

1. Road Activity By-law – Phase Two Amendments

Règlement municipal sur les travaux routiers – Modifications de la deuxième étape

COMMITTEE RECOMMENDATIONS

That Council approve:

- 1. The proposed fee structure for road cut application fees, temporary construction encroachment applications, temporary road closures application fees, and the administration of the Right of Way Damage Deposit, as described in this report and set out in the Fee Schedule in Document 1 and proposed to be effective January 1, 2022; and**
- 2. The addition of 10 full-time equivalent (FTE) positions, five being in the Right of Way, Heritage, and Urban Design Service Area of the Planning, Infrastructure and Economic Development Department (“PIED”), three being in the Traffic Services Branch of the Public Works and Environmental Services Department and two being in the Financial Services Unit of PIED at an approximate annual cost of \$1,170,000, funded entirely from processing fee revenues; and**
- 3. The revised Pavement Degradation Fees as described in this report and set out in the Fee Schedule in Document 2 and proposed to be effective January 1, 2022; and**
- 4. The amendments to the Road Activity By-law No. 2003-445 as set out in Document 3 and described in this report; and**
- 5. Amendments to the Encroachments By-law No. 2003-446 as set out in Document 3 and described in this report.**

RECOMMANDATIONS DU COMITÉ

Que le Conseil approuve

- 1. Le barème des droits proposé pour les frais de demande de terrassement de routes, les demandes d’empiétement temporaire liées à des travaux de construction, les frais de demande de fermeture temporaire de rues et l’administration du dépôt en cas de dommages à l’emprise, tels que définis dans le présent rapport et établis dans le barème des droits du document 1 et devant entrer en vigueur le 1^{er} janvier 2022;**
- 2. L’ajout de dix postes équivalents temps plein (ETP), dont cinq dans les Services des emprises, du patrimoine et du design urbain de la Direction générale de la planification, de l’infrastructure et du développement économique (DGPIDE), trois dans les Services de la circulation de la Direction générale des travaux publics et de l’environnement et deux dans l’Unité des services financiers de la DGPIDE à un coût annuel approximatif de 1 170 000,00 \$ entièrement financé par les revenus de frais de traitement;**
- 3. Les redevances révisées de dégradation de la chaussée, telles que décrites dans le présent rapport et établies dans le barème des droits du document 2 et devant entrer en vigueur le 1^{er} janvier 2022;**
- 4. Les modifications apportées au Règlement municipal sur les travaux routiers (n° 2003-445) indiquées dans le document 3 et décrites dans le présent rapport;**
- 5. Les modifications apportées au Règlement sur les empiétements de la Ville (n° 2003-446) indiquées dans le document 3 et décrites dans le présent rapport.**

For the Information of Council:

(A. Hubley)

Since the collection of Pavement Degradation Fees (PDF) was resumed in 2019, PDF revenues have contributed towards the City's resurfacing program.

With the introduction of a new model for PDF as recommended in the report, staff be directed to:

1. analyze the projected annual PDF revenues based on the new PDF structure recommended in the staff report,
2. analyze how these fees could be directed within the different wards, and the types of maintenance that can be supported through the PDF,
3. review the associated project delivery methods and management efforts required to implement these, all towards evaluating how the City can best use PDF revenues to maintain its asphalt roadway assets; and,
4. report back to Committee by the end of Q1, 2022 with the results of this analysis.

(M. Fleury)

Staff are proposing to implement broader asphalt resurfacing requirements on road cuts made by utilities, primarily being that all cuts within one metre of a curb or roadway edge be brought to the curb or roadway edge, and that all cuts into pavement three (3) years or less in age be resurfaced to the full width of the affected lane.

While this will help maintain the surface rideability of road cuts, staff be directed to continue continuous improvement by:

1. Monitor the impact and compliance on the new broader resurfacings recommended in the staff report.
2. Review if and how broader resurfacing requirements, or alternatives, could be required on older pavements beyond the 3-year proposed threshold within the boundaries of the design priority areas and special districts, as defined in the new Official Plan.

3. Review if broader resurfacing requirements should be required for extensive longitudinal road cuts that traverse several city blocks.
4. Report back to Committee by the end of Q1, 2023 with the results of this analysis.

And further direction,

5. Review the R10 Standard Trench reinstatement detail as part of the 2022 Infrastructure Services Standards Review, including the applicability of asphalt sealant on road cut joints.

Pour la gouverne du Conseil

(A. Hubley)

Depuis la reprise de l'imposition de redevances pour la dégradation de la chaussée en 2019, les recettes issues de celles-ci sont affectées au programme de réasphaltage de la Ville.

Vu l'introduction d'un nouveau modèle pour ces redevances, comme le recommande le rapport, que l'on demande au personnel de faire ce qui suit :

1. Analyser les recettes annuelles que devraient générer les redevances pour la dégradation de la chaussée, d'après la nouvelle structure recommandée dans le rapport du personnel;
2. Déterminer de quelle façon ces redevances pourraient être réinvesties dans les différents quartiers, et les types d'activités d'entretien qu'elles pourraient financer;
3. Examiner les méthodes d'exécution de projet connexes et le travail de gestion nécessaires à l'application de ces méthodes, dans le but de déterminer comment la Ville peut optimiser l'utilisation des recettes qui en découlent pour entretenir les routes asphaltées;
4. Présenter un rapport au Comité faisant état des résultats de cette analyse d'ici la fin du T1 de 2022.

(M. Fleury)

Le personnel propose d'adopter des exigences plus générales pour le réasphaltage des terrassements de routes effectués lors de travaux de services publics, soit que tout terrassement dans un rayon d'un mètre d'une bordure ou du bord de la chaussée les rejoigne et que tout terrassement datant de trois (3) ans ou moins soit réasphalté sur toute la largeur de la voie concernée.

Même si ces mesures contribueront à préserver la qualité de roulement des terrassements de routes, que l'on demande au personnel de poursuivre le travail d'amélioration continue, comme suit :

1. Évaluer les conséquences des exigences de réasphaltage élargies recommandées dans le rapport du personnel et surveiller la conformité à celles-ci;
2. Déterminer dans quelle mesure et de quelle façon il conviendrait d'appliquer de telles exigences ou d'autres critères pour les revêtements datant de plus de trois ans (le seuil recommandé) dans les limites des secteurs prioritaires de conception et des secteurs spéciaux, tels qu'ils sont définis dans le nouveau Plan officiel;
3. Déterminer s'il faudrait fixer des exigences plus générales de réasphaltage pour les grands terrassements de routes longitudinaux qui s'étendent sur plusieurs pâtés de maisons;
4. Présenter les résultats de cette analyse au Comité d'ici la fin du T1 de 2023.

Autre directive

5. Revoir le détail de la norme R10 pour le remblayage des tranchées dans le cadre de l'examen des normes 2022 des Services d'infrastructure, notamment la pertinence d'un scellant pour l'asphalte des raccords des terrassements de routes.

DOCUMENTATION

1. Manager, Right of way, Heritage and Urban Design Services, Planning, Infrastructure and Economic Development dated October 21, 2021 (ACS2021-PIE-RHU-0028).

Gestionnaire, Direction générale de la planification, Services des emprises du patrimoine et du design urbain, Services de planification, de l'infrastructure et de développement économique daté le 21 octobre 2021 (ACS2021-PIE-RHU-0028 .

2. Extract of draft Minutes, Transportation Committee, November 1, 2021

Extrait de l'ébauche du procès-verbal du Comité des transports, le 1 novembre 2021

**Transportation Committee
Report 23
November 10, 2021**

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**Comité des transports
Rapport 23
Le 10 novembre 2021**

**Report to
Rapport au:**

**Transportation Committee
Comité des transports
1 November 2021 / 1er novembre 2021**

**and Council
et au Conseil
10 November 2021 / 10 novembre 2021**

**Submitted on October 21, 2021
Soumis le 21 octobre 2021**

**Submitted by
Soumis par:
Court Curry,
Manager / Gestionnaire**

**Right of Way, Heritage and Urban Design Services / Services des emprises, du
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**Ward: CITY WIDE / À L'ÉCHELLE DE
LA VILLE**

File Number: ACS2021-PIE-RHU-0028

SUBJECT: Road Activity By-law – Phase Two Amendments

OBJET: Règlement municipal sur les travaux routiers – Modifications de la deuxième étape

REPORT RECOMMENDATIONS

That Transportation Committee recommend Council approve:

- 1. The proposed fee structure for road cut application fees, temporary construction encroachment applications, temporary road closures application fees, and the administration of the Right of Way Damage Deposit, as described in this report and set out in the Fee Schedule in Document 1 and proposed to be effective January 1, 2022; and**
- 2. The addition of 10 full-time equivalent (FTE) positions, five being in the Right of Way, Heritage, and Urban Design Service Area of the Planning, Infrastructure and Economic Development Department (“PIED”), three being in the Traffic Services Branch of the Public Works and Environmental Services Department and two being in the Financial Services Unit of PIED at an approximate annual cost of \$1,170,000, funded entirely from processing fee revenues; and**
- 3. The revised Pavement Degradation Fees as described in this report and set out in the Fee Schedule in Document 2 and proposed to be effective January 1, 2022; and**
- 4. The amendments to the Road Activity By-law No. 2003-445 as set out in Document 3 and described in this report; and**
- 5. Amendments to the Encroachments By-law No. 2003-446 as set out in Document 3 and described in this report.**

That Transportation Committee receive for information purposes the following:

- 6. The process changes for Site Plan Control and plan of subdivision applications to include the review of right of way impacts during construction as described in this report and detailed in Document 4; and**
- 7. Staff’s revised criteria for when a greater resurfacing of a road cut will be required pursuant to delegated authority under the Road Activity By-law No. 2003-445, as described in this report and detailed in Document 5.**

RECOMMANDATIONS DU RAPPORT

Que le Comité des transports recommande au Conseil d'approuver :

