

By-law 2014-97

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

Now therefore the Council of the City of Greater Sudbury Enacts as follows:

Replace Section 11.

1. Section 11. of 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City of Greater Sudbury to Regulate Road Occupancy Including Road Cuts, Temporary Closures and Sidewalk Cafes is hereby repealed and the following Section 11. enacted in its place and stead:

“PART 5 - ISSUANCE OF PERMIT

General Delegation of Authority

11.-(1)The General Manager is delegated the authority to:

- (a) establish such conditions for the issuance of a Permit as the General Manager determines to be necessary in the circumstances;
- (b) make all decisions or determinations required of the General Manager under this By-law; and
- (c) issue, refuse to issue, suspend or revoke a Permit as provided in this By-law.

(2) The General Manger may delegate the performance of any one or more of his or her functions under this By-law to one or more persons from time to time as occasion requires and may impose conditions upon such delegation and may revoke any such delegation.

(3) Without limiting the generality of Subsection 11(1)(a), the General Manager may as a condition of issuing a Road Occupancy Permit authorizing a road cut, impose any one or more of the follow requirements, where the General Manager in his or her discretion determines it to be appropriate in the circumstances:

- (a) that the Permit Holder secure at its expense and file with the General Manager a report from a testing laboratory satisfactory to the General Manager, showing the degree of compaction of the backfill prior to final reinstatement;
- (b) that the Permit Holder secure at its expense and file with the General Manager file a certificate from an engineer or from a testing laboratory satisfactory to the General Manager, certifying that the backfilling procedures have been performed in accordance with this By-law;
- (c) that the Permit Holder complete surface restoration over an area greater than the surface area affected by the road cut by applying at its expense a forty (40 mm) millimeter lift of hot mix HL3 asphalt; and

- (d) that the Permit Holder give notice to such persons as the General Manager may determine, and provide evidence that such notice was given.
- (4) In issuing a Permit, the General Manager may set out in the Permit, particulars of:
- (a) the location of the permitted road occupancy or road closure or box occupancy;
 - (b) the particulars of the permitted road occupancy or road closure or box occupancy;
 - (c) dates and times for the permitted road occupancy or road closure as the case may be;
 - (d) the expiry date of the Permit; and
 - (e) such conditions for the permitted road occupancy or road closure or box occupancy as may be determined by the General Manager to be appropriate in the circumstances.
- (5) The Permit is issued when it has been dated and signed by the General Manager.
- (6) Whether or not it is specified on the face of the Permit, every Permit or extension to a Permit is issued subject to the condition that the Permit Holder:
- (a) indemnify the City, its elected and non-elected officials, agents, servants and workmen from all causes of action, loss, costs or damages arising

from the execution, non-execution or imperfect execution of any work or activity authorized by this By-law or the Permit, whether with or without negligence on the part of the Permit Holder or the officers, agents, servants or workmen of the Permit Holder; and

- (b) place and maintain in good standing during the effective period of the Permit, a policy of comprehensive general liability insurance with an insurer licenced in Ontario;
 - (i) with limits of not less than Two Million (\$2,000,000) Dollars per occurrence for bodily injury, death and damage to property including loss of use thereof in the case of a Road Occupancy Permit for a sidewalk café and Five Million (\$5,000,000.00) Dollars in all other instances.;
 - (ii) which names the City of Greater Sudbury as an additional insured or as its interest appears; and
 - (iii) contains an endorsement to provide the City with thirty (30) days prior written notice of cancellation of the policy.”

Effective Date

- 2. This By-law shall come into force and effect upon passage.
- 3. By-law 2014-79 is hereby repealed.

Read and Passed in Open Council this 29th day of April, 2014

_____ "original signed" _____ Mayor

_____ "original signed" _____ Clerk