

# THE CORPORATION OF THE CITY OF CAMBRIDGE

## BY-LAW 21-050

Being a by-law to regulate the use of, and the installations and erections on, highways, municipal road allowances and rights-of-way and public lands under the jurisdiction of The Corporation of the City of Cambridge and to repeal By-laws 165-08, 167-08, 168-08, 78-11, 31-04 and 17-126 (CORRIDOR BY-LAW)

**WHEREAS** subsection 11(2)(6) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (“the Act”), provides that a municipality may pass by-laws respecting the health, safety and well-being of persons;

**WHEREAS** subsection 11(2)(8) of the Act provides that a municipality may pass by-laws respecting the protection of persons and property;

**WHEREAS** subsection 30 of the Act provides that a highway is owned by the municipality that has jurisdiction over it subject to any rights reserved by a person who dedicated the highway or any interest in the land held by any other person;

**WHEREAS** subsection 27(1) of the Act grants a municipality the power to pass by-laws in respect of highways over which it has jurisdiction;

**WHEREAS** subsection 28(2) of the Act grants a municipality jurisdiction over all road allowances located in the municipality that were made by the Crown surveyors [subsection 28(2)(a)] and all road allowances, highways, streets and lanes shown on a registered plan of subdivision [subsection 28(2)(b)].

**WHEREAS** section 391(1) of the Municipal Act, 2001 states that section 11 authorizes a lower-tier municipality to impose fees or charges on persons for services or activities provided or done by the municipality;

**WHEREAS** section 429 of the Municipal Act, 2001 provides that a municipality may establish fines for offences under a by-law of the municipality;

**AND WHEREAS** section 446 of the Municipal Act, 2001 provides that a municipality may take remedial action and recover the costs of taking remedial action,

**NOW THEREFORE BE IT RESOLVED THAT** the Corporation of the City of Cambridge enacts as follows:

## **1.0 DEFINITIONS**

For the purpose of this by-law:

“Boulevard” means the City owned area of the road allowance between the back edge of the curb or the back slope of the ditch line and the private property line;

“City” or City of Cambridge” means the Corporation of the City of Cambridge or the geographic area as the context requires;

“Director” means the Director of Engineering or his/her designate;

“Highway” means a common and public highway and includes any bridge, trestle, viaduct, pathway, or other structure forming part of the highway, and except as otherwise provided, includes a portion of a highway;

“Inspector” means a Municipal Law Enforcement Officer, Provincial Offences Officer, Police Officer, Engineering Inspector or other duly appointed individual;

“Municipal Law Enforcement Officer” means a person appointed under the authority of the Police Services Act for the purpose of enforcing City by-laws.

“Parks” means all lands owned or operated by or belonging to the City or other public body such as school boards or conservation authority which may be designated as Open Space or Environmental Protection Area and used by the public for active or passive recreational use including sporting activities and games, or as gathering places such as urban squares, or which may be left in their natural state for environmental reasons;

“Pathway” means the parts of a Highway set aside by the City for the use of pedestrians and cyclists;

“Person” includes a person, association, firm, sole proprietorship, partnership, limited partnership, joint venture, trust, organization, trustee or corporation (with the exception of the Corporation of the City of Cambridge);

“Region” means the Regional Municipality of Waterloo;

“Right-of-Way” means Highways and laneways, including the Roadway, curbs, Sidewalks, Shoulders and Boulevards, under the care and control of the City of Cambridge;

“Road” means a common and public highway and includes any bridge, trestle, viaduct, pathway, or other structure forming part of the highway, and except as otherwise provided, includes a portion of a highway;

“Roadway” means the part of a Highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the curb, Shoulder or Boulevard;

“Shoulder” means that part of a Highway immediately adjacent to the Roadway and having a surface, which has been improved for the use of vehicles with asphalt, concrete or gravel;

“Sidewalk” means that portion of the highway that is intended for the use of pedestrians and which surface is finished with concrete or asphalt;

“Vehicle” includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a street car;

“Utilities” includes infrastructure such as cables, pipelines or structures that are owned and maintained by the City, Region, a municipality or other utility entities

## **2.0 AUTHORITY**

**2.1** No person shall use, or place installations or erections on, highways, municipal road allowances, rights-of-way or public lands under the jurisdiction of City except in accordance with the provisions of this By-law.

**2.2** Schedules A to H attached to this by-law form part of this by-law.

- a) Schedule A: Fouling of Highways;
- b) Schedule B: Boulevards;
- c) Schedule C: Snow Removal from Sidewalks
- d) Schedule D: Sidewalk/Boulevard Patios
- e) Schedule E: Publication Distribution Boxes

- f) Schedule F: Controlled-Access Roads
- g) Schedule G: Encroachments
- h) Schedule H: Highway Occupancy Permits

### **3.0 PENALTIES**

- 3.1** Any person who contravenes any provision of this by-law is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not exceed \$250 and a maximum fine shall not exceed \$25,000, exclusive of costs and the provisions of the Provincial Offences Act, R.S.O 1990, c P.33, as amended.
- 3.2** Any director or officer of a corporation who knowingly concurs who knowingly concurs in the contraventions by the Corporation, is guilty of an offence and liable on conviction to a penalty where the minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$50,000 exclusive of costs under the provisions of the Municipal Act 2001, S.O. 2001, c. 25 as amended.
- 3.3** A person convicted of an offence under this by-law is liable:
- a) not less than \$250 and not more than \$10,000 on first conviction, and,
  - b) not less than \$1000 and not more than \$25,000 on each subsequent conviction.
- 3.4** A corporation convicted of an offence under this by-law is liable:
- a) not less than \$500 and not more than \$20,000 on first conviction, and,
  - b) not less than \$2500 and not more than \$50,000 on each subsequent conviction.
- 3.5** Notwithstanding subsections 3.0 (3.3) and (3.4), every person convicted of an offence under this by-law is liable, in addition to the penalties mentioned in subsections 3.0 (3.3) and (3.4), is liable for each day or part of each day on which the offence occurs or continues, to a fine of \$1,000.
- 3.6** If this by-law is contravened and a conviction entered, in addition to any other remedy and to a penalty imposed by this By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

**4.0 ENFORCEMENT**

**4.1** An Inspector or other duly appointed individual shall enforce the provisions of this by-law.

**4.2** No person shall obstruct, hinder, or otherwise interfere with an Inspector or other duly appointed individual in the lawful carrying out of their duties and responsibilities under the provisions of this by-law.

**5.0 EXEMPTIONS**

The Director of Engineering of the City may grant an exemption to any person from any provision of this By-law and impose conditions for such exemption as may be considered reasonable and necessary, provided such exemption does not interfere with the general integrity of this by-law.

**6.0 SHORT TITLE**

This by-law may be cited as the "Corridor By-law".

**7.0 SCOPE AND AUTHORITY**

Where a matter is subject to provincial and/or federal regulation, any provision of this by-law is without effect to the extent that it prohibits or regulates the matter in substantially the same way as or in a more restrictive way than the provincial and/or federal regulation.

**8.0 REPEAL**

By-laws No.165-08, 167-08, 168-08, 78-11, 31-04, 17-126 , are hereby repealed.

**9.0 FORCE AND EFFECT**

This by-law shall come into effect on the day that it is enacted and passed.

ENACTED AND PASSED this 13<sup>th</sup> day of July, 2021.

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MAYOR

\_\_\_\_\_  
CLERK

**SCHEDULE A  
FOULING OF HIGHWAYS**

**1.0 General Provisions:**

**1.1** No person shall,

- a. repair motor vehicles on a Highway or permit oils, chemicals or substances to be deposited or spilled on a Highway, including such substances deposited as a result of car maintenance activities, car rust prevention measures and the spillage of rust-protecting substances and the general spillage of substances from vehicles;
- b. throw, push, plow, dump or otherwise deposit snow or ice on a Highway unless permitted by a City or Regional by-law;
- c. deposit, drop, scatter, store, spill or throw any filth, earth, ashes, manure, leaves or garbage except as permitted in any City or Regional by-law;
- d. litter on a Highway;
- e. encumber a Highway buildings or structures or other means;
- f. deposit debris on a Highway;
- g. permit or allow any paper, hand bill, advertisement or any container, whether made of plastic, cardboard or paper, to be blown repeatedly from private property onto a Highway;
- h. obstruct a drain, gutter or water course along or upon a Highway;
- i. place, or cause any merchandise or articles of any kind to be placed or displayed upon a Highway;
- j. urinate or defecate on any Highway;
- k. remove a barricade or notice or enter upon or use a Highway temporarily closed under the provisions of any City or Regional by-law;
- l. remove or move a barricade, sign or light placed around any excavation in a Highway;
- m. erect or maintain any gate or door so that the same shall open or swing outward over any part of a sidewalk or Highway;

- n. move or cause any building or structure to be moved into, along or across a Highway without having been approved under a City or Regional by-law.

**1.2** Damage a Highway,

- a. by loading his/her vehicle with earth, sand stone or other substances so as to permit the contents thereof to fall, spill or be deposited on a Highway;
- b. by driving his/her vehicle on the Highway prior to removing as is reasonably practicable all mud, clay, lime and similar materials, or any fertilizer or manure which is likely, if not removed, to cause a nuisance on the Highway or cause damage to the surface of the Highway;
- c. by loading or driving his/her vehicle when loaded with earth, sand, stone or other substance so that damage may result to the Highway;

**1.3** No person shall pull down, destroy, deface or in any way interfere with any municipal infrastructure, including but not limited to any post, surveyor's mark, bench mark, traffic sign, highway name sign, sign board, regulatory sign, traffic signal, traffic cone or any other traffic control.

**1.4** No owner or occupier of property abutting a highway shall permit any flood light to directly or indirectly illuminate a highway without the written approval of the City.

## **SCHEDULE B BOULEVARDS**

### **1.0 DEFINITIONS:**

**1.1** In this schedule:

"Applicant" means the Owner;

"Apron" includes that section of a driveway contained within the boulevard; -

"Back Lot Property" refers to that portion of a property where the rear yard is adjacent to a City or Regional road allowance;

"Herbaceous plant" means a plant without woody above-ground parts, with a stem that dies back to the ground each year, but excludes turf grass;

"Maintenance" means the action required to sustain a boulevard including but not limited to cutting, watering, removing debris or repairing damage to any driveway located within the boulevard area;

"Owner" means the lawful owner of property, a lessee, tenant, mortgagee in possession of property, or occupant of property;

"Traffic control device" means a sign, lane, meter, marking, space, barrier or device painted or erected to guide, regulate, warn, direct, restrict, control or prohibit traffic;

"Turf grass" means a perennial strand of plant that can form turf and withstand mowing, traffic and/or wear;

### **2.0 PLANTINGS**

**2.1** In a boulevard abutting his or her property, no person shall plant or grow, or permit to be planted or grown:

a) herbaceous plants that:

- i. exceed a height of 45 centimeters;
- ii. impair drainage; or
- iii. contain vegetables or grains;

b) turf grass which exceeds a height of 20 centimeters;

c) any tree without the prior consent in writing of the City.



**2.2** In addition to the restrictions contained in section 2.1, no person shall plant or permit to be planted an herbaceous plant on a boulevard or section of a boulevard that is regularly maintained by the City or Region.

**2.3** Every owner of private property shall keep all hedges, trees, foliage, naturalized areas or other vegetation located on the portion of his or her property which abuts a boulevard cut and trimmed so as to provide a vertical clearance of 5.0 metres (197 inches) from the boulevard.

