinstated by the permit holder in accordance with this by-law to the satisfaction of the General Manager.

- (5) Where two (2) or more connections for sewer or water are to be made, the General Manager may state the order in which these connections are made. The lowest utility should be generally built first.

REINSTATEMENT AND BACKFILL REQUIREMENTS

11. (1) The permit holder is responsible for,
- (a) the temporary and permanent reinstatement of a Road Cut subject to the provisions of this by-law;
 - (b) the maintenance of temporary reinstatements, as provided for in this by-law, ~~on every road cut which prior to November 14 in any year is not in a condition to be permanently reinstated, and is carried over for permanent reinstatement prior to June 30 of the following year;~~
 - ~~(c) the employment of a contractor who meets the approval of the General Manager; and~~
 - (dc) payment to the City of its winter inspection charges as shown in Schedule "GA" to this by-law.
- (2) Despite subsection (1) hereof, where Road Cuts are made as part of the construction, alteration, addition to, or repair of a building the General Manager may require the person undertaking the construction, alteration, addition to, or repair of the building to be responsible for both the maintenance of any temporary reinstatements as well as the permanent reinstatement of that portion of any Road Cuts located between the nearest side of the Roadway and the property line on which the construction, alteration, addition to, or repair is occurring, in accordance with this by-law.
- (23) All reinstatements shall be done to current O.P.S.S. standards and the ~~Standards for Utility Cut Reinstatement~~. A Highway shall be reinstated with,
- (a) the same type of material, except for Deleterious Material, and to the same thickness as the adjoining construction when originally constructed; or
 - (b) material of a thickness that has been approved by the General Manager, and all reinstatements shall be to the satisfaction of the General Manager.
- ~~(34)~~ Temporary surfacing of a Roadway with asphalt, concrete, or surface treated surface shall meet the following requirements:
- (a) the Road Cut shall be temporarily reinstated immediately after backfilling is completed;
 - (b) the reinstatement shall be to the same level as the adjacent surface; and
 - (c) prior to the Highway being opened to traffic, the top seventy-five (75 mm) millimetres of the Road Cut shall be surfaced with hot mix asphalt, concrete, or, if hot mix asphalt is unavailable, with emulsified cold mix asphaltic material, all hand-tamped or rolled to a smooth,

flat condition using commonly accepted practices and standard tamping or rolling equipment except as provided for in the Standards for ~~Utility Cut Reinstatement~~.

ASPHALT AND SURFACE TREATED

12. Final reinstatement of asphalt and surface treated Roadways shall meet the following requirements:
- (a) final reinstatement shall be undertaken within thirty (30) days of backfilling, and unless otherwise specified by the General Manager, resurfacing shall be in accordance with the ~~Standards for Utility Cut Reinstatement~~;
 - (b) despite the provisions of paragraph (a) hereof, the General Manager may allow the permit holder to resurface at a later date because of supply, weather or other conditions beyond the control of the contractor or permit holder;
 - (c) the asphalt shall be laid in accordance with all applicable O.P.S.S. standards and the ~~Standards for Utility Cut Reinstatement~~;
 - (d) the Road Cut shall be reinstated to the same level as the adjacent surface and the riding surface shall be to the satisfaction of the General Manager; and
 - (e) the permit holder may be required to place a forty (40 mm) millimetre lift of hot mix ~~HL-3 (min.)~~ 12.5mmSP Level B PG 58-34 asphalt over the Roadway in addition to the Road Cut reinstatement. This shall be undertaken to the limits directed by, and to the satisfaction of the General Manager.

- 12.1 (1) Where Road Cuts are made within the Roadway as part of the construction, alteration, addition to, or repair of a building on a property, the General Manager may require the property owner on which the work is occurring to replace the top forty (40 mm) millimetre layer of the Roadway surface encompassing the Road Cuts with a forty (40 mm) millimeter lift of hot mix (min.) 12.5mmSP Level B PG 58-34 asphalt to the limits directed by, and to the satisfaction of the General Manager.
- (2) Despite subsection (1) hereof, where the Road Cuts are made on a Highway listed in the City's current year reconstruction and resurfacing programs and have been carried out prior to the municipal reconstruction or resurfacing, the General Manager may not require a resurfacing.

