



Report to: General Committee

Date Report Authored: May 6, 2013

SUBJECT: Road Occupancy By-law
PREPARED BY: W. Wiles, Manager, By-law Enforcement & Licensing
P. Ingham, Director, Operations

RECOMMENDATION:

- 1) That the report entitled "Road Occupancy By-law" be received; and,
- 2) That the proposed Road Occupancy By-law included as Appendix "A" be enacted to regulate the use, alteration and occupancy of highways within the City of Markham; and,
- 3) That By-laws 191-89 (Fouling of Streets), 68-92 (Trees on Highways) 158-93 (Curb Cuts), and 2002-76 (Fees- Road Occupancy Section) be repealed; and,
- 4) That the Director of Operations be authorized to set future increases annually based on the change in the Consumer Price Index (Toronto All Items December-December) with such increases effective January 1 and rounded to the nearest half dollar; and further,
- 5) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to 1) obtain Council approval for the consolidation of all of the City's current by-laws regulating the use of "Highways" in Markham into a single by-law; and 2) obtain Council approval for the enactment of a new, single by-law regulating the use, alteration, and occupancy of "Highways" within Markham.

BACKGROUND:

Land owned by the City of Markham can be categorized into two categories: (1) "Highways"- which consist of all lands between the parallel and opposite property lines and includes the roadway, the curb, grass/hard surfaced boulevard areas and sidewalks and under which sewers and servicing is located; and (2) "Property"- which consists of all of the lands on which City buildings and facilities are built and also includes all lands within parks, open spaces, storm water ponds etc.

The proposed Road Occupancy By-law is a single by-law (see Appendix "A"), consolidating existing City regulations found in the following four by-laws into a single by-law:

1. By-law 191-89 (Fouling of Streets)
2. By-law 68-92 (Trees on Highways)
3. By-law 158-93 (Curb Cuts)

4. By-law 2002-76 (Fees-Road Occupancy Section)

The proposed Road Occupancy By-law incorporates updated legislative authorities and introduces new regulations for identified activities requiring regulation on City "Highways". The new By-law will provide a central repository of "Highway" regulations, making it easier for the public to understand the City's requirements and making enforcement easier and more efficient. The new By-law will also introduce new controls and safeguards for construction projects impacting City "Highways".

Staff are also in the process of drafting a new consolidated by-law for "Property". More specifically, staff will be bringing forward a new, single *Parks, Open Space and Public Facilities By-law* in the Fall of 2013.

OPTIONS/ DISCUSSION:

Need for a New By-law

Through the By-law Services Division's annual review of field operations and through discussions with other City Departments, the need to consolidate, change and improve Markham's existing regulations pertaining "Highways" was identified. For example, Field Staff reported that current regulations required a 30 day notice period before obstructions could be removed and Operations and Engineering advised of ongoing street obstructions and unregulated use of municipal boulevards by builders and contractors. In addition, changes to enabling legislation provide the City with enhanced enforcement powers, as long as the powers are enacted through a by-law.

Construction Activities within the Road Allowance

The City's Operations Department sets the guidelines for the use and permitted activities within the City's road allowances. The Operations Department has developed a new Public Road Allowance Policy RO2013-01 which sets out details of a permitting system that will be subordinate to the Road Occupancy By-law. The policy and associated permitting system will improve and streamline regulation of construction activities within the municipal right-of-way increasing protection of City infrastructure and ensuring the safe and efficient flow of vehicular and pedestrian traffic.

High density development projects with zero lot line setbacks have placed an increased demand on the public right-of-way. It is now common for developers to increase their building site area by requesting temporary encroachments onto public lands. A policy is required to ensure only necessary encroachments are allowed and that the time period lands are removed from public use is minimized.

A Road Occupancy By-law has been created to consolidate existing by-laws and policies pertaining to activities falling within the public right-of-way. The Road Occupancy By-law will provide enforcement capabilities for the consolidated policies. Construction Activities within the Public Road Allowance will be one of the policies under the umbrella of the Road Occupancy By-law.