### **3.0 BOULEVARD INSTALLATIONS**

**3.1** On a boulevard abutting his/her property no person shall install, construct, or permit anything that:

- a) is protruding, sharp, dangerous or which may injure a person;
- b) may cause damage to personal property;
- c) restricts sight lines of pedestrians, cyclists or drivers of vehicles to intersections, driveways, sidewalks, walkways, travel lanes, or traffic control devices;
- d) inhibits or obstructs snow removal operations;
- e) obscures or obstructs access to fire hydrants, post office boxes, transformers or other installations belonging to the City, Region, or any utility provider;
- f) is located within 0.6 metres of the sidewalk, unless it is turf grass, herbaceous plants, wood chips, mulch, or inorganic material;
- g) is located within 1.8 metres of the curb, unless it is turf grass or herbaceous plants permitted by this By-law, wood chips, mulch, or inorganic material; and any such permitted inorganic material, wood chips, or mulch shall be installed flush to the curb;
- h) is located within 1.8 metres of the roadway, where there is no curb, unless it is turf grass or herbaceous plants permitted by this By-law, wood chips, mulch, or inorganic material; and any such permitted inorganic material, wood chips, or mulch shall be installed flush with the existing grade of the boulevard and shall provide for a 2% to 4% grade for drainage.
- i) is more than 20 centimeters in height,
- j) may overflow onto the street, sidewalk, highway or adjacent property; or
- k) consists of the installation of ornamental stones or rocks, or of a sprinkler.

l) Install a sump pump or private drain outlet on City property.

**3.2** Section 3.1, does not apply to snow or to materials, plants or things permitted by municipal waste collection by-laws where the snow or such materials, plants or things are placed in the boulevard in accordance with the applicable by-laws.

#### **4.0 DAMAGE TO BOULEVARD**

**4.1** No person shall damage, construct or re-construct a sidewalk, curb, apron driveway or boulevard without the written permission of the Director obtained prior to the work.

**4.2** Section 4.1, does not apply to work performed by the City, the Region, a utility, or a contractor hired by the City, Region or utility.

**4.3** If the City, the Region, a utility or a contractor hired by the City, the Region or a utility damages any installation in a boulevard permitted by this By-law, the City, Region, utility, or their contractor is required to only restore any turf grass damaged by them and no other installations or plants.

#### **5.0 EXEMPTIONS**

**5.1** Any person may submit an application on the prescribed form for an exemption to the Director no later than 30 days prior to the installation which is the subject of the application.

5.1.1 The application shall contain all of the following information and material;

- a. the name and contact information of the applicant including municipal address, phone number and email address;
- b. a detailed description of the installation for which the exemption is sought including drawings;
- c. the reasons why the exemption is being requested;
- d. an application fee as prescribed.

**5.2** The Director may;

- a. issue an exemption;
- b. refuse to issue, suspend, revoke, or cancel an exemption, and
- c. impose conditions on the issuance of the exemption.

**5.3** In making his/her decision in regard to the exemption, the Director shall determine;

- a. any negative effects or any benefits that the granting of the exemption may have for the neighboring properties and the City,
- b. whether the granting of an exemption presents a hazard to the public;
- c. any previous violation of the By-law or violations of the conditions imposed through previous exemptions by the applicant, and
- d. any other matter that the Director reasonably considers to be relevant to the application.

**5.4** The Director may impose conditions in regard to the exemption.

**5.5** The Director shall give written notice of his decision to the applicant by regular mail at the address provided on the application; the written notice shall contain the decision and the grounds of the decision.

**5.6** The decision of the Director shall be final.

**5.7** The applicant shall comply with the terms and conditions of the exemption granted by the Director.

**5.8** Failure by applicant to comply with the terms and conditions of the exemption permit shall render the exemption as void.

**SCHEDULE C  
SNOW REMOVAL**

**1.0 DEFINITIONS:**

In this Schedule;

"Occupant" means any person or persons over the age of eighteen years in possession of the property;

"Premises" means a house or building, together with its land and outbuildings, occupied by a business or considered in an official context.

"Weather Event" means a period of time during which either ice cover or snow accumulation will require extensive snow removal, snow plowing or salting operations as declared by the City of Cambridge.

## **2.0 GENERAL PROVISIONS:**

**2.1** The owner of vacant land and the owner or occupant of a building on premises adjoining a highway shall at all times keep and maintain the sidewalks on the highways in front of, alongside of, or at the rear of such building or land free and clear of snow and ice; and in so doing the owner of the vacant land and the owner or occupant of the building;

- a. shall remove all snow and ice from the sidewalks on the highways in front of, alongside of, or at the rear of such building or land within twenty-four (24) hours after the cessation of a such a weatherevent, and
- b. shall immediately and as often as reasonably necessary apply sand, or salt or similar suitable material to the sidewalk so as to completely cover the slippery surface, after the removal of snow and ice, if any portion of the sidewalk on the highways in front of, alongside of, or at the rear of such building or land becomes slippery from any cause.

**2.2** Section 2.1, does not apply to sidewalks or multi-use trail where pursuant to City policy, the City has undertaken the responsibility to remove snow and ice from the sidewalks on the highways in front of, alongside of, or at the rear of such buildings or land.

**2.3** If the roof of a building slopes toward a sidewalk located on a highway in front of, alongside of, or at the rear of such building, the owner or occupant of the building shall remove the snow and ice from such roof within twenty-four (24) hours after the cessation of a such weather event.

## **3.0 DEPOSITING SNOW AND ICE:**

- 3.1** No person shall deposit snow and ice in such a manner that it will;
- a. obstruct drainage to any catch basin;

- b. obstruct access to any fire hydrant;
- c. impede pedestrian traffic on the sidewalk, multi-use trail or pathway;
- d. impede motor vehicle traffic on the highway;
- e. damage the sidewalk, multi-use trail, pathway or highway;
- f. create a risk of accident on the sidewalk or highway;
- g. restrict sight lines of pedestrians, cyclists or drivers of vehicles to intersections, driveways, sidewalks, multi-use trail, pathways, travel lanes or traffic control devices.

**SCHEDULE D  
SIDEWALK/BOULEVARD PATIO**

**1.0 DEFINITIONS:**

**1.1** In this schedule:

“AGCO” means The Alcohol and Gaming Commission Ontario;

“AODA” means The Accessibility for Ontarians with Disabilities Act;

“Applicant” means Owner or Occupant or Operator of the Restaurant;

“Clear Path of Travel” means the public outdoor sidewalks (or walkways) designed and constructed for pedestrian travel and are intended to serve a functional purpose and not to provide a recreational experience (described in Section 80.21(1) of O.Reg. 413/12: Integrated Accessibility Standards).

“Issuer of Permits” means an employee of the City of Cambridge with the authority to grant permits under this By-Law;

“Outdoor Patio” means an outdoor area for patron seating and tables operated in conjunction with the adjoining Premises;

“Owner” includes the Owner or Occupant or Operator of the Restaurant;

“Patio Seating” means;

- Single Table Seating: A patio with single table seating that can accommodate 1-3 chairs.
- Double Table Seating: A patio with double table seating that can accommodate 4 chairs.
- Double Loaded Patio: A patio layout involving a curb side patio and a façade patio separated by a public sidewalk (Sidewalk Clearance Zone/Clear Path of Travel).

“Permit” means a written authorization issued by the Director to permit the location of a Patio on a sidewalk and/or boulevard;

“Premises” shall mean ground floor premises, owned or occupied by the applicant for a license, abutting a Regional Road that is used by the applicant as a victualling house, restaurant, café, refreshment establishment or lunch counter, licensed by the area municipality and subject to inspection by the medical officer of health or other appropriate municipal officials and in which washroom facilities are located;

“Restaurant” means a service commercial establishment in which food and/or beverages are served to the public and, without limiting the generality of the foregoing, includes such establishments the principal business of which is the operation of a restaurant, dining room, cafe, cafeteria, lunch counter, snack bar, dining lounge, cocktail lounge, tavern, beverage room, public house, doughnut shop or ice cream parlour.

“Sidewalk Zone” means the area of sidewalk located between property line (and/or building façade) and back side of curb. The Sidewalk Zone is divided into three sections:

- 1) Street Furniture and Landscaping Furnishing Zone (the area between the curb line and the Sidewalk Clearance Zone reserved for landscaping and Street Furniture);
- 2) Sidewalk Clearance Zone (Clear Path of Travel);
- 3) Building Frontage Zone (where façade patios are located).

## **2.0 GENERAL PROVISIONS:**

Where the Owner of a property which abuts a sidewalk or boulevard lawfully operates a Restaurant, the Owner may apply to establish, maintain and operate an Outdoor Patio in conjunction with the operation of the Restaurant on a portion of the boulevard and/or sidewalk.

### **2.1 Application**

- a) An application for a Permit shall be filed with the Issuer of Permits in advance of the installation of the Outdoor Patio. When applying for a Permit, the Applicant shall:
  - i. Complete and submit the prescribed application form;
  - ii. Provide an Outdoor Patio plan with metric measurements showing the following information:
    - Location of the patio on the sidewalk and building
    - Building information including façade length, building entrance (door location), Siamese connections and exits from building, if applicable.
    - Entrance to building/restaurant
    - Location and number of all seats and tables
    - Location of all fencing and access points



- Curb Line and Landscape Furnishing Zone
- Minimum Clear Path of Travel

b) Insurance

- i. Every Applicant for an Outdoor Patio, during the term of the permit, shall provide and maintain Comprehensive/Commercial General Liability insurance acceptable to the City and subject to limits of not less than two million dollars (\$2,000,000), five million dollars (\$5,000,000) for licensed Outdoor Patios for bodily injury, death and damage to property including loss of use thereof. Such Comprehensive/Commercial General Liability insurance policy shall be in the name of the Applicant and shall name the City of Cambridge as an 'additional insured'.
  - ii. The insurance policy referred to in subsection 2.1 (b) hereof shall contain an endorsement to provide the City with thirty (30) days written notice of cancellation.
- c) When filing the completed application, the Applicant shall pay a non-refundable permit fee as set out in the City of Cambridge's Municipal Fees and Charges By-law, as amended from time to time.

## 2.2 Permit

a) The Director may:

- i. issue a Permit
- ii. refuse to issue, suspend, revoke, or cancel a Permit, and
- iii. impose conditions on the issuance of the Permit.

b) In deciding whether to issue a Permit, the Director may consider:

- i. any negative effects or any benefits that the granting of the Permit may have for the neighbouring properties and the City,
- ii. whether the Permit will interfere with the movement and safety of vehicles and pedestrians any public utility or other factors deemed relevant in the circumstances,
- iii. any previous violation of the By-law or violations of the conditions imposed through previous Permits by the applicant,

- iv. any other matter that the Director reasonably considers to be relevant to the application.
- c) The decision of the Director in regard to the Permit shall be final.
- d) The Applicant shall comply with the terms and conditions of the Permit issued by the Director.
- e) It shall be a condition of any Permit issued by the Director that the City, and any person, agency or body authorized in writing by the City, may enter the Outdoor Patio lands and may remove any and all patio furniture.
  - i. for the purpose of constructing, maintaining, repairing, moving or otherwise dealing with any services or utilities located or to be located in, under or above the patio lands including but not limited to hydro, gas, telephone, cable television, water storm drainage, water main and sewer service facilities, and
  - ii. for the purpose of responding to an emergency.
- f) Failure by the Applicant to comply with the terms and conditions of the Permit shall render the Permit void.
- g) The Permit issued by the Director shall be valid from the 15<sup>th</sup> day of March to the 31<sup>st</sup> day of October in each calendar year.
- h) Notwithstanding the term of the Permit, a Permit shall terminate on the day that the Applicant or Owner has ceased to carry on the Restaurant business.
- i) The permit is not transferable by the Owner of the property
- j) The Owner and the Application shall at all times comply with all statutory requirements, rules, regulations, laws and by-laws of the municipality or other authority which may affect the operation of the Outdoor Patio and the use of the boulevard and sidewalk.