CONCRETE SURFACE

13. Final reinstatement of Roadways with a concrete surface shall meet the following requirements:

- (a) final reinstatement shall be undertaken within thirty (30) days of backfilling by resurfacing with portland cement concrete with nominal minimum design strength in conformity with O.P.S.S. standards and the ~~Standards for Utility Cut Reinstatement~~ unless otherwise specified by the General Manager;
- (b) despite paragraph (a), the General Manager may allow the permit holder to resurface at a later date because of supply, weather or other conditions beyond the control of the permit holder;
- (c) the concrete shall be placed in accordance with all applicable O.P.S.S. standards and the ~~Standards for Utility Cut Reinstatement~~; and
- (d) the Road Cut shall be reinstated to the same level as the adjacent surface and the riding surface shall be to the satisfaction of the General Manager.

COMPOSITE PAVEMENT

14. Final reinstatement of Roadways with composite pavement shall meet the following requirements:
- (a) final reinstatement shall be undertaken within thirty (30) days of backfilling by placement of portland cement concrete base course according to the ~~Standards for Utility Cut Reinstatement~~ unless otherwise specified by the General Manager;
 - (b) despite paragraph (a), the General Manager may allow the permit holder to resurface at a later date because of supply, weather or other conditions beyond the control of the permit holder; and
 - (c) the Road Cut shall be reinstated to the same level as the adjacent surface and the riding surface shall be to the satisfaction of the General Manager.

GRAVEL SURFACE

15. Final reinstatement of Roadways with a gravel surface shall meet the following requirements:
- (a) the top one hundred and fifty (150 mm) millimetres of the Road Cut shall be Granular "A" material, compacted in accordance with the ~~Standards for Utility Cut Reinstatement~~;
 - (b) a dust palliative shall be applied whenever requested by, and to the satisfaction of, the General Manager; and
 - (c) the Road Cut shall be reinstated to the same level as the adjacent surface and the riding surface shall be to the satisfaction of the General Manager.

GRASSED SURFACES

16. Grassed areas shall be reinstated as follows:

- (a) a minimum base of one hundred and fifty (150 mm) millimetres of top soil shall be placed over the Road Cut after backfilling and the sod shall be replaced; or
- (b) if conditions warrant, the General Manager may allow all or part of the area to be seeded; and
- (c) the permit holder shall maintain the seeded or sodded area until the grass is properly established, to the satisfaction of the General Manager.

SIDEWALKS

17. Sidewalks and Pathways shall be reinstated as follows:
- (a) a concrete Sidewalk or Pathway shall be reinstated to the proper grade by pouring a slab of concrete, which shall be in accordance with the current City Standards; and
 - (b) an asphalt Sidewalk or Pathway shall be reinstated to the proper grade with hot mix HL3A asphalt, which shall have a minimum thickness of fifty (50 mm) millimetres.

COMPLETION OF WORK

18. ~~(1)~~—Upon completion of the temporary surfacing or ~~permanent~~final reinstatement of the Road Cut all excess material shall be removed from the area of the Road Cut and the area shall be left in a safe, neat and clean condition, similar to the condition of the Highway area adjacent to the Road Cut, all to the satisfaction of the General Manager.
- (2) A permit holder shall submit a Road Cut Completion Report within 10 working days of the final reinstatement of the Road Cut.
- (3) No person shall knowingly furnish false or incorrect information on the Road Cut Completion Report.
- (3) The General Manager may require such information to be included on the Road Cut Completion Report as is considered necessary for the proper administration of this by-law.

TESTING

19. The General Manager may at any time require a permit holder to provide at the permit holder's expense,
- (a) test reports, from a testing laboratory satisfactory to the General Manager, showing the degree of compaction that has been achieved; or

- (b) a certificate from an engineer, or from a testing laboratory satisfactory to the General Manager, certifying that the backfilling procedures have been performed in accordance with this by-law.

