



**THE CORPORATION OF THE CITY OF MISSISSAUGA
HIGHWAY OBSTRUCTION
BY-LAW 357-10**

WHEREAS section 8(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, hereinafter the (“*Municipal Act, 2001*”) provides that the powers of a municipality under any *Act* shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS section 9 of the *Municipal Act, 2001*, provides that a municipality has the capacity, rights, powers and privileges of a natural Person for the purpose of exercising its authority under the *Municipal Act*;

AND WHEREAS section 11 (3) 1 of the *Municipal Act, 2001*, provides that a municipality may pass by-laws within the following spheres of jurisdiction: Highways, including parking and traffic on Highways;

AND WHEREAS section 391(1) of the *Municipal Act, 2001*, provides that a municipality may pass by-laws imposing fees or charges on any Person for services or activities provided by the municipality or done on behalf of it;

AND WHEREAS section 436 (1) of the *Municipal Act, 2001*, provides that a municipality may pass by-laws providing for the entry onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law;

AND WHEREAS section 429 (1) of the *Municipal Act, 2001*, provides that a municipality may establish a system of fines for a by-law passed under the *Act*;

AND WHEREAS section 444 of the *Municipal Act, 2001*, provides that a municipality may make an order to require a Person to discontinue contravening a by-law and to do the work required to correct the contravention;

AND WHEREAS section 446 of the *Municipal Act, 2001*, provides that a municipality may proceed to do things at a Person’s expense which that Person is otherwise required to do under a by-law but has failed to do and the costs incurred by a municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS The Council of The Corporation of the City of Mississauga desires to repeal and replace the Obstructing Highways By-law No 23-79, as amended, with an updated Highway Obstruction By-law;

NOW THEREFORE the Council of The Corporation of the City of Mississauga enacts as follows:

DEFINITIONS:

1. For the purpose of this By-law:

“**City**” means The Corporation of the City of Mississauga.

“**Commissioner**” means the Commissioner of the Transportation and Works Department for the City and shall include his or her designate.

“Construction” means anything done in the erection, installation, extension or material alteration, demolition or repairs of a building or structure and includes the installation of building units fabricated or moved from elsewhere and the installation of swimming pools.

“Contractor” means a Person, alone or with others conducting work on a property on behalf of the Owner or Occupant.

“Highway” means a common and public highway, and includes one or both of the following:

- (1) any street, road, avenue, parkway, lane, driveway, boulevard, sidewalk, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles or persons, or
- (2) the area between the lateral property lines of any highway or road allowance including any curbs, gutters, culverts, ditches and retaining wall.

“Landscape or Construction Material” includes gravel, soil, sod, bricks, and paving stones, landscaping rocks, wooden planks or boards.

“Notice of Contravention” means a notice provided to an Owner, Occupant or Contractor under section 3 of this By-law.

“Obstruct(ion)” means to obstruct, encumber, damage or foul.

“Officer” means a Person employed by the City to perform the duties of enforcing By-laws and appointed by Council as a Municipal Law Enforcement Officer as designated in the City of Mississauga By-law 299-04 (as amended), or its successors.

“Owner” includes,

- (a) the Person who is the registered owner of a property; and
- (b) the Person for the time being managing or receiving the rent of the property whether on the Person’s own account or as agent or trustee of any other Person, or who would receive the rent if the land or premises were let.

“Occupant” means a lessee, tenant, mortgagee in possession or any other Person who appears to have care and control of any property.

“Person” includes an individual, a corporation and its directors and Officers, or partnership and their heirs, executors, assignees and administrators.

GENERAL PROVISIONS

2. (1) No Person shall Obstruct any Highway by any means whatsoever.
- (2) Without limiting the generality of subsection (1), the Obstruction of a Highway includes any one or more of the following:
 - (a) the depositing of snow or ice on the Highway;
 - (b) the relocation of snow from a Highway or private property to the portions of a Highway normally used for pedestrian or vehicular traffic;

- (c) parking of equipment, motorized equipment other than motorized equipment permitted and licensed under the regulations of the Ministry of Transportation of Ontario, containers, trailers, or any Landscape or Construction Material on a Highway without having obtained a road occupancy permit, pursuant to Road Occupancy Lot Grading and Municipal Services Protection Deposit By-law No. 432-08, as amended, or its successors and in accordance with the requirements of the City of Mississauga Transportation and Works Department;
- (d) the cutting, altering, extending, in any manner whatsoever of a concrete curb, open or contained culvert, culvert overpass, or similar structure or landscape without having first applied for and obtained the appropriate permit, pursuant to Road Occupancy Lot Grading and Municipal Services Protection Deposit By-law No. 0432-2008, as amended, or its successors, in accordance with requirements of the City of Mississauga Transportation and Works Department;
- (e) throwing, placing or depositing of dirt, glass, handbills, paper or other refuse and debris or the carcass of any animal on a Highway;
- (f) the excavation or damage to any portion of a Highway, including sod, trees, light poles, street signs or other objects within the Highway without the consent of the City of Mississauga; or
- (g) the placing or depositing of sporting equipment, including but not limited to basketball nets, hockey nets, soccer nets, skateboard ramps and bicycle ramps, on a Highway.