### **3.0 Outdoor Patio Use**

**3.1** The Owner shall use the Outdoor Patio solely for Restaurant purposes of serving food and/or beverages.

**3.2** The Owner shall not install portable food appliances such as barbeques, portable propane heaters, decks, outdoor carpeting, artificial turf or utilities.

**3.2** Patio Location Criteria:

- a) All patios must demonstrate (through an Outdoor Patio Plan) that they maintain minimum AODA accessibility requirements that include providing an unobstructed sidewalk clearance zone (called Clear Path of Travel). The onus is on the Applicant to ensure a Clear Path of Travel is maintained. Specific criteria are highlighted below:
- Minimum 1.8 metre Clear Path of Travel.
  - Ensure no obstructions are located within the Clear Path of Travel such as street furniture, tree, signage, bus shelter, garbage receptacle and other physical obstructions.
  - A patio cannot block pedestrian access along a street, walkway connection or entrance.
  - As part of maintaining a clear path of travel, ensure all patio signage is located close to the building façade and does not cross into the public sidewalk area. Clearly show the patio signage on the Patio Plan and ensure it is maintained in this location.
- b) Outdoor Patios are encouraged to be located along the associated business building frontage and not extend past the business frontage shown on an Outdoor Patio Plan. If additional patio space is requested, permission from the adjacent property owner/business will be required.
- c) Outdoor Patio space will be determined by road width, sidewalk space, setback requirement(s) and location context:
- Clear Path of Travel: In all cases, a Clear Path of Travel shall be maintained.
  - Non-fenced patio: approximately 1.0 metre space suitable for select Street Furnishing Zones and Building Frontage Zones.
  - Fenced patios (single and double table seating): a fenced patio will typically range from 1.8 - 2.5 metres in width and will likely be located in the Building Frontage Zone (façade patio). A standard depth of 2.0 metres is required for single table seating and 2.2-2.5 metres for double table seating that includes a 1 metre aisle for server access. Fencing is required for a licensed patio subject to AGCO criteria.
  - Double Loaded Patios: In some instances, there may be opportunity to accommodate a double loaded patio (Building Façade Zone and Street

Furnishing Zone) provided Clear Path of Travel and other performance standards are met.

- d) Patios are not to be located within a driveway or roadway daylight corner measured 3.0 metre by 3.0 metres from the sidewalk intersection.

### 3.3 Licensed Patios (Outdoor Licensed Areas):

- a) Licensed Patios are regulated by AGCO as well as, the Ontario Building Code and subject to the Ontario Fire Code. In all cases, a licensed patio must demonstrate that they have sufficient occupant load and safe access. Prior to any Permit being issued, an Applicant is required to submit proof of a proper liquor license.
- b) Fencing: A well-defined sturdy barrier is required for any patio intending to serve alcohol under the AGCO and must operate in accordance with the Liquor License Act. A well-defined barrier may include traditional fence, removable fencing and other types. Fence height should be a minimum of 36" inches (1.0 metre). A business may not serve patrons beyond the barriers of the outdoor dining space. Patrons are not permitted to leave the fenced patio area with alcohol and the business may be subject to a fire inspection as part of AGCO approval.
- c) Licensed patios are encouraged within the Building Frontage Zone.

### 3.4 Patio Accessibility:

- a) All patios are to be located on the sidewalk surface and be level with this surface. Grade changes are to be avoided. The ground surface leading to and under tables is to be level, firm and stable. A fenced patio is required to have a minimum 1.5 metre access into the patio area.
- b) Accessible seating and accessibility are encouraged. Barrier free access is encouraged directly from the sidewalk. Internal building access to patio may be considered as an alternative or supplemental access.
- c) Accessible seating is encouraged. Tables should be accessible using mobility aids by having a knee and toe clearance under the table.
- d) For safety and accessibility reasons, a patio must not block any access to a fire department connection, city sewer, gas valve or meter, building entrance (or exit), city or street furniture (such as garbage container, public bench, bus shelter, bike rack) or other sidewalk access. Patio tables, chairs and other amenities shall not obstruct or protrude onto the Sidewalk Clearance Zone or access to building entrances.

### 3.5 Patio Design Expectations and Amenities:

- a) All patio furniture (including fencing, railings, chairs and tables) are to be located within the patio area and be made out of sturdy and weather resistant materials.
- b) Applicant shall keep and maintain the boulevard and sidewalk clean and, free of rubbish and debris of all kinds.
- c) Applicant shall keep the Outdoor Patio, including the perimeter and the furniture, clean, and free of rubbish and debris of all kinds.
- d) Decorative (and artistic) fencing details are encouraged and provide opportunity to enhance/support district theme opportunities. Decorative fencing may include decorative metal designs, glass panels and other considerations.
- e) Landscaping of sidewalk patios is encouraged and must be of a temporary design. Plant material may include planters, hanging baskets (over railings but must be contained with the patio area and shall not extend into the Sidewalk Clearance Zone. A range of options can be considered including planter designs internal to the patio area.

### 4.0 Outdoor Patio Removal

- a) Upon termination of the Permit to use the boulevard and sidewalk, the Owner shall, at their sole expense, remove all equipment, furnishings, and personal property from the boulevard and sidewalk within five (5) business days' notice in writing from the Director to do so and shall replace and restore, at their sole expense, the boulevard and sidewalk to a safe condition satisfactory to the Director.
- b) If the owner and the occupant fail to perform the work required upon termination of the permit, the Director may remove all the installations from the boulevard and sidewalk and restore the boulevard and sidewalk to a safe condition at the sole cost of the owner and the occupant.

## **SCHEDULE E PUBLICATION DISTRIBUTION BOXES**

### **1.0 DEFINITIONS:**

In this Schedule,

“Applicant” means any person, company or corporation making application for a permit to locate a publication distribution box on a municipal highway;

“Owner” includes the owner or operator of a publication distribution box;

“Permit” means a written authorization issued by the Director to permit the location of a publication distribution box on a highway;

“Publication Distribution Box” means a container located outdoors, and placed, installed, displayed, operated, used, altered or maintained for the purpose of distributing publications to the public, either for financial consideration or free of charge, but does not include a container located within a building or a container owned or operated by the City of Cambridge.

### **2.0 GENERAL PROVISIONS:**

**2.1** The Owner shall not install, place or locate and, shall not cause or permit the installation, location or placement, of a Publication Distribution Box on a municipal highway except in accordance with the following regulations:

- a) on a sidewalk without reducing the area available for pedestrian traffic to less than two (2) metres;
- b) on a bicycle path or multi-use pathway without obstructing or interfering with, or posing a hazard, to pedestrian traffic or cycling traffic;
- c) at least ten (10) metres distance from a fire hydrant;
- d) in front of property used for commercial purposes and not in front of any property used for residential purposes;
- e) in a manner which does not obstruct or interfere with municipal maintenance activities;
- f) not adjacent to a ‘no stopping’ zone;
- g) at least six metres distance from any driveway entrance;

- h) in the vicinity of a bus stop without obstructing or interfering with passenger movements;
- i) not on any concrete pad which forms part of the bus stop;
- j) not on any curb, median or shoulder areas in or on a highway;
- k) in a location which is both a minimum of 100 metres from another box of the same publication on the same side of the highway, and a minimum of 300 metres from any retail establishment distributing the same publication; and
- l) not on any municipal property or lands other than a highway.

**2.2** The Owner of a Publication Distribution Box shall ensure that it:

- a) is not chained or fastened to any utility apparatus, including but not limited to guy wires and anchors, and signals, street lights, hydro or telephone poles, sign posts, parking meters, bus shelters, telephone booths, post boxes, benches or trees;
- b) is securely fastened to a concrete pad provided by the Owner, having a thickness of no less than 125 millimeters or an equivalent thickness approved by the Director;
- c) is securely fastened to a concrete sidewalk by the Owner, having a clear path of travel of a minimum of 1.5 metres from back of curb to Publication Distribution Box;
- d) does not exceed a maximum width of 61 centimeters, a maximum depth of 38 centimeters and a maximum height of 108 centimeters; and
- e) is maintained in a clean and tidy condition and that the area in the vicinity of the publication distribution box is kept free and clear of litter and debris, including discarded publications.

**2.3** Prior to placing or locating a Publication Distribution Box on a municipal highway, the owner shall obtain a permit issued by the Director.

**2.4** The Director shall issue a Permit for the location or placement of a Publication Distribution Box on a municipal highway only when the Owner has complied with the following conditions to the satisfaction of the Director:

- a) the Owner has submitted a complete application signed by him/her to the Director no less than 30 days prior to the proposed installation date for the Publication Distribution box;

- b) the Owner has provided two copies of a detailed scalable (1:500) map on 8.5" x 11" paper showing:
  - i. the proposed location(s) of the publication distribution box(es);
  - ii. all existing topographical features, property boundary lines, street names, municipal addresses and a north arrow depicting true north, and;
  - iii. the dimensions of the proposed location from fixed features (curb lines, property lines, sidewalks, etc.,) so that such proposed location can be easily be determined in the field;
- c) the Owner has paid all applicable fees, including any outstanding fees;
- d) the Owner has provided the name and address and current contact information of the agent of the applicant and owner responsible for the applicant's and owner's operations within the City of Cambridge;
- e) the Owner has provided an up-to-date inventory map identifying the locations of all the applicant's permitted publication distribution box locations within the City of Cambridge and a detailed location table that identifies the location number, location description (street name or intersecting street location) and the number of boxes at each location;
- f) the Owner has provided a certificate of insurance with a minimum coverage of \$2,000,000 written on an occurrence basis to cover bodily injury and property damage, which names the City of Cambridge as an additional insured, containing severability of interest clauses and cross liability clauses and which insurance shall be maintained during the term of the issued Permit;
- g) the Owner has complied with all the requirements contained in this By-law.

**2.5** Any and every permit issued for the location of a Publication Distribution Box shall expire on the 31<sup>st</sup> of December of each year.

**2.6** An Owner of a Publication Distribution Box for which a Permit has expired may apply to the Director for a renewal of the Permit.

**2.7** The conditions for the renewal of an expired Permit are the same as the conditions imposed for an unexpired Permit.

**2.8** The Director shall issue a renewal of the expired Permit where the Applicant has confirmed to the satisfaction of the Director that the Owner has met the conditions required for the issuance of a renewal Permit.



- 2.9** The Director may revoke any Permit for the location of a Publication Distribution Box when the owner has failed to comply with the provisions of this By-law.
- 2.10** Prior to the revocation of the Permit, the Director shall provide to the owner of the Publication Distribution Box:
- a) 5 business days' notice of the Director's intention to revoke the Permit, and the notice shall contain the reasons for the proposed revocation, and
  - b) a reasonable opportunity for a hearing in regard to the revocation of the Permit.
- 2.11** The Owner shall immediately remove the box from the highway at the sole expense of the owner:
- a) where the Director has not issued a Permit, or has not renewed the expired Permit, for the location of a Publication Distribution Box, or
  - b) where a public utility entity, the City of Cambridge or the Regional Municipality of Waterloo is performing work in or upon the highway, or
  - c) where the Owner of the Publication Distribution Box has failed to resolve a complaint received by the Director within five business days of being notified in writing by the Director of the complaint.
- 2.12** If an Owner is found to have contravened any of the provision of this By-law, the Director may issue a notice to the Owner to remedy the contravention.
- a. The Director's notice shall set out reasonable particulars of the contravention, the location of the Publication Distribution Box where the contravention occurred, and the date by which the contravention is to be remedied.
  - b. Every Owner to whom the Director issues a notice shall comply with the notice.
  - c. Where the owner fails to comply with the notice of the Director, the Director may remove the Publication Distribution Box and perform any other restoration work deemed necessary at the cost of the Owner.
  - d. The Director shall store the Publication Distribution Box for 30 days at the cost of the Owner.
  - e. The Director shall return the Publication Distribution Box to the Owner upon payment by the owner of the removal, restoration and storage costs incurred by the Director.

