



**THE CORPORATION OF THE CITY OF MISSISSAUGA
ROAD OCCUPANCY, LOT GRADING, MUNICIPAL SERVICES
PROTECTION DEPOSIT BY-LAW 300-11**

WHEREAS pursuant to the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, a municipality may enact by-laws to regulate or prohibit in regard to: highways and storm sewers and drainage; the alteration of grade of land; and the excavating, construction and the use of trenches;

AND WHEREAS pursuant to the *Municipal Act, 2001* as part of the power to regulate or prohibit a matter, a municipality may, among other things, require persons to do things respecting the matter and provide for a system of permits;

AND WHEREAS pursuant to the *Municipal Act, 2001* a municipality possesses certain enforcement powers including the authority to undertake remedial action and recover the costs for such action from the person responsible;

AND WHEREAS by-laws imposing such fees and charges are authorized by section 391 of the *Municipal Act 2001*;

AND WHEREAS the Council of The Corporation of the City of Mississauga wishes to repeal the current Road Occupancy, Lot Grading and Municipal Services Protection Deposit By-law No. 353-10 and replace it with this updated By-law;

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

PART I – DEFINITIONS

1. In this By-law:

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

“**Commissioner**” means the Commissioner of Transportation and Works for the City or his or her designate;

“**Construction**” shall include the installations of a retaining wall and installation of an in-ground/on-ground swimming pool but shall not include the installation of a hot tub, above ground-pool or landscaping;

“**Highway**” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, and includes the area between the lateral property lines thereof;

“**Permit**” includes a road occupancy permit, lot grading permit, a municipal services protection deposit (“MSPD”) permit and any other permit as set out in Schedule A to this By-law; and

“**Person**” includes a corporation.

PART II - GENERAL PROHIBITIONS

2. No Person shall obstruct or damage, or cause or permit the obstruction or damage of any Highway.

3. No Person shall deposit, throw, spill or track or cause or permit the deposit, throwing, spilling or tracking of any material, waste or soil onto any Highway.
4. No Person shall alter the grade on any land unless the Person receives the required Permits issued under this By-law.

PART III - PERMITS

5. Every Person who undertakes Construction on land abutting on a Highway and every Person who undertakes Construction which may affect drainage or grading shall, prior to commencing the work, obtain the relevant Permits as required pursuant to this By-law.
6. A Person may apply for a Permit under this By-law if the Person:
 - a. completes an application for the Permit on the forms as provided by the Commissioner;
 - b. submits the application along with the applicable fees and charges as provided for in the City's current Transportation and Works Fees and Charges By-law; and
 - c. provides any documentation, deposit or security as set out in Schedule A to this By-law, or insurance certificates, as required by the Commissioner as prerequisites and requirements for the issuance of the Permit.
7. The issuance of a Permit under this By-law does not relieve any Person from the necessity of acquiring any other license or permit or complying with any other applicable laws, by-laws, regulations and requirements of other governmental authority.
8. A Permit is the property of the City and is not transferable unless otherwise authorized by the Commissioner.
9. Every applicant shall post with the City the required deposit or security, by way of cash, certified cheque, debit card, or letter of credit, in a form satisfactory to the City. The City of Mississauga does not accept payments for deposits or securities by credit card.
10. The City shall not pay interest on deposits and securities to a Permit holder or to any other Person.

PART IV - PERMIT HOLDERS

11. (1) A Permit holder shall comply or ensure compliance with all provisions and conditions of the Permit and this By-law.
 - (2) Failure to comply with any provision or condition of a Permit or this By-law may result in the revocation of the Permit by the Commissioner, in addition to any other enforcement proceedings against the Permit holder as permitted by law.
 - (3) The Permit holder of a revoked Permit shall immediately cease or ensure the immediate cessation of all the activities for which a Permit has been issued upon revocation of the Permit under subsection (2).
12. Every Permit holder and every owner and occupier of land shall forthwith rectify damaged conditions on a Highway, on land or to municipal services and shall reinstate the Highway, the land and the municipal services, as the case may be, to the satisfaction of the Commissioner.

PART V - ENFORCEMENT

13. Notwithstanding any other provision of this By-law, in default of the Permit holder complying with sub-section 11(1) or Section 12 of this By-law, and upon notice to the Permit holder in such form and within such period of time as determined by the Commissioner to be reasonable in the circumstances, the City may at any time take steps to repair or reinstate the Highway or other municipal services or any land damaged by a Permit holder, owner, or occupier of land and such Permit holder, owner or occupier of land shall be responsible for the costs incurred by the City to repair or reinstate same.
14. The cost of repairing or reinstating any Highway, sidewalk, curbing, boulevard or other municipal service, or any land, which has been damaged as a result of work for which a Permit was issued, including damages caused by the crossing of vehicles or equipment and including applicable administrative charges, may be deducted by the City at any time from the deposit, or drawn from the securities, provided by a Permit holder pursuant to this By-law.
15. Where the cost of repairing and restoring the sidewalk, curbing, boulevard or other municipal service exceeds the amount held on deposit or posted as security, the excess amount of the costs shall be a debt owing to the City, and in addition to any other remedy available to it the City may recover the excess amount of the costs by action or by adding the excess amount of the costs to the tax roll of the Permit holder's lands and collecting them in the same manner as taxes.

