

The Corporation of the City of Burlington

City of Burlington By-law XX-2023

A by-law to amend By-Law 65-2021 being a by-law to regulate the construction, road cuts and road occupancies located on City owned road allowances, or other property under the jurisdiction of the City.

File: XXX-XX CM-XX-23 and BB-XX-23

Whereas pursuant to Section 44(1) of the *Municipal Act, 2001*, the municipality that has jurisdiction over a highway or bridge shall keep it in a state of repair that is reasonable in the circumstances, including the character and location of the highway or bridge; and

Whereas sections 8, 9 and 11 of the *Municipal Act, 2001* authorize the City of Burlington to pass by-laws necessary or desirable for municipal purposes, and in particular, paragraphs 4, 5, 6, 8 of subsection 11(2) authorize by-laws respecting public assets of the municipality, the economic, social and environmental well-being of City, the safety and well-being of persons, the protection of persons and property; and

Whereas the City of Burlington is responsible for ensuring that:

- Persons are protected from injury;
- property is protected from damage; and
- disruption is minimized for those using the road as well as for abutting properties,

when work is carried out and equipment is installed on, in or under its roads or city owned property; and

Whereas the *Municipal Act, 2001* authorizes the City of Burlington, amongst other things, to delegate its authority, to impose fees or charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

Now therefore the Council of The Corporation of the City of Burlington enacts as follows:

1. Part 1 “Definitions” section of By-law 65-2021 is amended by adding the following definitions in alphabetical order, with the other subsections renamed/renumbered accordingly:

“**Administrative Monetary Penalties By-law**” means the Administrative Penalties By-law of the City of Burlington, as amended or replaced from time to time.

“**Administrative Penalty**” means an administrative penalty established by this By-law

and specified in the Administrative Monetary Penalties By-law;

“city owned property” means any property under ownership temporary or permanent by The Corporation of the City of Burlington.

“temporary occupation” means the temporary occupation of any portion of city owned property for the placing or operation of any machinery, vehicles, storage containers, waste bins, materials, mobile cranes, construction safety fencing, overhead construction safety fencing, temporary/mobile construction officer trailers, hoists and platforms, temporary construction driveway accesses, crane booms extending from other land into the airspace over a road and such other objects or property set out and described in the City Standards from time to time;

2. Part 1 “Definitions” section of By-law 65-2021, is amended by amending the following definitions:

“equipment” is amended by adding the words “mechanical equipment, hoarding” immediately after the words “limited to”.

“excavation” is amended by adding the words “or city owned property” directly after the words “of a road”.

“road” is amended by adding the word “easement” directly after the word “driveway”.

“work” is amended by adding the words “any temporary road occupation or” directly after the word “means” and adding the words “city owned property” directly after the word “affects any” and adding the words “engineering, investigation” directly after the words “includes any”.

3. Section 3.1 of By-law No. 65-2021 is amended by adding the words “and city owned property” directly after the word “roads”.
4. Section 3.3 of By-law No. 65-2021 is amended by adding the words “and their designate” directly after the word “Director”.
5. Section 4.1 of By-law No. 65-2021 is amended by adding the words “and their designate” directly after the word “Director”.
6. Section 5.1(1) of By-law No. 65-2021 is amended by adding the words “or occupy any city owned property” directly after the words “any work” and by deleting the words “or alter, obstruct, damage, or engage in any activities which may result in an alteration, obstruction or damage of a road” which appear directly before the words “without first obtaining” and adding the words “and the City Standards.” directly after the word “By-law”.

7. Section 5.9 of By-law No. 65-2021 is amended by adding the words “and/or city owned property” directly after the words “on a road”.
8. Section 6.1 of By-law No. 65-2021 is amended by adding the words “meets all the requirements of the City Standards and” directly after the words “Director that” and directly before the word “includes” and insert the words “but is not limited to:” directly after the word “includes”.
9. Subsection (d) of section 6.1 of By-law No. 65-2021 is amended by adding the words “partial or full” directly after the word “proposed” and adding the words “bicycle lane, multi-use path” directly after the word “closure”.
10. By-law No. 65-2021 is amended by deleting section 6.3 in its entirety and replacing with the following new sections 6.3:

6.3 The Director may refuse to issue a permit if any one or more of the following circumstances apply:

- (a) The application for a permit;
 - (i) Is incomplete or inaccurate
 - (ii) Is not in compliance with this By-law or the City Standards; or
- (b) In the reasonable opinion of the Director having regard to public safety, the efficient administration, use and protection of the road or city owner property:
 - (i) There is no available space to accommodate the work proposed in the application for a permit;
 - (ii) The work proposed in the application for a permit conflicts materially with other existing or planned work that has already been approved for another applicant or the City; or
- (c) if the person responsible for the work:
 - (a) is not in compliance with this By-law or the City Standards;
 - (b) is not in compliance with other municipal by-laws which apply to the proposed work, including but not limited to paying the required fees or security;
 - (c) has been notified of non-compliance with verbal or written direction given under this By-law in the last two years, and in the reasonable opinion of the Director, having regard to the past performance, where applicable, will be unable to perform the work proposed in the application for a permit in a safe manner;
 - (d) is not in compliance with this By-law or City Standards with respect to another permit; or
 - (e) has not paid any penalty or court awarded costs resulting from a legal proceeding relating to the By-law.

11. Section 8.2 of By-law No. 65-2021 is amended by deleting the words “of the road which restores the road” which appear directly after the word “repair” and by adding the words “in the City Standards” directly after the word “City”.
12. Section 8.6 of By-law No. 65-2021 is amended by deleting the words “of a road” which appear directly after the word “restoration”.
13. Section 8.8 of By-law No. 65-2021 is amended by deleting it in its entirety including the title and replacing with the following section 8.8:

Damage to the City Owned Property or City Equipment

- 8.8. Any person who causes damage to city owned property or to City equipment shall be responsible for reimbursing the City for any and all costs incurred by the City to restore the city owned property or City equipment to the standards prescribed by the City within 30 days after receipt of an invoice.
14. Part 10 of By-law 65-2021 is amended by inserting the words “AND PENALTIES” immediately following the word OFFENCES in the title and inserting new sections 10.8 and 10.9 as follows:

Administrative Monetary Penalties System

- 10.8 This by-law in its entirety is designated as a by-law to which the City Administrative Monetary Penalties By-law applies.
 - 10.9 Every person who contravenes any provision of this By-law, and each registered owner, when given a Penalty Notice in accordance with the City’s Administrative Penalties By-law, shall be liable to pay the City an Administrative Penalty in the amount specified in the Administrative Monetary Penalties By-law, and any fees related thereto.
15. Despite amendments being made to By-law No. 65-2021, By-law No. 65-2021 as it read before the amendments in sections 1-14 above, shall continue to apply to proceedings in respect of offences that occurred before its amendment.
 16. Subject to the amendments made in this By-law, in all other respects, in all other respects By-Law No. 65-2021 be and is hereby confirmed.
 17. This By-law comes into force on the date of its passing.

PASSED this 13th day of June 2023.

Mayor Marianne Meed Ward _____

City Clerk Kevin Arjoon _____