

Authority: Works Committee Report 2, Clause 1a,
as adopted by City of Toronto Council on May 23, 24 and 25, 2006
Enacted by Council: May 25, 2006

CITY OF TORONTO

BY-LAW No. 462-2006

**To amend City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use of,
to provide for Municipal Road Damage Deposits.**

WHEREAS pursuant to Subsection 11(1)1 of the *Municipal Act, 2001* as amended (the “Act”), the City has the authority to pass by-laws respecting matters which fall within the sphere of jurisdiction of highways; and

WHEREAS pursuant to Subsection 9(3) of the Act, a by-law under section 11 respecting a matter may regulate or prohibit respecting the matter, and as part of the power to regulate or prohibit respecting the matter, provide for a system of licences, permits, approvals or registrations respecting the matter and impose conditions as a requirement of obtaining, continuing to hold or renewing a licence, permit, approval or registration; and

WHEREAS Section 391 of the Act permits the City to pass by-laws imposing fees or charges on any class of person for services or activities provided or done by or on behalf of it or for the use of its property; and

WHEREAS Section 398 Act permits the treasurer of a local municipality to add fees and charges imposed by the municipality under Part XII of the Act to the tax roll for any property for which all of the owners are responsible for paying the fees and charges and collect them in the same manner as municipal taxes; and

WHEREAS Ontario Regulations 244/02 to the Act requires the City to give notice prior to passing a by-law under Part XII of the Act to impose fees or charges, and the appropriate notice has been given in this case; and

WHEREAS Section 427 of the Act provides that, if a municipality has authority by by-law or otherwise to direct or require that a matter or thing be done, the municipality may, in the same or another by-law direct that, in default of it being done by the person directed or required to do it, such matter or thing shall be done at the person’s expense; and

WHEREAS Section 427 further provides that the municipality may recover the costs of doing a thing or matter from the person directed or required to do it and the municipality may recover the costs by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Chapter 743, Streets and Sidewalks, Use of, of The City of Toronto Municipal Code is amended as follows:
 - A. Section 743-1 is amended by adding the following in alphabetical order before the definition of “STREET”:

“AGREEMENT – An agreement that contains one or more provisions for the granting of consent to a person to use, excavate in, encumber or obstruct a street during the construction, alteration, repair or demolition of a building or structure upon compliance by such person with all other applicable municipal requirements;

APPLICANT – A person applying for a Permit;

COSTS OWING – The difference between the cost of restoring the Street to its Pre-Construction condition and the amount of the Municipal Road Damage Deposit where the cost of restoration exceeds the amount of the Municipal Road Damage Deposit;

DAMAGE – Harm or injury to the Street, including without limitation, harm, injury, disturbance, cracking, gouging or displacement of or to the pavement, curb, boulevard, boulevard landscaping or sidewalk resulting from use of the Street to access the Work such that, in the sole opinion of the General Manager, the Street is not in its Pre-Construction Condition;

DIVISION – The Transportation Services Division;

DEVELOPMENT APPLICATION – A project as defined by the *Planning Act*, which is the subject of review and approval through the Site Plan review process, prior to reaching the building permit stage;

FASTRACK BUILDING PERMIT APPLICATION PROCESS – a special over the counter service provided by the City to facilitate the building application process for certain types of residential or commercial/industrial projects;

MUNICIPAL ROAD DAMAGE DEPOSITS – The deposits referred to in § 743-3C;

OWNER – the owner of the property immediately adjacent to the street where the proposed Work will occur;

PERMIT – A permit issued under this chapter;

PRE-CONSTRUCTION CONDITION – The condition of the Street as it existed before construction, alteration, repair or demolition of the building or structure adjacent to the Street;”

- B. Section 743-1 is further amended by adding the following in alphabetical order after the definition of “STREET”:

“WORK – The construction, alteration, repair or demolition of a building or structure adjacent to the Street.”

C. Chapter 743 is amended by adding a new § 743-4 as follows:

“§ 743-4. Municipal Road Damage Deposits.