PART VI - OFFENCES

16. No Person shall violate any provision of a Permit issued under this By-law.
17. Every Person who contravenes a provision of this By-law or a Permit is guilty of an offence and is liable on conviction to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.

PART VII - ADMINISTRATION AND INTERPRETATION

18. The Commissioner shall be responsible for the administration of this By-law including, without limiting the generality of the foregoing, determining, instructing, and directing the institution of enforcement steps such as commencing an action to recover costs incurred by the City.
19. Unless the context otherwise requires, words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine.
20. The headings inserted in this By-law are for convenience only.
21. Should any part of this By-law, including any part of Schedule "A", be determined by a Court of competent jurisdiction to be invalid or of no force and effect, it is the stated intention of Council that such invalid part of the By-law shall be severable and that the remainder of this By-law including the remainder of Schedule "A", as applicable, shall continue to operate and to be in force and effect.
22. Nothing in this By-law shall be intended to supersede, replace, fetter or relieve any Person from complying with any requirements under the *Building Code Act, 1992*, S.O. 1992, c.23, as amended, or the *Building Code, O.Reg. 403/97* as amended.
23. Schedule "A" attached to this By-law shall form part of this By-law.
24. The fees and charges payable under this By-law will be subject to Harmonized Sales Tax (H.S.T.) where applicable.
25. Payment of all non-refundable fees and charges is due prior to the issuance of a Permit under this By-law, unless otherwise stated by the Commissioner, and may be made by Visa, MasterCard, American Express, debit (bank card), bank draft, cash or certified cheque.

26. Payment for deposits is due prior to the issuance of a Permit under this By-law, unless otherwise stated by the Commissioner and may be made by debit (bank card), bank draft, cash or certified cheque. Credit card payments are not accepted for deposits.
27. Payment of all fees and deposits is due at the time of the transaction, unless the City issues an invoice for a fee and deposit in which case payment is due as stated on the invoice.
28. Interest will accrue on overdue accounts for fees and deposit payments at a rate of 1.25% per month applied and compounded every 30 days (for an effective rate of 16.08% per annum), unless precluded by by-law or legislation. Government bodies are exempt from interest.
29. No discount will apply for early payment of any fees and deposits under this By-law.
30. This By-law shall come into force and effect on January 1, 2012 immediately after the repeal of By-law 353-10 as provided in Section 31 below.
31. By-law 353-10 shall be repealed, effective at the end of December 31, 2011 immediately before the time that this By-law comes into force and effect as provided in Section 30 above.
32. The Commissioner shall be responsible for the administration of this By-law, including but not limited to the enforcement thereof and the collection activity, and for instructing Legal Services to take such legal action as may be considered appropriate.

