



MISSISSAUGA

THE CORPORATION OF THE CITY OF MISSISSAUGA

Road Occupancy Permit By-law 0173-2020

(Amended by 0224-2020)

WHEREAS sections 8, 9 and 11 of the *Municipal Act, 2001* authorize The Corporation of the City of Mississauga (“City of Mississauga”) to pass by-laws necessary or desirable for municipal purposes, and in particular, paragraphs 4, 5, 6, 8 of subsection 11(2) and paragraphs 1 and 7 of subsection 11(3) authorize by-laws respecting highways, public assets of the municipality, the economic, social and environmental well-being of the municipality, the safety and well-being of persons, the protection of persons and property and structures;

AND WHEREAS the City of Mississauga 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, over or under its roads;

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

AND WHEREAS the *Municipal Act, 2001* authorizes the City of Mississauga, 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 Mississauga enacts as follows:

PART 1 – DEFINITIONS

1.1 In this By-law:

- (a) “**as-built drawings**” means a drawing that accurately depicts the location, including depth of coverage, of equipment, in such a form and to such standards as may be required by the Director;
- (b) “**boulevard**” means that part of a road which is not used, or intended to be used for vehicular travel by the public, and is situated between the portion of the road used for vehicular travel by the public and the adjoining property line;
- (c) “**Business Day**” means 8:30 a.m. to 4:30 p.m. on any day which the City’s administrative offices are open for business;
- (d) “**City**” means the municipality of The Corporation of the City of Mississauga or the geographic area of the City of Mississauga as the context requires;
- (e) “**Commissioner**” means the Commissioner of Transportation and Works for the City and their designate or successor;
- (f) “**Director**” means the Director of the Works, Operations and Maintenance Division of the Transportation and Works Department of the City and their successor or the persons the Director may designate from time to time to act in their stead for the purposes of this By-law;

- (g) **“development application”** means an application for the development and construction or erection of buildings and other improvements on private lands including, applications for site plan approval, rezoning, removal of holding “H” symbol, official plan amendment, consent, minor variance, subdivision or condominium approval pursuant to the Planning Act, R.S.O, c.P.13;
- (h) **“emergency work”** means work that is required to reduce or eliminate a situation or an impending situation that constitutes a danger that could result in serious harm to a person or substantial damage to property, including the loss of an essential service or damage to infrastructure or equipment;
- (i) **“engineering investigation”** means exploratory excavation, and the installation and use of boreholes and monitoring wells in the road;
- (j) **“equipment”** includes underground conduits and pipes, municipal storm water, water and sanitary sewer services and service connections, cabinets, poles, towers, anchors, guy wires, brackets, cross arms, insulators, foundations, overhead and underground conductors, wires, lines, cables and transformers, access nodes, grade level boxes, manholes, pedestals, boreholes, monitoring wells, ancillary appliances and fittings and reasonably required associated protective installations;
- (k) **“excavation”** means breaking, digging up, tearing up, tunneling, boring, coring, attaching to, cutting into or removing of any portion of the surface or subsurface of a road, including pavement, sidewalk, curbs, gutter or the boulevard;
- (l) **“Municipal Requirements”** means all applicable municipal by-laws, rules, policies, standards, manuals and guidelines;
- (m) **“non-compliant equipment”** means equipment that is not installed in accordance with the requirements of this By-law, the Municipal Requirements, a permit, or any terms and conditions of a permit;
- (n) **“Officer”** means a person appointed by Council, by the Commissioner, Director, or under this By-law, to administer or enforce this By-law and includes a person employed by the City whose duties are to enforce this By-law, and also includes, for the purposes of exercising any power entry under this By-law, a police officer;
- (o) **“permit”** means any permit issued under Part 4 of this By-law;
- (p) **“permit holder”** means the person(s) to whom a permit has been issued and includes persons acting on behalf of or doing work on behalf of the permit holder;
- (q) **“person”** includes an individual, association, partnership, corporation, municipality, provincial or federal agency, or an agent or employee of any one of these entities;
- (r) **“PUCC”** means the Public Utilities Coordinating Committee, comprised of members from the City and utility providers who own and/or operate equipment within the road, that jointly coordinates and manages works within the road;
- (s) **“road”** means an assumed public road right-of-way under the jurisdiction of the City 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;
- (t) **“security”** means financial security deposited to the City as a condition of a permit or other consent granted under this By-law, in a form approved by the Director from time to time, and includes other security or deposit prescribed in a City by-law;
- (u) **“temporary road occupation”** means the temporary occupation of any portion of a road 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 office 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 Municipal Requirements from time to time;

- (v) “**Technical Services**” means the Technical Services Section of the Works Operations and Maintenance Division of the Transportation and Works Department;
- (w) “**utility provider**” means a person that supplies electrical, thermal, other energy services, water, sanitary, telecommunications services, or oil and natural gas services;
- (x) “**within**” means on, in, over, above, under, across or along, as applicable in the circumstances; and
- (y) “**work**” means any temporary road occupation, excavation, engineering investigation, installation, removal, construction, maintenance, repair, replacement, relocation, adjustment or alteration of equipment within a road.

