



MISSISSAUGA

THE CORPORATION OF THE CITY OF MISSISSAUGA ROAD OCCUPANCY, LOT GRADING AND MUNICIPAL SERVICES PROTECTION DEPOSIT BY-LAW 251-12

(amended by 208-14, 287-16, 167-17, 227-18)

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 subsection 8(3) of the *Municipal Act, 2001* provides that a by-law under section 11 of that Act respecting a matter may, regulate or prohibit and, as part of the power to regulate or prohibit respecting the matter, may require a person to do things respecting the matter, or may provide for a system of permits respecting the matter;

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 section 425 of the *Municipal Act, 2001* authorizes The Corporation of the City of Mississauga to pass by-laws providing that a person who contravenes a by-law of The Corporation of the City of Mississauga passed under that Act is guilty of an offence;

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. 300-11 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 including the Mississauga Transitway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, and includes the area between the lateral property lines thereof; (208-14)

“**Mississauga Transitway**” means the dedicated east-west Bus Rapid corridor located in the City of Mississauga between Renforth Drive and Winston Churchill Boulevard. (208-14)

“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 unless the context otherwise requires.

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:
 - (1) Completes an application for the Permit on the forms as provided by the Commissioner;
 - (2) 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
 - (3) 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 certified cheque or bank draft in a form satisfactory to the City. The City of Mississauga does not accept payments for deposits or securities by credit card.(167-17)
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 this By-law or 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 upon conviction is liable:
 - (1) on a first conviction, to a fine of not more than \$10,000; and
 - (2) on any subsequent conviction, to a fine of not more than \$25,000.
- 17.1 Despite section 17, where the Person convicted is a corporation:
 - (1) the maximum fine in paragraph 17(1) is \$50,000; and
 - (2) the maximum fine in paragraph 17(2) is \$100,000.
- 17.2 Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the Person convicted.

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. (227-18)
24. The fees and charges payable under this By-law will be subject to Harmonized Sales Tax (H.S.T.) where applicable.
25. 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 in full by bank draft or certified cheque only. Credit card, debit (bank card) or cash payments are not accepted. Payments cannot be split and uncertified cheques are not accepted. (287-16)
26. Combined payment of all non-refundable fees and charges and deposits is due prior to the issuance of a Permit under this By-law, unless otherwise stated by the Commissioner, and must be made in full by bank draft or certified cheque only. Credit card, debit (bank card) or cash payments are not accepted for the combined payment. Payments cannot be split and uncertified cheques are not accepted. (287-16)
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. 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 - TRANSITION, REPEAL, COMING INTO FORCE, ETC.

31. This By-law shall come into force and effect on January 1, 2013 immediately after the repeal of By-law 300-11 as provided in Section 32 below.
32. By-law 300-11 shall be repealed, effective at the end of December 31, 2012 immediately before the time that this By-law comes into force and effect as provided in Section 31 above.
33. All prosecutions and other enforcement processes commenced under By-law No. 300-11 which have not been completed on the day this By-law comes into force shall be completed under By-law No. 300-11 as if it had not be repealed.

PART IX - SHORT TITLE

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

ENACTED and PASSED this 12th day of December, 2012.

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

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

ITEM	Refundable Deposit
TRANSPORTATION INFRASTRUCTURE PLANNING 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
WORKS OPERATIONS AND MAINTENANCE DIVISION	
Maintenance Standards and Permits Section	
Road Occupancy Permit – General:	
a) Mobile Crane	\$1,000.00 per site* *or an amount determined by Transportation and Works
b) Construction (e.g. bore holes, soils inspection, monitoring wells, etc.)	\$1,000* *or an amount determined by Transportation and Works
Road Occupancy Permit – Complex Construction (Site Plan)	\$10,000.00* *or an amount determined by Transportation and Works
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**
	**or an amount determined by Transportation and Works
<p>* Road Occupancy Permit Connections - Maintenance/Restoration Deposit: The City of Mississauga will undertake all permanent restoration works within 24 months after the Applicant's work has been completed. Actual costs incurred to carry out final restoration work plus 25% administration charge plus Road Degradation Fee (see current Transportation and Works Fees and Charges By-law) will be deducted from the deposit and the balance will be refunded back to the Applicant. For those locations which the deposit is not sufficient the Applicant will be invoiced.</p>	

Maintenance Guarantee Deposit (If Required) for all works except Service Connections	10% of the value of works to be held back for the duration of the warranty period (24 months) Other security deposits may be required depending on the complexity of the work
Maintenance Guarantee Deposit Maintenance Guarantee Deposit is refundable after 24 months to be established from the date the subject services were completed.	

ITEM	Refundable Deposit
WORKS OPERATIONS AND MAINTENANCE DIVISION	
Traffic Management Section	
Road Occupancy Permit – Banners Involving Corporate Name or Symbol a) Deposit for Street Banners extending across a right-of-way b) Deposit for Pole Banners	 \$500.00 per permit \$500.00 per permit
Road Occupancy Permit – Special Events Within the Municipal Road Allowance a) Deposit for Events up to 100 participants b) Deposit for Events up to 1,500 participants c) Deposit for Events over 1,500 participants	 \$ 100.00 \$ 500.00 \$1,000.00
Road Occupancy Permit - Filming Within the Municipal Road Allowance	A deposit amount as determined by Traffic Management and/or Transportation Asset Management
ENGINEERING & CONSTRUCTION DIVISION	
Development Construction Section	
Municipal Services Protection - Lot Grading Deposits - No Site Plan Required	
MSPD Residential - pool in-ground or on-ground	\$1,000.00
MSPD Residential - pool above ground	\$500.00
MSPD Residential – addition/repair to existing structure "small job" (typically a porch, basement walkout or a small deck)	\$1,000.00 to \$1,500.00
MSPD Residential – addition to existing structure	\$150.00 per meter of frontage minimum \$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 or a deposit amount as determined by Development Construction
MSPD Industrial – new construction	\$150.00 per meter of frontage or a deposit amount as determined by Development Construction

Lot Grading Deposits	
Lot Grading: Installation of residential pool Please note: Above Ground Pools are exempted	\$5,000.00
Lot Grading Residential - new construction Deposit amount depending on specifics of site	\$7,500.00 to \$10,000.00 or a deposit amount as determined by Development Construction
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	\$10,000.00 or a deposit amount as determined by Development Construction
Retaining Wall	100% of the estimated cost as determined by Development Construction
Catch Basin in Support of Lot Grading	\$10,000.00
Municipal Services Protection & Lot Grading Deposits FOR SITE PLAN CONTROLLED AREA (Part of building permit application)	
MSPD residential, addition or new	\$150.00 per meter of frontage minimum \$1,500.00
MSPD industrial, addition or new	\$150.00 per meter of frontage
Lot grading residential or industrial, new construction	A deposit amount as determined by Development Construction
Lot grading residential or industrial, addition to existing structure	A deposit amount as determined by Development Construction