Proposed By-law Highlights

The proposed Road Occupancy By-law adds general administrative/enforcement regulations were developed in conjunction with the Operations Department's new Public Road Allowance Policy, in consultation with internal stakeholders, and will allow for enhanced administrative and enforcement practices to be implemented immediately (see Table below).

TABLE OF NEW GENERAL ADMINISTRATIVE AND ENFORCEMENT REGULATIONS

Sec	Subject	Regulations
1	General Provisions	<ul style="list-style-type: none"> Provides comprehensive enforceable administrative regulations for construction activities on highways Prohibits: <ul style="list-style-type: none"> depositing material, waste, soil, snow and ice onto highway altering grades (without permit) parking of Construction Equipment curb cuts (without permit) stationary/ tower crane encroachment (without permit)
2	Use of a Boulevard	<ul style="list-style-type: none"> Restricts access across a boulevard Restricts driveways aprons to applicable zoning by-law
3	Boulevard Trees	<ul style="list-style-type: none"> Protection of City's boulevard trees
4	Boulevard Patios	<ul style="list-style-type: none"> Will allow the use of boulevards for patio/sitting areas with a permit Future amendment to implement detailed requirements
5	Publication Dispensing Devices	<ul style="list-style-type: none"> Will regulate the placement of newspaper boxes etc. on boulevards Future amendment to implement detailed requirements
6	Over Dimensional Vehicles	<ul style="list-style-type: none"> Will require a permit to permit the movement of a vehicle with an oversized load within the City. Over Dimensional Vehicles are defined in the <i>Highway Traffic Act</i> Future amendment to implement detailed requirements
7	Construction Activities impacting Public Road Allowance	<ul style="list-style-type: none"> Will require a permit for construction projects on private property and on Highways Permit will require applicant to provide a single mitigation plan for noise, dust, debris, parking etc. Future amendment to implement detailed requirements
8	Removal of Highway Obstruction	<ul style="list-style-type: none"> Will allow officers to order removal of any obstruction within a reasonable time period as determined by officer Costs for removal are chargeable to offender/ property owner
9	Removal of Hazardous Condition	<ul style="list-style-type: none"> Allows for immediate removal of obstructions Costs for removal are chargeable to offender/ property owner

In addition to new general/ administrative/enforcement regulations, the proposed Road Occupancy By-law will include new permit requirements for boulevard patios, construction services impacting the public road allowance, publication dispensing devices, over-dimensional vehicles, and applicable fees will be developed in consultation with the internal stakeholders.

Formal policy and procedure documents and subsequent By-Law amendments to address these new permit requirements are currently underway.

FINANCIAL CONSIDERATIONS AND TEMPLATE:

Schedule 'A' to the proposed By-law identifies a municipal service fee for each type of a Road Occupancy Permit. The purpose of the fee is to recover the City's cost of processing and administering the permits, site inspections and restoring damaged infrastructures. The 2013 budget includes revenues of \$100,000 from Road Occupancy Related Fees. The Operations Department had conducted a benchmark review for the permit fees and they are comparable to the other municipalities. The permit fees will be adjusted annually based on the change in the Consumer Price Index (Toronto All Items December- December) with such increases effective January 1 and rounded to the nearest half dollar.

HUMAN RESOURCES CONSIDERATIONS

Not Applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

Growth Management: Effective regulation and administration of new development

Environment: Enforceable regulations to protect the environment

Municipal Services: Optimizing service delivery for stakeholders and residents

BUSINESS UNITS CONSULTED AND AFFECTED:

Operations

Engineering

Legal

RECOMMENDED BY:

20/06/2013

6/20/2013

X



Paul Ingham
Director, Operations

X



Brenda Librecz
Commissioner, Community & Fire Services

20/06/2013

20/06/2013

X



Kimberley Kitteringham
City Clerk

X



Trinela Cane
Commissioner, Corporate Services

ATTACHMENTS:

[Attachment 'A'- Road Occupancy By-law](#)