PART 2 – APPLICATION OF BY-LAW

- 2.1 This By-law applies to all roads in the City.
- 2.2 This By-law does not apply to:
 - (a) work within a road for which the Region of Peel has jurisdiction;
 - (b) work within a road for which the Province of Ontario has jurisdiction.
- 2.3 The Commissioner and his/her designate may waive the application of all or part of this By-law if the Commissioner is satisfied that the work is adequately regulated by an agreement with the City or another form of approval given by the City.
- 2.4 Nothing in this By-law shall be construed as permitting anything which is prohibited under federal or provincial legislation, and where there is a conflict in this respect between federal or provincial legislation and this By-law, the federal or provincial legislation prevails.
- 2.5 Work which is permitted under a current and valid permit is not prohibited under this By-law so long as there is full compliance with that permit.

PART 3 – REQUIREMENTS AND PROHIBITIONS

Work within the Road

- 3.1 No person shall undertake any work without first obtaining a permit in accordance with this By-law and the Municipal Requirements.
- 3.2 Despite section 3.1 and subject to section 3.9, emergency work may be undertaken without first obtaining a permit if Technical Services is notified within 24 hours of the emergency work being commenced with all required permits being applied for.
- 3.3 No permit holder shall carry out or permit the carrying out of work that is not in compliance with:
 - (a) this By-law;
 - (b) the Municipal Requirements; and
 - (c) any term or condition of a permit issued under this By-law.
- 3.4 When undertaking work, a permit holder shall:
 - (a) have a copy of the permit readily available at the location where work is being undertaken; and
 - (b) produce a copy of the permit to the Director or an Officer upon request.
- 3.5 Every person undertaking work shall comply with all applicable statutes, regulations, standards, codes, by-laws, rules and similar requirements.

- 3.6 Every person undertaking work shall ensure that the road affected by the work is at all times maintained in a condition that allows the safe passage of vehicular, pedestrian and cycling traffic.
- 3.7 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law or the Municipal Requirements.
- 3.8 No person shall provide false or inaccurate information in an application for a permit issued under this By-law or in any document or thing required to be submitted under this By-law or the Municipal Requirements.
- 3.9 Every person undertaking work on a road which requires an excavation must submit a request to Ontario One Call to locate and mark underground infrastructure prior to the commencement of any work, in accordance with the *Ontario Underground Infrastructure Notification System Act, 2012*.

Moratoriums

- 3.10 No person shall undertake work on a road which requires a cut or excavation:
 - (a) within five years from the date of:
 - (i) construction or reconstruction of the road;
 - (ii) full resurfacing of the road including base repairs;
 - (iii) construction, reconstruction, maintenance or repair of abutment walls, piers, bridge approaches, slope protection on bridges;
 - (iv) construction, reconstruction, maintenance, or repair of culverts; and
 - (v) construction, reconstruction, maintenance or repair of bridge decks, sidewalks, parapet walls, superstructure, asphalt wearing surface, deck waterproofing, superstructure, bearings, expansion joints, ballast walls and foundations of bridges.
- 3.11 The moratoriums in section 3.10 do not apply to:
 - (a) emergency work;
 - (b) work authorized by the Commissioner; and
 - (c) work required or arising in relation to or in consequence of a development application approved by the City pursuant to the *Planning Act*, R.S.O. 1990, c. P.13. or for which a permit has been issued under the Building Code Act, 1992, S.O. 1992,c.23
- 3.12 Where a permit is issued under any of the circumstances set out in section 3.11 the permit holder shall be responsible for any special provisions, the cost of restoring the road as determined by the Director, and paying any applicable prescribed fees.