- f. Upon the failure of the Owner to claim the Publication Distribution Box within 30 days from storage and to pay the costs of the work performed by the Director and of the storage costs, the Director may dispose of the Publication Distribution Box.

**3.0 EXEMPTIONS**

- 3.1** This Schedule does not apply to a Canada Post mail box.

**SCHEDULE F  
CONTROLLED ACCESS ROADS**

**1.0 DEFINITIONS:**

In this Schedule,

“Applicant” means any person, agencies, corporations (private or public) or institutions making application for a Controlled-Access Permit;

"Controlled-Access Road " means a controlled-access road designated by this By-law;

“Permit” means a written authorization issued by the Director to permit a new and/or modification of an existing controlled-access.

**2.0 GENERAL PROVISIONS:**

**2.1** All highways under the jurisdiction of the City of Cambridge are designated as controlled-access roads by this By-law.

**2.2** No person shall construct, alter the geometric design of, enlarge or otherwise use any private road, entranceway, structure or facility as a means of access to a controlled-access road unless a Permit has been issued by the Director prior to construction.

**3.0 PERMIT:**

**3.1** Any person may apply for a Permit to the Director no later than 30 days prior to the installation which is the subject of the application.

**3.2** The application shall contain all of the following information and material:

- a. The name and contact information of the applicant including municipal address, phone number and email address;
- b. Access design plan with a detailed description of the installation for which the Permit containing the following:
  - property line
  - width and location of roadway and highway
  - curbs
  - shoulders
  - boulevard
  - ditches
  - existing accesses
  - aboveground utilities
  - landscaping

- existing structures
- a key plan (indicating location of property)
- north arrow
- proposed accesses
- all dimensions

c. Application fee, the Applicant shall pay a non-refundable Permit fee as set out in the City of Cambridge's Municipal Fees and Charges By-law, as amended from time to time.

**3.3** The Director may:

- a. issue a Permit.
- b. refuse to issue, suspend, revoke, or cancel a Permit, and
- c. impose conditions on the issuance of the Permit.

**3.4** In making his/her decision in regard to the Permit, the Director may consider:

- a. any negative effects or any benefits that the granting of the Permit may have for the neighboring properties and the City highway.
- b. whether the Permit will interfere with the movement and safety of vehicles and pedestrians any public utility or other factors deemed relevant in the circumstances.
- c. any previous violation of the By-law or violations of the conditions imposed through previous permits issued to the applicant.
- d. compliance with the guidelines of the "Policy and Procedures for Access onto City of Cambridge Roads".
- e. compliance with any other applicable law including City and Region By-laws;
- f. any other matter that the Director considers reasonably to be relevant to the application.

**3.5** The decision of the Director in regard to the Permit shall be final.

**3.6** The Applicant shall comply with the terms and conditions of the Permit issued by the Director.

**3.7** Failure by Applicant to comply with the terms and conditions of the Permit shall render the Permit void and of no effect.

**4.0 CONTROLLED-ACCESS CONSTRUCTION:**

**4.1** Where the Director has issued a Permit for a property zoned Residential as per the City of Cambridge's Zoning By-law:

- a. The work authorized by the Permit shall be performed only by the City.
- b. The Applicant shall pay the costs of the work to the City in accordance with the fee as set out in the City of Cambridge's Municipal Fees and Charges By-law, and
- c. The City will not commence any work until the City has received full payment for the work from the Applicant.

**4.2** Where the Director has issued a Permit for a property zoned Commercial and/or Industrial as per the City of Cambridge's Zoning By-law:

- a. The work authorized by the Permit shall be performed by the City and/or by the Applicant.
- b. Should the Applicant complete the work authorized by the Permit, the Applicant shall provide a security deposit to the City in accordance with the City of Cambridge's Municipal Fees and Charges By-law. The security deposit will be refunded upon completion of the one (1) year warranty period and all conditions of the Permit are to the satisfaction of the Director.
- c. Should the Applicant complete the work authorized by the Permit, the Applicant shall pay all costs associated with inspection of works in accordance with the City of Cambridge's Municipal Fees and Charges By-law.
- d. Should the Applicant complete the work authorized by the Permit, the Applicant will be required to obtain a Highway Occupancy Permit before commencement of work.
- e. The City will not permit any work until the City has received full payment of all fees.

**5.0 NOTICE**

- 5.1** In addition to any other penalty which may be imposed hereunder, any owner of land who contravenes this By-law may be given a notice requiring the owner to close up any access which has been constructed, altered, enlarged or used in contravention of this By-law.
- 5.2** Any notice hereunder shall be in writing and shall be served either personally or by registered mail, and in the case of service by registered mail shall be deemed to have been received on the 5th day following the mailing thereof.
- 5.3** Where the person to whom notice is given hereunder fails to comply with the notice within the time specified in the notice, the City, its employees, or agents may enter upon the land of the person and do or cause to be done whatever may be necessary to close up the access. Any expense incurred by the City in closing up an access may be recovered from the owner by action or in like manner as municipal taxes.

## **SCHEDULE G ENCROACHMENTS**

### **1.0 DEFINITIONS**

#### **1.1** In this Schedule,

“Applicant” means any person, agencies, corporations (private or public) or institutions making application for an encroachment;

“Encroachment” means any type of vegetation, natural material, man-made object, or item of personal property occupying any part of a highway or public lands and shall include any aerial, surface, or subsurface Encroachments;

- a) “Aerial Encroachment” means an Encroachment that is located at least 30 centimeters (12 inches) above the surface of a highway or public lands;
- b) “Surface Encroachment” means an Encroachment that is located anywhere between the surface of a highway or public lands to a height less than 30 centimeters (12 inches) and beneath the surface of a highway or public lands to a depth of not more than 2.5 centimeters (1 inch);
- c) “Subsurface Encroachment” means an Encroachment that is located beneath the surface of a highway or public lands to a depth exceeding 2.5 centimeters (1 inch);

“Issuer of Permits” means an employee of the City of Cambridge with the authority to grant permits under this By-Law;

“Owner” means the lawful owner of property, a lessee, tenant, mortgagee in possession of property, or occupant of property;

“Encroachment Agreement” means an agreement required under this by-law, prepared by the City for execution by the City and an Owner granting authorization to erect, place, or maintain an Encroachment;

“Permit” means a written authorization issued by the Director to permit the location of an encroachment on a highway;

“Public Lands” means lands owned by, leased, licensed to, or under the management of the Town, and shall include but not limited to any public highway, road, street, avenue, crescent, court, drive, lane, alley, circle, cul-de-sac, sideroad, path, place, gate, line, road allowance, thoroughfare, bridge, viaduct or trestle, culvert, common or public square, public place, sidewalk, park, woodland, storm water management facility, open space, municipal golf course or cemetery, and all parts thereof, including any surface, grassed area, boulevard, ditch, curb, gutter and sidewalk;

“Reference Plan” means a designation of different sections of a property as "Parts," enabling a specific legal interest associated with each particular portion of the parcel to be highlighted and described.

## **2.0 EXEMPTIONS**

**2.1** The provisions of this by-law do not apply to:

- a) lawns and private entrances that comply with the requirements of the applicable City by-laws regulating private entrances or that is constructed in accordance with the terms and conditions of a subdivision agreement or site plan agreement with the City;
- b) the activities, works, and equipment of City forces performing construction or maintenance operations on City highways or public lands;
- c) signs authorized by any City by-law;
- d) sandwich board signs whose placement upon a sidewalk complies with the requirements of the applicable by-law that regulates such signs, provided that the City has no objection to the location of the sandwich board sign from a traffic, safety, or operational point of view;
- e) election signs, real estate signs and other temporary signs whose placement upon a highway or public lands complies with the requirements of the applicable by-law that regulates such signs;
- f) all existing Encroachments authorized by the City, unless the safety of the public may be affected by the Encroachment, or the Applicant wishes to alter the Encroachment in any way.

## **3.0 GENERAL PROVISIONS**

- 3.1** No person shall close, obstruct, encumber, excavate, construct, place, erect, alter or maintain any kind of Encroachment in, on, over, or under any highway or public lands without first obtaining a valid Permit or Encroachment Agreement, as the case may be, in accordance with the provisions of this by-law.
- 3.2** All Encroachments that will be in place for less than one (1) year will be dealt with through the issuance of a Temporary Encroachment Permit pursuant to this by-law.
- 3.3** All Encroachments reoccurring on an annual basis or that will be in place for longer than one (1) year will be dealt with through the issuance of an Encroachment Agreement pursuant to this by-law.
- 3.4** Where an Encroachment would restrict public access over, under, or across the proposed Encroachment area, the City, at its sole discretion, may consider



providing the appropriate notification of the proposed Encroachment to the owners directly affected by the proposed Encroachment, being those owners, whose properties are within 120 meters of the proposed Encroachment.

- 3.5** Where an existing Encroachment is deemed to affect the City's ability to carry out its work within the highway or public lands or where the safety of the public may be affected by the Encroachment, the Applicant may be required by the City to modify the Encroachment and such modification shall be at the Applicant's expense.
- 3.6** Where an Applicant requests an amendment to a Permit or an Encroachment Agreement, the amendment must be in compliance with this by-law and approved by the City, and any modification to the Encroachment shall be at the Applicant's expense.
- 3.7** All permitted Encroachments shall be deemed to be with the license of the City and such license shall not create an easement, interest or any other real property rights over any highway or public lands.

## **ENCROACHMENT PERMITS**

### **4.0 PROCEDURE FOR APPLICATION**

- 4.1** An application for an Encroachment Permit shall be made with the Issuer of Permits in advance of the installation of the encroachment on the prescribed form. When applying for a Permit, the Applicant shall:
- a) Complete and submit the prescribed application form;
  - b) Provide a drawing with metric measurements showing the following information:
    - property line
    - width and location of roadway and highway
    - curbs
    - shoulders
    - boulevard
    - ditches
    - aboveground utilities

- landscaping
  - existing structures
  - key plan (indicating location of property)
  - north arrow
  - proposed temporary encroachment
- c) Insurance
- i. Every Applicant, during the term of the permit, shall provide and maintain Comprehensive/Commercial General Liability insurance acceptable to the City and subject to limits of not less than two million dollars (\$2,000,000) for bodily injury, death and damage to property including loss of use thereof. Such Comprehensive/Commercial General Liability insurance policy shall be in the name of the Applicant and shall name the City of Cambridge as an 'additional insured'.
  - ii. The insurance policy referred to in subsection 2.1 (b) hereof shall contain an endorsement to provide the City with thirty (30) days written notice of cancellation.
- d) Provide an indemnity and release signed by the Owner of the property in the form set out in the application of the Encroachment Permit.
- e) When filing the completed application, the Applicant shall pay a non-refundable permit fee as set out in the City of Cambridge's Municipal Fees and Charges By-law, as amended from time to time.

## **5.0 APPROVAL OF APPLICATIONS**

- 5.1** In deciding whether to grant an Encroachment Permit, the Director shall consider:
- a) the effect of the proposed Encroachment on the movement and safety of vehicles and pedestrians, any public service
  - b) any negative effects or any benefits that the granting of the permit may have for the neighbouring properties and the City;
  - c) whether the encroachment presents a hazard to the public;

- d) the encroachment will interfere with the movement and safety of vehicles and pedestrians any public utility or other factors deemed relevant in the circumstances;
- e) any previous violation of the By-law or violations of the conditions imposed through previous permits by the applicant;
- f) any other matter that the Director reasonably considers to be relevant to the application

**5.2** The approval of an Encroachment Permit can take up to ten (10) business days.

**5.3** An Encroachment Permit shall be granted for a period not exceeding ninety (90) days and may be renewed for further periods not exceeding ninety (90) days for each renewal, up to a maximum of four (4) renewals. If additional renewals are required or the Encroachment reoccurs annually the Applicant will be required to enter into an Encroachment Agreement.