- 1. Le barème des droits proposé pour les frais de demande de terrassement de routes, les demandes d'empiétement temporaire liées à des travaux de construction, les frais de demande de fermeture temporaire de rues et l'administration du dépôt en cas de dommages à l'emprise, tels que définis dans le présent rapport et établis dans le barème des droits du document 1 et devant entrer en vigueur le 1^{er} janvier 2022;**
- 2. L'ajout de dix postes équivalents temps plein (ETP), dont cinq dans les Services des emprises, du patrimoine et du design urbain de la Direction générale de la planification, de l'infrastructure et du développement économique (DGPIDE), trois dans les Services de la circulation de la Direction générale des travaux publics et de l'environnement et deux dans l'Unité des services financiers de la DGPIDE à un coût annuel approximatif de 1 170 000,00 \$ entièrement financé par les revenus de frais de traitement;**
- 3. Les redevances révisées de dégradation de la chaussée, telles que décrites dans le présent rapport et établies dans le barème des droits du document 2 et devant entrer en vigueur le 1^{er} janvier 2022;**
- 4. Les modifications apportées au Règlement municipal sur les travaux routiers (n° 2003-445) indiquées dans le document 3 et décrites dans le présent rapport;**
- 5. Les modifications apportées au Règlement sur les empiétements de la Ville (n° 2003-446) indiquées dans le document 3 et décrites dans le présent rapport.**

Que le Comité des transports prenne connaissance, à titre informatif, des renseignements suivants :

- 6. Les changements apportés au processus de demande de réglementation du plan d'implantation et de demande d'approbation du plan de lotissement afin qu'il comprenne l'examen des répercussions sur l'emprise lors de travaux de construction décrits dans le présent rapport et détaillés dans le document 4;**

7. **Les critères révisés du personnel en vertu des pouvoirs qui lui sont délégués dans le cas où un réasphaltage plus important d'un terrassement est nécessaire conformément au Règlement sur les travaux routiers (n° 2003-445) décrits dans le présent rapport et détaillés dans le document 5.**

EXECUTIVE SUMMARY

This report describes the work completed in Phase 2 of the Road Activity By-law Review, as well as resulting recommendations. The Road Activity By-law has not had a comprehensive review since 2003 and there is a need to update regulations and policies, as well as associated fees and staff resources to address the continually increasing and growing complexity of work within the City's right of way ("ROW") to support utility and development activities as part of a growing city. Essentially, staff resources are roughly similar to what they were in 2003 despite the quantity of work increasing and becoming more complex. Additional resources are required to manage permit volumes, maintain service timelines and introduce processes to assess and mitigate impacts caused by constriction in the ROW.

Additionally, Phase 2 of the By-law review included a review of the regulations and business processes for Temporary Construction Encroachments (TCE), currently contained within the Encroachment By-law No. 2003-446. Similar to the Road Activity By-law, TCE regulation has not undergone a comprehensive review since 2003. This report sets out recommendations to improve the regulation of TCEs, including By-law amendments, process improvements, revised processing fees, as well as additional staff resources. Taken together, the recommendations and proposed changes will help ensure the continued safe and efficient mobility for pedestrians, cyclists, and vehicles during development.

Building on the work completed in Phase 1 ([ACS2019-PIE-RHU-0001](#)), which focused on an update of the regulations in the Road Activity By-law Review. The second phase included the following:

- A review of the application fees associated with road cut permits, temporary road closures, TCEs and the Right of Way Damage Deposit to determine the funding requirements for sufficient staff capacity to:
 - Process and issue permits within standard, predictable timeframes;

- Coordinate inspection of work within the right of way, as well as responses to service requests from residents; and,
- Review impacts to the right of way as part of Site Plan and Subdivision applications;
- A review of the methodology, fee structure and exemptions for Pavement Degradation Fees (PDF);
- A review of the regulations for TCEs to bring the requirements in line with those applicable to Road Cut Permits, to ensure the necessary regulations are in place to provide for the continued safe and efficient operation of the ROW, and to update TCE permit processes to reflect the diversity of projects and scenarios that fall under TCE;
- The necessary amendments to the Road Activity By-law to implement the above;
- The modification of existing Site Plan and Subdivision Application processes to incorporate the review and consideration of impacts to the ROW; and
- The establishment of predictable criteria for when staff require the broader resurfacing of road cuts made by utilities to provide improved surface rideability.

Based on the results of the above, this report recommends:

- New application fees for Road Cut Permit and TCE Permit applications as well as the establishment of new fees for Temporary Road Closure applications and the administration of Right of Way Damage Deposit;
- A revised fee schedule for Pavement Degradation Fees, as well as modifications to existing exemptions for PDF;
- The creation of 10 Full Time Equivalent Positions as follows:
 - Three Right of Way Permit Clerk positions to increase capacity to process and issue Road Cut Permits;
 - A Supervisor position for the ROW Inspections Unit, ensuring the coordination and oversight of inspections related to road cuts, infill developments, and associated service requests;

- An administrative clerk position within the ROW Inspections Unit to ensure the coordination and management of service requests;
 - Two Construction Traffic Management Specialists to lead and coordinate construction conditions starting at subdivision and Site Plan applications through to construction completion. One Traffic Management Coordinator to assist with capacity to process and issue Road Cut, and Temporary Road Closure Permits; and
 - Two Coordinators in the Financial Services Unit to apply financial controls and administer payments associated with the fees and charges described in this report.
- Amendments to both the Road Activity By-law and Encroachment By-law to:
 - Clarify staff's authority to impose conditions on TCE permits;
 - Replace the existing TCE permit with two new TCE permit types, representing minor and more complex requests;
 - Require for more complex TCE requests a requirement for insurance, securities and notification in line with what is currently required for Road Cut Permits; and
 - Migrate the regulation of TCE into the Road Activity By-law to assist in achieving the above, and to ensure consistent enforcement tools as between Road Cut Permits and TCE Permits.

In addition to the above recommendations, this report sets out the changes being implemented by staff under delegated authority to modify the existing Site Plan and Subdivision application processes to ensure the early consideration of impacts to the ROW by development.

Lastly, this report details the action being undertaken by staff pursuant to the authority delegated to staff under the Road Activity By-law to require in certain circumstances the broader resurfacing of a road cut. Staff are building upon the existing resurfacing requirements for development to include requirements for broader resurfacing of cuts by utilities into newly constructed and resurfaced asphalt roadways, as well as any cut within close proximity to the edge of a roadway.

RÉSUMÉ

Le présent rapport décrit le travail effectué dans le cadre de la deuxième étape de l'examen du Règlement sur les travaux routiers et les recommandations qui en découlent. Le Règlement sur les travaux routiers n'ayant pas fait l'objet d'un examen exhaustif depuis 2003, les règlements et politiques ainsi que les droits et ressources du personnel doivent être actualisés pour répondre à la complexité croissante des travaux au sein de l'emprise municipale et soutenir les activités relatives aux services publics et à l'aménagement de façon à favoriser la croissance de la ville. Essentiellement, les ressources en personnel demeurent semblables à celles de 2003 malgré la quantité de travail qui augmente et devient plus complexe. Des ressources supplémentaires sont nécessaires pour gérer le volume de permis, respecter les délais de service et adopter des processus d'évaluation et d'atténuation des répercussions des travaux dans l'emprise.

De plus, la deuxième étape de l'examen du règlement comprend une évaluation des règlements et processus opérationnels concernant l'empiètement temporaire lié à des travaux de construction, qui fait actuellement partie du Règlement sur les empiètements de la Ville (n° 2003-446). Comme le Règlement sur les travaux routiers, le Règlement sur les empiètements n'a pas fait l'objet d'un examen exhaustif depuis 2003. Le présent rapport établit des recommandations d'amélioration des règlements en matière d'empiètements, notamment des modifications du règlement, l'amélioration de processus, la révision des droits de traitement et l'ajout de ressources en personnel. Ensemble, les recommandations et changements proposés aideront à assurer la mobilité sécuritaire et efficace des piétons, cyclistes et véhicules lors de travaux.

En s'appuyant sur le travail effectué lors de la première étape ([ACS2019-PIE-RHU-0001](#)), centré sur la mise à jour de règlements dans le cadre de l'examen du Règlement des travaux routiers, la deuxième étape comprend les composantes suivantes :

- Examen des droits de traitements associés aux permis de terrassement, aux fermetures temporaires de rues, aux empiètements temporaires liés à des travaux de construction et au dépôt en cas de dommages à l'emprise pour déterminer les exigences en matière de financement et permettre au personnel :
 - De traiter et d'émettre des permis dans les délais standards et prévisibles;
 - De coordonner l'inspection des travaux sur l'emprise et les réponses aux demandes de service des résidents;

- D'examiner les répercussions sur l'emprise dans le cadre de demandes de plan d'implantation et de lotissement;
- Examen de la méthodologie, du barème des droits et des exemptions des redevances de dégradation de la chaussée;
- Examen des règlements concernant l'empiètement temporaire lié à des travaux de construction pour orienter les exigences avec les règlements concernant les permis de terrassement, pour faire en sorte que les règlements nécessaires soient en place pour assurer la poursuite de travaux sécuritaires et efficaces sur l'emprise et pour actualiser les processus de délivrance de permis d'empiètement temporaires liés à des travaux de construction de façon à refléter la diversité des projets et des scénarios qui relèvent des empiètements temporaires liés à des travaux de construction;
- Modifications nécessaires au Règlement sur les travaux routiers pour mettre en œuvre les dispositions susmentionnées;
- Modification des processus actuels de demande de plan d'implantation et de lotissement pour incorporer l'examen et la prise en compte des répercussions sur l'emprise;
- Établissement de critères prévisibles dans le cas où le personnel doit élargir le réasphaltage de terrassement effectué par les services publics pour améliorer la qualité de roulement de la route.