PART 4 – PERMITS

Permits – Types

- 4.1 The Director may issue the following types of permits:
 - (a) Road Occupancy Permit – Utility (Municipal Consent);
 - (b) Road Occupancy Permit – Complex Construction;
 - (c) Road Occupancy Permit – Engineering Investigation;
 - (d) Road Occupancy Permit – Alteration of Road or City Equipment;
 - (e) Road Occupancy Permit – Service Connection; and
 - (f) Road Occupancy Permit – Temporary Road Occupation.
- 4.2 A Road Occupancy Permit – Utility (Municipal Consent) referred to in subsection 4.1(a) authorizes utility providers to perform work.
- 4.3 A Road Occupancy Permit – Complex Construction referred to in subsection 4.1(b) authorizes work determined by the Director in their discretion to comprise temporary road occupation involving complex or multiple construction operations by various contractors, subcontractors, suppliers and other persons required or arising in relation to or in consequence of a development application approved by the City pursuant to the *Planning Act*, R.S.O. 1990, c. P.13 or for which a permit has been issued under the Building Code Act, 1992, S.O. 1992,c.23

- 4.4 A Road Occupancy Permit – Engineering Investigation referred to in subsection 4.1(c) above authorizes engineering investigation.
- 4.5 Every person who has been issued a Road Occupancy Permit – Engineering Investigation or who has undertaken sampling of a monitoring well installed pursuant to a permit shall submit to the City all copies of environmental monitoring reports and all sampling data from the monitoring well.
- 4.6 A Road Occupancy Permit – Alteration of Road or City Equipment referred to in subsection 4.1(d) authorizes work requiring geometric design changes to the road or City equipment.
- 4.7 A Road Occupancy Permit – Service Connection referred to in subsection 4.1(e) authorizes work related to a water, sanitary, stormwater or secondary hydro service connection.
- 4.8 A Road Occupancy Permit – Temporary Road Occupation referred to in subsection 4.1(f) authorizes work comprising temporary road occupation for the placement or operation of any machinery, vehicles, storage containers, waste bins, materials or mobile cranes and which does not comprise work under a Road Occupancy Permit – Complex Construction as determined by the Director in their discretion. .

Permits – Application

- 4.9 A person applying for a permit shall submit a completed application to the Director, on a form prescribed by the Director from time to time, that meets all of the requirements of the Municipal Requirements, and includes, but is not limited to:
 - (a) the name, municipal address, telephone number and email address of the person responsible for the work, and:
 - (i) the name, position, telephone number and email address of an individual contact, available at all times (24 hours) when the permit is in effect, for that person;
 - (ii) the name(s), telephone number(s) and email address(es) of the most senior field personnel of that person or of their agent, servant, employee, subcontractor or licensee assigned to oversee the work;
 - (b) a description of the type, purpose and location of the work, including the name(s) of the road(s) and the municipal address(es);
 - (c) the scheduled start date of the work and length of time required to complete the work;
 - (d) any proposed partial or full lane closure, road closure, sidewalk, bicycle lane or multi-use path closure;
 - (e) the requirement for any proposed impact to:
 - (i) parking on the road;
 - (ii) transit infrastructure (stops/shelters);
 - (iii) transit services routes;
 - (iv) traffic control devices;
 - (v) City-owned trees in the road;
 - (vi) traffic functioning; and
 - (vii) traffic safety;
 - (f) whether the work is emergency work and the nature of the emergency;
 - (g) a signed release and indemnification satisfactory to the Director;
 - (h) proof of insurance satisfactory to the Director;
 - (i) security as required by the Director;
 - (j) an agreement with the City with respect to alteration of the road as required by the Director;
 - (k) revised or additional information to determine if the permit should be issued as required by the Director; and
 - (l) payment of the prescribed fees.
- 4.10 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 Municipal Requirements; or

- (b) in the reasonable opinion of the Director having regard to public safety, the efficient administration, use and protection of the road:
 - (i) there is no available space within the road 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) the person applying for the permit or the person responsible for the work:
 - (i) is not in compliance with this By-law or the Municipal Requirements;
 - (ii) is not in compliance with this By-law or the Municipal Requirements with respect to another permit, including but not limited to:
 - (1) temporary repair or permanent restoration;
 - (2) terms and conditions of a permit;
 - (iii) 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;
 - (iv) 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;
 - (v) is in arrears to the City for municipal property taxes, or for fees and charges payable to the City, including any fees and charges referred to in this By-law; or
 - (vi) has not paid any penalty or court awarded costs resulting from a legal proceeding relating to this By-law or the Municipal Requirements.

4.11 The Director will issue a permit if:

- (a) a completed application, including any revised or additional information required, has been submitted;
- (b) all prescribed fees have been paid;
- (c) required security has been deposited;
- (d) satisfactory insurance has been provided;
- (e) all of the requirements of this By-law and the Municipal Requirements have been met; and
- (f) none of the circumstances in section 4.10 apply to the work proposed in the application for a permit.

4.12 A permit expires:

- (a) on the date as set out in the permit; or
- (b) on notice of revocation by the Director.