PART VIII - SHORT TITLE

33. This By-law shall be known as the “Road Occupancy, Lot Grading and Municipal Services Protection Deposit By-law”.

ENACTED AND PASSED this 14TH day of December, 2011

Signed by: Pat Saito, Acting Mayor and Crystal Greer, City Clerk

SCHEDULE "A"
ROAD OCCUPANCY, LOT GRADING AND MUNICIPAL SERVICES PROTECTION
DEPOSITS

ITEM	Refundable Deposit
TRANSPORTATION INFRASTRUCTURE MANAGEMENT DIVISION	
Environmental Services Section	
Erosion and Sediment Control Permit and Permit Renewals	100% of the estimated cost of site control measures as determined by Environmental Section
ENGINEERING AND WORKS DIVISION	
Works Maintenance and Operations Section	
Road Occupancy Permit – General:	
a) Mobile Crane	\$1,000.00
b) Construction (e.g. bore holes, soils inspection, etc.)	min. \$1,000 to max \$10,000 as determined by Transportation and Works
Road Occupancy Permit – Special Provision re Complex Construction ("Schedule A")	\$10,000.00
Shoring and tie-back for works within road right-of-way	\$50.00 per square metre*
* Total deposit is calculated as follows: Linear metres of works within the right-of-way multiplied by the depth of the excavation multiplied by the deposit amount per square metre.	
Road Occupancy Permit – Connections Maintenance/Restoration Deposit*	
a) Sanitary Sewer – Road Cut Inspection	\$5,000.00 per trench**
b) Water	\$5,000.00 per trench**
c) Storm Sewer	\$5,000.00 per trench**
d) Water/Sanitary (Regional) and Storm (Municipal) in the same trench	\$7,500.00 per trench**
	**or an amount determined by Transportation and Works
	Note: a "trench" equals 10 square metres or less.
* Road Occupancy Permit Connections - Maintenance/Restoration Deposit: Maintenance/Restoration deposit paid by the Applicant less actual cost (based upon tendered per unit price) incurred by the City to carry out final restoration work plus 25% administration charge plus Road Degradation Fee (see current Transportation and Works Fees and Charges By-law). City work normally takes place within 18 months after Applicant's work has been completed after which the balance will be either refunded or invoiced to the Applicant.	
Maintenance Guarantee Deposit for all works except Connections (Sanitary, Water Storm and Municipal/Regional in same trench)	10% of the value of works to be held back for the duration of the warranty period (18 month)
	Other security deposits may be required depending on the complexity of the work
Maintenance Guarantee Deposit Maintenance Guarantee Deposit is refundable after 18 months to be established from the date the subject services were completed.	

SCHEDULE "A"
ROAD OCCUPANCY, LOT GRADING AND MUNICIPAL SERVICES PROTECTION
DEPOSITS

ITEM	Refundable Deposit
ENGINEERING AND WORKS DIVISION	
Development Construction Section	
Residential Property Lot Grading Deposit Release: Under the discretion of Development Construction and in the absence of a Final Lot Grading Certificate by a P.Eng or OLS, the City may perform an inspection to release an unclaimed deposit.	As determined by Development Construction
Commercial Property Lot Grading Clearance: Under the discretion of Development Construction and in the absence of a Final Lot Grading Certificate by a P.Eng or OLS, the City may perform an inspection in order to provide grading clearance as it relates to a Financial Agreement.	As determined by Development Construction
Municipal Services Protection - Lot Grading Deposits - No Site Plan Required	
MSPD Residential - pool in-ground	\$1,000.00
MSPD Residential - pool above ground	\$500.00
MSPD Residential – addition to existing structure "small job" (typically a porch or a small deck)	\$500.00
MSPD Residential – addition to existing structure under 15 meters of frontage	\$1,000.00
MSPD Residential – addition to existing structure over 15 meters of frontage	\$1,500.00
MSPD Residential - new construction	\$150.00 per meter of frontage
MSPD Industrial - addition to existing structure	\$150.00 per meter of frontage to max of \$5,000.00
MSPD Industrial – new construction	\$150.00 per meter of frontage max \$10,000
Lot Grading Deposits	
Lot Grading: Installation of residential pool Please note: Above Ground Pools are exempted	\$5,000.00
Lot Grading Residential - new construction Standard lot	\$5,000.00
Lot Grading Residential - new construction Deposit amount depending on specifics of site	\$7,500 \$10,000 or a deposit amount as determined by Development Construction

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DEPOSITS

ITEM	Refundable Deposit
ENGINEERING AND WORKS DIVISION	
Development Construction Section	
Lot Grading Residential – addition to existing structure Deposit amount depending on specifics of site	A deposit amount as determined by Development Construction
Lot Grading Industrial - addition to existing structure	A deposit amount as determined by Development Construction
Lot Grading Industrial – new construction	
a) Up to one acre (0.41 hectare) of land	\$7,500.00
b) Per additional acre (0.41 hectare) of land to a maximum of \$15,000.00	\$1,500.00
Retaining Wall	100% of the estimated cost as determined by Development Construction
Municipal Services Protection & Lot Grading Deposits FOR SITE PLAN CONTROLLED AREA (Part of building permit application)	
MSPD residential, addition or new	A deposit amount as determined by the Site Plan Coordinator
MSPD industrial, addition or new	A deposit amount as determined by the Site Plan Coordinator
Lot grading residential or industrial, new construction	A deposit amount as determined by the Site Plan Coordinator
Lot grading residential or industrial, addition to existing structure	A deposit amount as determined by Development Construction
Traffic Engineering and Operations Section	
Road Occupancy Permit – Banners Involving Corporate Name or Symbol	
a) Deposit for Street Banners extending across a right- of-way	\$100.00 per banner
b) Deposit for Pole Banners	\$20.00 per pole
Road Occupancy Permit – Special Events Within the Municipal Road Allowance	
a) Deposit for Events up to 100 participants	\$ 100.00
b) Deposit for Events up to 1,500 participants	\$ 500.00
c) Deposit for Events over 1,500 participants	\$1,000.00
Road Occupancy Permit - Filming Within the Municipal Road Allowance	A deposit amount as determined by Traffic Operations and/or Transportation Asset Management