- A. No person shall undertake any work unless the person has:
- (1) obtained all applicable consents and permits required by the City, Province or other regulating body;
 - (2) paid or agreed to pay all applicable fees or deposits, including a municipal road damage deposit as required by the City; and
 - (3) entered into an agreement where required by the City upon terms and conditions and in a form satisfactory to the General Manager.
- B. Every person who wishes to undertake work shall submit an application to the General Manager on the form prescribed by the General Manager from time to time for authorization to use the City’s infrastructure including but not limited to roads, curbs, boulevards and sidewalks in order to access the work, which application shall include the following:
- (1) name, address, and telephone number of the applicant;
 - (2) name, address, and telephone number of the owner;
 - (3) type of work to be performed;
 - (4) project location, including the address, building permit application number, lot and plan number.
- C. Upon any application being made pursuant to § 743-4B, the applicant shall pay to the General Manager a municipal road damage deposit in the amount specified below:
- (1) where the work is related to a residential property - \$2,000 per unit; and
 - (2) where the work is related to a commercial or industrial property - \$5,000 per property.
- D. Permits under § 743-4 and the payment of municipal road damage deposits are not required for work on the following properties:
- (1) single-family dwellings and commercial/industrial properties where a building permit is requested pursuant to the City’s “*FASTRACK*” program; and

- (2) properties where financial securities for street restoration have been secured as part of an authorized development application as defined in this Chapter, or other similar agreement with the City.
- E. The amount of the municipal road damage deposits shall automatically increase on the first day of January in each subsequent year by the percentage increase in the All Items Index of the Consumer Price Index (not seasonally adjusted) for the Toronto Census Metropolitan Area, published by Statistics Canada, during the twelve-month period ending on October 1 in the year immediately preceding the fee increase date.
- F. Every person who undertakes work shall ensure that the street is at all times maintained in a condition that allows the safe passage of vehicle and pedestrian traffic.
- G. Every person who undertakes work shall fully restore the street, at no cost to the City, to its pre-construction condition, including boulevard landscaping, within the earlier of
 - (1) 30 days after the completion of the work, or
 - (2) two (2) years from the date of deposit of the municipal road damage deposit.
- H. Where the applicant fails to repair the street to its original pre-construction condition within the timelines prescribed by § 743-4G:
 - (1) the General Manager is authorized to fully restore the street;
 - (2) the applicant shall be responsible for any cost of repair or clean-up of the street;
 - (3) the General Manager shall deduct the cost of the repair or clean-up from the municipal road damage deposit; and
 - (4) where the cost of the repair or clean-up exceeds the amount of the municipal road damage deposit, the applicant shall pay the costs owing to the General Manager within 90 days of notification from the General Manager.
- I. If the applicant declines or fails to pay the costs owing within 90 days of notification from the General Manager as provided by § 743-4H, the General Manager is authorized to recover the costs owing by adding them to the tax roll and collecting them in the same manner as taxes.

- J. The General Manager will refund any municipal road damage deposit after completion of the work to which it pertains subject to the following conditions:
- (1) the applicant who paid the municipal road damage deposit or his or her authorized agent must make an application in writing to the General Manager requesting the refund;
 - (2) the application in writing requesting the refund of the municipal road damage deposit must be submitted to the General Manager within two (2) years from the date on which the municipal road damage deposit was made; and
 - (3) the sum refunded will be equal to the municipal road damage deposit less any costs incurred by the City for any required repair pursuant to § 743-4H.
- K. Despite § 743-4G(2), if the completion of the work takes longer than two years from the date that a municipal road damage deposit was deposited with the City, the applicant may request a one-time extension of two years after the initial two-year time limit.
- L. Municipal road damage deposits will be forfeited to the City of Toronto where an application for the return of the municipal road damage deposit has not been submitted to the General Manager:
- (1) within two (2) years from the date on which the municipal road damage deposit was initially made; or
 - (2) in the case of where an extension has been granted pursuant to § 743-4H, within four (4) years from the date on which the municipal road damage deposit was initially made.
- M. Municipal road damage deposits that have been forfeited will be placed in a Transportation Services Division account related to street maintenance and reconstruction.
- N. The General Manager is not obligated to refund deposits that were taken as a result of applications made using false or misleading information.
- O. Interest will not be paid on any municipal road damage deposits.
- P. Subsections 743-4A through to 743-4O apply to all municipal road damage deposits deposited and held by the City after January 1, 2003.”

D. Chapter 743 is amended by adding a new § 743-35 after § 743-34 as follows:

“§ 743-35 Conflict with other by-laws.

In the case of any conflict between § 743-4 and any other by-law of the former Borough of East York, the former Cities of Etobicoke, North York, York, Scarborough, or Toronto, or the former Municipality of Metropolitan Toronto, § 743-4 shall prevail.”

ENACTED AND PASSED this 25th day of May, A.D. 2006.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)