**5.4** Application for renewal of an Encroachment Permit shall be made by presenting the existing permit before its expiry date, accompanied by any required fees as per the City of Cambridge's Municipal Fees and Charges By-law, as amended from time to time.

**5.5** An Encroachment Permit may limit the existence of the Encroachment to a part of the day only, to specified days, or to times otherwise deemed appropriate in the circumstances by the Director.

**5.6** An Encroachment Permit may include additional or special conditions of approval deemed appropriate in the circumstances by the Director.

**5.7** The decision of the Director in regard to the Encroachment Permit shall be final.

**5.8** An Encroachment Permit is not transferable.

## **6.0 REVOCATION**

**6.1** The Director may revoke an Encroachment Permit for non-compliance with this by-law by sending notice of revocation by registered mail to the address of the Applicant and the permit shall be considered revoked from the second day after the day of mailing the notice.

## **7.0 CONDITIONS**

**7.1** All Encroachment Permit holders shall:

- a) strictly adhere to the conditions set out in this by-law and any additional or special conditions set out in the applicable Encroachment Permit. Any breach thereof is considered to be non-compliance and may result in a revocation or termination of the applicable Encroachment Permit. The Director may then take actions deemed necessary to reinstate the Encroachment for public safety at the Applicant's expense;
- b) It shall be a condition of any Encroachment Permit issued by the Director that the City, and any person or agent authorized by the City, may remove the temporary encroachment
  - i. for the purpose of constructing, maintaining, repairing, moving or otherwise dealing with any services or utilities located or to be located in, under or above the highway including but not limited to hydro, gas, telephone, cable television, water storm drainage, water main and sewer service facilities, and
  - ii. for the purpose of responding to an emergency
- c) release, indemnify and save harmless the City, agents, consultants, contractors, assigns, and any others for whom the City is at law responsible from and against any and all claims, demands, losses, expenses, costs, including but not limited to reasonable legal fees, damages, actions, suits or proceedings, or any other liabilities which may at any time or from time to time be asserted against, imposed upon or incurred by the City as a consequence of or in connection with the Encroachment, the maintenance of the Encroachment, or any other matter relating to the Encroachment;
- d) keep the Encroachment in a state of good repair as determined by the City. In the event that the Applicant fails or neglects to keep the Encroachment in a state of good repair, the Director may provide notice to the Applicant of any deficiency on the Encroachment and request that such deficiencies be rectified. If the notice is not complied with within five (5) business days from the date that the notice was sent or such other time as may be mutually agreed by the City and the Applicant, the Encroachment Permit may be revoked. Notwithstanding the foregoing the City may immediately remove any item on public property deemed to be in non-compliance or constitute a safety hazard. All costs incurred by the City to remove the Encroachment shall be recovered from the Applicant;
- e) Upon termination of the temporary encroachment permit to use the highway, the Applicant shall, at their sole expense, remove immediately

the temporary encroachment from the highway within 30 days' and shall replace and restore, at their sole expense, the highway safe and in a condition satisfactory to the Director.

- f) If the Applicant fails to perform the work required work upon termination of the permit, the Director may remove the temporary encroachment and restore the highway to a safe condition at the sole cost of the licensee.

## **ENCROACHMENT AGREEMENTS**

### **8.0 PROCEDURE FOR APPLICATION**

**8.1** Application for an Encroachment Agreement shall be made to the Director by the Owner or a representative of the Owner on the prescribed form. The Director may, from time to time, cause amendments of an administrative nature to the application for Encroachment Agreement form.

**8.2** Every application shall include:

- a) the name and contact information of the Owner and a legal description of the real property neighbouring the proposed Encroachment;
- b) a sketch showing the location and dimensions of the proposed Encroachment;
- c) a description of the proposed Encroachment including the highway or public lands encroaching upon, the intended use of the Encroachment, and estimated length of time of the Encroachment;
- d) such other information, as required by the any of the organizational units of the City with an interest in the matter, to understand the nature of the proposed Encroachment and its impact; and
- e) the non-refundable fee required under the City of Cambridge's Municipal Fees and Charges By-law, as amended from time to time.

**8.3** If the Director and all other organizational divisions of the City with an interest in the matter are satisfied with the application, the Owner or representative of the Owner shall then file with the Director:

- a) three (3) copies of a Reference Plan certified by an Ontario Land Surveyor showing the location and dimensions of the Encroachment and of the adjacent part of the premises to which it is or will be appurtenant, and the location of all lot lines;

- b) a registerable description of the premises to which the Encroachment Agreement is or will be appurtenant.

## **9.0 APPROVAL OF APPLICATIONS**

- 9.1** In deciding whether to continue with the Encroachment Agreement application, the organizational divisions of the City with an interest in the matter shall consider the effect of the proposed Encroachment on the movement and safety of vehicles and pedestrians, any public service, and any other factors deemed relevant in the circumstances.
- 9.2** Any of the organizational divisions of the City with an interest in the matter may impose such terms and conditions to any Encroachment Agreement as deemed relevant in the circumstances.
- 9.3** When all the organizational divisions of the City with an interest in the matter are satisfied with the application, the Owner of the premises shall enter into an Encroachment Agreement with the City.
- 9.4** The Encroachment Agreement shall then be registered by the City with the land registry office against the title to which the Encroachment is appurtenant at the Owner's/Applicant's expense and evidence of such registration shall be provided to the Owner within thirty (30) days of Encroachment Agreement approval.

## **10.0 REVOCATION**

- 10.1** The execution of an Encroachment Agreement in respect of an Encroachment does not create any vested right in the Owner or occupant of the premises to which the Encroachment is appurtenant, or in any other person, and the Encroachment Agreement may be revoked in accordance with the terms set out therein.

## **12.0 CONDITIONS**

- 12.1** All Applicants of Encroachment Agreements shall:
  - a) make no alteration to the highway or public lands, including and without limitation the removal of trees or grade changes, and shall not erect any building or structures on the highway or public lands without the City's written permission;
  - b) carry out all authorized work in a proper and professional manner so as to do as little damage or disturbance to the highway or public land infrastructure as possible. The Owner shall repair and make good all damage and disturbance that may be caused to the highway or public land

infrastructure, to the satisfaction of the City, at the sole expense of the Owner;

- c) maintain the Encroachment in all respects in a state of good repair, including keeping the Encroachment in a sound, neat, safe and clean condition to the satisfaction of the City. If the Encroachment is not kept in a state of good repair, upon five (5) business days written notice (or such shorter time as may be required in the case of an emergency or other urgent matters) to the Owner, the City shall have the right to do any work necessary to fulfill this condition and all costs incurred by the City shall be recovered from the Owner;
- d) upon written notice from the City, renew, repair, or maintain the surface of the highway or public lands if at any time the City decides to renew, repair or maintain the surface of the highway or public lands upon which the Encroachment is located. If the notice is not complied with within five (5) business days from the date that the notice is sent or such other time as may be mutually agreed upon by the City and Owner, the City may renew or repair the highway or public lands at the expense of the Owner;
- e) not obstruct, hinder, or interfere with the free access to the Encroachment by any person acting on behalf of the City, including an employee, officer, or agent of the City;
- f) notify the City in writing 30 days in advance of any potential transfer or sale of their property or any part thereof, together with the name and address of the potential transferee or purchaser. For clarity, in the event that the Owner sells the property to which the Encroachment Agreement is appurtenant, the Owner shall instruct the transferee or purchaser of the said property to submit a new Encroachment Agreement Application to the City for the City's review and approval;
- g) apply for a new Encroachment Agreement pursuant to this by-law if the Encroachment is moved, altered, or changed in any manner and will remain on the highway or public lands after such movement, alteration or change;
- h) at all times release, indemnify and save harmless the City, agents, consultants, contractors, assigns, and any others for whom the City is at law responsible from and against any and all claims, demands, losses, expenses, costs, including but not limited to legal fees on a substantial indemnity basis, damages, actions, suits, judgements, or proceedings, or any other obligations or liabilities which may at any time or from time to time be asserted against, imposed upon or incurred by the City as a

consequence of or in connection with the maintenance, alteration, use or any other matter or thing, directly or indirectly, relating to the Encroachment;

- i) (obtain and maintain insurance to the satisfaction of the City naming the City as an additional insured for the duration of the Encroachment Agreement. A Certificate of Insurance evidencing the insurance coverage shall be provided to the City prior to the City signing the agreement and thereafter promptly on the insurance renewal date;
- j) acknowledge that the City or Owner may terminate the Encroachment Agreement on sixty (60) days written notice for any reason whatsoever. In the event of agreement termination, the Owner shall remove the Encroachment on the date of termination at their expense. If the Owner fails to remove the Encroachment on the date of termination, the City shall provide the Owner with a notice requiring the Owner to remove the Encroachment within five (5) business days. If the Owner fails to remove the Encroachment within the five (5) business day period, the City shall have the right to remove the Encroachment at the expense of the Owner.
- k) restore the highway or public lands to the condition they were in prior to the date of the Encroachment Agreement or in compliance with current City standards upon the removal of the Encroachment from the highway or public lands, at the Owner's sole expense; and
- l) acknowledge that the City shall have a right to terminate the agreement in the event that the Encroachment represents a danger to the safety of the public using the highway or public lands or detrimentally interferes with future improvements. Such termination shall be by written notice to the Owner.

### **13.0 ADMINISTRATION OF BY-LAW**

**13.1** The Director is responsible for the administration of Encroachment Permits of this by-law on behalf of the City, including the review of applications for Encroachment Permits, the circulation of such applications, where appropriate, to other organizational divisions with an interest in the matter, and the issuance of Encroachment Permits.

**13.2** The Director or any other organizational division of the City with an interest in the matter may impose additional conditions as a requirement of obtaining or continuing to hold an Encroachment Permit, including the requirement of an Applicant to enter into an Encroachment Agreement with the City.



- 13.3** The Director is responsible for the administration of Encroachment Agreements of this by-law on behalf of the City, including the review of Encroachment Agreement applications, the circulation of such applications, where appropriate, to other organizational divisions with an interest in the matter.
- 13.4** An Encroachment Agreement will not be issued or approved unless all organizational divisions of the City with an interest in the matter are satisfied that the Encroachment will not pose a danger to the safety of persons using the highway or public lands, or interfere with the activities or adversely affect the conditions or operation of the equipment and facilities of the City.
- 14.0 ORDERS AND REMEDIAL ACTIONS**
- 14.1** Notwithstanding any other provisions in this by-law, Encroachments that exist contrary to this by-law shall be removed by the Owner thereof within five (5) business days after service of a notice from the City advising that such Encroachment is in contravention of this by-law. Such notice shall be in writing, shall identify by the municipal address the lands upon which the Encroachment is situate and shall specify the particulars of non-compliance with this by-law.
- 14.2** If such Encroachment has not been removed by the owner as required herein, the City may cause such Encroachment to be removed at the expense of the Owner and any costs incurred by the City may be recovered in like manner as the municipal taxes on the property where the Encroachment was located pursuant to the Municipal Act, 2001.

## SCHEDULE H HIGHWAY OCCUPANCY PERMIT

### 2.0 DEFINITIONS:

1.1 In this schedule:

“Activity” includes the temporary occupancy of a Right-of-Way for any purpose for a defined period of time outside its normal intended use by the City, Utility Company, or person(s);

“Applicant” means any person, Utility Company or corporation making application for a Highway Occupancy Permit;

“City of Cambridge Standards” means The City of Cambridge Standards, as amended from time to time, and are intended as guidelines for land development and City projects to aid in providing uniform designs throughout the City and are to be used in conjunction with Ontario Provincial Standard Drawings (O.P.S.D.) and Ontario Provincial Standard Specifications (O.P.S.S.), both as amended from time to time;

“Contractor” means a person who makes an agreement with another to do a piece of work and who, retain control of the means, method and manner of producing the result to be accomplished.

