



MISSISSAUGA

THE CORPORATION OF THE CITY OF MISSISSAUGA

Highway Obstruction By-law 0357-2010

(Amended by By-laws 0209-2014, 0098-2026)

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

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

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

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

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

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

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

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

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

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

DEFINITIONS:

1. For the purpose of this By-law:

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

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

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

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

“Highway” means a common and public highway including the Mississauga Transitway, and includes one or both of the following: (0209-2014)

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

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

“Notice of Contravention” Deleted by By-law 0098-2026.

“Mississauga Transitway” means the dedicated east-west Bus Rapid corridor located in the City of Mississauga between Renforth Drive and Winston Churchill Boulevard. (0209-2014)

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

“Officer” means a municipal by-law enforcement officer employed by the City and/or appointed by Council to perform the duties of enforcing the City’s by-laws, and also includes a police officer employed by the Peel Regional Police or the Ontario Provincial Police. (0098-2026)

“Owner” includes,

- (a) the Person who is the registered owner of a property; and

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

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

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

GENERAL PROVISIONS

2.

- (1) No Person shall Obstruct any Highway by any means whatsoever.
- (2) Without limiting the generality of subsection (1), the Obstruction of a Highway includes any one or more of the following:
- (a) the depositing of snow or ice on the Highway;
 - (b) the relocation of snow from a Highway or private property to the portions of a Highway normally used for pedestrian or vehicular traffic;
 - (c) parking of equipment, motorized equipment other than motorized equipment permitted and licensed under the regulations of the Ministry of Transportation of Ontario, containers, trailers, or any Landscape or Construction Material on a Highway without having obtained a road occupancy permit, pursuant to Road Occupancy Lot Grading and Municipal Services Protection Deposit By-law No. 432-08, as amended, or its successors and in accordance with the requirements of the City of Mississauga Transportation and Works Department;
 - (d) the cutting, altering, extending, in any manner whatsoever of a concrete curb, open or contained culvert, culvert overpass, or similar structure or landscape without having first applied for and obtained the appropriate permit, pursuant to Road Occupancy Lot Grading and Municipal Services Protection Deposit By-law No. 0432-2008, as amended, or its successors, in accordance with requirements of the City of Mississauga Transportation and Works Department;
 - (e) throwing, placing or depositing of dirt, glass, handbills, paper or other refuse and debris or the carcass of any animal on a Highway;
 - (f) the excavation or damage to any portion of a Highway, including sod, trees, light poles, street signs or other objects within the Highway without the consent of the City of Mississauga; or

- (g) the placing or depositing of sporting equipment, including but not limited to basketball nets, hockey nets, soccer nets, skateboard ramps and bicycle ramps, on a Highway.

REMOVAL OF HIGHWAY OBSTRUCTION

- 3.
 - (1) If an Officer determines that an Obstruction of a Highway exists, the Officer may issue an order in accordance with section 8 of this By-law, requiring the Owner, Occupant and/or Contractor of the property from which the Obstruction comes from, relates to, or was created for, to discontinue causing the Obstruction and to remove the Obstruction and repair, as necessary, at the expense of the Owner, Occupant and/or Contractor, the Highway so that the Highway is brought back to its former condition prior to the Obstruction. (0098-2026)
 - (2) Where the order described in subsection 3(1) is not complied with within the time period set out in the order, as applicable, the City may, in accordance with subsection 8(10), remove the Obstruction and repair, as necessary, the Highway and all the costs incurred by the City in undertaking this work shall be expenses owed to the City by the Owner, Occupant and/or Contractor of property from which the Obstruction comes from, relates to, or was created for. (0098-2026)

HAZARDOUS CONDITION

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

DISPOSING OF MATERIAL AND EQUIPMENT

- 5.
 - (1) Any Landscape or Construction Material removed by the City from a Highway under this By-law may be directly deposited onto the property from which the Obstruction comes from, relates to, or was created for, or the material may be treated as refuse by the City or become property of the City which can be disposed of in any manner or used for any City purpose.
 - (2) Any motorized equipment, containers, trailers, or motorized tools removed by the City may, at the discretion of the Commissioner, be deposited at the property from which the Obstruction comes from, relates to, or was created for, or be stored at a City facility for sixty (60) days at the owner's expense.