PROTECTION OF TREES

- 20. (1) For the purposes of subsections (2) to (4) inclusive,
 - (a) the dripline is three-tenths of a metre (0.3 m) from the trunk of the tree for every 3 centimetres of trunk diameter; and
 - (b) the trunk diameter is measured at a height of one and two-tenths metres (1.2 m) for trees of fifteen centimetres (15cm) in diameter and greater, and at a height of three-tenths of a metre (0.3 m) for trees of less than fifteen centimetres (15cm) in diameter.
- (2) Subject to subsection (3), no permit holder shall carry out work within the dripline of a City owned tree.
- (3) If the permit holder must carry out work within the dripline of a City owned tree, the permit holder shall tunnel or bore under the dripline area.
- (4) The permit holder shall protect all trees from materials, equipment and changes in the grade of soil within the dripline area by the placement of protective fencing.
- (5) No permit holder shall remove, trim or alter any tree unless authorization is first received from the General Manager.
- (6) If a tree is removed, or damaged and must be replaced, as determined by the General Manager, the permit holder shall be responsible for removing and replacing the tree at his or her expense and shall pay to the City the value of the removed tree.
- (7) For the purposes of subsection (6), a replacement tree shall have a minimum diameter of seventy millimeters (70mm) measured at a point three-tenths of a metre (0.3 m) above ground level and be of a species approved by the General Manager, and the value of the tree to be replaced will be determined by City staff in accordance with the latest edition of the International Society of Arboriculture Tree Evaluation Guide, or at values determined by the General Manager and in effect at the time the damage took place.
- (8) Where the physical conditions are such that the permit holder cannot comply with the provisions of subsection (2), (3) or (4), the General Manager may approve alternative methods of work to maximize the protection of trees.

~~WARNING DEVICES, BARRICADES AND TRAFFIC SIGNS~~ TRAFFIC CONTROL

21. (1) ~~The A permit holder and a person responsible for Road Activity shall be required to plan, implement, maintain & remove all necessary traffic control devices to provide warning and guidance for all users of the Highway as per the requirements of the most current versions of the Occupational Health & Safety Act, 1990 and R.R.O 213/91, and in general conformance with the guidelines of the Ministry of Transportation Ontario Traffic Manual Book 7 – Temporary Conditions. erect and maintain warning devices, barricades and traffic signs where applicable, in accordance with the Occupational Health and Safety Act, R.S.O. 1990, chap. O.1, as amended, and any applicable provincial traffic regulations.~~
- (2) If the permit holder or person responsible for Road Activity fails to comply with subsection (1) hereof, the General Manager may, in addition to any order under sections 28 and 29, order (i) the immediate removal from the highway of work zone setups that do not conform with the regulations and guidelines set out in subsection (1) hereof, or (ii) the erection, and maintenance and removal of any ~~warning devices, barricades and sign~~ traffic control devices considered necessary all of which shall be at the expense of the permit holder's or person responsible for the Road Activity, and such expense may be collected, and the cost thereof shall be paid by the permit holder forthwith on demand, or deducted from the security in accordance with section 32.

PEAK HOUR RESTRICTIONS FOR ROAD CUT AND ROAD ACTIVITY

22. (1) All permits issued for a Road Cut and all road activities on a City Freeway, Arterial Major Collector or Collector Highway set out in Schedule "B" to this by-law, shall be subject to the following peak hour restrictions from the hours of 7:00 a.m. to 9:00 a.m. and from the hours of 3:30 p.m. to ~~5:30~~ 6:00 p.m., excluding Saturdays, Sundays and statutory holidays unless written consent to the contrary is received from the General Manager:
- (a) no trucks, Vehicles, materials or equipment shall be parked or placed on a Highway;
 - (b) no excavating or reinstatement of a Highway shall take place; and
 - (c) every Road Cut shall be reinstated in accordance with this by-law, or covered with a steel plate which shall be,
 - (i) designed to prevent any movement or displacement of the plate, and
 - (ii) of sufficient size to allow pedestrian and vehicular traffic to pass safely and expeditiously over the Road Cut.
- (2) A legible copy of the written consent of the General Manager referred to in subsection (1) hereof shall be displayed at the site of the ~~road cut~~ Road Cut or Road Activity.

- (3) ~~Despite subsection (1), additional provisions to extend peak hours, or restrictions on when work may occur on Highways other than those set out in subsection (1) at the discretion of the General Manager may be made on an individual case basis at the discretion of the General Manager.~~
- (4) Every permit holder and person responsible for Road Activity shall comply with the provisions of subsection (1) and any additional provisions imposed by the General manager pursuant to subsection (3).

