

By-law 2016-164

**A By-law of the City of Greater Sudbury to Amend By-law 2011-218
being a By-law of the City of Greater Sudbury to Regulate Road Occupancy
Including Road Cuts, Temporary Closures and Sidewalk Cafes**

Whereas the Council of the City of Greater Sudbury deems it desirable to amend By-law 2011-218 being a By-law of the City of Greater Sudbury to Regulate Road Occupancy Including Road Cuts, Temporary Closures and Sidewalk Cafes in order to provide for certain additional fees;

Now therefore the Council of the City of Greater Sudbury hereby enacts as follows:

Replace Subsection 9(3)

1. By-law 2011-218 being a By-law of the City of Greater Sudbury to Regulate Road Occupancy Including Road Cuts, Temporary Closures and Sidewalk Cafes, as amended, is hereby further amended by repealing subsection 9(3) and enacting the following subsection 9(3) to 9(3.2) in its place and stead:

“9(3) In the event that the applicant is not satisfied with the General Manager’s decision the applicant shall be entitled to appeal the decision to the Hearing Committee by filing with the General Manager, a request in writing and paying an administrative fee determined in accordance with the City’s Miscellaneous User Fee By-law then in effect, failing which the decision of the General Manager is final.

(3.1) Upon receipt of the written request of the applicant, and payment of the applicable fee, the General Manager shall request the City Clerk to schedule a meeting of the Hearing Committee. Notice shall be given to the applicant of the day, time and place of the hearing.

(3.2) On the day and time set by the City Clerk or such other day and time as may be established from time to time by the City Clerk or by the Hearing Committee, the person appealing may present evidence and make submissions to the Hearing Committee regarding the matter under appeal. The Hearing Committee may proceed to consider the matter, whether or not the person appealing is in attendance.”

Enact Section 31.1

2. By-law 2011-218 being a By-law of the City of Greater Sudbury to Regulate Road Occupancy Including Road Cuts, Temporary Closures and Sidewalk Cafes, as amended, is hereby further amended by enacting the following section 31.1 immediately after section 31 and before section 32:

“Attendance Fee

31.1-(1) An enforcement attendance fee in an amount determined in accordance with the City’s Miscellaneous User Fee By-law then in effect shall be payable on a time spent basis:

- (a) for the second and each subsequent inspection conducted by a By-law Enforcement Officer to ascertain compliance with a notice, direction or order pursuant to this By-law, which is conducted after the specified date for compliance; and
- (b) in the event that a By-law Enforcement Officer attends any remediation directed by or conducted by the City, pursuant to this By-law as a result of a failure to comply with an order made pursuant to this By-law.

(2) Any fee under subsection (31.1) shall be payable:

- (a) in accordance with the provisions of the City’s Miscellaneous User Fee By-law then in effect; and
- (b) in addition to any fine levied upon conviction of an offence under this By-law, and whether or not there is a charge laid, and whether or not any charge laid leads to a conviction.”

Transition

3. Where a part of a by-law is repealed by this By-law, the repeal does not:
- (a) affect the previous operation of the part of the by-law so repealed;
 - (b) affect any right, privilege, obligation or liability acquired, accrued, accruing, or incurred under the part of the by-law so repealed; or
 - (c) affect any offence committed against any part of the by-law so repealed or any penalty or forfeiture or punishment incurred in respect thereof; or affect any investigation, legal proceeding or remedy in respect of such privilege, obligation, liability, penalty, forfeiture or punishment.

Effective

4. This By-law shall come into full force and effect upon passage.

Read and Passed in Open Council this 9th day of August, 2016



Mayor



Deputy
Clerk