

Request for Decision

Consolidation of Road Fouling, Occupancy and Entrance By-laws

Presented To: Policy Committee

Presented: Wednesday, Mar 23,
2011

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2011

Type: Managers' Reports

Recommendation

That the Road Fouling By-law, the Road Occupancy By-law and the Private Entrance By-law be passed and that the User Fee By-law be amended to incorporate the necessary fees associated with these by-laws all in accordance with the report from the General Manager of Infrastructure Services dated February 2, 2011.

Finance Implications

If approved, the pavement degradation fees will be adjusted in the 2011 operating budget during budget deliberations.

BACKGROUND

A large number of by-laws from the former Sudbury area municipalities

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still exist which address various issues regarding municipal highways. The Road Fouling and Road Occupancy By-Laws typically address such topics as road fouling, use, maintenance and occupation of roads which also includes items such as roadside ditches and culverts under entrance ways. In some cases an area municipality has had a single by-law which addressed a number of topics. In other instances separate by-laws exist to deal with singular items. These by-laws are currently in effect within the boundaries of the former Sudbury area municipalities. Unfortunately, this has created a patchwork of inconsistent guidelines affecting City roads and made enforcement extremely difficult if at all possible.

In the process of developing new by-laws for the City of Greater Sudbury, staff have revisited the various former Sudbury area municipalities' by-laws in addition to reviewing by-laws of several other municipalities (Ottawa, Winnipeg, Toronto, Montreal, Mississauga, Brampton, North Bay, Pickering, London, Timmins, Sault Ste. Marie, etc.). Staff have also added in their understanding of current issues and concerns facing the City, based on the experiences since amalgamation.

It is proposed to deal with road related issues (other than Traffic and Parking matters) by way of three separate by-laws. All three of these by-laws essentially consolidate provisions in existing by-laws and standard operating procedures. The short titles of these by-laws are: Road Fouling By-Law, Road Occupancy By-Law and Private Entrance By-Law. Each of these by-laws is summarized below:

Road Fouling Bylaw	- Governs all aspects of road fouling associated with the entire road right of way
Road Occupancy Bylaw	- Road Closure Permits - Road Occupancy Permits - Sidewalk Café Permits - Non Refundable Pavement Degradation Fee
Private Entrance Bylaw	- Private Entrance Permits - Culvert Policy

Road Fouling By-Law

The full title of this by-law, "A By-Law to Regulate the Fouling, Obstruction, Use and Care of Highways within the City of Greater Sudbury" provides a summary of the issues dealt within the by-law. This by-law consolidates the prohibitions of former area by-laws that currently exist within the former Sudbury area municipalities and has been updated to address current issues, and to be consistent with a view of securing public safety uniformly across the City in the use of municipal highways.

The portion of the by-law dealing with fouling addresses the deposit of snow, waste, debris and such matters on the highway. The provisions of the bylaws in the former City of Sudbury requiring downtown businesses to address snow and ice on City streets and the obstruction of ditches along highways have been carried forward. Various forms of obstruction of the highway have been prohibited, where this interferes with the intended use of the highway. Examples of such obstructions include, but are not limited to, dumping soil / snow on to the roadway, breaking curbs, scarring the pavement with heavy equipment and obstructing sidewalks. Flexibility can be achieved for special circumstances through encroachment agreements where applicable, or by securing appropriate permits under the other roads by-laws. Actions which damage the sidewalks, boulevards or other parts of the highway continue to be prohibited. As is typical of our by-laws, provisions exist which allow the City to remedy defaults if necessary and recover all costs from property owners.

Road Occupancy By-Law

The full title of this by-law is, "A By-Law to Regulate Road Occupancy Including Road Activity, Road Cuts, Temporary Closures and Sidewalk Cafes". This by-law establishes a permit process to be followed where there is a request to occupy any part of a road. This may be necessary when a utility firm or contractor is installing utilities or service connections to private property within the road allowance whether or not a 'road cut' or cut to the pavement is required. Standards for conduct of the work and road reinstatement are carried forward from the existing by-laws. The new by-law does not address work tendered by the municipality, as this is dealt with in the contract process.