“Deleterious Material” means subsurface soils of an undesirable nature such as, but not limited to organic materials, highly organic silts, sensitive or ultra-sensitive clays, peat or other highly compressible soils, and soils containing noxious or hazardous chemical or waste products;

“Heave” means any rise in the surface of a road cut in relation to the grade of the adjacent undisturbed highway;

“Highway Occupancy Permit” or “HOP” means a Permit allowing access to the road allowance to effect various works as issued under this By-law;

“Issuer of Permits” means an employee of the City of Cambridge with the authority to grant permits under this By-Law;

“M.T.O.” means Ministry of Transportation of Ontario;

“Municipal Consent” means the written consent of the Engineering Department, with or without conditions, for access to and use of the City Rights-of-Way, subject to obtaining a Highway Occupancy Permit as applicable;

“O.P.S.D.” means Ontario Provincial Standard Drawings, as amended;

“O.P.S.S.” means Ontario Provincial Standard Specifications, as amended;

“Permanent Landscape Features” means any landscape feature that is not easily removed. These features include but are not limited to curbs, structures, boulders, etc.

“Permit” means a Highway Occupancy Permit.

“Road Cut” means a surface or subsurface cut in any part of a Highway made by any means, including but not limited to any excavation, reconstruction, cutting, saw cutting, overlaying, crack sealing, breaking, boring, directional drilling, jacking or tunneling operations;

“Settlement” or “Settled” means any sinking of the surface of a road cut in relation to the grade of the adjacent undisturbed highway;

“Traffic Management Plan” means a standard document outlining the particulars of proposed work on any Highway within the City of Cambridge that is submitted by or on behalf of the Contractor to the City for review. The Plan shall contain the information respecting how the permit holder intends to comply with this By-law including but not limited to the following:

- (a) Start and completion times of work;
- (b) Specific location of work;
- (c) Requirement to work during peak hours, if any;
- (d) Lane use requirements;
- (e) Requirements for road closure;
- (f) Parking meters affected by work;
- (g) Requirement for temporary no stopping signs;
- (h) Identification of any bus route(s) and bus stops affected by work activity; and
- (i) Traffic routing and detour requirements where required.

“Utility/Utilities” means any structures above or below ground which exist on a Right-of-Way and include buried and aerial hydro cable and ducts, telephone, cable, television and internet communication cables, trees, water, including underground pipes, hydrants and valves, sanitary and storm sewer pipes, gas and steam pipes, meters, and valves.

“Utility Company” means any company with the authority to construct within a Right-of-Way pursuant to provincial or federal legislation, by-law, franchise agreements or municipal access agreement;

“Warranty” means a guarantee by the Permit Holder that the work for which a Highway Occupancy Permit has been issued has been carried out in accordance with the City's requirements; and

“Works” means something that one is doing, making, or performing, especially as an occupation or undertaking; a duty, task or installation.

## **2.0 GENERAL PROVISIONS**

### **2.1** When a Highway Occupancy Permit for Occupancy is required:

Except as provided in sections 2.2 and 2.3, no person shall undertake any activity within a City Right-of-Way without a Permit to do so.

- (1) An application for a Highway Occupancy Permit shall be filed with the Issuer of Permits in advance of such right-of-way activity. When applying for a Permit, the Applicant shall:
  - (a) Complete and submit the prescribed application form;
  - (b) Allow ten (10) business days to process Permit for full road closures;
  - (c) Allow five (5) business days to process Permit for works requiring lane closures;
  - (d) Allow three (3) business days for works not requiring lane closures.
  - (e) Furnish to the City such information as the Issuer of Permits may require, including, but not limited to, a sketch illustrating the planned work and work area, and a Traffic Management Plan; and
  - (f) Submit insurance documentation as required on the application form.
- (2) When filing the completed application, the Applicant shall pay a non-refundable permit fee as set out in the City of Cambridge's Municipal Fees and Charges By-law, as amended from time to time;
- (3) When the Applicant is requesting multiple road cuts the City reserves the right to issue a single permit or multiple permits for the works.

- (4) It shall be at the sole discretion of the Issuer of Permits to determine for reasons of public safety or the effective operation of the public transportation system, when a Highway occupancy may occur.
- (5) A Highway Occupancy Permit shall not be issued until:
  - (a) Proof of insurance has been filed as required by Section 2.16;
  - (b) The Permit fee or fees required hereof has or have been paid as per the City of Cambridge Municipal Rate Review;
  - (c) An emergency contact telephone number for the service required by Section 2.13 has been provided; and
  - (e) Approval for Municipal Consent has been issued and any conditions have been complied with, if applicable.
- (6) Where two (2) or more cuts are proposed, the Issuer of Permits may state the order in which the work is to be performed.
- (7) Notwithstanding subsection (1), where the work is of a major nature or duration and will cause general inconvenience to all the residents and businesses located beside or near the Right-of-Way where the work will occur, the Applicant shall consult with the Issuer of Permits as early as possible about the work prior to its commencement, taking into consideration the scale and complexity of the work.

## **2.2 Work Which Does Not Required A Permit**

- (1) If it is the intent of the Applicant to complete work within a Right-of-Way that is minor and of very short duration as defined by OTM Book 7, (i.e. does not cause any disruption to traffic flows, does not break ground and does not create a potential for damages to existing utilities), as determined at the sole discretion of the Issuer of Permits, then a Highway Occupancy Permit may not be required.
- (2) While engaged in work within the Right-of-Way that is minor in nature as determined by the Issuer of Permits, no persons shall disturb, damage or alter City lands whether or not a Highway Occupancy Permit is required.

## **2.3 Emergency Work**

- (1) Subject to subsection 2.3 (2) hereof, where public safety or health, or a major business interruption in works is concerned, a road occupancy may be carried out without regard to the prior notification requirements of this

by-law; All other requirements still apply.

- (2) Where an emergency Highway occupancy has been undertaken, the person or utility undertaking the road occupancy shall, on the same day the work is commenced, or if the City offices are closed, no later than the start of the next working day, notify by telephone (or fax or e-mail) the Issuer of Permits of the following:
  - (a) the name of the utility or contractor undertaking the road occupancy;
  - (b) the nature of the work;
  - (c) the location of the road occupancy;
  - (d) the estimated duration of the work;
  - (e) the reason for proceeding without obtaining a Highway Occupancy Permit and without providing the required notice; and
  - (f) retroactively comply with all requirements of this By-law including obtaining a Highway Occupancy Permit;
- (3) The Issuer of Permits may require any or all information to confirm the validity of an emergency Highway occupancy. Should insufficient proof of an emergency be submitted the Applicant may be notified in writing that they are subject to the same restrictions and penalties as performing occupancy without a Highway Occupancy Permit.

#### **2.4** Application for Extension of Permit

- (1) Any person wishing to extend a Highway Occupancy Permit previously granted under this by-law, shall submit to the Issuer of Permits a written request noting reason for extension and revised completion date. Such request must be submitted at least one (1) day prior to expiration of the existing Highway Occupancy Permit.
- (2) The Issuer of Permits may refuse to accept an extension request that is not received at least one (1) day prior to expiration, or if the extension will conflict with other works already approved in the same vicinity, and shall not issue an extension to the Highway Occupancy Permit.
- (3) Where the Issuer of Permits does not grant an extension, at his or her sole discretion, the Applicant shall vacate the Right-of-Way, and re-apply for a new Permit per the normal procedure.

- (4) Where the Issuer of Permits is satisfied that the Applicant is entitled to obtain a Highway Occupancy Permit under the provisions of this by-law, the Issuer of Permits shall prepare and issue a Highway Occupancy Permit to the Applicant.

## **2.5 Notice Requirements for Right-of-Way and Road Occupancy**

- (1) Where the work is of a major nature or duration and will cause general inconvenience to the residents and businesses located beside or near the Right-of-Way where the work will occur, every Permit Holder or person responsible for the road occupancy shall, at least five (5) business days prior to commencing the work, provide in writing to every resident and business located beside or near the Right-of-Way where the work will occur for the following information:
  - (a) description and rationale for the work;
  - (b) the approximate start date;
  - (c) the duration of the work;
  - (d) access restrictions and service interruptions; and
  - (e) contact information for the Permit Holder.

## **2.6 Warning Devices, Barricades and Traffic Signs**

- (1) The Permit Holder shall supply, erect and maintain warning devices, barricades and traffic signs where applicable, in accordance with the *Occupational Health and Safety Act*, R.S.O. 1990, chap. O.1, as amended, and any applicable provincial traffic regulations, including but not limited to the Ministry of Transportation's Ontario Traffic Manual - Book 7 (Temporary Conditions).
- (2) If the Permit Holder fails to comply with subsection 2.5 (1) or 2.6 (1) hereof, the Issuer of Permits may order the erection and maintenance of any warning devices, barricades and signs considered necessary at the Permit Holder's expense, and the cost thereof shall be paid by the Permit Holder forthwith on demand.

## **2.7 Closure of Traffic**

- (1) No person shall close or obstruct a Highway or portion of thereof to traffic unless authorized to do so by the Issuer of Permits

- (2) No Permit Holder shall close a Highway to traffic or one direction of traffic on a highway unless:
  - (a) the written consent of the Issuer of Permits to the closing is obtained; and
  - (b) on behalf of the Permit Holder, the Issuer of Permits shall notify Waterloo Regional Police Service, Cambridge Fire Department and Ambulance Service, Grand River Transit, Student Transportation Services Waterloo Region and any other person, department or agent requiring notice, from time to time affected by the occupancy, or the commencement and termination of the activity.
- (3) The Permit Holder shall supply, locate, relocate, erect, operate and maintain all traffic control, detour and information signs in accordance with the Traffic Control Plan and current edition of Ontario Traffic Manual - Book 7 (Temporary Conditions);

## **2.8 Form of Permit**

- (1) Every Highway Occupancy Permit shall contain the following information:
  - a) the operating name of the business or person to whom the Highway Occupancy Permit is issued;
  - b) the operating address of the premise or location for which the Highway Occupancy Permit is issued;
  - c) the type of activity planned;
  - d) the date of issue;
  - e) the effective date and time of the Highway Occupancy Permit;
  - f) the date and time of expiration;
  - g) any other conditions if applicable;
  - h) such requirements as needed given the nature of the work being undertaken on a Right-of-Way

## **2.9 Inspection**

- (1) An Inspector may at all reasonable times enter on any land, for the purpose of carrying out an inspection to determine whether or not the provisions of this By-



law, a direction or order, a condition of a Highway Occupancy Permit or an Order of the Court are being complied with.

- (2) For the purposes of an inspection, an Inspector may:
- i) require the production for inspection of documents or things relevant to the inspection;
  - ii) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - iii) require information from any person concerning a matter related to the inspection; and,
  - iv) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- (3) Where a sample is taken, the sample shall be divided into two parts, and one part shall be delivered to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities. If a sample has been taken and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken.
- (4) A receipt shall be provided for any document or thing removed and the document or thing shall be promptly returned after the copies or extracts are made.
- (5) Where repeat inspections are required due to deficiencies in restoration, poor site conditions or safety concerns the Permit Holder will be subject to fees as determined.

## **2.10 Stop Work Order**

- (1) An Inspector or Issuer of Permits may at his or her discretion issue a stop work order.
- (2) Stop Work Orders are issued where an Inspector or Issuer of Permits finds an occupancy occurring that is not in accordance with the conditions of an issued Highway Occupancy Permit **or** where occupancy is taking place without a Highway Occupancy Permit.
- (3) A Stop Work Order may only be applied to the activity that constitutes the contravention. For instance, in cases of contravening a condition of a Highway

Occupancy Permit, some of the work can be continued while only the violating activity can be ordered to cease. In cases where occupancy is taking place without a Highway Occupancy Permit, all work will stop, the area will be temporarily restored, and the proponent will vacate the area until a Highway Occupancy Permit has been obtained per the usual procedure. Permit fees for a Highway Occupancy Permit issued as a result of a Stop Work Order will be double the usual permit fees as noted in the City of Cambridge Municipal Fees and Charges By-law, as amended.