4.13 If the work will not be completed before the permit expires under subsection 4.12(a), the permit holder may apply for an extension.

4.14 The Director may approve an application for an extension to a permit, having regard to:

- (a) the work to be undertaken during the extension;
- (b) the progress of the work up until the date of the application;
- (c) the performance of the permit holder up until the date of the application;
- (d) any potential conflict that may result from the extension with other planned or ongoing work; and
- (e) the safety and convenience of the public.

4.15 Where a permit holder applies for more than one extension they may be required to make a new application under section 4.9 for any other continuation or resumption of work commenced under an expired permit.

Permits – General

4.16 A permit issued under this By-law is the property of the City and is not transferable.

4.17 A permit holder shall immediately inform the Director of any change to:

- (a) the information contained in an application for a permit;

- (b) the information contained in a permit that has been issued;
 - (c) the characteristics of the work for which the permit has been issued; or
 - (d) cancellation of the work.
- 4.18 The Director may require any one or more of revised or additional information, additional prescribed fees, or a new application with respect to a change under section 4.17.
- 4.19 The Director may impose conditions on a permit that they consider necessary for the protection of a road, any property abutting a road or of any person. Permit conditions may include, but are not limited to any or all of the following:
- (a) requirements in relation to providing the City with written notice of:
 - (i) the date the work will commence at least 24 hours in advance;
 - (ii) identifying who will be carrying out the work, location of work and permit number;
 - (iii) any change to the commencement or completion dates immediately;
 - (b) requirements in relation to providing persons affected by the work with written notice of the details of the work being undertaken;
 - (c) requirement that the permit holder or any person carrying out work on behalf of the permit holder produce a copy of the permit at the location of the work upon demand;
 - (d) requirements in relation to the permit holder carrying out the work carefully, diligently, professionally and skilfully, including:
 - (i) taking proper precautions to protect individuals from injury and property from harm;
 - (ii) identifying vehicles and erecting signs at the location of the work and the party for whom work is being done;
 - (iii) not damaging the road and all existing equipment in the road; and
 - (iv) restoring the road to the standards prescribed by the City in the Municipal Requirements; and
 - (e) requirements in relation to depositing security with the City and paying all prescribed fees.
- 4.20 The Director may, on their own initiative, amend a permit to impose, vary or remove conditions of the permit at any time after it has been issued, if the Director considers it necessary for the purposes of this By-law.
- 4.21 The Director may immediately suspend or revoke a permit issued under this By-law, in writing, where the Director is satisfied that a suspension or revocation is necessary in an emergency situation of immediate threat or danger to a road, any property abutting a road or to any person.
- 4.22 The Director may suspend a permit for up to 30 days, or revoke a permit, if:
- (a) in their opinion, the permit holder:
 - (i) fails to comply with any term or condition of a permit, this By-law or the Municipal Requirements;
 - (ii) fails to notify the Director immediately of any change to a permit referred to in section 4.17;
 - (iii) fails, within 30 days after the issuance of a permit, to substantially commence the work;
 - (iv) substantially discontinues the work for a period of more than 30 days;
 - (v) fails to apply immediately for an amendment to a permit where the characteristics of the work for which the permit has been issued have changed;
 - (vi) provides false or inaccurate information in the application for the permit; or
 - (b) any person doing work on behalf of the permit holder fails to comply with any applicable statutes, regulations, standards, codes, by-laws, rules or similar requirements.
- 4.23 The Director may give notice of the suspension or revocation of a permit by contacting a permit holder in writing, by telephone or by email in accordance with the contact information provided on the permit application.

- 4.24 The Director may reinstate a suspended or revoked permit, subject to any terms or conditions, where the Director is satisfied that the work no longer poses a threat or danger to a road, any property abutting a road or to any person, and that the permit holder is no longer in violation of any of the provisions of section 4.22.