Selon les résultats des points ci-dessus, le présent rapport fait les recommandations suivantes :

- De nouveaux droits de traitement de demande de permis de terrassement et d'empiètements temporaire liés à des travaux de construction et l'établissement de nouveaux droits pour les demandes de fermeture temporaire de rues et l'administration des dépôts en cas de dommages à l'emprise;
- Un barème des droits révisé et la modification des exemptions actuelles pour les redevances de dégradation de la chaussée;
- La création de dix postes équivalents temps plein répartis de la façon suivante :

- Trois postes de commis aux permis du Bureau des permis relatifs aux emprises pour améliorer la capacité de traitement et de délivrance de permis de terrassement;
- Un poste de superviseur à l'Unité d'inspection des emprises pour assurer la coordination et la surveillance des inspections liées au terrassement, aux aménagements intercalaires et aux demandes de service connexes;
- Un poste de commis administratif au sein de l'Unité d'inspection des emprises pour assurer la coordination et la gestion des demandes de service;
- Deux spécialistes en gestion de la circulation de chantier pour diriger et coordonner les chantiers, des demandes de lotissement et de plans d'implantation jusqu'à la fin des travaux, et un coordonnateur de la gestion de la circulation pour alléger le traitement et la délivrance de permis de terrassement et de fermetures temporaires de rues;
- Deux coordonnateurs au sein de l'Unité des services financiers pour appliquer les contrôles financiers et administrer les paiements associés aux droits et redevances décrits dans le présent rapport.
- La modification du Règlement sur les travaux routiers et du Règlement sur les empiétements de la Ville pour :
 - Clarifier le pouvoir du personnel à imposer des conditions aux permis d'empiétement temporaires lié à des travaux de construction;
 - Remplacer le permis actuel d'empiétement temporaire lié à des travaux de construction par deux nouveaux types de permis d'empiétement temporaire lié à des travaux de construction représentant des demandes mineures et plus complexes;
 - Imposer une exigence d'assurance, de garanties et d'avis aux demandes plus complexes d'empiétement temporaire lié à des travaux de construction, semblable à l'exigence actuelle pour les permis de terrassement;
 - Transférer les règlements concernant les empiétements temporaires liés à des travaux de construction au Règlement sur les travaux routiers pour faciliter l'adoption des mesures susmentionnées et assurer l'uniformité

des outils pour les permis de terrassement et d'empiétement temporaires lié à des travaux de construction.

Outre les recommandations ci-dessus, le présent rapport établit les changements apportés par le personnel en vertu des pouvoirs qui lui sont délégués aux processus actuels de demande de plan d'implantation et de lotissement pour assurer et la prise en compte précoce des répercussions de l'aménagement sur l'emprise.

Enfin, le présent rapport précise les mesures prises par le personnel en vertu des pouvoirs qui lui sont délégués conformément au Règlement sur les travaux routiers pour demander, dans certaines circonstances, le réasphaltage élargi d'un terrassement. Le personnel s'appuie sur les exigences actuelles en matière de réasphaltage pour l'aménagement pour inclure des exigences de réasphaltage élargi de terrassements effectués par les services publics sur des routes nouvellement construites ou asphaltées ou des terrassements situés à proximité du bord d'une route.

BACKGROUND

Construction within the City's rights of way (ROW) is principally regulated through two By-laws: the Road Activity By-law No. 2003-445 and the Encroachment By-law No. 203-446.

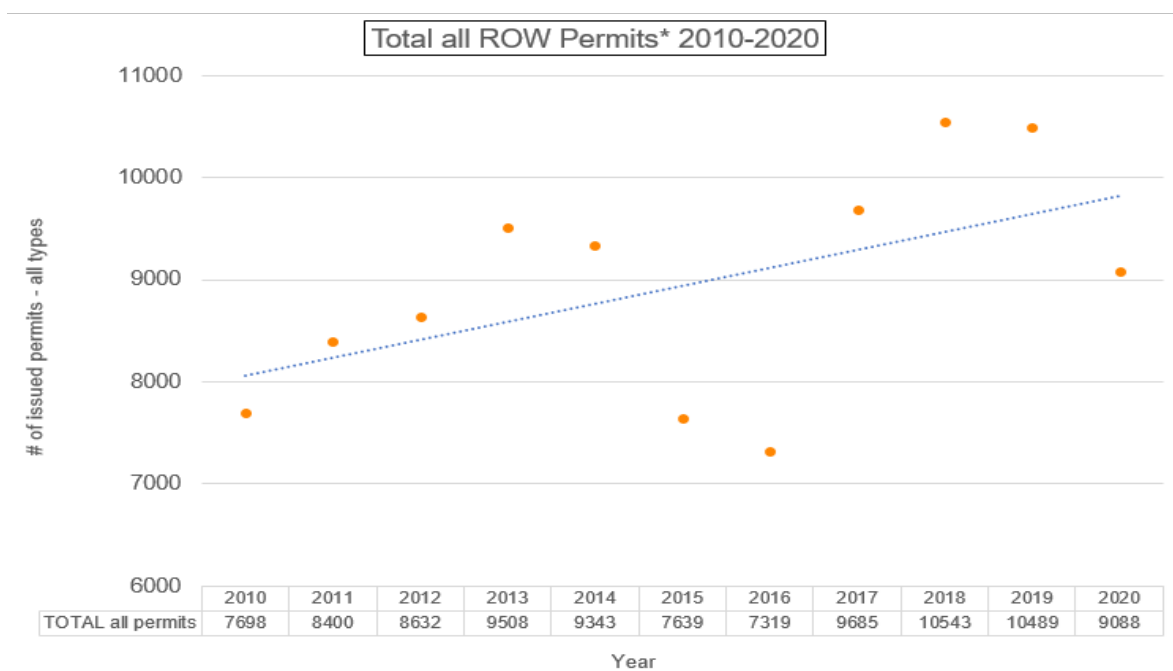
Under the Road Activity By-law any person excavating within any part of the ROW must obtain a Road Cut Permit. As part of the Road Cut Permit, the By-law establishes requirements for permit holders to have insurance, to place with the City a security for the work, to notify residents and the City in advance of the work, and to comply with conditions related to hours of work and traffic management, as well as acceptable reinstatement. Where either work within or occupation of the ROW requires the closure of the ROW, the By-law also requires such requests be approved, with appropriate conditions imposed. Both Road Cut Permits and requests for Temporary Road Closures are approved by staff under delegated authority. Applications for Road Cut Permits and Temporary Road Closures are received from utilities, developers, contractors, and City departments working within the ROW. As described later in this report, the volume of permit requests as well as the complexity of their review has significantly increased over time.

Pursuant to the Encroachment By-law, any person looking to occupy the ROW to assist in facilitating construction on their abutting property must obtain a Temporary Construction Encroachment (TCE) Permit. This permit sets out the terms and conditions under which the ROW may be occupied. Examples of TCE permits include a broad

range of requests from permissions to store a dumpster on the ROW as part of a residential renovation project, to the establishment of staging areas and hoarding, or to swing an aerial crane over the ROW as part of a large-scale development. TCE permits are issued and renewed by staff under delegated authority.

In general, the objective of both By-laws is to protect the City’s infrastructure and ensure its continued safe and efficient use. However, both the Road Activity By-law and the Encroachment By-law were enacted in 2003 and have never undergone a comprehensive review. Additionally, business processes, fees and staff capacity have generally remained static, while the number of permit requests, as well as their complexity, has steadily increased over time. Table 1 shows permit volumes from 2010-2020. In 2015 and 2016, ROW permit volumes were affected by preparation for Canada 150. In anticipation of that event, it was encouraged to minimize construction activities on main transportation corridors, to coordinate construction activities to avoid or minimize construction impacts, and, where construction activities were required to take place within core downtown zones, they were required to do so in a way that showcased transformational projects and/or 2017 celebrations. Data for 2020 is also an outlier owing to the outbreak of the COVID-19 pandemic, but the long-term trend shows an increase in Road Cut Permits, TCE permits, and Temporary Road Closures, from 2010-2020, with the ROW Damage Deposit being introduced in 2019.

Table 1



The steady increase in permit requests combined with the increasing complexity of requests, which has increased the time required to review applications have strained staff resources. For Road Cut Permits, confirming the road classification and pavement age, determining the applicability of any restrictions on cuts into the subject roadway, collecting background documentation, applying the necessary fees, and reviewing the requested work to determine the necessary conditions for either proper traffic management or coordination with other ongoing works takes considerable time. For TCEs, the proliferation of zero or near zero lot line development in the City's inner urban area, while beneficial from a planning policy perspective, requires extensive review, coordination, and negotiation to facilitate the necessary occupation of the ROW to accommodate these developments. Where a temporary road closure is required to facilitate a road cut or a TCE permit, there is additional time and effort required to review and coordinate the road closure by staff. There is a gap in development review processes to consider the impacts caused by TCE and temporary road closures even though a development proposal may necessitate one or both of those permits to be constructed.

In 2019 a review of the Road Activity By-law and its associated business processes was initiated to update the regulations and their administration to ensure the City continues to meet the objectives of the By-law relative to the increased quantity and complexity of permit applications.

The first phase of the review was focused on updating the Road Activity By-law regulation. A number of amendments were put before Council through staff report ACS2019-PIE-RHU-0001 and were approved in April, 2019. As a result, the following came into effect on July 1, 2019:

- The collection of Pavement Degradation Fees was reintroduced, after having ceased in 2013, and was made applicable to all road classes, whereas previously it only applied on arterial roads;
- Restrictions on cuts into pavement three years or less in age was made applicable to all road classes, whereas previously it only applied on arterial roads;
- The requirement to submit a traffic management plan as part of a permit application and abide by peak hour work restrictions was expanded to all roads except local roads, whereas previously it applied to select arterial roads as well as collector roads with bus routes;

- The amount of security required as part of a road cut permit was increased to better reflect the current cost of doing work;
- The Right of Way damage deposit was introduced to require a deposit as part of new building construction to help protect against damage to the ROW resulting from construction activities;
- Broader resurfacing requirements were introduced for developments requiring three or more cuts into a roadway to facilitate servicing to improve the reinstatement of multiple cuts resulting from, in particular, infill development;
- New, augmented notification requirements to ensure occupants adjacent to proposed work are provided with advance notice, as well as ensuring the Ward Councillor is informed where work will have a broader community impact; and
- The requirement for all permit holders to submit a Road Cut Completion Report following reinstatement work to help track and coordinate inspections.