- (4) The Inspector shall take appropriate action against any person(s) who disobeys a Stop Work Order. Failure to comply with a Stop Work Order leaves the recipient liable to a fine.
- (5) A Stop Work Order shall be lifted once the issuer of the Stop Work Order or the Issuer of Permits determines that all contraventions of this by-law have been rectified.

#### **2.11 Non-Compliant Installations**

- (1) Should any occupancy begin that is not in strict compliance with the conditions of the Highway Occupancy Permit and this by-law, the Permit Holder may be issued a stop-work order and may be required to perform temporary restoration and move all equipment and materials off-site until these requirements are met in-full and Highway Occupancy Permit may be cancelled, at the sole discretion of the Engineering Division.
- (2) Depending on the severity of the infraction, the issuance of new Highway Occupancy Permits to the same Permit Holder may be withheld or delayed, at the sole discretion of the Engineering Division, until the infraction has been addressed by the Permit Holder to the satisfaction of the Engineering Division.
- (3) Where utilities are found to be installed without a valid Highway Occupancy Permit and/or in a location other than that approved by the Engineering Division, the Proponent / Permit Holder may be required to remove the utilities immediately, at its own expense. Restoration shall be performed in accordance with the procedures outlined in the Highway Occupancy Permit.

#### **2.12 Posting of Permit**

No Permit Holder shall work at a job site without the Highway Occupancy Permit on-site and available for inspection.

- (2) The Permit Holder shall, if requested, display at the job site an easily read sign showing the names of:

- (a) the Permit Holder;
- (b) the person(s) or contractor undertaking the work; and
- (c) the name of the entity for which the work is being done

### **2.13 Telephone**

The Permit Holder shall maintain and answer a telephone at all times (24 hours, seven days-a-week) during the period for which the Permit Holder is responsible for the occupancy, including the warranty period, so that the City can advise the Permit Holder of any necessary repairs to the road cut or other infrastructure that may have been damaged as a result of the occupancy.

### **2.14 Refusal to Grant a Permit**

- (1) The Issuer of Permits may refuse to grant a Highway Occupancy Permit to any Applicant for any of the following reasons:
- (a) persistent and/or serious violations of any condition of a Highway Occupancy Permit previously issued to the Applicant, or of any provisions of this by-law applicable to a Highway Occupancy Permit previously issued hereunder;
  - (b) non-payment or late payment of monies due to the City as a result of inspection, or of any necessary work undertaken by the City, in the course of administering any provision of this by-law;
  - (c) where roadway construction, reconstruction or resurfacing has occurred within the previous three years of the proposed road cut;
  - (d) such other reason as the Issuer of Permits may deem proper which reason shall be delivered in writing to the Applicant if so requested.

### **2.15 Suspension/Revocation**

- (1) Any Highway Occupancy Permit issued pursuant to this by-law may be suspended or revoked by the Issuer of Permits upon giving written notice to the Applicant for the following reasons:
- (i) a violation of any condition of the Highway Occupancy Permit or of any provision of this by-law;
  - (ii) a violation of any provision of any other law relating to the work;
  - (iii) the existence of any condition or the doing of any act constituting or

creating a nuisance or endangering the lives or properties of others;

- (iv) where the Highway Occupancy Permit has been issued on mistaken, false or misleading information; and
- (v) where the work is not carried out in a diligent and workmanlike manner.

- (2) The Issuer of Permits may, in his sole and unfettered discretion, grant a period of not more than seven days to correct the violation or condition.
- (3) Upon notice of such Highway Occupancy Permit being revoked, the Permit Holder must immediately cease and desist from carrying out any additional activities allowed under the Highway Occupancy Permit and immediately restore the highway or portion thereof to City of Cambridge Standards as set out in this by-law. Such restoration shall be carried out at the Permit Holder's sole expense, and if the Permit Holder should fail to carry out such restoration, such highway shall be restored to City of Cambridge Standards by the City as necessary, and the entire cost of so doing shall be paid by the Permit Holder. When such restoration is completed, the Permit Holder may reapply for a new Highway Occupancy Permit.

## **2.16 Insurance**

- (1) Every Applicant for a Highway Occupancy Permit shall provide and maintain Comprehensive/Commercial General Liability insurance acceptable to the City and subject to limits of not less than two million dollars (\$2,000,000) inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof. Such Comprehensive/Commercial General Liability insurance policy shall be in the name of the Applicant and shall name the City of Cambridge as an 'additional insured'. The insurance policy shall remain in place until all warranty requirements are fulfilled.
- (2) The insurance policy referred to in subsection (1) hereof shall contain an endorsement to provide the City with thirty (30) days written notice of cancellation.

## **2.17 Indemnification**

A Highway Occupancy Permit is issued subject to the condition that the Permit Holder shall indemnify the City and each of its officers, agents, servants and workers from all causes of action, loss, costs or damages arising from the execution, non-execution or imperfect execution of any work authorized by this by-law whether with or without negligence on the part of the Permit Holder or the

officers, agents, servants or workers of the Permit Holder.

## **2.18 Snow Removal and De-Icing**

- (1) Where the Permit Holder's work impedes snow removal and de-icing by the City on areas where vehicular and pedestrian traffic are being maintained, as reasonably determined at the sole discretion of the Infrastructure Services Department, the Permit Holder shall be responsible for providing ice and snow removal services within the limits of the work site. Such areas shall be cleared of ice and snow to the satisfaction of the Infrastructure Services Department.
- (2) Should the Permit Holder fail to complete the required snow removal services and de-icing within the set deadlines, the City, without any notice to the Permit Holder, may arrange for the snow and ice to be removed by others. All costs incurred by such removal shall be charged to the Permit Holder.

## **2.19 Fees and Security**

- (1) The fees for the Highway Occupancy Permit, and for any inspections required under it, shall be such amount as determined in the City of Cambridge Municipal Fees and Charges By-law, as amended and shall be due and payable to the City of Cambridge at the time of application. No Highway Occupancy Permit shall be issued, or inspection carried out until such fees have been paid and there shall be no refund of any fees for any cause.
- (2) The Permit Holder shall maintain or repair the work completed under the terms of the Highway Occupancy Permit as set out in Section 2.0 General Provisions, until accepted as satisfactory by the Issuer of Permits and shall restore the Right-of-Way to City of Cambridge Standards. To guarantee the restoration, the Permit Holder shall deposit with the City of Cambridge Security in a form acceptable to the City of Cambridge, to cover the faithful performance of the terms of the Highway Occupancy Permit including maintenance, repair and restoration carried out by the Permit Holder and every other obligation arising under and imposed upon the Permit Holder by this by-law or any Highway Occupancy Permit, as determined by the Issuer of Permits. Such Security shall be provided forthwith prior to the issuance of any Highway Occupancy Permit and in such amount as determined by the Issuer of Permits.

**2.20 Times of Work**

- (1) Work may only take place during the times specified on the Highway Occupancy Permit or as otherwise specified by the Issuer of Permits. Restrictions may vary for different directions of travel on the same street and work may be prohibited at specific times and dates in order to co-ordinate with or avoid other work or events in the area.
- (2) At most locations, typical working hours will be between the hours of 7 A.M.–7 P.M. from Monday to Friday. No work will be permitted on Saturday, Sunday or statutory holidays. Specific exceptions to the above noted typical times may be granted if required, at the sole discretion of the Issuer of Permits, depending on the circumstances of the individual work.
- (3) The work site shall be adequately protected and secured at all times.

**2.21 Site Conditions**

- (1) The Permit Holder is responsible for maintaining the work site and surrounding area free of dust and mud. The Permit Holder shall clean the road and sidewalks as required to the satisfaction of the Engineering Division.
- (2) Prior to the start of any construction activity, filter cloth shall be placed between the frames and covers of all catch basins within the immediate area to prevent the entry of construction dirt and debris.
- (3) The Permit Holder shall keep the site and work in as tidy a condition as practicable and to the satisfaction of the City. The Permit Holder shall not deposit any material on any portion of street, sidewalk, boulevard, grass plot, or other City property, without the permission of the City, and shall remove same without delay when and as directed by the City. Upon completion of the work, the Permit Holder shall remove all surplus materials as well as any rubbish accumulated on account of the work, make good any defects or damage and shall leave the site in a condition satisfactory to the City.
- (4) Should the Permit Holder fail to comply with this requirement and maintain the street in a satisfactory condition, the Engineering Division, acting reasonably, without further notice, may issue a stop work order, cancel the Highway Occupancy Permit, charge the Permit Holder under applicable Bylaws and/or arrange for the site to be cleaned immediately by others. All costs incurred in cleaning the dust and mud resulting from the Permit Holder's work shall be charged to the Permit Holder.

**2.22 City Infrastructure**

- (1) The Permit Holder shall not complete servicing works on City owned sanitary, sewer and/or water infrastructure without written permission from the Director of Environmental Services and/or his/her designate.
- (2) The Permit Holder shall not operate watermain valves, service water valves and/or hydrants. If operation of any water supply valves is required, the Permit Holder must contact the City of Cambridge Water Operations Branch by phone.
- (3) No person shall operate valves, hydrants or interfere with a potable water system in any manner that will cause the water to become non-potable.

**2.23 Storage Containers**

A Permit Holder and contractor are not permitted to install a storage container on a Highway from November 1<sup>st</sup> to March 31<sup>st</sup>.

**2.24 Disposal Bin**

A Permit Holder and contractor are not permitted to install a disposal bin on a Highway from November 1<sup>st</sup> to March 31<sup>st</sup>.

**2.25 Transferability**

A Highway Occupancy Permit is not transferable without the written consent of the Issuer of Permits.

**3.0 ROAD WORK PROVISIONS****3.1 General Permit Requirements**

- (1) The Permit Holder shall open a road cut in such a manner as to do the least possible damage to the Highway and to any utility or municipal service.
- (2) The work shall proceed expeditiously and no Permit Holder shall allow a road cut to remain open for more than twenty-four (24) hours unless the work is actively in progress.
- (3) The site shall be kept clean and safe, and sources of dust and mud controlled at all times until the final reinstatement has been completed. All dust and mud nuisance that is tracked from the site shall be promptly cleaned.

- (4) The Permit Holder and contractor shall comply with and be bound by the provisions of the Occupational Health and Safety Act, R.S.O. 1990, Chap. 0.1, as amended.
- (5) All persons employing or using trucks or other vehicles entering or leaving construction sites for any purpose whatsoever, shall immediately remove from the Highway any rubbish, earth, or other material which has fallen from such vehicles.
- (6) The Permit Holder and contractor shall comply with and be bound by the provisions of the Ministry of Transportation's Ontario Traffic Manual, Book 7 (Temporary Conditions).

### **3.2 Road Cut**

- (1) The Permit Holder and contractor are not permitted to complete open excavation (including daylighting) of the roadway surface of the Highway from November 1<sup>st</sup> to March 31<sup>st</sup>.
- (2) The Permit Holder shall submit to the Issuer of Permits a written request for an exemption to Section 3.2 (1) that meets the requirements of City of Cambridge Standards for servicing works being completed for a development control application including a severance, plan of subdivision, or site plan approval. The Permit Holder will be required to obtain approval from the Director of Environmental Services and/or his/her designate to complete servicing works within the Highway.
- (3) Where a Permit Holder has been permitted under Section 3.2 (1) to complete servicing works, the Permit Holder and contractor undertaking the road occupancy are required to perform the restoration works as per Section 3.4 Reinstatement and Backfill Requirements of this By-law.

