





**CITY OF HAMILTON**  
**PUBLIC WORKS**  
Engineering Services Division  
and  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
Licensing and By-Law Services Division

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	December 2, 2024
<b>SUBJECT/REPORT NO:</b>	Internal Infill Pilot Program to Address Activities on City Right-of-Way (PW24044(a)/PED24086(a)) (City Wide) <b>(Outstanding Business List Item)</b>
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Rob Merritt (905) 546-2424 Ext. 4969 Tamara Reid (905) 546-2424 Ext. 1969
<b>SUBMITTED BY:</b>	Jackie Kennedy Director, Engineering Services Public Works
<b>SIGNATURE:</b>	
<b>SUBMITTED BY:</b>	Monica Ciriello Director, Licensing and By-Law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the amending By-law, which amends By-law 15-091, being a By-law to regulate the Installation of Equipment on Roads By-law 15-091, within the City of Hamilton, attached as Appendix “A” to Report PW24044(a)/PED24086(a), which has been prepared in a form satisfactory to the City Solicitor, be approved;
  
- (b) That the amending By-law, which amends By-law 86-077, being a By-law to Consolidate: Streets By-law No. 9329 within the City of Hamilton, attached as Appendix “B” to Report PW24044(a)/PED24086(a) which has been prepared in a form satisfactory to the City Solicitor, be approved.

## **EXECUTIVE SUMMARY**

Council, at its meeting of July 12, 2024, directed Planning and Economic Development Department staff as follows:

- (a) That Licensing and By-Law Services staff be directed to consult with Legal Services and Engineering Services to develop amendments to the Installation of Equipment on Roads By-law 15-091 pertaining to the enforcement of permits issued for work within public Right-of-Way and to report back to the Public Works Committee by Q4 2024;
- (b) That Licensing and By-Law Services staff be directed to consult with Legal Services and Engineering Services to develop amendments to the Streets By-law 86-077 pertaining to the enforcement of permits issued for Right-of-Way occupancies, and to report back to the Public Works Committee by Q4 2024.

The amendments proposed in this report would apply to two by-laws that regulate activity on the Right-of-Way (“R.O.W.”). The amendments would expand the scope of these two by-laws, being By-law 15-091 and By-law 86-077, to protect pedestrians, motorists and cyclists when travelling on the Right-of-Way. They would also provide additional enforcement avenues to ensure activities carried out on the Right-of-Way follow the permit process where required to obtain and provide provisions for Licensing and By-Law Services to educate and enforce where necessary.

## **Alternatives for Consideration – See Page 4**

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The amendments proposed are expected to have a limited impact on current budget resources, based on current trends.

**Staffing:** No impacts.

**Legal:** Legal Services has been consulted on the proposed changes and has assisted with the drafting of by-law amendments.

## **HISTORICAL BACKGROUND**

At its meeting of September 9, 2015, Council approved Item 8.2 of Public Works Committee report 15-011, attached as Appendix “B” to Report PW24044/PED24086, Lane Closure Policy (PW13021(a)). This report approved a Temporary Lane Closure Policy which directed staff to implement the policy as of January 1, 2016, while allowing

any existing lane closures to be grandfathered until the expiry of the existing road occupancy permit or approved traffic management plan time period.

The Policy addressed safety related issues due to construction, the need to have timelines for lane and sidewalk closures with additional user fees where appropriate, and to set consequences if timelines were not met. The Policy ensured consistency for all types of road permits through coordination, approvals, and fees.

On April 1, 2021, an Internal Infill Pilot Program between Public Works, and Licensing and By-Law Services began with a term of one year, to end March 31, 2022. The program included funding from Public Works in the amount of \$100,000 for one full-time (1.0 FTE) Municipal Law Enforcement Officer to educate and enforce temporary road lane and sidewalk closures. The pilot was initiated to support Public Works with ongoing permit compliance issues, unauthorized use of the City's Right-of-Way and to ensure safe passage for all road users including cyclists, pedestrians, and motorists.

The program repeated in 2022 and in 2023, with a funding increase to \$120,000 from Public Works, as the program was determined a success in reducing disruptions to the community and increasing the safety of all Right-of-Way of way users alike.

At its meeting of July 12, 2024, Council approved Item 6.5 of Public Works Committee report 24-009, being recommendation report Internal Infill Pilot Program to Address Activities on City Right-of-Way (PW24044/PED24086) (City Wide) (Item 5), which made permanent the temporary pilot program to supporting Public Works with one full time employee Municipal Law Enforcement Officer to address ongoing permit compliance issues, unauthorized use of the City's Right-of-Way of way and ensuring safe passage of all road users. Throughout the pilot program the emphasis was for the Municipal Law Enforcement Officer to educate and enforce compliance of permits issued by Engineering Services.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

## **RELEVANT CONSULTATION**

In preparing this report and crafting the recommendations highlighted herein, the following internal divisions were consulted and agree with the recommendations:

- Planning and Economic Development Department, Licensing and By-Law Services Division
- Public Works, Engineering Services
- Legal and Risk Management Services, Corporate Services

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Temporary Right-of-Way occupancies are necessary to accommodate activities including but not limited to construction; construction equipment; filming; landscape material delivery; and; storage. Occupancies that are permitted without adherence to conditions and/or unpermitted occupancies present potential safety concerns for all road users including cyclists, pedestrians, and motorists.

Amending the by-laws is the final stage in supporting the work the Internal Infill Pilot Program has done to address activities within the Right-of-Way and permit compliance issues. The proposed amendments will ensure that the Municipal Law Enforcement Officer has the necessary authority to provide inspection and enforcement services in situations where non-compliance with the permit process threaten both City assets and the safety of all road users.

## **ALTERNATIVES FOR CONSIDERATION**

Alternative One: Amendments to By-law 15-091

Council may choose not to accept the amendments to By-law 15-091, Installation of Equipment on Roads, thereby limiting enforcement options to Public Works staff. The new amendments incorporate language that permits Municipal Law Enforcement Officers to assist with enforcement of unpermitted work within the City's Right-of-Way, within the parameters of the newly permanent Internal Infill Program.

Financial: N/A

Staffing: N/A

Legal: N/A

Alternative Two: Amendments to By-law 86-77

Council may choose not to accept the amendments to By-law 86-077, Streets By-law, thereby limiting enforcement options to what is contained within the by-law, which excludes enforcement for unpermitted activity within the City's Right of Way. Municipal Law Enforcement Officers attend for encumbrances with the Right of Way, and direct occupants to make application for a permit through Public Works.

Financial: N/A

Staffing: N/A

**SUBJECT: Internal Infill Pilot Program to Address Activities on City Right-of-Way  
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Legal: N/A

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PW24044(a)/PED24086(a): Proposed amendments to By-law  
15-091

Appendix "B" to Report PW24044(a)/PED24086(a): Proposed amendments to By-law  
86-077