While the measures introduced in Phase 1 of this review provided improved oversight, coordination, and protection of the ROW, they have also introduced additional complexity and work as part of the review and processing of permits issued by the ROW office.

Later, in 2019, owing to Councillor and community concerns over a lengthy proposed road closure to facilitate the servicing of a suburban subdivision, Planning Committee passed Motion No. PLC 2019-17/13 recommending Council require staff obtain the concurrence of the Ward Councillor to close a road for more than 20 working days where required to support development. While in all other instances delegated authority remained with staff, in the above circumstances should the Ward Councillor not concur, the proposed closure must be brought to Transportation Committee for approval.

This Council approved motion also directed staff to submit a report to Committee and Council providing recommendations as to how community and Ward Councillor concerns related to temporary road closures proposed within a given community to facilitate development can be addressed.

Lastly, in early 2020, a housekeeping report on By-laws including the Road Activity By-law ([ACS2020-PIE-RHU-0003](#)) was brought forward. This report provided further clarifications on the amendments in Phase 1 of the Road Activity By-law Review.

One of these changes, exempting Pavement Degradation Fees for City work, was applied provisionally pending the result of the Phase 2 review.

Following the implementation of the regulatory changes brought forward through Phase 1 of the Road Activity By-law review, staff began the second phase. The second phase included the following:

- A review of the application fees associated with road cut permits, temporary road closures, TCEs and the Right of Way Damage Deposit to determine the funding requirements for sufficient staff capacity to:
 - Process and issue permits within standard, predictable timeframes;
 - Coordinate inspection of work within the right of way, as well as responses to service requests from residents; and,
 - Review impacts to the right of way as part of Site Plan and Subdivision applications;
- A review of the methodology, fee structure and exemptions for Pavement Degradation Fees (PDF) to provide a PDF framework that ensures the City is recovering the cost associated with the impacts road cuts have on the accelerated decline of asphalt roadways;
- A review of the regulations for Temporary Construction Encroachments (TCE) to bring the requirements in line with those applicable to Road Cut Permits, to ensure the necessary regulations are in place to provide for the continued safe and efficient operation of the ROW, and to update TCE permit processes to reflect the diversity of projects and scenarios that fall under TCE;
- The necessary amendments to the Road Activity By-law to implement the above;
- The modification of existing Site Plan and Subdivision Application processes to incorporate the review and consideration of impacts to the ROW during construction; and
- The establishment of predictable criteria for when staff require the broader resurfacing of road cuts to provide improved surface rideability.

The recommendations and information set out in this report are the result of collaboration between staff in Right of Way, Heritage and Urban Design, Traffic Services, Infrastructure Services, and Planning Services.

DISCUSSION

The following describes the recommended amendments, fee changes and creation of additional Full Time Equivalent positions to increase staff capacity to meet standard processing times for permits as well as provide the resources necessary to implement new processes for the review of ROW impacts associated with development described later in this report.

These recommendations are followed by the actions proposed by staff under delegated authority, which are provided for information purposes.

Recommendations 1 and 2 – Revised Fee Structure and Request for Additional Full Time Equivalent Positions

Objectives and Rationale

The current fee structure does not align to cover the costs of current resources and the current resources are insufficient to meet the demands of permit requests as well as implement additional measures described in this report. The fee structures of the Road Activity and Encroachment by-laws have not been updated in any significant way since their introduction in 2003. The current fee structure has seen fee increases year over year in alignment with annual inflationary adjustments to existing user fees and charges through the annual budget approval process. However, neither temporary road closure applications nor the Right of Way (ROW) Damage Deposit have an associated fee to recover the cost of those permits' administration.

Staff recommend the following changes to fees to ensure they are representative of costs of issuance of permits and to provide funding for additional resources to ensure consistent permit processing times year-round and to implement the improved services and the new process in Development Review to consider the impacts of construction in the ROW. Through Phase 2, the following application fees were reviewed:

- Road cut permit application fee,
- Temporary construction encroachment application fee,
- Temporary road closures application fee, and

- The ROW damage deposit administration fee.”

Additional required resources were identified as part of this review, as well. With respect to development this review also aligns with the City’s User Fees and Charges Policy (2019). This policy requires that the charging of user fees that do not benefit the City must be cost-recoverable from those using the service. As such, a thorough examination of the fees was necessary to ensure full cost recovery with respect to staff time for processing permits.

The recommended fees in conjunction with the FTE positions are intended to provide sufficient staff resources to maintain consistent permit processing times as well as to implement the process change to analyze impacts to the ROW during construction from development review applications, all while recovering the cost through permit processing fees. The recommended fees, as well as the current fees are set out in the following table.

Table 2 - Current and Proposed Fees		
Fee Type	Current	Proposed
Road Cut Permit Application fee	\$476.00 - (for 10 street segments)	\$236.00 per street segment
Temporary Construction Encroachment Permit Application Fee – Simple	\$68.00	\$85.00
Temporary Construction Encroachment Permit Application Fee– Complex	\$68.00	\$855.00
ROW Damage Deposit (Administration Fee)	N/A	\$110.00
Temporary Road Closure (Application Fee)	N/A	\$1090.00

The fees shown above include a Land Management System (LMS) surcharge to help fund the implementation of LMS. This surcharge would fund the LMS capital costs. LMS is an administration software application that would help replace the City's existing MAP application. MAP is the software used in the Planning, Infrastructure, and Economic Development department for e-processing of applications tied to geospatial data. This application is antiquated and inefficient and is slated for replacement by the new LMS system. This replacement will be a transformational project for PIED by making all departmental applications and payments run more efficiently through the LMS system.

Changes to Road Cut Application Fee Structure

The current permit application fee covers up to 10 street segments, a street segment being defined as an area from intersection to intersection or per building foundation. After review, staff recommend changing the road cut permit fee to \$236.00 per street segment or building foundation. This updated fee will build in the inspection costs in a more streamlined fee that scales up with the amount of work requested. Previously, whether an applicant requested a permit for one street segment or 10, the processing fee would be the same. The proposed fee, which instead charges per street segment, will better reflect the work required to process additional street segments.

Elimination of Winter Inspection Fee

Staff recommend eliminating the Winter Inspection Fee. This Fee is an antiquated fee that is charged to cover the need for increased inspection for temporary reinstatements from November to April.

Elimination of Road Cut Renewal Fee

Staff recommend eliminating the Road Cut Renewal Fee (\$168.00). Road Cut Permit holders have 60 days from receipt of the permit to begin work. If the work applied for in the permit has not started within this period, the permit expires. Currently, applicants can apply for a lower fee to renew a road cut permit to restart work after their initial permit has lapsed. Staff recommend charging the full road cut permit fee owing to the effort that is required to process these permits again. The analysis required by staff requires the same level of effort owing to shifting traffic conditions, therefore the fee should be the same as if the applicant was seeking a new permit.

Introduction of ROW Damage Deposit Administrative Fee

The ROW Damage Deposit was introduced in 2019. Currently, there is no fee associated with the handling and retention of this damage deposit or the inspection required to determine whether the deposit can be returned to the permit holder. Through observation of the administration of this process over the past two years, a need was identified to capture the costs associated with inspections done to assess whether the deposit can be released and tracking the damage deposit fee over an interval of time that could last years. Consequently, a forfeiture fee is proposed, which would be set at \$110.00.

Additionally, it was identified that there was a need to create an incentive for permit holders to request and complete their inspection so that the deposit could be released on a timely basis. A four-year forfeiture period is proposed to be introduced to ensure that fees are requested to be returned in a timely manner and to keep costs associated with administration reasonable. This forfeiture period and administration fee for the ROW Damage Deposit was based on practices in Building Code Services. The By-law would also provide staff discretion to extend the forfeiture period in extenuating circumstances (ex: the development is delayed).

Introduction of Temporary Road Closure Application Fee

Previously, there was no application fee for approvals to temporarily close a road to facilitate construction, development, or work within the ROW. Processing a temporary road closure application requires significant staff time to review the site conditions, coordinate transit in the area to accommodate the closure, notify other City departments of the closure and inspect the site for compliance. Over the past four years, the City has processed, on average, 350 temporary road closures annually. To recover the costs incurred by the City in reviewing and processing requests for Temporary Road Closures and in accordance with the methodology explained above staff recommend a fee of \$1,090.00 as detailed above. Other fees associated with the temporary road closure such as road cut permit application fees or TCE associated fees would still apply. As a final note, this fee is not proposed to be applied to requests to close a road in association with filming or special events. The fee discussed above applies to temporary road closures to facilitate construction, development, or work within the ROW.

Changes to Temporary Construction Encroachment Application Fee Structure

Staff recommend changes to the TCE associated fee structure to better reflect the differences in work required to process different kinds of TCE permit requests.

Currently, the same TCE permit fee (\$68) applies to all TCE permit applications, even though there can be significant differences in complexity between the impact of the temporary encroachments.

Some simple, but common, TCE situations include residents needing to occupy the ROW for a short interval (e.g., a week) to facilitate a home renovation by placing a dumpster that encroaches into the ROW. Complex TCE situations can involve closing parts adjacent sidewalks, cycling facilities, and traffic lanes that require detours to accommodate construction for an interval of several weeks or months. The traffic impacts associated with the simple situation are distinct compared to the complex situation described, yet, the current TCE permit applies to both situations. Based on these differences between the required level of scrutiny and coordination between the simpler TCEs and more complex TCEs, staff recommend that TCEs should be split into two streams: simple and complex.

The data on TCE permits was analyzed to divide between the proposed simple and complex TCE permit streams. General TCE work was divided between 'simple' and 'complex' activity based on the length and impact of the work.

The Complex TCE type was categorized as work that took longer than 10 days, was a renewal of a TCE simple type, was associated with a development application or the construction of a new building or occurred on a road classified as collector or above.