- (3) Any item in subsection (2) shall only be released to its owner after the owner has paid the City any applicable expense for the removal and storage of the item.
- (4) Any item in subsection (2) that is stored at a City facility for more than sixty (60) days and for which an owner has not been identified may be disposed of by the City in any manner that it deems appropriate.
- (5) Any item in subsection (2) that is stored at a City facility for more than sixty (60) days and for which the owner, having been identified, has failed to pay the applicable expenses and claim the item, may be disposed of pursuant to the provisions of the *Repair and Storage Liens Act*, R.S.O. 1990, c.R.25, as amended.

RECOVERY OF EXPENSES

6. Section deleted by By-law 0098-2026.

PENALTY

7.
 - (1) Every Person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in such contravention by the corporation, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, and the *Municipal Act, 2001*, S.O. 2001, c. 25, as both may be amended from time to time. (0098-2026)
 - (2) All contraventions of any provision of this By-law are designated as continuing offences. (0098-2026)
 - (3) In addition to subsections 7(1) and 7(2), any Person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33 and is found guilty of the offence is liable, pursuant to the *Municipal Act, 2001*, S.O. 2001, c. 25, to the following fines: (0098-2026)
 - (a) a minimum fine of \$500 and a maximum fine not exceeding \$100,000; and (0098-2026)
 - (b) in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine of \$500, and a maximum fine not exceeding \$10,000, and the total of all daily fines for the offence is not limited to \$100,000. (0098-2026)

INSPECTIONS, ORDERS AND REMEDIATION (0098-2026)

8.
 - (1) An Officer may enter upon land at any reasonable time in accordance with the *Municipal Act, 2001* for the purpose of carrying out an inspection to

determine whether or not this By-law or any orders issued pursuant to this By-law are being complied with. (0098-2026)

- (2) For the purposes of conducting an inspection pursuant to this By-law, an Officer may: (0098-2026)
 - (a) require the production for inspection of documents or things relevant to the inspection; (0098-2026)
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts; (0098-2026)
 - (c) require information from any Person concerning a matter related to the inspection; and (0098-2026)
 - (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. (0098-2026)
- (3) A receipt shall be provided for any document or thing removed under subsection 8(2)(b) and the document or thing shall be promptly returned after the copies or extracts are made. (0098-2026)
- (4) No Person shall prevent, hinder, or obstruct, or attempt to hinder or obstruct, an Officer who is lawfully exercising a power or performing a duty under this By-law. (0098-2026)
- (5) An Officer may make an order requiring the Person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity or to do work to correct the contravention. (0098-2026)
- (6) An order made pursuant to subsection 8(5) shall include: (0098-2026)
 - (a) the reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and (0098-2026)
 - (b) the date by which there must be compliance with the order or the work to be done and the date by which the work must be done. (0098-2026)
- (7) No Person shall fail to comply with an order made pursuant to subsection 8(5). (0098-2026)
- (8) Any order required to be given to or served upon a Person pursuant to this By-law may be served: (0098-2026)
 - (a) personally; (0098-2026)
 - (b) by email to the last known email address on record; or (0098-2026)

- (c) by registered mail to the last known mailing address on record, which service shall be deemed to be five (5) days after mailing. (0098-2026)
- (9) If the City is unable to effect service under subsection 8(8) or the delay necessary to serve an order would result in an immediate danger to the health or safety of any Person, the order may be placed in a conspicuous place upon the property and shall be deemed to be sufficiently given to or served upon the person to whom the order is directed. (0098-2026)
- (10) Where a matter or thing that is required to be done through an order of an Officer pursuant to subsection 8(5) of this By-law is not completed by the time set out in the order, the matter or thing may be done by the City at the Person's expense and the City may recover the costs of doing the matter or thing from the Person directed or required to do it by court action or by adding the costs to the tax roll and collecting them in the same manner as property taxes. (0098-2026)

GENERAL

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

EXCEPTIONS

- 10.
 - (1) Section 2(1) of this By-law shall not apply to: (0098-2026)
 - (a) those Persons who have a valid and binding encroachment agreement or permit with the City with respect to encroachments occurring on Highways in accordance with the Encroachment By-law 0057-2004, as amended, or its successor; or (0098-2026)
 - (b) those Owners who have installed a boulevard garden or boulevard landscape feature in accordance with the Encroachment By-law 0057-2004, as amended, or its successor. (0098-2026)
 - (2) Subsection 2(1) of this By-law shall not apply to any sign that is in compliance with the City's Sign By-law 0054-2002, as amended, or its successor. (0098-2026)

SEVERABILITY

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

SHORT TITLE

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

REPEAL

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

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

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