



MISSISSAUGA

THE CORPORATION OF THE CITY OF MISSISSAUGA

Lot Grading and Municipal Services Protection

By-law 0172-2020

(Amended by 0223-2020)

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, drainage and the alteration of the grade of land;

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;

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 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.

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

PART I - DEFINITIONS

1. In this By-law:

“Approval” means the acceptance by the Commissioner of a Grading and Drainage Plan as prepared by a Professional Engineer or Ontario Land Surveyor and the acceptance by the Commissioner of Construction Activities connecting to or abutting a Road;

“Certification Note” means a declaration signed and sealed by a Professional Engineer or Ontario Land Surveyor and included on the Grading and Drainage Plan that stipulates:

"I have reviewed the plans for the (applicable Construction Activities to be added) at (applicable municipal address to be added) and have prepared this Grading and Drainage Plan to indicate the compatibility of the proposal to existing adjacent properties and municipal services. It is my professional opinion that adherence to the proposed grades as shown will produce adequate surface drainage and proper facility of the municipal services without any detrimental effect to the existing drainage patterns, adjacent properties and municipal services".

“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 Activities” include construction of residential dwellings, residential dwelling additions, side door entrances, basement walkouts, multiple-unit dwellings, industrial and commercial buildings, industrial and commercial building additions, parking lots and aisles, installations of retaining walls in excess of 0.6 meters and installation of an in-ground/on-ground swimming pool and any other construction that requires an approval from the City;

“Completion of Construction” means the completion of Construction Activities in compliance with the approved Grading and Drainage Plan, including the removal of all debris and excess material, the placement of topsoil and sod of all disturbed areas and the surfacing of driveways in compliance with the City of Mississauga Zoning By-Law;

“Drainage Feature” means any element designed for the purposes of capturing and conveying surface water run-off to a designated discharge location and/or the ultimate storm sewer outlet;

“Final Certificate” means a certification letter signed and sealed by a Professional Engineer or Ontario Land Surveyor that includes the date of their site inspection following the Completion of Construction and a statement confirming that the finished grades of the lands, including any approved Drainage Feature, are in general conformance with the approved Grading and Drainage Plan;

“Final Inspection” means an in-person site inspection and assessment carried out by the Commissioner after the Completion of Construction to confirm that the final as-built Grading and Drainage condition conforms with the approved Grading and Drainage Plan, as well as other requirements of the Manual, and to confirm that no damage has been caused to any connecting or abutting Road or municipal asset or municipal services;

“Grading and Drainage” means using the shape of the ground surface to direct surface water away from structures and towards a designated discharge location or outlet, whether by way of the natural characteristics and/or alteration of the ground surface and/or by a Drainage Feature;

“Grading and Drainage Plan” means a plan prepared and certified by a Professional Engineer or Ontario Land Surveyor that establishes the Grading and Drainage relationships between connecting or abutting properties and serves as the basis for controlling surface runoff and is to depict proposed Construction Activities, existing and proposed ground surface elevations, building elevations, parking lot and aisle drainage systems, downspout and sump pump discharge locations and the necessity of catch basins, swales or any other Drainage Feature, with sufficient ground surface elevations of adjacent properties to clearly indicate existing drainage patterns, along with all catch basins, driveways, walkways, ditches, culverts, sidewalks, boulevards, and any other feature that may affect drainage patterns prior to Construction Activities being undertaken on land;

“Lot Grading Deposit” means a deposit or security as set out in Schedule A of this By-Law for any Construction Activities taking place on any land to ensure that Construction Activities have been completed as per the approved Grading and Drainage Plan;

“Manual” means the Transportation and Works Department’s Development Requirements Manual, as amended from time to time;

“Mississauga Transitway” means the dedicated east-west Bus Rapid corridor located in the City of Mississauga between Renforth Drive and Winston Churchill Boulevard;

“Municipal Services Protection Deposit” means a deposit or security as set out in Schedule “A” of this By-Law for any Construction Activities taking place on any land connecting or abutting a municipal asset or municipal service, to ensure protection of the municipal asset or municipal service, including a Road, or other existing municipal assets or municipal services;

“Ontario Land Surveyor” means a Person licensed to engage in the practice of cadastral surveying as an Ontario Land Surveyor (“OLS”) pursuant to the Surveyors Act, R.S.O. 1990, c.s.29 in relation to the subject matters under this by-law and is a member in good standing with the Association of Ontario Land Surveyors;

“Person” includes an applicant, agents, land owner, land occupier or corporation unless the context otherwise requires;

“Pre-Sod Inspection” means an infield inspection and assessment carried out by the Commissioner prior to the placement of topsoil and sod;

“Professional Engineer” means a Person who holds a valid and existing license to engage in the practice of professional engineering pursuant to the Professional

Engineers Act, R.S.O. c.P.28 and having qualifications and expertise relating to the subject matters under this by-law and is a member in good standing with the Association of Professional Engineers of Ontario;

