

Document 3 – Proposed Amendments to Road Activity By-law 2003-445 and Encroachment By-law 2003-446

The proposed changes to the City of Ottawa Road Activity By-law 2003-445 and Encroachment By-law 2003-446 are as follows:

1. By-law No. 2003-445 entitled “Road Activity By-law” is to be amended with provisions similar in effect to the following:

- a. Amend Section 1, Definitions, by adding the following definitions:

“application fee” means the fee for technical review and assessment of the permit application;”

“Complex Temporary Construction-Related Encroachment” means a permit to temporarily occupy any part of the right-of-way to facilitate construction that exceeds 10 working days, occurs on a road classified as collector or above, is associated with the construction of a new building, or is the renewal of a Simple Temporary Construction-Related Encroachment permit;”

“encroachment fee” means the fee that is based on the compensation rate for the occupied area;”

“permit” means either a Road Cut Permit or a Temporary Construction-related Encroachment permit;”

“Simple Temporary Construction-Related Encroachment” means a permit to temporarily occupy any part of the right-of-way that lasts up to 10 working days and occurs on a local road;”

“temporary aerial encroachment” means an encroachment, the lowest portion of which is at least two and one-half metres (2.5 m) above the elevation of the highway immediately below the encroachment and which,
a. is withdrawn for at least eight (8) hours in every twenty-four (24) hour period; or
b. is used only to facilitate the construction, repair, renovation, alteration, maintenance or demolition of a building;”

“temporary construction-related encroachment” means a complex temporary construction-related encroachment, a simple temporary construction-related encroachment, a temporary aerial encroachment, a

temporary sub-surface encroachment or a temporary surface encroachment;”

“temporary sub-surface encroachment” means an encroachment under the highway surface that is used to facilitate the construction, repair, renovation, alteration, maintenance or demolition of a building or is erected in order to comply with this or any other by-law and includes, but is not limited to, a tie back, rock anchor, or other type of support placed under the highway to support an excavation wall;”

“temporary surface encroachment” means an encroachment on the surface of a highway, all of which is less than two and one-half metres (2.5 m) above the elevation of the highway immediately below the encroachment, that is used,

- a. to facilitate the construction, repair, renovation, alteration, maintenance or demolition of a building, and includes, but is not limited to, vehicles, materials, equipment, covered sidewalks and hoarding;
- b. for parking a vehicle for the purpose of loading or unloading goods or merchandise at locations where loading and unloading is not permitted by the Traffic and Parking By-law of the City and includes material and equipment;

“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;”

- b. Amend Section 5 – Public Notification by adding the words “or Complex Temporary Construction-related Encroachment” after the words “Road Cut” every time it appears in subsections 5(1), 5(2), 5(4), 5(6), 5(8) and 5(9), and by adding the words “, Temporary Construction-related Encroachment,” after the words “Road Cut, Road Activity “ in subsection 5(7) and after the words “Road Cut” in subsection 5(12).
- c. Amend Section 6 - Insurance by adding the words “or Complex Temporary Construction-related Encroachment Permit” following the words “Every applicant for a road cut” in Section 6(1) and adding the words “or Complex

Temporary Construction-Related Encroachment” after the words “or issuance of a road cut permit” in Section 6(4).

- d. Amend Section 23 – Closure to traffic by adding the words “or Temporary Construction-related Encroachment” after the words “road cut” in Section 23(1).
- e. Provide a period of transition to deem that any Temporary Construction-related encroachment permit issued under the Encroachment By-law continue to be valid and in accordance with the conditions of the Encroachment By-law as it existed on December 31, 2021.
- f. Amend Section 30 by adding the words “or Temporary Construction-related Encroachment” after the words “Road Cut” in Section 30(1)(b), and 30(1)(c), and by adding the words “, Temporary Construction-related Encroachment” after the words “Road Cut” in Section 30(1)(e).
- g. Amend Section 34 – Indemnification by adding the words “or Temporary Construction-related Encroachment permit” after the words “road cut permit”.
- h. Renumber Sections 27-40 as Sections 37-49 and re-number all references to Sections 27-40 accordingly
- i. Insert a new section 27 with the following provisions:

27(1) Application for a temporary construction-related encroachment permit shall be made as prescribed by the General Manager and shall be accompanied by,

(a) a sketch or plan showing the location and dimensions of the encroachment, in accordance with the requirements of the General Manager;

(b) the non-refundable fees as outlined in Schedule “A” of this by-law; and

(c) an agreement to indemnify and save harmless the City from any and all claims, demands, causes of action, loss, costs or damages that the City may suffer, incur or be liable for, resulting from the performance of the applicant as set out in the by-law whether with or without negligence on the part of the applicant and the applicant’s employees, contractors and agents.

- j. Insert a new section 28 with the following provision “In deciding whether to grant a temporary construction-related encroachment permit, the General

Manager shall consider the effect of the proposed encroachment on the movement and safety of vehicles and pedestrians, any public service, the possible future uses of the highway, and any other factors deemed relevant in the circumstances and determine whether the permit is a Complex Temporary Construction-related encroachment or a Simple Temporary Construction-related encroachment.”

- k. Insert a new section 29 with the following provision “A temporary construction-related encroachment permit shall be granted for a period not exceeding three (3) months.”
- l. Insert a new section 30 with the following provision “A temporary construction-related encroachment permit may limit the existence of the encroachment to a part of the day only, to specified days or to times otherwise deemed appropriate in the circumstances by the General Manager.”
- m. Insert a new section 31 with the following provision “A temporary construction-related permit is not transferable.”
- n. Insert a new section 32 with the following provision “In issuing any temporary construction-related permit, the General Manager may set conditions on the permit or require the entering into agreements as necessary for matters including but not limited to protecting public safety, maintaining cleanliness of the right-of-way, and aesthetic considerations.”
- o. Insert a new section 33 with the following provision “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 on a permit.
- p. Insert a new section 34 with the following provision “The General Manager may suspend or revoke a Temporary Construction-related Encroachment 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 has been issued in error;
 - (d) the permit was issued on false, misleading, mistaken or incorrect information; or

(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.”

- q. Insert a new section 35 with the following provision “The General Manager may waive all or part of the encroachment permit fees in Schedule “A” of this by-law for registered charitable and non-profit organizations, such as the United Way and the Santa Clause Parade, where deemed appropriate by the City.
- r. Insert a new section 36 and add the following provisions: “Sections 27-35 do not apply to
 - (a) signs authorized by any City by-law;
 - (b) equipment, assets and infrastructure of the City or of an agency of the City or a public utility; and
 - (c) works and equipment of any person performing construction or maintenance operations on a City highway, to the extent that such works are lawfully authorized by any agreement with, or a by-law of the City;”
- s. Add any other provision from the Encroachment By-law 2003-446 relevant to the regulation and administration of Temporary Construction-related Encroachment permits to the Road Activity By-law 2003-445 not otherwise detailed in the above amendments.
- t. Amend Schedule “A” in accordance with Documents 1 and 2 of this report.

- 2. By-law No. 2003-446 entitled “Encroachment By-law” is to be amended with provisions similar in effect to the following:
 - a. In Section 1 – Definitions, delete the following: “temporary construction-related encroachment” means a temporary aerial encroachment, a temporary sub-surface encroachment, or a temporary surface encroachment.”;
 - b. In Section 3(1) add the words “ or the Road Activity By-law 2003-445” after the words “of this by-law”;
 - c. Repeal Sections 17-27; and

d. Renumber Sections 28-101 as Sections 17-90 and re-number all references to Sections 27-40 accordingly.

3. The proposed changes above are not to come into effect until January 1, 2022.