CLOSURE TO TRAFFIC

23. (1) ~~No person shall undertake Road Activity and n~~No permit holder shall make a Road Cut which completely closes a Highway to Vehicle traffic or one direction of Vehicle traffic on a ~~divided~~ Highway unless the written consent of the General Manager to the closing is obtained.
- ~~(a) the written consent of the General Manager to the closing is obtained; and~~
- ~~(b) a written notice of the closing is given to the following or authorized representative,~~
- ~~(i) the City Chief of Police;~~
- ~~(ii) the City Fire Chief;~~
- ~~(iii) the City Transit Services Branch when the closure is on an established bus route; and~~
- ~~(iv) the City's Emergency and Protective Services Department.~~
- (2) A legible copy of the written consent of the General Manager to the closing shall be displayed at the site of the Road Activity or Road Cutsite.

EXPLOSIVES

24. No permit holder shall use any explosives in connection with the work for which the permit has been issued unless:
- (a) the work is conducted under applicable City of Ottawa Special Provisions and Ontario Provincial Standard Specifications, as amended; and
- (b) notification is provided to the City Right of Way Management Inspections Unit a minimum of 48 hours prior to conducting any blasting operations.

CUT FAILURE AND WARRANTY REQUIREMENTS

25. (1) For temporary reinstatement of the Highway, a permit holder is responsible for,
- (a) the repairs necessary to correct any Road Cut considered by the General Manager to be unsatisfactory by excavation or

- reinstatement when any Settlement or grade differences occur until the Road Cut has been permanently reinstated; and
- (b) the repair of grade differences in excess of twenty-five (25 mm) millimetres regardless of cause.
- (2) Following ~~permanent~~final reinstatement of the ~~highway~~Highway a permit holder is responsible for,
- (a) subject to the provisions of subsection (3) hereof, the repairs necessary to correct any Settlement or surface deterioration for a Warranty period of ~~twenty four~~thirty-six (~~36~~24) months_ following the date of final reinstatement of the highway, ~~being the last time the permit holder repaired the road cut;~~ and
- (b) the costs incurred by the City for any temporary and permanent surface repairs resulting from improper backfilling or compaction of the Highway.
- (3) A difference of twelve and one-half (12.5 mm) millimetres, or greater, between the reinstated surface and the undisturbed adjacent surface is deemed to be an unacceptable amount of Settlement.
- ~~(4) Where the backfilling or reinstatement does not comply with the provisions of this by-law, or the backfilling or reinstatement settles, the General Manager shall give verbal notice to the permit holder, specifying the remedial work, which the permit holder must carry out.~~
- ~~(5) The verbal notice referred to in subsection (4) hereof shall be confirmed in writing and served on the permit holder,~~
- ~~(a) by registered mail to the permit holder's address as stated in the application form; or~~
- ~~(b) personally.~~
- ~~(6) If the permit holder has not done the work referred to in subsection (4) hereof within seventy two (72) hours of delivery of the written notification, the General Manager may order the work to be done at the permit holder's expense. All costs incurred by the City shall be paid by the permit holder forthwith on demand, failing which the costs shall be deducted from the security~~Security.

EMERGENCY REPAIRS

26. (1) If the General Manager is of the opinion that a Road Cut reinstatement has created an emergency situation which can cause damage to Vehicles or endanger the public, the General Manager may protect the area and,
- (a) make immediate repairs; or

- (b) telephone the permit holder using the telephone service provided by the permit holder as required by Section 8, advising the permit holder as to the repair work which must be carried out.
- (2) If there is no answer from the permit holder's telephone or the telephone is out of order or the permit holder does not carry out the required repairs to the satisfaction of the General Manager within four (4) hours of placing the telephone call, the General Manager may order the work to be done by the City and the General Manager shall confirm in writing to the permit holder the remedial action which has been taken.
- (3) All work done by the City pursuant to subsections (1) or (2) hereof shall be at the expense of the permit holder ~~and the costs of the City shall be paid by the permit holder forthwith on demand failing which the costs shall be deducted from the security~~ and collected in accordance with section 32.