The complex stream is for longer duration encroachments and is proposed to be \$855.00 per application due to the nature of complex TCEs, and the need for in-depth review and development of traffic conditions that are satisfactory to internal stakeholders and that external stakeholders have been informed about the impacts, the proposed fee is much higher. Coordination is required with internal and external stakeholders including Councillors, community and business associations, transit, truck routes and adjacent construction impacts. When space in the ROW is occupied by construction, the result is conflicts between different types of mobility, such as automobile, cycling, and pedestrian traffic, that requires additional coordination to accommodate. The complex stream would capture TCE requests associated with development.

The simple stream is intended for short duration projects with minimal impacts on the right of way that can be processed quickly and does not require significant coordination. The TCE Simple type was considered work that took 10 days or less and occurred on a local road. The fee is proposed to be \$85.00 per application.

Additionally, TCE permit holders will continue to be charged the occupancy fees based on the area of the encroachment. A review of the occupancy fees will be undertaken in a future By-law review and are not included as part of this report.

Methodology of the Fee Review

To arrive at the recommended fees staff undertook the following:

1. Staff determined the annual operating cost for each group, factoring in total compensation costs and non-compensation costs per position. Added to this and, in alignment with the User Fees and Charges policy, a full costing approach was applied.
2. Staff assessed the percentage of time spent by staff in each of the ROW Permit Office, Traffic Services, and ROW Inspections groups on the permits and approvals under review. This included staff from the ROW Permit Office (ROW Technical Clerks and Work Activity Coordinator), Traffic Services (Traffic Management Inspectors, Officers, Coordinators, and Technologists), and ROW Inspections Team (Junior Construction Technicians).
3. Based on the above, staff determined the annual costs for each group to administer each permit type.

A Municipal Best practices review was completed. However, it was discovered that it is difficult to compare the fees from other municipalities as they have different By-laws, ways of calculating fees and different requirements and business processes. A straight comparison was not available; therefore, the recommended fees are based on Ottawa's specific approach to permits for access to the roads and the required level of effort by staff to issue these permits.

To arrive at a per permit cost, historical data on permit volumes was collected and provided to inform the fee review. Permit information was obtained from 2017-2020 and averaged out, as shown in the table below. It should be noted that the data for 2020 was off trend with previous years owing to the pandemic's onset.

Table 3 – ROW Permit Office Permit Volumes					
Year	Road Cut Permits	Street Segments	Temporary Road closure Approvals	Temporary Construction Encroachment Permits	ROW Damage Deposit

2017	4872	13545	520	2692	N/A
2018	5433	13293	532	3113	N/A
2019	5106	14718	592	3249	147 ^[1]
2020	4178	10194	530	2971	270
Average	4770	12863	548	3018	269 ^[2]

Specifically, regarding Road Cut Permits, in addition to the number of permits issued, the number of street segments associated with these permits was reviewed. A street segment is a city block from intersection to intersection. Currently, owing to the software used to process Road Cut Permits, one permit is issued for work on up to 10 street segments. Therefore, under the existing model a Road Cut Permit for work on one street segment is subject to the same processing fee as a Road Cut Permit for work on 10 street segments. The level of effort increases with each street segment covered under a permit as staff need to review each street segment. Under our current permit which allows for up to 10 street segments, someone applying to do work on one street segment is effectively subsidizing the cost of someone applying to do work on 10 street segments.

It is recommended to move to a per street segment fee to better recover costs for the actual administrative effort required to process each request for a road cut.

FTE Requests

ROW Permit Office

Three new technical clerks are proposed to be added to the existing staff complement to help maintain the 10-working day standard. This will ensure that even in times of heavy volumes of applications, there is sufficient staff to process those applications.

ROW Inspections

ROW Inspectors are responsible for ensuring that the conditions related to construction, reinstatement, and warranties associated with Road Cut permits are fulfilled in accordance with the Road Activity By-law. To accommodate the volume of road cut

^[1] Data for 2019 for Damage Deposits begins includes Q3 and Q4 as it was only implemented in Q3, 2019.

^[2] Average is based on a pro-rated 2019 averaged with the complete data through Q1 and Q2 2021.

permits issued on an annual basis and to ensure that Right of Way Inspectors can oversee the construction activity related to Road Cut Permits and respond to the volumes for request for service associated with construction under Road Cut permits, two additional staff are recommended to be added. These include a Right of Way Inspector Supervisor and a Right of Way Clerk.

Traffic Services

Traffic Services provides the traffic conditions, intake, coordination, capacity analysis, communication, and problem solving for existing road cut, road closure, and temporary construction encroachment permits and other permits that require traffic analysis. The proposed Constructability process will also require significant traffic analysis, coordination, and administration from this group. In order to support the 10-day standard for Road Cut/Closure permits, one position has been identified in Traffic Management to ensure continuity with the existing standard.

Additionally, with the introduction of the new Development Constructability Process, Traffic Services will be providing consultation on Site Plan applications for Subdivisions and Site Plan Control applications. Significant numbers of applications will be required for review by this process change. Averaged over the last decade, there are 191.8 Site Plan control applications per year and 39.9 Plan of Subdivision applications per year (although, the trend since 2015 has been successive increases in subdivision applications year over year). This is approximately 225 applications annually, plus other Development Review files that may require analysis from Traffic Services. These files will require input on with varying levels of impact and stakeholder consultation required. Traffic Services will lead the applications through the construction transportation impacts and associated problem solving and stakeholder and political communications. This is approximately 225 applications annually, plus other Development Review files that may require analysis from Traffic Services. These files will require input on with varying levels of impact and stakeholder consultation required. Traffic Services will lead the applications through the construction transportation impacts and associated problem solving and stakeholder and political communications. In addition, Traffic Services will consult with the Ward Councillor when conditions require it. Two positions have been identified to manage this new process for the entire City in this application review. Without approving the proposed FTE positions, staff cannot implement the new process to review impacts of construction in the ROW as part of the Development Review process.

Financial Services

Changes to fees, implementing new fee types, and new financial measures like the four-year forfeiture period for the ROW Damage Deposit, will increase demand for staff resources from the Financial Services Unit. Two new Coordinators are requested to apply financial controls to money collected through the ROW permit office as well as to process and track payments collected for these permits.

Recommendation 3 - Pavement Degradation Fees (PDFs)

Pavement Degradation Fees ("PDF") are calculated based on a rate relative to the age of the pavement and the size of the trench. This fee is charged to provide a level of compensation for the accelerated decline in the life of the road as a result of the cut. These cuts also affect the rideability of the road surface and impose additional maintenance costs to the City.

The PDF aims to recover the costs those cuts impose on the roads relative to how recently the road was resurfaced or constructed. The more recently a road was created or resurfaced, the greater projected costs to the City based on the cut's effect on reducing the lifespan of that road. In addition, the more recently a road was paved, the longer time it will be before the road is resurfaced.

PDF fees scale down as the road ages, reflecting that older roads will be replaced earlier and the associated projected costs of maintaining that road are lower than they would be for cuts into more recently paved or resurfaced roads.

The fees themselves are based on per square metre rates linked to the age of the roadway pavement. Current PDF rates are as follows:

Table 4 – PDF Fees – 2021 Rates	
Pavement Age (years)	2021 Pavement Degradation Fee Rates (per metre squared)
2 years or <	\$38.80
>2 to 4	\$32.35
>4 to 7	\$26.00
>7 to 10	\$16.25

10 or more	\$6.45
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KPMG was hired to review the City's PDF methodology and structure and compared it to other municipalities in Canada with similar PDF fee models, which included: Calgary, Montreal, Toronto, and Vancouver. These cities charged fees based on the road class (e.g., local, collector, and arterial), and the road's age.

KPMG based their recommended PDF calculation on the City of Toronto's, which was intended to isolate the loss of serviceability of the roadway due to the cut. Isolating the loss of serviceability was achieved by comparing the rate of loss of Pavement Quality Index (PQI) of similar road segments with and without cuts. The PDF is calculated by assessing the long-term costs associated with the cut. These costs are divided into two categories:

- a) The Cost of Serviceability Loss, which is the cost associated with the overall reduction in lifetime value of the road, defined as the cost of construction multiplied by the percent loss of serviceability, and
- b) The Cost of Additional Maintenance: Additional maintenance work required to address pavement deficiencies around the cut, such as crack sealing, patching, and pothole repair. This secondary cost represents about 30 per cent of the road maintenance costs.

Using data from the City's databases and departments, KPMG analyzed 806 individual road segments with over 2000 PQI readings over defined periods of time between construction and rehabilitation. Of the 806 entries, 564 had no cuts recorded, while 242 road segments had been cut. This information was analyzed and yielded three observations about road quality;

- a) Road Degradation Behaviour: KPMG's analysis shows that, on average, the rate of degradation is consistent.
- b) Rate of Degradation for Roads without Cuts: Through applying linear regression to the average trend of PQI over time, an uncut road loses 1.36 PQI points per year
- c) Rate of Degradation After a Cut: Applying the same analysis from Roads without cuts to roads with cuts, KPMG determined that the rate of degradation caused by cuts increases by an average of 20 per cent.

Using this analysis, KPMG found that the amount of loss of serviceability depends on when the cut is made and in what kind of road the cut was made into. The earlier in the life of a road it has been cut into, the larger impact to overall serviceability. The more traffic a road receives, (e.g., Arterial), the more the road degrades.

Averaging local, collector, and arterial roads together, KPMG found an average increased serviceability loss of 17 per cent for a road cut the year it was paved, with the average increased serviceability loss of a 25-year-old road being approximately five per cent.

The other half of KPMG's equation related to the City's construction costs for constructing the three classes of roads. KPMG estimated the unit costs for each class of road, added an inflationary factor of 2.3 per cent to bring the figures up to their dollar values in 2020 from 2018, and added a 15 per cent surcharge for internal overhead, contingency, and indirect costs, which is aligned with standard industry practices.

These calculations were compared against the actual construction costs of several City projects and was determined to be representatives of those costs.