REMOVAL OF HIGHWAY OBSTRUCTION

- 3. (1) If an Officer determines that an Obstruction of a Highway exists, the Officer may issue a Notice of Contravention requiring the Owner, Occupant and/or Contractor of the property from which the Obstruction comes from, relates to, or was created for, to discontinue causing the Obstruction and to remove the Obstruction and repair, as necessary, at the expense of the Owner, Occupant and/or Contractor, the Highway so that the Highway is brought back to its former condition prior to the Obstruction.
- (2) Where the Notice of Contravention described in subsection 3(1) is not complied with within the time period stipulated therein, the City may remove the Obstruction and repair, as necessary, the Highway and all the costs incurred by the City in undertaking this work shall be expenses owed to the City by the Owner, Occupant and/or Contractor of property from which the Obstruction comes from, relates to, or was created for.

HAZARDOUS CONDITION

- 4. If an Officer determines that an Obstruction of a Highway is, or may create, a hazardous condition to the safety of any Person using the Highway, the Officer may take any action necessary to have the Obstruction immediately removed and the Highway repaired, if necessary, and all the costs incurred by the City in undertaking this work shall be expenses owed to the City by the Owner, Occupant and/or Contractor of the property from which the Obstruction comes from, relates to, or was created for.

DISPOSING OF MATERIAL AND EQUIPMENT

5. (1) Any Landscape or Construction Material removed by the City from a Highway under this By-law may be directly deposited onto the property from which the Obstruction comes from, relates to, or was created for, or the material may be treated as refuse by the City or become property of the City which can be disposed of in any manner or used for any City purpose.
- (2) Any motorized equipment, containers, trailers, or motorized tools removed by the City may, at the discretion of the Commissioner, be deposited at the property from which the Obstruction comes from, relates to, or was created for, or be stored at a City facility for sixty (60) days at the owner's expense.
- (3) Any item in subsection (2) shall only be released to its owner after the owner has paid the City any applicable expense for the removal and storage of the item.
- (4) Any item in subsection (2) that is stored at a City facility for more than sixty (60) days and for which an owner has not been identified may be disposed of by the City in any manner that it deems appropriate.
- (5) Any item in subsection (2) that is stored at a City facility for more than sixty (60) days and for which the owner, having been identified, has failed to pay the applicable expenses and claim the item, may be disposed of pursuant to the provisions of the *Repair and Storage Liens Act*, R.S.O. 1990, c.R.25, as amended.

RECOVERY OF EXPENSES

6. All expenses incurred by the City in connection with the enforcement of this By-law shall be paid to the City by the Person owing those expenses, within thirty (30) days of their billing date, and in the event of failure to pay the entire amount due within thirty (30) days, the outstanding balance of the expenses owed may be added to the tax roll of the property from which the Obstruction comes from, relates to, or was created for and collected in the same manner as property taxes.

PENALTY

7. (1) Every Person who contravenes any provision of this By-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c.P.33, and the *Municipal Act, 2001*, as both may be amended from time to time.
- (2) In addition to subsection (1), any Person who is charged with an offence under this By-law in accordance with Part III of the *Provincial Offences Act* and is found guilty of the offence, is liable, in addition to any other penalties:
 - (i) If a person, to a fine of not more than \$25,000; or
 - (ii) If a corporation, to a fine of not more than \$50,000.

ENFORCEMENT

8. An Officer acting under this By-law may, at any reasonable time, enter and inspect any property, including all buildings and structures thereon, to determine any one or both of the following:
 - (a) Whether there is compliance with this By-law.
 - (b) Whether there is compliance with any Notice of Contravention made under this By-law.

GENERAL

9. In this By-law, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine, and further, the converse of the foregoing also applies where the context so requires.

EXCEPTIONS

10. (1) Section 2(1) of this By-law shall not apply to those Persons who have a valid and binding encroachment agreement or permit with the City with respect to encroachments occurring on Highways in accordance with the Encroachment By-law 0057-2004, as amended, or its successors.
 - (2) Section 2(1) of this By-law shall not apply to any sign that is in compliance with the City's Sign By-law 54-02, as amended, or its successors.

SEVERABILITY

11. Where a court of competent jurisdiction declares any section or part of a section of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this by-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

SHORT TITLE

12. This By-law may be referred to as the "Highway Obstruction By-law".

REPEAL

13. By-law 23-79, as amended, is hereby repealed.

ENACTED AND PASSED this 15th day of December, 2010.

Signed by: Hazel McCallion, Mayor and Crystal Greer, City Clerk