“Road” means (i) a public road right-of-way under the jurisdiction of the City or The Regional Municipality of Peel and includes a public highway, boulevard, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, and all sidewalks, curbs, splash pads, sodded boulevards, gutters, culverts, retaining walls and other structures forming part thereof, any part of which is intended for or used by the general public for the passage of vehicles, pedestrians and cyclists, and the area between the lateral property lines thereof; and, (ii) the Mississauga Transitway;

“Variance Certificate” means a certification letter signed and sealed by the Professional Engineer or Ontario Land Surveyor certifying that the alteration(s) do not change the overall intent of the Grading and Drainage of the land and will not result in any negative impacts to connecting or abutting properties or municipal assets or municipal services as required whenever the Commissioner, the Professional Engineer, or Ontario Land Surveyor, as a group or individually has/have determined that alterations were required in the field after Construction Activities had commenced that resulted in the final as-built Grading and Drainage condition to not be in conformance with the approved Grading and Drainage Plan.

PART II - GENERAL PROHIBITIONS

2. No Person shall obstruct or damage, or cause or permit the obstruction or damage of any Road or other municipal asset or municipal service.
3. No Person shall deposit, store, throw, spill or track or cause or permit the deposit, throwing, storing, spilling or tracking of any material, waste or soil onto any Road.
4. No Person shall commence Construction Activities and/or alter the Grading and Drainage on any land unless the Person receives the required Approval of a Grading and Drainage Plan issued under this By-law.
5. No Person shall violate any provision of this By-law or an approved Grading and Drainage Plan under this By-law.

PART III – APPROVALS

6. Every Person who undertakes Construction Activities on land abutting a Road and every Person who undertakes Construction Activities which may affect Grading and Drainage shall, prior to commencing the work, obtain the relevant Approvals as required pursuant to this By-law.
7. A Person may receive an Approval under this By-law if the Person:
 - (1) submits a Grading and Drainage Plan with the Certification Note affixed detailing the Grading and Drainage design in accordance with the Manual, to the satisfaction of the Commissioner;
 - (2) submits all applicable fees and charges as provided for in the City’s current User Fees and Charges By-law; and
 - (3) provides any other required documentation in accordance with the Manual and provides the required Lot Grading Deposit and Municipal Services Protection Deposit as set out in Schedule “A” to this By-law;
8. During any point of the Construction Activities, as a result of the Pre-Sod Inspection or Final Inspection, and/or as part of the Final Certificate review process as described in the Manual, the Commissioner, at his or her sole discretion, may request that the Professional Engineer or Ontario Land Surveyor provide an as-built survey and/or as-built Grading and Drainage Plan of the subject land to verify the condition of the Grading and Drainage works.
9. The issuance of an Approval 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.

PART IV – CONDITIONS OF APPROVAL

10. A Person shall comply with or ensure compliance with all provisions and conditions of the Approvals and this By-law.
11. Failure to comply with any provision or condition of Approval or this By-law may result in the revocation of the Approval by the Commissioner, in addition to any other enforcement proceedings against the Person as permitted by this By-law.
12. A Person whose Approval has been revoked shall immediately cease or ensure the immediate cessation of all the activities for which an Approval has been issued upon revocation under section 11.
13. Every Person shall forthwith rectify damaged conditions on a Road, on land and/or to municipal assets or municipal services and shall reinstate the Road, the land and/or the municipal assets or municipal services, as the case may be, to the satisfaction of the Commissioner.
14. Every Person shall post with the City the required Lot Grading Deposit and/or Municipal Services Protection Deposit, by way of certified cheque or bank draft in a form satisfactory to the City.
15. A Lot Grading Deposit and/or a Municipal Services Protection Deposit as set out in Schedule "A" of this By-law are not transferable.
16. The City shall not pay interest on the Lot Grading Deposit and/or Municipal Services Protection Deposit to a Person.

PART V – LOT GRADING DEPOSIT REFUND

17. Upon Completion of Construction Activities, a Person may obtain a refund of the Lot Grading Deposit retained under this By-Law, if a Person:
 - (1) submits a Final Certificate, or a Variance Certificate, as applicable, to the satisfaction of the Commissioner; and
 - (2) remedies any and all lot Grading and Drainage deficiencies and defects identified during the Final Inspection to the satisfaction of the Commissioner.
18. The Person shall be responsible to repair or reinstate the lot Grading and Drainage deficiency or defect to the satisfaction of the Commissioner and for the associated costs of the repair or reinstatement.
19. The Lot Grading Deposit may be held together with the Municipal Services Protection Deposit at the discretion of the Commissioner until any and all deficiencies and defects to the Road or other municipal services or municipal assets are rectified in compliance with Part VI of this By-law.