Taking the loss of serviceability percentage and multiplying it against the construction costs estimates for each road class, KPMG recommended a PDF fee for all road types based on a road age classification of six intervals ranging from less than three years to over 20 years. A blended fee applying to all road types was recommended for ease of administrative efficiency.

Table 5 - Proposed PDF Fees

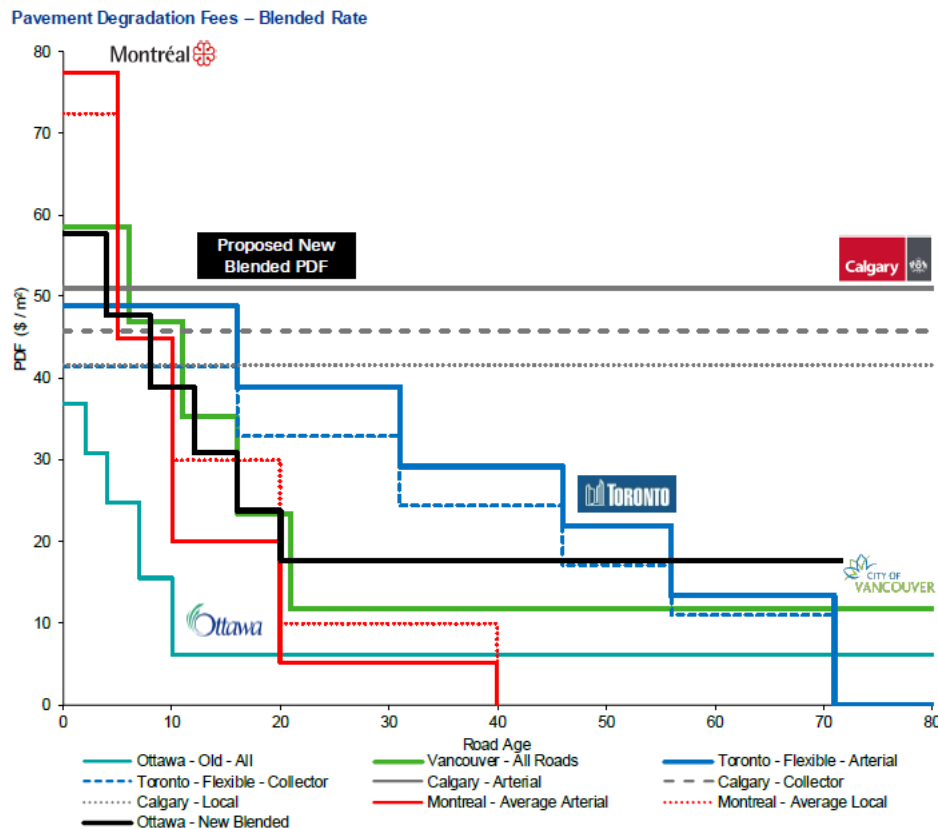
Pavement Age (years)	Proposed Pavement Degradation Fee Rates (per metre squared)
Up to 3 years	\$59.00
>3 years to <5 years	\$52.65
>5 to <10 years	\$44.40
>10 years to <15 years	\$33.80
>15 years to 20 years	\$24.60

>20 years	\$16.90
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The proposed fee structure would both increase the rate per square metre and revise the categories of road age. The current PDF fees include five road age classifications from less than two years since a road was last repaved or built to greater than 10 years. The proposed PDF fee structure would include six age classifications ranging from less than three years since a road was last repaved or constructed to roads that were last repaved more than 20 years ago. This change in road age classifications for PDF calculations would stretch out the decline in PDF fees per square metre over a longer period of time.

For comparison with other Canadian municipalities, see the chart below. Previously, the City of Ottawa rates were the lowest of the comparator municipalities in Canada as shown by the solid teal line below. If the proposed increase to the Pavement Degradation Fees is approved, it will put the City in the middle of the surveyed municipalities as shown by the black line below.

Table 6



The Road Activity By-law contains exemptions from having to pay the PDF in situations enumerated in the By-law. These exemptions include road cuts which do not affect the roadway pavement, municipal works whose prime purpose is provision of pavement or its preservation, the provision of a new pavement structure meeting criteria specified in the by-law, works on highways scheduled to be resurfaced in the same calendar year following the cut into the road, the relocation of equipment to accommodate the City's use of the ROW, or road cut repair work done pursuant to the Road Activity By-law's warranty requirements.

These exemptions were reviewed to determine if they needed to be updated as well in keeping with municipal best practices. After review, staff recommend replacing the exemption for "works done by or on behalf of the City including development, whose purpose is the provision of pavement or its preservation" with two new exemptions which would instead be:

- i) Works done by or on behalf of the Municipality are exempt and
- ii) Resurfacing works are exempt.

Replacing this exemption with the two new exemptions will clarify what work in the ROW is not subject to the PDF fee. Regarding the exemption for works done by or on behalf of the Municipality, this exemption was added during the Housekeeping report passed in 2020 and it was intended that during Phase 2 of the review, it would be examined whether this exemption should continue. City works will continue to be exempted on the basis that the costs to the City will be neutral for works done by or on behalf of the City and for administrative efficiency. PDF being exempt for resurfacing works refers to the PDF fee being applied to the surface area of the trench into the City road, not the size of the patch required by the City's resurfacing policy which may be larger than the area of the cut. This area being exempt from the PDF calculation is intended to build fairness into the regulation as the resurfacing requirement is in addition to the PDF fee for permit holders with its own costs.

Recommendations 4 and 5 – Amendments to Road Activity By-law and Encroachment By-law

The following describes the recommended amendments to the Road Activity By-law and the Encroachment By-law. All of the proposed amendments are set out in Document 2 of this report.

Temporary Construction Encroachments (TCE) – New Permit Structure

In the second phase of the Road Activity By-Law review, TCE administration and regulations associated with TCE permits was reviewed and the existing TCE permit type was recommended to be replaced with the simple and complex permit types described above.

Clarification of Authority to Impose Conditions on TCE Permit

Current staff authority to impose conditions on TCE permits requires clarification. Additionally, in situations where the proposed work within the ROW requires the stipulation of conditions and representations from an applicant that cannot be adequately captured through a permit, the by-law does not currently provide a vehicle to accommodate this. A specific example of this is in the context of cranes proposed to swing over the ROW, where the liability, risk and conditions associated with the activity may be best captured through an agreement. To ensure staff have clear authority and the tools necessary to set conditions on TCE permits and possibly require permit applicants to enter into agreements, staff recommend the inclusion of express language authorizing staff to impose such permit conditions or enter into such agreements as staff consider necessary to provide for the continued safe and efficient occupation and operation of the ROW.

With this express authority, staff will also be able to impose conditions related to matters such as appropriate lighting, visibility and cleanliness within walkthrough scaffolding, aesthetic conditions for hoarding areas, and as noted above, crane swings over the ROW.

To complement this express authority, as well as to educate and set expectations with permit applicants, staff are developing educational materials to explain the City's expectations around the occupation of the ROW and remind permit holders of other obligations such as those under Provincial Law related to Occupational Health and Safety.

Migration of TCE Requirements from Encroachments By-law to Road Activity By-law

The Road Activity By-law Review Phase 1 updated insurance, notification and enforcement provisions for road cut permits. Changes to enforcement provisions for road cuts provided new tools to staff to enforce the by-law's requirements and hold permit holders accountable for their work in the road. That report implemented additional authority for staff to issue, modify, suspend, revoke, and refuse permits as a means to promote compliance with the by-law. In addition to this authority, staff received authority to issue stop work and corrective orders as well as authority to

require production of documentation as part of an inspection. As both Road Cut Permits and TCE deal with the regulation of work within the ROW, and as there is a need to update these same matters in relation to TCE, staff recommend migrating the regulation of TCE from the Encroachment By-law to the Road Activity By-law. With this migration, and where appropriate as between the proposed simple and complex TCE permit streams, these permit streams will also be subject to the insurance, notification and enforcement requirements that came into effect for Road Cut Permits in July of 2019.

Insurance

Currently under the Encroachment By-law only aerial encroachments for the swinging of a tower crane over the ROW require the applicant to carry insurance coverage of at least \$2 million per occurrence. Otherwise, no insurance is required as part of occupying the City's ROW. As part of the updates to the Road Activity By-law in Phase 1, a review of the necessary insurance coverage held by persons working within the City's ROW was conducted, and the by-law subsequently amended to require coverage of at least \$5 million per occurrence. As part of migrating TCE regulation over to the Road Activity By-law, staff recommend that requests for complex TCE also be subject to this requirement, aligning insurance requirements for substantive work within the ROW, while not requiring insurance coverage for simple requests, such as those associated with small residential projects.

Notification

Public and City requirements underwent an extensive overhaul through the first phase of the Road Activity By-law review. As a result, work within the ROW anticipated to have a greater impact on the surrounding community now requires more extensive public notification. Work that requires the temporary closure of a road, the rerouting of buses, the closure of a sidewalk with a detour, or is anticipated to last more than seven days requires a minimum of 10 working days notice to occupants beside and near the work. In these instances, notification must also be provided to the Ward Councillor. All other instances require two working days notice to occupants beside and near the work. It is recommended that these same requirements apply for complex TCE permits.

Enforcement

To ensure staff have the tools necessary to adequately enforce the regulation of TCE permits and associated work, it is recommended that staff have available the full suite of enforcement tools currently applicable to Road Cut Permits for both simple and complex TCE permits as well. By migrating the regulation of TCE into the Road Activity By-law,

staff will also be able to apply similar offences, such as undertaking work without a permit, for both Road Cut and TCE permits.

Finally, where permit holders or persons working within the ROW fail to comply within the timelines provided, and staff must take measures to protect the City's infrastructure and the public, staff will have available to them clear authority to recover associated expenses through the same measures available in the context of road cuts. If approved, this would allow expenses to be collected through means including but not limited to the addition of such expenses to the tax roll of the benefiting property.