PUCC

- 4.25 Every utility provider shall:
- (a) maintain active membership in the PUC and remain current in regard to all of the information discussed at meetings;
 - (b) send a representative to attend at least 75% of meetings in each calendar year; and
 - (c) pay the applicable annual membership fee(s) required to maintain active membership in the PUC.
- 4.26 Prior to submitting a Road Occupancy Permit – Utility (Municipal Consent) application to the City, every applicant shall circulate their application to all utility provider members of the PUC for the purpose of:
- (a) receiving comments from PUC members;
 - (b) determining if joint installation(s) with another person is feasible; and
 - (c) confirming that existing equipment of PUC members in the road will not be impacted.
- 4.27 In addition to the requirements set out in section 4.9, an application for a Road Occupancy Permit – Utility (Municipal Consent) shall include:
- (a) a certification that the applicant has explored all options for installing its proposed equipment or carrying out the proposed work that will utilize existing facilities within the road and minimizes the equipment located above-ground;
 - (b) the results of the circulation to PUC members referred to in subsection 4.26(a);
 - (c) the determination regarding the feasibility of joint installation(s) referred to in subsection 4.26(b); and
 - (d) confirmation from all utility provider PUC members that their existing equipment will not be impacted as referred to in subsection 4.26(c).
- 4.28 Every utility provider member of the PUC shall provide a written response to a request from an applicant regarding information required under section 4.26 within the timelines as set out in the Municipal Requirements.
- 4.29 Despite section 4.28, if a utility provider submits a Road Occupancy Permit – Utility (Municipal Consent) application that is in excess of the service level outlined in the Municipal Requirements, the review timelines will not apply.
- 4.30 A utility provider will coordinate the scheduling of its work with the City and all other users of the road to the satisfaction of the Director. The Director may, to facilitate such coordination, to protect against risks of harm to property, persons using the road, and to ensure the efficient administration, use and protection of the road, require any one or more of the following:
- (a) participation in a multi-party installation to minimize the necessity for excavation, construction and the placement of new equipment within the road by coordinating its work and sharing the use of support structures with other existing and new occupants of the road;
 - (b) compliance with any moratorium period that applies to the whole or part of a road; and
 - (c) the submission of construction schedules/timelines to the City to facilitate inspections.

PART 5 – EMERGENCY WORK

- 5.1 Where it is necessary to undertake emergency work, the person undertaking such work shall:
- (a) give notice to Technical Services of the emergency work within 24 hours of commencing the emergency work, including the name of the person undertaking the work, the location of the emergency work, and the nature of the emergency;

- (b) apply for all required permits as required under subsection 3.2 within 24 hours;
 - (c) perform only the work that is necessary to deal with the emergency;
 - (d) comply with all provisions of this By-law and the Municipal Requirements related to performance of the emergency work as soon as possible in the circumstances; and
 - (e) hold harmless, indemnify and defend the City, its elected officials, employees and agents, from and against any claim, loss, damage, cost or expense arising directly or indirectly as a result of the emergency work being undertaken.
- 5.2 In the event that the City has to carry out emergency work, the City shall as soon as reasonably practicable, notify affected owners of existing equipment in the road and, as circumstances permit, allow the owners of existing equipment a reasonable opportunity to remove, relocate, protect or otherwise deal with the equipment, having regard to the nature of the emergency work.
- 5.3 Despite section 5.2, the City may take all such measures it deems necessary to address an emergency and otherwise re-establish a safe environment, and the owners of any existing equipment in the road shall pay the City's costs that are directly attributable to the work or the presence of such equipment in the road.

PART 6 – AS-BUILT DRAWINGS

- 6.1 Every applicant of a permit referred to in subsection 4.1(a), (b), (d) and (e) shall agree as a condition of receiving the permit, to submit as-built drawings to the City of the completed work in accordance with the Municipal Requirements.
- 6.2 Where a person is in default of their obligations under section 6.1, they shall not, except where in the opinion of the Director emergency work is required or the permit is required to perform work required by the City, be issued any further permit for the work for which as-built drawings are outstanding, until such time as the as-built drawings as required under this Part have been submitted to the City.

PART 7 – REPAIRS, RESTORATION AND NON-COMPLIANT EQUIPMENT

- 7.1 All temporary repairs, permanent restoration or work required to correct or relocate non-compliant equipment referred to in this Part shall be completed to the standards prescribed in this By-law, the Municipal Requirements, and as required by the Director.

Temporary Repairs and Permanent Restoration

- 7.2 Every permit holder who undertakes excavation shall agree as a condition of receiving a permit, to undertake a temporary repair of the road which restores the road to standards prescribed by the City in the Municipal Requirements, immediately after completion of the permit holder's work, and no later than the date of expiry of the permit.
- 7.3 A permit holder must maintain and warranty a temporary repair made to a road for a period of 24 months following completion of the temporary repair to the satisfaction of the City or until the City, or a person with prior authorization from the City, completes permanent restoration of the road in the location of the temporary repair.
- 7.4 A person with prior authorization from the City to carry out permanent restoration of a temporary repair must maintain and warranty the permanent restoration for a period of 24 months from the date of completion of the permanent restoration to the satisfaction of the City and acceptance by the City.
- 7.5 Any and all costs associated with the maintenance and warranty of a temporary repair or permanent restoration referred to in section 7.3 or 7.4 shall be at the sole expense of the permit holder.
- 7.6 Where a permit holder fails to undertake or maintain a temporary repair or permanent restoration of a road as specified in sections 7.1, 7.2, 7.3 and 7.4:
- (a) the City may require the permit holder to do work to correct a temporary repair or permanent restoration;
 - (b) the City may itself or by a third party contractor undertake any necessary temporary repair or permanent restoration or do work to correct a temporary repair or permanent restoration;
 - (c) the permit holder shall be solely responsible for the cost of any repair, restoration or clean-up of the road incurred by the City or a by third party contractor;

