

Being a by-law to regulate the crossing of curbs, sidewalks, ditches or boulevards by vehicles delivering or removing materials from abutting lands and to repeal By-law Number 12-82 within the City of Oshawa.

Whereas Sections 8, 9 and 11 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the "Municipal Act, 2001"), authorize a municipality to pass by-laws necessary or desirable for municipal purposes; and,

Whereas paragraphs 5 and 8 of Subsection 11(2) and paragraph 1 of Subsection 11(3) of the Municipal Act, 2001, authorize a municipality to pass by-laws respecting the economic, social and environmental well-being of the municipality, the protection of property and respecting highways; and,

Therefore, it is enacted as a By-law of The Corporation of the City of Oshawa as follows:

## **1. Short Title**

1.1 The short title of this By-law is the "Roadway Restoration By-law" ("By-law").

## **2. Interpretation**

2.1 In this By-law,

"City" means The Corporation of the City of Oshawa and includes all areas within its territorial limits.

"Highway" means a common and public highway, road, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, whether assumed or unassumed by the City, designed and intended for, or used by, the general public for the passage of vehicles or persons, under the jurisdiction of the City, and including any surface, grassed area, boulevard, ditch, curb, gutter, and sidewalk within the lateral property lines of the Highway.

"Occupier" means a lessee, tenant, mortgagee in possession or any other person who appears to have care and control of any property.

"Owner" means a Person who appears as the owner of a lot according to the records of the Land Register Office.

"Permit" means a Building Permit issued under the City's Building By-law 33-2009 where the Building Permit has been issued for the erection, alteration, repair, construction or demolition of a structure.

"Person" means a natural individual and their heirs, executors, administrators or other legally appointed representatives, a corporation, partnership, association, agents, or any combination thereof.

"Property" means any land, including the buildings and structures thereon, registered to a Person on title in the Land Registry Office or Land Titles Division, as the case may be.

"Roadway Restoration Fee" means the fee as set out in the City's Fees and Charges By-law 109-2024, as amended, or its successor.

## **3. General Provisions**

3.1 The Owner of any Property, on which any structure is being erected, altered, repaired or demolished and upon which material is delivered or from which material is removed, shall, where such lands abut a curbing, sidewalk, ditch or boulevard under the jurisdiction of the City, take all reasonable precautions by means of properly constructed ramps or protective devices to prevent any damage to any such curbing,

sidewalk, ditch or boulevard and shall, as far as possible, use such established ramps, curb-cuts and crossings as are available. Without limiting the generality of the foregoing, no vehicle with tracks or lugs shall be permitted to cross any such curbing, sidewalk, ditch or boulevard or use any ramp or curb-cut or cross any sidewalk unless proper protections have been constructed or placed.

- 3.2 The Owner or Occupier of the Property shall take all necessary steps to prevent building material, waste or soil from being spilled or tracked onto the Highway by vehicles going to or coming from the Property during the course of any building erection, alteration, repair or demolition. The Owner or Occupier shall be responsible to the City for the cost of removing such building material, waste or soil from any sidewalk, boulevard or Highway under the jurisdiction of the City, in accordance with the City's Fouling of Highways By-law 65-2020, as amended.

#### **4. Roadway Restoration Fees**

- 4.1 The Owner of any Property to which Section 3.1 applies who is seeking to undertake activities subject to a Permit shall pay the Roadway Restoration Fee, per the City's Fees and Charges By-law 109-2024 as amended, or its successor, unless an exception outlined in Section 6 applies.
- 4.2 The Owner is responsible for ensuring the Roadway Restoration Fee has been paid prior to the issuance of a Permit. Where a Roadway Restoration Fee is payable under this By-law but is not remitted to the City, in accordance with the City's Fees and Charges By-law 109-2024 as amended, or its successor, the Roadway Restoration Fee constitutes a debt owing and the City may take measures to collect the unpaid amount.
- 4.3 The Roadway Restoration Fee is not subject to refund or rebate for any reason.
- 4.4 Upon completion of the work described in Section 3.1, the City shall make an inspection the Highway, determine the cost of making any necessary repairs to the City curbing, sidewalk, ditch or boulevard, or City service or facility located therein or thereon, damaged or despoiled as described in Sections 3.1 and 3.2 and, following the completion of such repairs or clean-up, the City shall process a final accounting with the Owner based on the actual cost of repair.

#### **5. Remedial Action**

- 5.1 The cost of repairing any damage to the City's curbings, sidewalks, ditches or boulevards, or to any City service or facility located therein or thereon, where such damage results from the movement of any vehicle, machine, device or person over the foregoing in connection with any operation or activity described in Section 3.1 shall be the responsibility of the Owner. The City may, without notice to the Owner, cause the repairs and/or clean-up to be completed at the Owner's expense.
- 5.2 Each Owner is jointly and severally liable to the City for all costs incurred in any way related to repairs and/or clean-up for the purposes of Sections 4.4 and 5.1.

#### **6. Exceptions**

- 6.1 This By-law may not apply to applications for the issuance of a Permit involving one or more of the following activities, where the activity is not at risk of damaging any abutting curbing, sidewalk, ditch or boulevard:
- a) any minor alterations or repairs to a building which does not include an excavation;
  - b) porches, sundecks and steps for houses and other structures on pier-type foundations; or,
  - c) any advertising pole sign or fascia sign.
- 6.2 This By-law does not apply to any subdivision development which is subject to a Subdivision Agreement within the City until such time as all curbs and gutters and sidewalks required by the Subdivision Agreement are constructed.

#### **7. General**

- 7.1 All references to legislation in this By-law are references to legislation of the Province of Ontario as amended from time to time, including successor legislation, whether enacted prior to or subsequent to the enactment of this By-law.
- 7.2 Should any section of this By-law be declared invalid by a court of competent jurisdiction, such section shall be construed as being severed from this By-law and the remainder of this By-law shall continue in full force and effect.
- 7.3 Notwithstanding the repeal of this By-law, any enforcement, legal, or collection actions arising from this By-law while this By-law was in effect shall survive its repeal.
- 7.4 If there is a conflict between a provision of this By-law and a provision of any other City by-law, the provision that establishes the higher standard protect the health, safety of the public shall apply.

**8. Repeal**

- 8.1 By-law 12-82, as amended is hereby repealed on October 1, 2024.

**9. Effective Date**

- 9.1 This By-law shall come into effect on October 1, 2024.

By-law passed this twenty-third day of September, 2024.

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Mayor

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City Clerk