PART VI – MUNICIPAL SERVICES PROTECTION DEPOSIT REFUND

20. Upon Completion of Construction Activities, a Person may obtain a refund of the Municipal Services Protection Deposit retained under this By-Law if upon Final Inspection there are no deficiencies and defects identified by the Commissioner on any Road or with respect to any other existing municipal services or municipal assets.
21. Deficiencies and defects identified by the Commissioner through the Final Inspection of a Road or other municipal service or municipal asset, which has been damaged as a result of Construction Activities for which an Approval was issued, including damages caused by the crossing of vehicles or equipment will be repaired and reinstated by the City.
22. A Person will not be permitted to repair or reinstate any and all deficiencies and defects to the Road or other municipal services.
23. The Municipal Services Protection Deposit shall remain in full, and the Person will not be entitled to a refund until the repair and restoration of the deficiency or defect has been completed. The period for deficiency or defect repair or reinstatement is up to 24 months.
24. A Person shall be responsible for the costs incurred by the City to repair or reinstate the deficiency or defect, with costs including administrative fees and applicable taxes being

deducted from the Municipal Service Protection Deposit.

PART VII – CARRYING OUT WORK ON CITY PROPERTY

25. Notwithstanding any other provision of this By-law, in default of the Person complying with Sections 2, 3, 4, 5 and 10 of this By-law, and upon notice to the Person 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 Road or other municipal assets or municipal services damaged by a Person who shall be responsible for the costs incurred by the City to repair or reinstate same.
26. The cost of repairing or reinstating any Road or other municipal service, which has been damaged as a result of work for which an Approval 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 Lot Grading Deposit and Municipal Services Protection Deposit provided by a Person pursuant to this By-law.
27. Where the cost of repairing and restoring the Road or other municipal service exceeds the amount held on the Lot Grading Deposit and Municipal Services Protection Deposit, 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 Person's lands and collecting them in the same manner as taxes.

PART VIII - PENALTIES

28. Every Person, other than a corporation, who contravenes a provision of this By-law 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.
29. Every corporation who contravenes a provision of this By-law is guilty of an offence and upon conviction is liable:
 - (1) on a first conviction to a fine of not more than \$50,000; and
 - (2) on any subsequent conviction to a fine of not more than \$100,000.
30. 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 IX - ADMINISTRATION AND INTERPRETATION

31. 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.
32. Unless the context otherwise requires, words importing the singular shall include the plural, and words importing the masculine gender shall include the feminine.
33. The headings inserted in this By-law are for convenience only.
34. 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.
35. 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.
36. Schedule "A" attached to this By-law shall form part of this By-law.
37. The fees and charges payable under this By-law will be subject to Harmonized Sales Tax (H.S.T.) where applicable.

38. Payment for Lot Grading Deposit and Municipal Services Protection Deposit is due prior to the issuance of an Approval 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. Payments cannot be split and uncertified cheques are not accepted.
39. Payment of all fees, Lot Grading Deposit and Municipal Services Protection Deposit 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.
40. 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.
41. No discount will apply for early payment of any fees, Lot Grading Deposit and Municipal Services Protection Deposit under this By-law.
42. All approvals and deposits with respect to the subject matters under this By-law, that are in effect at the time this By-law comes into force, are continued and are subject to this By-law with all necessary modifications.

PART X - REPEAL AND COMING INTO FORCE

43. By-law 251-2012, as amended, is hereby repealed.
44. This By-law comes into force on the date of its passing.

PART XI - SHORT TITLE

45. This By-law shall be known as the "Lot Grading and Municipal Services Protection By-law".

ENACTED and PASSED this 22nd day of July, 2020.
Signed by Bonnie Crombie, Mayor, and Diana Rusnov, City Clerk

SCHEDULE "A"
MUNICIPAL SERVICES PROTECTION AND LOT GRADING DEPOSITS

(Amended by 0223-2020)

INFRASTRUCTURE PLANNING & ENGINEERING SERVICES DIVISION	
Development Engineering and Construction	
Municipal Services Protection Deposit (MSPD)	
MSPD Residential - pool in-ground or on-ground	\$1,000.00*
MSPD Residential - pool above ground	\$750.00*
MSPD Residential – addition/alteration to existing structure under 15 meters of frontage	\$1,000.00*
MSPD Residential – addition/alteration to existing structure over 15 meters of frontage	\$1,500.00*
MSPD Residential - new construction	\$150.00 per meter of frontage*
MSPD Industrial – addition/alteration to existing structure	\$150.00 per meter of frontage*
MSPD Industrial – new construction	\$150.00 per meter of frontage*
MSPD Residential, Industrial and Commercial for any other Construction Activity requiring City Approval	\$150.00 per meter of frontage*
Lot Grading Deposits	
Lot Grading: Installation of residential pool Please note: Above Ground Pools are exempt	\$5,000.00*
Lot Grading Residential- new construction single dwellings	\$10,000.00*
Lot Grading Residential – new construction for multiple-unit dwellings	\$10,000.00 per block*
Lot Grading Residential – addition/alteration to existing	A deposit amount as determined by the Commissioner
Lot Grading Industrial and Commercial – addition/alteration to existing structure, parking lots and drainage systems	A deposit amount as determined by the Commissioner
Lot Grading Industrial and Commercial – new construction	\$10,000.00*
Lot Grading Residential, Industrial and Commercial for any other Construction Activity requiring City Approval	A deposit amount as determined by the Commissioner
Retaining Wall	100% of the estimated cost as determined by the Commissioner
Catch Basin and /or Downspout connection in Support of Lot Grading	\$10,000.00*

*Or a deposit as determined by the Commissioner