- (d) the Director may deduct the cost of any repair, restoration or clean-up from a deposit or security held by the City, where applicable; and
- (e) where the cost of a repair, restoration or clean-up exceeds the amount of a deposit or security held by the City, or no security is available, the permit holder shall pay all costs owing to the City within 30 Business Days after receipt of an invoice from the City.

Non-Compliant Equipment

7.7 Where a permit holder installs non-compliant equipment in a road:

- (a) the City may require the permit holder to do work to correct or relocate the non-compliant equipment;
- (b) the City may itself or by a third party contractor undertake any necessary work to correct or relocate the non-compliant equipment;
- (c) the permit holder shall be solely responsible for the cost incurred by the City or a by third party contractor in carrying out work to correct or relocate the non-compliant equipment;
- (d) the Director may deduct the cost of the work required to correct or relocate the non-compliant equipment from a security or deposit held by the City, where applicable; and
- (e) where the cost of the work required to correct or relocate the non-compliant equipment exceeds the amount of a deposit or security held by the City, or no deposit or security is available, the permit holder shall pay all costs owing to the City within 30 Business Days after receipt of an invoice from the City.

Damage to the Road or City Equipment

7.8 Any person who causes damage to a road or to City equipment in a road shall be responsible for reimbursing the City for any and all costs incurred by the City to restore the road or City equipment to the standards prescribed by the City within 30 Business Days after receipt of an invoice.

Recovery of Costs

7.9 If a permit holder fails to pay costs owing within 30 Business Days after receipt of an invoice from the City as set out in section 7.6(e), 7.7(e), or 7.8, the Commissioner or Director is authorized to recover the costs owing by adding them to the tax roll and collecting them in the same manner as property taxes.

PART 8 – PAVEMENT DEGRADATION

8.1 After completion of any work that involves excavation, the City will:

- (a) calculate any pavement degradation fee(s) resulting from the work; and
- (b) invoice the permit holder for the fees.

8.2 Every permit holder shall pay all applicable pavement degradation fees as required under section 8.1 within 30 Business Days after receipt of an invoice from the City.

8.3 If a permit holder fails to pay costs owing within 30 Business Days after receipt of an invoice as set out in section 8.2, the Director is authorized to recover the costs owing by adding them to the tax roll and collecting them in the same manner as property taxes.

PART 9 – ADMINISTRATION AND ENFORCEMENT

General

9.1 The Commissioner is authorized to negotiate and enter into agreements with respect to work as required to ensure compliance with this By-law and the Municipal Requirements and to generally protect the City's interests.

9.2 The Commissioner and Director are authorized to administer and enforce this By-law, including but not limited to:

- (a) arranging for:
 - (i) the assistance or work of City staff, City agents or the assistance of police officers;

- (ii) the making of orders or other requirements and the imposition of conditions as authorized under this By-law;
 - (iii) the obtaining of court orders or warrants as may be required;
 - (iv) the commencement of such actions on behalf of the City to recover costs or restrain contravention of this By-law as deemed necessary; and
 - (b) prescribing the format and content of any forms or other documents including the Municipal Requirements required under this By-law.
- 9.3 The Commissioner and Director may assign Officers to enforce this By-law and Officers so assigned or appointed by Council to enforce this By-law shall have the authority to:
- (a) carry out inspections;
 - (b) make orders or other requirements as authorized under this By-law and the Municipal Requirements; and
 - (c) give immediate effect to any orders or other requirements made under this By-law.
- 9.4 The Commissioner and City employees in the Transportation and Works Department are appointed as Officers for the purposes of the administration and enforcement of this By-law and the applicable sections of the *Municipal Act, 2001*.
- 9.5 All information submitted under this By-law, including all information submitted for any permit issued under this By-law, may be made available to any member of the public subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M56, if requested.

Fees and Deposits

- 9.6 All prescribed fees referred to in this By-law, including fees for services provided, shall be as set out in the City's User Fees and Charges By-law 0156-2019, or as otherwise set and approved by Council from time to time. All required security deposits are set out in Schedule "A" of this By-law.