Lastly, amendments to the Road Activity By-law are also proposed to capture the new fee structure as well as forfeiture period for the ROW Damage Deposit described earlier in this report.

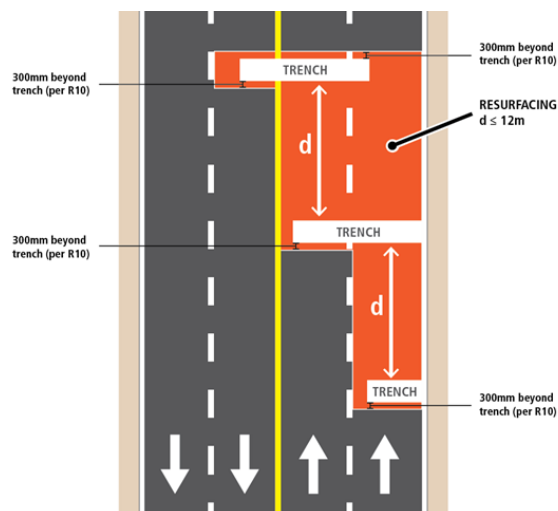
Expanded criteria for the Resurfacing of Road Cuts

The Road Activity By-law provides authority to staff to require a broader resurfacing of a road cut made within the asphalt roadway (i.e., a resurfacing of the top 40 millimetres of asphalt surrounding the area of a cut) where considered necessary. The By-law provides no direction on how this authority is to be exercised.

It should be noted that the requirements for compaction and restoration of a road cut are set out within the By-law and require reinstatement in accordance with trench reinstatement detail contained within the City's Standard Tender Documents for Unit Price Contracts, known as "R10". A copy of this standard detail drawing is contained within Document 5. It is this standard that applies to the reinstatement of all cuts made into the asphalt roadway and requires that the asphalt 300 millimetres beyond the edge of the trench or excavation be resurfaced.

As part of the first phase of the Road Activity By-law review, to address the multitude of cuts associated with servicing development, staff established criteria as to when a broader resurfacing would be required beyond the limits imposed by the R10 standard in the context of development. Specifically, where three or more cuts within the roadway asphalt are to be made to facilitate the servicing of a development, all such cuts within 12 metres of each other, as well as the intervening asphalt, must be resurfaced. The limits of this resurfacing along the width of the roadway were to the lane, centerline, or curbline nearest the particular trench. How far this resurfacing extended along the length of the roadway continued to be governed by R10, being 300 millimetres. These resurfacing limits are demonstrated below:

Table 7 - Resurfacing for Development



The purpose of these broader resurfacing criteria was to improve the surface rideability of perpendicular cuts associated with development. It was identified at that time that further work would be done through the second phase of the By-law's review to begin developing consistent resurfacing criteria for single cuts, or for cuts that run parallel to the roadway. These cuts are generally associated with work done outside the context of development, such as by utilities or the City itself.

This report details the criteria that staff will be implementing as of January 1, 2022 along with the other changes herein set out to further identify when the broader resurfacing of a road cut will be required.

As these criteria will apply to gas, electric and telecommunication companies, consideration needed to be given as to the extent to which the City can require a broader resurfacing of work done by these utilities, relative to the reinstatement requirements set out in Provincial legislation and negotiated agreements. Specifically, the *Electricity Act* limits the responsibility of electricity providers to repairing damage caused through the installation of their equipment. Similarly, the City's Franchise Agreement with Enbridge, and various Municipal Access Agreements with telecommunication providers fall under the oversight of the Ontario Energy Board and Canadian Radio-television and Telecommunication Commission respectively and set out the agreed upon reinstatement requirements for each utility. These agreements generally hold the other party to reinstate damage caused.

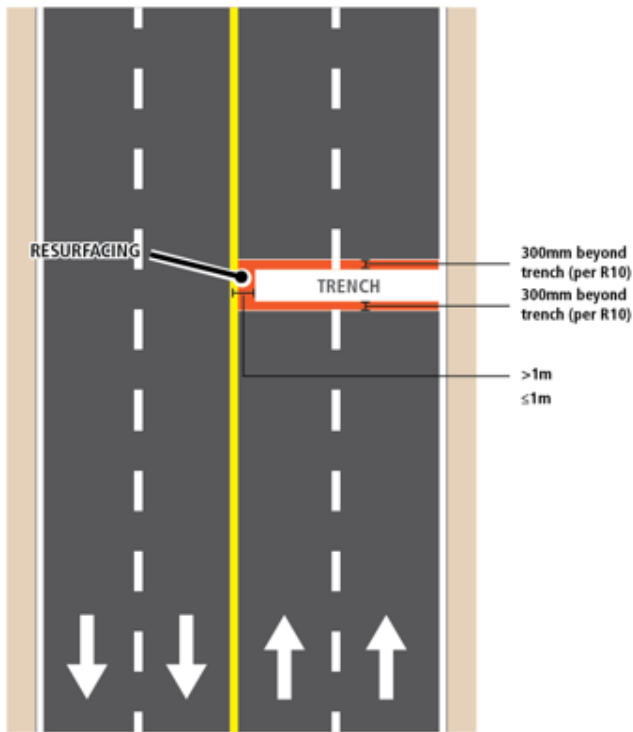
As a result, staff have developed criteria that represent a defensible requirement to provide a broader resurfacing in the context of cuts into the City's more recently

constructed or resurfaced roadways. These criteria are described in detail below and are meant to represent a starting point for holding utility companies to a fair and defensible requirement to provide more extensive resurfacings for these roadways, as utilities are already coordinating with staff to ensure planned works are not undertaken within the first few years a road is constructed or resurfaced. Over time, and as agreements are renegotiated, the City will work to expand the proposed resurfacing criteria to provide broader reinstatement in older roadways.

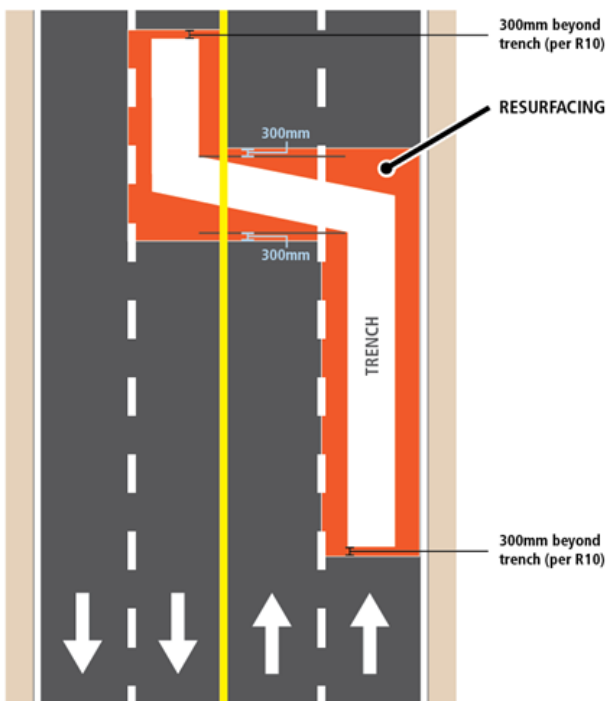
Cutting into newly resurfaced roads is restricted to promote the coordination of utility infrastructure placement with the City's Capital resurfacing and reconstruction projects. The goal is to minimize the disruption to the public and help to maintain the roadway's integrity. Cuts into recently paved roads also carry increased impacts as such roads are not scheduled for replacement for longer periods of time and will suffer from decreased rideability for longer. There are some exceptions to the restrictions to cutting into newly paved roads, such as for emergency work.

To offset the impacts associated with cuts into recently paved roads, defined as roads paved or resurfaced in the last three years, staff recommend requiring resurfacing requirements that exceed the R10 standards. Broader requirements include:

- 1) Resurfacing must always be brought to the nearest lane, centreline, or curb line, and



2) Longitudinal and diagonal cuts through multiple lanes of traffic to be squared off.



Additionally, a new requirement applicable regardless of the road's age, is for all cuts within one (1) metre of the curb to be resurfaced to the curb. Examples of these requirements are displayed in Document 4. Staff retain the discretion to provide additional directions for situations not described in Document 4.

These measures will improve the rideability of recently paved roads that have been cut into and set clear expectations for what resurfacing will be required for applicants for permits to cut into the City's road network.

Integrating Consideration of Impacts to the ROW in the Development Review Process

Road Cut (RC), Temporary Construction Encroachment (TCE) and Temporary Road Closure (TRC) applications are approved by staff under delegated authority. When these permit applications are associated with development, they are obtained following all other major approvals, including Planning and Building Code approval. Although the proposal for development will be with the City for several months to, for some application types, over a year, the analysis about impacts to the right of way and any associated RC, TCE or TRC permit requests during construction only occurs close to the process' end and usually immediately before construction is to commence.

This lack of consideration of ROW issues until construction has persisted for years. Addressing those requests at that late time in the process can delay construction for developers, complicate coordination issues for contractors, can be short notice for communities and Ward Councillors affected by long term impacts, and places considerable pressure on City staff to address the complex issues associated with RC, TCE and TRC permits in a compressed timeline. Additionally, no City staff currently oversees these construction issues from planning through construction for a development application.

In 2019. Motion 2019/17-13 was approved by Council to require concurrence with the Ward Councillor for applications associated with development to temporarily close a road for more than 20 days. This motion also directed staff to return with an appropriate process to ensure that community and Councillor concerns are addressed related to stress, environmental damage, productivity loss and detours of large volumes of traffic through neighbourhoods and past schools.

Accordingly, how a development is constructed, or what is called a project's 'constructability', with specific reference to its effects on the ROW during construction will be addressed through a new level of review for Site Plan Control and plan of

subdivision applications. This constructability review will aim to identify potential issues earlier in the development review process, provide an opportunity for earlier issue resolution, and raise awareness of potential interruptions to access to the ROW for applicants and stakeholders.