### **3.3 Excavated Material and Road Cut Methods**

- (1) No Permit Holder shall place, cause or allow the placement of material or equipment on any Roadway or Sidewalk at any time or in a location where it will cause damage to the infrastructure it is placed upon, and/or create a traffic or safety hazard unless authorized to do so by the Issuer of Permits.
- (2) Except as permitted by the City, where multiple road cuts are required with a separation distance of equal to or less than fifteen (15) meters it shall be required that the permit holder reinstate the road cuts and resurface the entire width of the roadway for the entire distance between the outer edges of the most extreme road cuts.



- (3) Where a cut is made in any concrete surface, the Permit Holder shall break out and remove all concrete:
  - (a) to the nearest expansion joint, or contraction joint, using a concrete saw if necessary, to provide on all sides of the cut, a clean vertical surface; or
  - (b) as specified by the Issuer of Permits.
- (4) Where a road cut is made in asphalt pavement, the asphalt shall be cut with a mechanical cut device to produce:
  - (a) a rectangular opening with edges which are vertically straight; and
  - (b) a cut, which is large enough to accommodate the proposed works without undermining the adjacent asphalt pavement.
- (5) Where boring, directional drilling, jacking or tunneling is used for any subsurface road cut:
  - (a) the method used shall be approved by the Issuer of Permits; and
  - (b) if a cave-in, settlement or heaving results therefrom within a period of twelve (12) months following the date of work, the surface in the affected area shall be removed and reinstated by the Permit Holder in accordance with this by-law to the satisfaction of the Issuer of Permits.
- (6) Where two (2) or more connections for sewer or water are to be made, the Issuer of Permits may state the order in which these connections are made. The lowest utility should be generally built first.
- (7) All works shall be completed to City of Cambridge Standards and Ontario Provincial Standards. City of Cambridge Standards shall take precedence over Ontario Provincial Standards.

#### **3.4 Reinstatement and Backfill Requirements**

- (1) The Permit Holder shall be responsible for:
  - (a) the temporary reinstatement of a road cut subject to the provisions of this by-law;
  - (b) the maintenance of temporary reinstatements, as provided for in this Bylaw, on every road cut which on or after November 1<sup>st</sup> in any year is not in a condition to be permanently reinstated, and is

carried over for permanent reinstatement prior to May 1<sup>st</sup> of the following year;

- (c) payment to the City for its inspection charges as determined by the City's Engineering Division.
- (2) All reinstatements shall be done to current City of Cambridge Standards and O.P.S.S. standards. City of Cambridge Standards shall take precedence over Ontario Provincial Standards
- (3) A Highway shall be reinstated with,
- (a) the same type of material, except for deleterious material, and to the same thickness as the adjoining construction when originally constructed; or
  - (b) material of a thickness that has been approved by the City of Cambridge.
  - (c) all reinstatements shall be to the satisfaction of the City of Cambridge
  - (d) on all arterial and collector roads only non-compressible backfill shall be used at any time; and
  - (e) After November 1<sup>st</sup> of each year until May 1<sup>st</sup> of the following year only non-compressible backfill shall be used unless otherwise approved by the Issuer of Permits.
- (4) Temporary surfacing of a roadway with asphalt, concrete, or surface treated surface shall meet the following requirements:
- (a) the road cut shall be temporarily reinstated immediately after backfilling is completed;
  - (b) the reinstatement shall be to the same level as the adjacent surface; and
  - (c) prior to the highway being opened to traffic, the top forty (40mm) millimeters of the road cut shall be surfaced with hot mix asphalt, concrete, or, if hot mix asphalt is unavailable, with emulsified cold mix asphaltic material, all hand-tamped or rolled to a smooth, flat condition using commonly accepted practices and standard tamping or rolling equipment.

**3.5 Pavement Cut Fees**

- (1) Any person or corporation who completes a road cut without Highway Occupancy Permit or fails to identify the road cut through the permit application process shall be liable for any additional fees as assessed by the City.
- (2) Outstanding or unpaid fees shall be paid to the City prior to any further Highway Occupancy Permits being granted by the Issuer of Permits.

**3.6 Testing**

- (1) The Issuer of Permits may at any time require a Permit Holder to provide at the Permit Holder's expense:
  - (a) Test reports, from a testing laboratory satisfactory to the Issuer of Permits, showing the degree of compaction that has been achieved; or
  - (b) a certificate from an engineer, or from a testing laboratory satisfactory to the Issuer of Permits, certifying that the backfilling procedures have been performed in accordance with this by-law.

- (2) All testing required shall be completed in accordance with OPSS.

**3.7 Reporting Damage/Impact to Existing Utilities**

- (1) Any impact on existing utilities including, but not limited to, the protective coating, support, cathodic protection or the housing of the utilities, shall be reported to the Engineering Division and applicable Utility Company immediately.
- (2) The utilities shall remain exposed, with the excavation properly supported, until the utilities owner has assessed the damage and made a repair or authorized the Permit Holder to proceed.

**3.8 Completion of Work**

Upon completion of the temporary surfacing or permanent reinstatement of the road cut, all excess material shall be removed from the area of the road cut and the area shall be left in a safe, neat and clean condition, similar to the condition of the highway as it was found, all to the satisfaction of the Issuer of Permits.

#### **4.0 TRENCHLESS INSTALLATIONS**

- (1) Where the work being undertaken uses trenchless installation methods, preservation and protection of existing facilities shall be according to OPSS 491.
- (2) Minimum horizontal and vertical clearances to existing facilities as specified in OPSS shall be maintained. Clearances shall be measured from the nearest edge of the largest back reamer required to the nearest edge of the facility being paralleled or crossed.
- (3) Existing underground facilities shall be exposed to verify its horizontal and vertical locations when the bore path comes within 1.0 m horizontally or vertically of the existing facility. Existing facilities shall be exposed by non-destructive methods. The number of pilot holes required to monitor work progress and the proposed location of such pilot holes must be clearly depicted on the application drawing. All pilot holes and any other damage to the street infrastructure shall be restored as per the requirements of this By-Law.

#### **5.0 PROTECTION OF TREES**

Any construction activity in the vicinity of existing trees shall make every effort to protect said trees and maintain optimum growing conditions in strict compliance with good arboricultural practice.

#### **6.0 UTILITY COMPANIES**

##### **6.1 Service Drops (including Temporary)**

- (1) Temporary service drops shall be permitted as a means to supply servicing to a resident with the permanent service being installed at a future date. Installation of cables shall be performed in a manner that ensures the safety of residents, pedestrians, and vehicles and placed with due regard for aesthetics. When within the Boulevard, a cable shall be shallow depth buried such that it does not constitute a tripping hazard. Cables shall not cross sidewalks, driveways or walking paths along the surface. When crossing a road, sidewalk, driveway or walking path, the height of the cable shall be no less than 4.5 metres. Cables shall not lie unprotected on the ground at any location. Cables shall not be strung using trees.
- (2) A cable shall not cross over a property not being fed by this cable without consent of the affected property owner.

- Notification must be given to all residents of all properties affected by the temporary service connection including an estimated date of permanent service installation and removal of the temporary cable.
  - All infrastructure including, but not limited to, utility pedestals, cables, supports and access points shall remain in a closed and safe condition at all times.
- (3) The Permit Holder shall make its best effort to install the permanent service as soon as possible. In the winter or early spring, frost conditions may delay the permanent installation; however, in general, temporary service drops shall be removed within 45 days.
- (4) Immediately upon installation of the permanent service, regardless of whether or not restoration has been completed, all materials and equipment associated with the temporary service drop shall be removed from the site.

### 6.3 Road Cuts

- (1) Utility Companies are not permitted to complete open excavation (including daylighting) of the roadway surface of the Highway from November 1<sup>st</sup> to March 31<sup>st</sup>.
- (2) Utility Companies shall submit to the Issuer of Permits a written request for an exemption to Section 6.3 (1) for emergency work where public safety or health, or a major business interruption in works is concerned.
- (3) Where an emergency road occupancy has been permitted, the Utility Company undertaking the road occupancy are required to perform the final restoration works to City of Cambridge Standards within the timelines of the Permit.

### 6.4 Restorations

- (1) Upon completion of the Utility Companies work, the City will complete all final restoration works within sixty (60) days during the restoration period of April 1<sup>st</sup> to November 1<sup>st</sup> of each year, all costs associated with the final restoration works will be invoiced to each individual Utility Company on a monthly basis.
- (2) Upon completion of the Utility Companies work, the maintenance of the temporary restorations, as provided for in this by-law, shall be the responsibility of the Utility Company till the time that all final restorations are completed by the City.

- (3) Final restorations work will not be completed during the period of November 1<sup>st</sup> in each year to March 31<sup>st</sup> of the following year; the Utility Company shall be responsible for the temporary reinstatement during this time period.
- (4) The Issuer of Permits shall advise the Utility Company when the final restoration works shall be performed by the Utility Company. When the Utility Company performs the final restoration works, the Utility Company warrants the work for a period of twenty-four (24) months from the date of the completion of the final restoration works.

## **7.0 CUT FAILURE AND WARRANTIES**

### **7.1 Warranty**

- (1) For temporary reinstatement of the Highway, a Permit Holder is responsible for,
  - (a) the repairs necessary to correct any road cut considered under the Ontario Minimum Maintenance Standards for Municipal Highway, OPSS and City of Cambridge Standards as applicable.
- (2) Following permanent reinstatement of the Highway a Permit Holder is responsible for,
  - (a) the repairs necessary to correct any settlement or surface deterioration for a warranty period of twelve (12) months following the date of acceptance by the City of final reinstatement of the highway, being the last time, the Permit Holder repaired the road cut; and
  - (b) any costs incurred by the City for any temporary and permanent surface repairs resulting from improper backfilling or compaction of the Highway or deficient materials.
- (3) If the Permit Holder has not done the work referred to in section 7.1 subsection (2) hereof within twenty-four (24) hours notification, the Issuer of Permits may order the work to be done at the Permit Holder's expense. All costs incurred by the City shall be paid by the Permit Holder forthwith on demand; failing to do so all costs shall be deducted from the security.
- (4) Utility Companies will be exempted of the provisions in Section 7.0 (7.1) of this By-law, Utility Companies will be required to meet the provisions of Section 6.0 (6.4) of this By-law or with the requirements within an approved Municipal Access Agreement and/or Franchise Agreement with the City of Cambridge.

## **7.2 Emergency Repairs**

- (1) If the Issuer of Permits is of the opinion that a road cut reinstatement or lack of reinstatement, has created an emergency situation which can cause damage to vehicles or endanger the public, the Issuer of Permits may protect the area and:
  - (a) make immediate repairs; or
  - (b) telephone the Permit Holder using the telephone service provided by the Permit Holder as required by Section 2.13, advising the Permit Holder as to the repair work which must be carried out.
- (2) Permit Holder is required to complete emergency repairs within 24 hours of being notified by the Issuer of Permits.
- (3) All work done by the City pursuant to section 7.2 subsection (1) hereof shall be at the expense of the Permit Holder and the costs of the City shall be paid by the Permit Holder forthwith on demand failing which the costs shall be deducted from the security.

## **7.3 Responsibility for Claims and Maintenance**

- (1) A Permit Holder shall be responsible for all loss or damages arising from the work done by or for the Permit Holder.
- (2) Where a Highway or Utility on the Highway has been damaged by a Permit Holder, the City or the Utility respectively has the sole responsibility for deciding who shall carry out the repairs.

## **8.0 EXEMPTIONS**

The Director may grant an exemption to any person from any provision of this By-law and impose conditions for such exemption as may be considered reasonable and necessary, provided such exemption does not interfere with the general integrity of this by-law.