Entry and Inspections

- 9.7 An Officer may enter on land at any time and in accordance with the conditions set out in sections 435 and 437 of the *Municipal Act, 2001* for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) an order or other requirement made under this By-law;
 - (b) a permit issued under this By-law;
 - (c) a term or condition of a permit issued under this By-law; or
 - (d) an order made under section 431 of the *Municipal Act, 2001*.
- 9.8 An Officer, for the purposes of the inspection under section 9.7 and in accordance with the conditions set out in section 436 of the *Municipal Act, 2001*, may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information in writing or otherwise as required by an Officer from any person concerning a matter related to the inspection;
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
- 9.9 An Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act, 2001*, in accordance with the conditions set out in that section, where he or she has been prevented or is likely to be prevented from carrying out an inspection under section 9.7.

Orders

- 9.10 If an Officer is satisfied that a contravention of this By-law has occurred, they may make an order requiring the person who contravened the By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention

occurred to discontinue the contravening activity.

- 9.11 An order under section 9.10 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - (b) the date or dates by which there must be compliance with the order, which may be of immediate effect should the Officer determine that the circumstances warrant.
- 9.12 If an Officer is satisfied that a contravention of this By-law has occurred, they may make an order requiring the person who has contravened this By-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention.
- 9.13 An order under section 9.10 or 9.12 shall set out:
- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land;
 - (b) the work to be completed which may include but is not limited to requiring that prior to performing any work, all necessary permits or other approvals be applied for and obtained;
 - (c) the date or dates by which the work must be completed; and
 - (d) notice that if the order is not complied with, then the work may be done at the expense of the person ordered to do the work.
- 9.14 An order under section 9.10 or 9.12 may be given verbally and shall be confirmed in writing within two Business Days and served in accordance with section 9.15.
- 9.15 An order under section 9.10 or 9.12 may be served:
- (a) personally on the person to whom it is directed;
 - (b) to an email address provided on a permit application form;
 - (c) by registered mail to the last known address of a person who committed a contravention, and in the case of permit holder, the address of the permit holder on the permit application form;
 - (d) in a conspicuous place on the road where the contravention occurred; or
 - (e) in a conspicuous place on or near the property affected by the work where the contravention occurred.
- 9.16 Where an order under this By-law is served personally or by email by the City, it shall be deemed to have been served on the date of delivery to the person or persons named.
- 9.17 Where an order issued under this By-law is sent by registered mail, it shall be sent to the address of the permit holder noted on the application, or last known address of the person that committed the contravention, and shall be deemed to have been served on the next Business Day following the date of mailing.
- 9.18 If there is no permit application with respect to an order issued under this By-law, the Officer may issue the order to the person the Officer determines to be responsible for the work and the order may be served in accordance with section 9.15.
- 9.19 Where a time frame is set out in an order or other document for carrying out any action, an Officer may extend the time for compliance beyond the established time frame provided such extension is required and is acceptable to the Officer.

City Carrying Out Work

- 9.20 Where a person does not comply with a direction or a requirement, including an order or a condition of a permit under this By-law to do a matter or thing, the Commissioner or Director, with such assistance by others as may be required, may carry out such direction, requirement or order at the person's expense.
- 9.21 Where the costs of doing a matter or thing under section 9.20 are estimated to be:
- (a) up to but not including \$100,000, the Commissioner or Director may proceed without further approval and in accordance with the City's Purchasing By-law, as amended or replaced; or

- (b) \$100,000 or greater, the Commissioner or Director may proceed with approval of an authorized person or of Council and in accordance with the City's Purchasing By-law, as amended or replaced.
- 9.22 The City may recover the costs of doing a matter or thing under section 9.20 by means of any one or more of:
- (a) bringing an action;
 - (b) adding the costs to the tax roll and collecting them in the same manner as property taxes and such costs shall include an annual interest rate commencing on the day the City incurs the costs and ending on the day the costs, including the interest, are paid in full;
 - (c) realizing on security provided for this purpose; or
 - (d) charging a fee as set out in the applicable City fees and charges by-law or as otherwise set and approved by Council from time to time.
- 9.23 The amount of the City's costs, including interest to the date payment is made in full, constitutes a lien upon the land, upon the registration of a notice of lien upon the land.