Constructability reviews of development applications will allow for several improvements with respect to managing impacts to the ROW during construction. By addressing issues with construction in the ROW during the development review phase, this will provide for early consideration of the impacts while approval for development is still under consideration instead of all of the analysis occurring right at the end of the process right before construction. This will allow for more time to determine creative solutions to facilitate construction while mitigating impacts to ROW facilities that may impeded pedestrian, cycling, or vehicular traffic. In addition, for files subject to the constructability analysis, the Traffic Services department will be able to assign the same Traffic Management Inspector to the same file from application through construction. Finally, this process will allow for earlier consultation with the Ward Councillor for site-specific issues to do with transportation that may be affected by construction of the development proposal. Ultimately, this process seeks to streamline construction by notifying industry and community stakeholders in advance of potential issues and begin working on them with the Ward Councillor sooner so that complex issues are dealt with proactively rather than at the end of the development process.

Changes to Site Plan Control

The Site Plan Control process will include a preliminary checklist that must be submitted with a complete application. In this checklist, the applicant must identify whether they foresee their development proposal requiring access to the ROW for construction. This checklist will be circulated to Traffic Services for review. Based on Traffic Services' review, parameters for use of the ROW during construction will be provided for inclusion in the delegated authority report and will be binding on the applicant. Throughout the Site Plan process, Traffic Services will engage the Ward Councillor's office while developing those conditions for input and comment. Building off these conditions, applicants for RC, TCE, and TRC as applicable will be required to provide a Construction Management Plan (CMP), which is a document that sets out in greater detail how and when construction in the ROW will occur. The CMP discussions post-approval must reflect the conditions related to the general parameters included in the Site Plan Agreement.

Changes to Plan of Subdivision

The process for plan of subdivision applications will be similar but with some differences in terms of when the detailed CMP will be requested. For plan of subdivision applications, a condition will be included to require a CMP as of either during the Detailed Design Phase or the Early Servicing Phase. When either of those phases begin, the Planning Services file lead will notify the applicant and Traffic Services that this step has been reached and Traffic Services will reach out to the applicant to begin discussions on the CMP.

Implementation Date

The fee changes, regulatory changes, and FTE requests are recommended to be implemented on January 1, 2022, as well as the business processes described above. Making these changes for January 1, 2022 will ensure that new staff are trained and have some experience before the busy 2022 construction season begins in the Q2 2022. The new business processes require additional staff to be implemented, as these new processes will require additional work by staff, such as the process to review impacts to the ROW during development review.

RURAL IMPLICATIONS

The recommended amendments to the Road Activity By-law are of city-wide application, and therefore do have an impact on road cut permits and development in the rural areas.

However, based on an analysis of road cut permits issued between 2016 and 2018, approximately 14 per cent of road cut permits were issued on roads within the rural area (being Wards 5, 19, 20 and 21). Therefore, the impact is much less than within the urban areas of the city.

CONSULTATION

Ongoing consultation has been held with the industry throughout the project. Sessions in December of 2020 introduced the project and scope of phase two and the review to industry associations and consultation continued up until publication of the report.

Meetings were held with the Ottawa Construction Association (OCA), Utility Coordination Committee (UCC), Greater Ottawa Home Builders Association's Urban Infill Council (GOHBA), and the National Capital Heavy Construction Association (NCHCA). The Federation of Citizens' Associations of Ottawa was also notified of the review and invited to the meetings. These stakeholders represented a range of planning

and engineering consultants, contractors, utility company representatives and other stakeholders, all of whom have significant experience working in or using the ROW.

In Q2 and Q3, consultation increased as proposals had been prepared. A consultation plan was developed to ensure that affected stakeholders were aware of and provided opportunities to comment on the proposed measures of this review. This plan was developed to facilitate engagement despite the COVID-19 pandemic by relying on online communication tools for video meetings and e-mail.

These consultation measures were adopted with the formation of the Technical Advisory Committee (TAC), which consisted of representatives from the development, construction, and utility industries. Participation in these meetings continued to be solicited through the project website, through the right of way permit office email footers and through the industry associations that regularly meet with the City of Ottawa.

City staff structured the TAC sessions in an introductory meeting with five smaller focused group sessions to do a deeper dive on relevant topics with applicable stakeholders.

The subjects of the focus groups were the following:

- Overview of Road Activity By-law Review Phase 2 and Constructability (June 8, 2021)
- Road resurfacing policy (June 16, 2021)
- Constructability (June 22, 2021)
- Temporary construction related encroachments (June 29, 2021)
- Updated fee schedule, ROW Damage Deposit and Pavement Degradation Fees (July 12, 2021)

Discussion guides were provided in advance of these meetings to ensure the opportunity for written feedback in addition to the online focus group discussions.

During this period, staff also met with the individual industry associations to provide an overview of the proposed changes in the report. One-on-one meetings were offered upon request at the end of each meeting as an additional way to garner feedback from stakeholders.

Feedback from participants generally focussed on two areas

- Reducing processing times for permit applications to the ROW permit office was a major concern for stakeholders. Stakeholders consulted were generally in favour of raising fees if it meant reduced processing times for permits
- Request for all business process changes to be presented clearly and easily available so that stakeholders subject to new requirements can easily understand those requirements.

COMMENTS BY THE WARD COUNCILLORS

This is a city-wide report – not applicable

LEGAL IMPLICATIONS

There are no legal impediments to approving the recommendations as outlined in the report and receiving the report for information.

RISK MANAGEMENT IMPLICATIONS

The amendments proposed to the Road Activity By-law as well as the measures identified by staff and being undertaken pursuant to existing delegated authority are designed in part to mitigate the risks of work occurring in the City's Right of way.

ASSET MANAGEMENT IMPLICATIONS

The establishment of predictable criteria for when staff require the broader resurfacing of road cuts made by utilities to provide improved surface rideability. New pavement degradation fee structure will help offset cost of future pavement maintenance due to road cuts.

The recommendations documented in this report are consistent with the City's [Comprehensive Asset Management \(CAM\) Program](#) objectives. The implementation of the Comprehensive Asset Management program enables the City to effectively manage existing and new infrastructure to maximize benefits, reduce risk, and provide safe and reliable levels of service to community users. This is done in a socially, culturally, environmentally, and economically conscious manner.

FINANCIAL IMPLICATIONS

The proposed road activity fees described within the report and set out in Document 1 were developed to fund the associated direct and indirect costs. The estimated annual incremental revenue is \$2,200,000; including \$1,170,000 to fund the 10 full-time

equivalent (FTE) positions, \$710,000 to fund the associated corporate overhead costs and \$320,000 to fund the Land Management System (LMS) capital cost.

The estimated annual revenue from the proposed fee structure for pavement degradation fees described within the report and as set out in Document 2 is \$400,000. These revenues will be used towards the selective resurfacing program.

ACCESSIBILITY IMPACTS

The recommendations contained in this report, if approved, will have a positive impact on the accessibility and mobility of the City's community of people with disabilities. The proposed amendments to the by-law further embody the City's commitment and adherence to the requirements of the *Integrated Accessibility Standards Regulation 191/11* (IASR) of the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA). Specifically, the amendments adhere to and puts into practice section 80.48 Notice of temporary disruptions. This requirement states that the City must provide a notice of disruption to the public when their goods, services or facilities are temporarily unavailable. The notice of the disruption must include the reason for the disruption, its anticipated duration and a description of alternative facilities or services, if any, that are available. Furthermore, organizations like the city, must prepare a document setting out the parameters of the disruption, notify appropriate persons and post the information at a conspicuous place on premises owned or operated by the provider, by posting it on the provider's website, or by such other method as is reasonable in the circumstances. The by-law now sets-out the practice of distributing such notices and the minimum content of these notices which meets this AODA standard.

Section 2.11 of the City's Accessibility Design Standards (ADS) which outlines requirements to be met for accessibility during construction and applies when pedestrians will be affected by construction of new or redevelopment of existing City-owned or leased buildings, infrastructure and elements will also apply in these circumstances. The ADS are mandatory for all spaces and facilities owned, leased or operated by the City of Ottawa and apply to both new construction and rehabilitation projects. This includes construction within the right-of-way as well as City of Ottawa buildings, parks, pathways and other public spaces. The changes to the Bylaw and additional resources will ensure the ADS are met and that accessible pedestrian movement during construction is included in plans. The plan shall ensure that pedestrians with disabilities, as well as those with increased mobility needs (parents with strollers and/or young children, elderly pedestrians using canes, walkers, or

wheelchairs, etc.), shall be accommodated either through or around the construction site.

Accessibility Advisory Committee (AAC) members were provided with the link to the project website for information purposes. The AAC understands that the updating of this Bylaw will benefit seniors with reduced mobility and disabled persons in Ottawa by providing timely and appropriate notification of construction that will be happening in the right of way. This will improve accessibility and wayfinding during construction for all persons in Ottawa, and most importantly, for persons with disabilities and seniors. This change helps demonstrate how the City is meeting its obligations under the AODA and working to fulfill its promise of a disability-inclusive Ottawa by 2025.

ENVIRONMENTAL IMPLICATIONS

The proposed amendments to the Road Activity By-law will preserve

City roads and improve the condition of reinstatements, therefore there will be less interventions on city roads, saving in materials and GHG emissions.

TERM OF COUNCIL PRIORITIES

This project addresses the following Term of Council Priorities:

- Integrated Transportation
- Sustainable Infrastructure

SUPPORTING DOCUMENTATION

Document 1 Fee Schedule, Application Fees

Document 2 Fee Schedule, Pavement Degradation Fees

Document 3 Proposed Amendments to the Road Activity By-law and to the Encroachments By-law

Document 4 Constructability Preliminary Checklist – Site Plan Control

Document 5 Road Cut Resurfacing Graphics

Document 6 R10 Standard

Document 7 2019/17-13 Motion

DISPOSITION

Planning, Infrastructure and Economic Development Department to prepare the necessary implementing by-law for the Road Activity By-law 2003-445 and repeal the necessary sections of the Encroachment By-law 2003-446, as amended and forward to Legal Services.

Legal Services to place the implementing by-law on the Council agenda.