INSPECTION

27. (1) Where the General Manager carries out an inspection to ascertain whether the provisions of this by-law are complied with and to enforce and carry out into effect the provisions of this by-law, the General Manager may:
- (a) require the production for inspection of documents or items that may be relevant to the inspection;
- (b) inspect and remove documents or items relevant to the inspection for the purposes of making copies or extracts;
- (c) require information from any person concerning a matter related to the inspection; and
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests or photographs necessary for the purposes of the inspection.
- (2) A receipt shall be provided for any document or item removed under subsection (1) hereof and the document or item shall be promptly returned after the copies or extracts are made
- (3) Copies of or extracts from documents and items removed under subsection (1) hereof and certified as being true copies of or extracts from the originals by the Person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the originals.

ORDER TO DISCONTINUE ACTIVITY (STOP WORK ORDER)

28. (1) If the General Manager is satisfied that a contravention of this by-law, or a permit issued under this by-law has occurred, the City may make an order

requiring the person who contravened this by-law or a permit issued under this by-law, or who caused or permitted the contravention, to discontinue the contravening activity.

- (2) The order shall set out reasonable particulars of the contravention adequate to identify the contravention and the location at which the contravention occurred and the date by which there must be compliance with the order.
- (3) An order under this section may be verbal and shall be confirmed in writing in accordance with section 30.
- (4) Any person who contravenes an order under this section is guilty of an offence.

CORRECTIVE WORK ORDER

- 29. (1) If the General Manager is satisfied that a contravention of this by-law, or a permit issued under this by-law has occurred, the City may make an order requiring the person who contravened this by-law, or who caused or permitted the contravention to do work to correct the contravention to the satisfaction of the General Manager.
- (2) The order shall set out reasonable particulars of the contravention adequate to identify the contravention and its location, the work to be done, and the date by which the work must be done.
- (3) An order under this section may be verbal and shall be confirmed in writing in accordance with section 30.
- (4) Any person who contravenes an order under this section is guilty of an offence.

SERVICE OF ORDERS

- 30. (1) Orders issued under sections 28 and 29 may be served personally or by email to the email address provided on the permit application, sent by registered mail to the permit holder or person contravening the by-law, or may be posted in a conspicuous place on the Highway where the contravention occurred, or on property served by the work that is the subject of the orders.
- (2) Where an order under this by-law is served personally or by email by the City, it shall be deemed to have been served on the date of delivery to the person or persons named.

(3) Where an order under this by-law is with respect to a contravention under subsection 7.1(1), section 11.2 or section 12.1 the posting of an order in a conspicuous place on the property shall be deemed to be sufficient service of the order on the person to whom the order is directed on the date it is posted.

(4) Where an order issued under this by-law is sent by registered mail, it shall be sent to the address of the permit holder noted on the application, or last known address of the person that committed the contravention, and shall be deemed to have been served on the date of the next workday following the date of mailing.

OBSTRUCTION

31. No person shall hinder or obstruct or attempt to hinder or obstruct the General Manager in the discharge of duties under this by-law.

DEFAULT AND REMEDIAL ACTION

32. (1) Where an order has been sent by the City pursuant to section 29 and the requirements of the order have not been complied with, the General Manager may cause the work to be done and the total cost of the work shall be at the expense of the permit holder, or the person named in the order.

(2) The total cost of such work shall include an administration fee in the amount of 15% of the cost of the work.

(3) The cost of the work to be done pursuant to subsection (1) and all costs related to the administration, enforcement and the establishment, acquisition and replacement of capital assets related to this by-law, may be recovered from the permit holder or person named in the order forthwith on demand, by deducting the costs from any Security held in relation to the work, by action, or by any combination thereof to recover the total cost of such works.

(4) In addition to the methods of recovery set out in subsection (3) hereof, where works undertaken by the City under subsection (1) are with respect to matters addressed in subsection 7.1(1) or section 12.1, the costs of these works, including those set out in subsection (3) may be recovered from the property owner on whose property the construction, alteration, addition or repair to a building or structure mentioned in subsection 7.1(1) is or has occurred, or who is responsible for a resurfacing in accordance with section 12.1, by adding the costs to the tax roll of the property owner and collecting them in the same manner as property taxes, or by any combination of this and those methods set out in subsection (3) hereof to recover the total cost of such works.

- (5) The cost includes interest calculated at a rate of 15% per annum, calculated for the period commencing on the day the City incurs the cost and ending on the day the cost, including the interest, is paid in full.
- (6) For the purposes of subsection (4) the amount of the cost, including interest, constitutes a lien on the property upon the registration in the proper land registry office of a notice of lien, in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established under subsection (5) to the date of full payment is made.
- (7) Upon receiving payment of all costs payable plus interest accrued to the date of payment, the City shall register a discharge of the lien in the proper land registry office at the expense of the owner of the property.