Moreover, the permit system will extend to authorizing the operation of a Sidewalk Café. This incorporates what is currently a 'stand alone' by-law governing Sidewalk Cafés. The by-law also addresses the permit

process for road closures for parades or other special purposes. These items are also governed under existing by-laws. While the new by-law sets standards addressing safety and traffic issues, the giving of notice, indemnity requirements, road restoration and the like, the permit system also provides flexibility to allow the municipality to set additional requirements as necessary based on each individual situation.

While much of the content of the by-law draws on and modifies existing by-laws, and reflects current practice there is one main area of change. Although an internal policy has existed for a "three (3) year no-cut policy" on new pavements, it is desirable to formalize this prohibition. Therefore, the new by-law requires Council approval before a permit can be issued to allow a pavement cut to be made to a road where there has been road construction, reconstruction or resurfacing in the past three (3) years.

It is further proposed that a new 'Pavement Degradation Fee' be created. This non refundable Pavement Degradation Fee is being sought for any pavement cuts or excavations that encroach onto the paved area of the road. The fee structure is derived from similar Pavement Degradation Fees utilized in other municipalities in the province. It reflects the fact that once the uniform integrity of the road structure has been disturbed, it reduces the service life of the roadway and therefore will require more maintenance. It is proposed that the Pavement Degradation Fee be accrued in an account that can be utilized to upgrade the road at a later date under an annual 'Shave and Pave' Program. The Pavement Degradation Fee will vary in accordance with the age of the pavement being cut. The older roadways with shorter remaining useful life will have a lower charge than newer roadways with long life expectancies.

The Auditor General recommended a similar approach in his report titled 'Audit for Roads - Miscellaneous Winter Maintenance' prepared in 2010. Following is an outline of the proposed Pavement Degradation Fee structure:

Pavement Age	2011 Pavement Degradation Fees (per square metre)
≤ 3 Years	\$30.60
> 3 to ≤5 Years	\$25.40
> 5 to ≤7 Years	\$20.40
> 7 to ≤ 10 Years	\$12.70
> 10 Years +	\$5.10

The Pavement Degradation Fee will have a budget impact on most Utility Firms such as Greater Sudbury Hydro Plus, Hydro One, Bell Canada, Vianet, Union Gas as well as some City departments, primarily Water/Wastewater Services. Based on a five (5) year average of pavement cuts, it is estimated that Water/Wastewater Services will need to pay an annual average Pavement Degradation Fee of \$80,000. Additional fees of \$10,000 is anticipated from Pavement Degradation Fees charged to external Utility Companies. Two separate notices regarding the pending Pavement Degradation Fees have been provided to all the locally operating Utility Companies and City Departments at the 2010 annual Utilities Coordination Meeting and by letter in September of 2010.

Private Entrance By-law

While the former area municipalities did not have by-laws in place to control the location and requirements for entrances from private property onto municipal roads, they did have unofficial processes in place to regulate this function. Formalization of this process has become an increasingly important issue. The proposed new by-law incorporates the existing Culvert Policy By-law (established in 2003) as well as existing provisions required for either new or altered private entrances.

In many instances, private entrances have been created without consultation with the City. This has led to broken barrier curbs, installation of extremely long culverts, installation of under sized culverts and positioning of entrances at blind spots to name a few. These types of incidents typically have led to poor drainage due to improperly installed and/or sized culverts, reduction in the life of curbs and roadways due to sawcutting and/or breaking of curbs, creation of water ponding due to altered road drainage and ice build-up during the winter months at ponding locations. Such actions have resulted in increased maintenance costs, undue duress to the travelling public and neighbours, as well as to create liability for both the municipality and the perpetrators. It is desirable to have a separate by-law that deals directly with the primary item, private entrances.

Managing the width, type, location, and number of entrances that each property is allowed is crucial to providing safety for the traveling public as well as the property owners. Sight lines, speed and alignment of the road, snow storage requirements and traffic interruptions will be taken into account when assessing an application under this new by-law. The private property owner requesting an entrance will receive a road occupancy permit at the same time that they apply for a private entrance permit. The system is streamlined in this way to make it

simpler for a private developer to acquire the necessary permits to proceed with the creation of new or modified entrances.

Summary

It is recommended that the Road Fouling By-law, the Road Occupancy By-law and the Private Entrance By-law be passed and that the User Fee By-law be amended to incorporate the necessary fees associated with these by-laws all in accordance with the attached report from the General Manager of Infrastructure Services dated February 2, 2011.