PART 10 – PENALTIES

- 10.1 Every person who contravenes any provision of this By-law, including any order issued under section 9.10 or 9.12, is guilty of an offence.
- 10.2 Every person, other than a corporation, who is guilty of an offence under this By-law shall, upon conviction, be liable for every day or part thereof upon which such offence occurs or continues, to a fine of not more than \$10,000 for a first offence and not more than \$25,000 for a subsequent offence.
- 10.3 Every corporation who is guilty of an offence under this By-law shall, upon conviction, be liable for every day or part thereof upon which such offence occurs or continues, to a fine of not more than \$50,000 for a first offence and not more than \$100,000 for a subsequent offence.
- 10.4 Any person who contravenes an order made under this By-law, or an officer or director of a corporation who knowingly concurs in such a contravention by the corporation, is guilty of a continuing offence and upon conviction is liable to a daily fine or penalty of a maximum of \$10,000 for each day or part of a day that the offence continues, and despite section 10.2 and section 10.3, the total of all the daily fines imposed for an offence is not limited by the fine amounts listed in those sections.
- 10.5 Every person who is convicted of an offence under this By-law may be liable, in addition to the fines established under sections 10.2, 10.3 and 10.4, to a special fine, which may exceed \$100,000, designed to eliminate or reduce any economic advantage or gain from contravening this By-law or failing to comply with an order made under this By-law.
- 10.6 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.
- 10.7 Where any person contravenes any provision of this By-law, such person shall be responsible for all costs incurred by the City related to the contravention.

PART 11 – GENERAL PROVISIONS

- 11.1 Schedule “A” attached to this By-law shall form part of this By-law.
- 11.2 Every permit 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 does not accept payments for deposits or securities by credit card.
- 11.3 The City shall not pay interest on deposits and securities to a permit holder or to any other person.
- 11.4 The fees and charges payable under this Schedule “A” will be subject to Harmonized Sales Tax (H.S.T.) where applicable.

- 11.5 Payment for deposits is due prior to the issuance of a permit under this Schedule “A”, unless otherwise stated by the Commissioner of Transportation and Works 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.
- 11.6 Combined payment of all non-refundable fees and charges and deposits is due prior to the issuance of a permit under this Schedule “A”, unless otherwise stated by the Commissioner of Transportation and Works, 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.
- 11.7 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.
- 11.8 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.
- 11.9 No discount will apply for early payment of any fees and deposits under this Schedule “A”.
- 11.10 This By-law may be referred to as the “**Road Occupancy Permit By-law**”.
- 11.11 If a court of competent jurisdiction declares any provision or part of a provision of this By-law invalid, the provision or part of a provision is deemed severable from this By-law and it is the stated intention of Council that the remainder of this By-law shall continue to be in force.
- 11.12 The provisions of this By-law shall not apply to the extent that they conflict with the provisions of any agreement between the applicant and the City respecting work.
- 11.13 All permits or approvals with respect to work as defined in 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.
- 11.14 By-law 251-2012, as amended is hereby repealed.

ENACTED and PASSED this 22nd day of July, 2020.

Signed by Bonnie Crombie, Mayor and Diana Rusnov, City Clerk

SCHEDULE "A"
ROAD OCCUPANCY DEPOSITS

(Amended by 0224-2020)

ITEM	Refundable Deposit
WORKS OPERATIONS AND MAINTENANCE DIVISION	
Maintenance Standards and Permits Section	
Road Occupancy Permit:	
a) Temporary Roadway Occupation <ul style="list-style-type: none"> a. Mobile Crane b. Construction materials, equipment and vehicles 	\$1,000.00 per application* *or an amount determined by Transportation and Works \$1,000.00 per application (or an amount determined by Transportation and Works) may be required depending on the scope of temporary occupation
b) Engineering Investigations	\$1,000.00 per monitoring well* \$500.00 per borehole* \$1,000.00 per utility exploration excavation* *or an amount determined by Transportation and Works
c) Alteration of Roadway or City Equipment	Securities are to be in place through a separate agreement or 100% of the value of permanent restoration works is to be secured through the permit to ensure satisfactory completion of works
Road Occupancy Permit – Complex Construction	\$10,000.00* *or an amount determined by Transportation and Works
Road Occupancy Permit – Service Connections Maintenance/Restoration Deposit*	
a) Sanitary Sewer	minimum \$7,500.00 per trench**
b) Water	minimum \$7,500.00 per trench**
c) Storm Sewer	minimum \$7,500.00 per trench**
d) Secondary Hydro	minimum \$1,000.00 per trench**
	**or an amount determined by Transportation and Works
* 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.	

ITEM	Refundable Deposit
WORKS OPERATIONS AND MAINTENANCE DIVISION	
Maintenance Standards and Permits Section	
Erosion and Sediment Control Permit and Permit Renewals	100% of the estimated cost of site control measures as determined by Environmental Services