RESPONSIBILITY FOR CLAIMS

2733. (1) Except as limited by subsection (2) hereof, a permit holder shall be responsible for all loss or damages arising from the work done by or for the permit holder.
- (2) A permit holder shall be responsible for all loss or damage arising directly or indirectly from Settlement of the surface of a Highway within a period of ~~three~~two (~~3~~2) years following the Date of Final Reinstatement of the Highway.
- (3) Where a Highway or Public Utility on the Highway has been damaged by a permit holder, the City or the Public Utility respectively has the sole responsibility for deciding who shall carry out the repairs.

INDEMNIFICATION

2834. A Road Cut permit is issued subject to the condition that the permit holder shall indemnify the City and each of its officers, agents, servants and workmen from all causes of action, loss, costs or damages arising from the execution, non execution or imperfect execution of any work authorized by this by-law whether with or without negligence on the part of the permit holder or the officers, agents, servants or workmen of the permit holder.

TRANSITION

2935.- Every permit issued pursuant to By-law No. 2001-349 being the City Road Cut By-law continues in force and shall be deemed to be issued under this by-law for regulatory and enforcement purposes.

OFFENCE

3036. (1) Every person who contravenes any of the provisions of this by-law is guilty of an offence and on conviction is liable to a fine not to exceed the limits of the Provincial Offences Act.
- (2) When a person has been convicted of an offence under this by law,
- (a) the Ontario Court of Justice of the City of Ottawa, or
 - (b) any court of competent jurisdiction thereafter, may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence.

SCHEDULES

3437. This by law includes Schedules "A", "~~B~~" and "~~C~~" annexed hereto and the Schedules ~~are~~ is hereby declared to form a part of this by-law.

SEVERABILITY

3238. If any section, subsection or part or parts thereof be declared by any Court of Law to be bad, illegal or ultra virus, such section, subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

REPEAL

3339. By-law No. 2001-349 entitled "A by-law of the City of Ottawa to regulate the entry onto and the cutting and reinstatement of City Roads" is repealed.

SHORT TITLE

3440. This by-law may be cited as the "Road Activity By-law".

41. The amendments described herein do not come into effect until July 1, 2019.

ENACTED AND PASSED this 10th day of September, 2003

CITY CLERK

MAYOR

Schedule "A" - DELETED

Roads to which Pavement Degradation Fees and Moratorium Provisions Apply

Schedule "B" - **DELETED**
Roads to which Peak Hour Restrictions Apply

SCHEDULE "A"Road Cut Fees (2019 Budget Approved) and Securities

- | | | |
|----|---|---|
| 1. | Road Cut Permit Fee | \$455.00 |
| 2. | Road Cut Renewal Fee | \$160.00 |
| 3. | Winter Inspection Charges | |
| | Period Covered | Fee Payable |
| | November 15 – April 15 | \$239.00 |
| | December 15 – April 15 | \$193.00 |
| | January 15 – April 15 | \$146.00 |
| | February 15 – April 15 | \$96.00 |
| | March 15 – April 15 | \$48.00 |
| 4. | Pavement Degradation Fees | |
| | <u>Pavement Degradation Fee based on the greater of the size of Road Cut or five (5) square metres.</u> | |
| | Calendar Years since road construction,
last reconstruction or last resurfacing | Pavement Degradation Fee
(per m ²) |
| | 2 or less | \$37.00 |
| | >2 to 4 | \$30.85 |
| | >4 to 7 | \$24.80 |
| | >7 to 10 | \$15.50 |
| | 10 years or more | \$6.15 |
| 5. | <u>Minimum amount of Security under section 7(1) per Road Cut Permit:</u> | |
| | For work in the roadway: | <u>\$3000.00</u> |
| | For work in the boulevard: | <u>\$3000.00</u> |
| 6. | <u>Minimum amount of Security per square metre for a resurfacing under section 7(3): \$50.00 per square metre</u> | |
| 7. | <u>Minimum amount of Security under section 7.1(3): \$3000.00 per vertically divided unit</u> | |