

Consolidated Clause in Works Committee Report 2, which was considered by City Council on May 23, 24 and 25, 2006.

1a

Municipal Road Damage Deposits (All Wards)

City Council on May 23, 24 and 25, 2006, adopted this Clause without amendment.

City Council on April 25, 26 and 27, 2006, postponed consideration of this Clause to its next regular meeting on May 23, 2006.

The Works Committee recommends that City Council adopt the staff recommendations in the Recommendations Section of the report (December 8, 2005) from the General Manager, Transportation Services, subject to amending Recommendation (1) by deferring the following parts (b) and (c) until the 2007 budget process:

- “(b) two Roads Inspectors in the Transportation Services Division and two Counter Clerks in the Building Services Division be hired to address the anticipated increase of work resulting from this program; and
- (c) a non-refundable fee of \$50.00 (fifty dollars) per application, included in the Municipal Road Damage Deposits, be levied to cover the additional costs of staffing for this program;”

so that the recommendations now read as follows:

“It is recommended that:

- (1) for the harmonization of the Municipal Road Damage Deposits process, a Municipal Road Damage Deposits By-law be adopted, in the form set out in Appendix “A” in this report;
- (2) for the processing of currently unclaimed Municipal Road Damage Deposits:
 - (a) the General Manager of Transportation Services Division post a notice in a major newspaper and on the City’s website, generally in the form shown in Appendix “B” to this report;

- (b) **the appropriate amount be refunded, from the unclaimed deposit accounts, to individuals who can show a legitimate claim within a period of 30 days after the notices are posted; and**
 - (c) **the General Manager of Transportation Services Division be authorized to transfer any funds, which remain unclaimed after the 30-day notice period, to appropriate road and sidewalk maintenance and repair accounts; and**
- (3) **the appropriate City officials be authorized and directed to take the necessary action to implement the foregoing, including the introduction in Council of any Bills that might be required.”**

Action taken by the Committee:

The Works Committee requested the General Manager, Transportation Services to report to the Works Committee on whether the implementation of the Municipal Road Damage Deposits program in the City of Toronto can be achieved through efficiencies to the administration of this program.

The Works Committee held a public meeting on March 7, 2006, in accordance with the Municipal Act, 2001, and notice of the proposed enactment of the draft by-law was posted on the City's web site for a minimum of five days.

The Works Committee submits the report (December 8, 2005) from the General Manager, Transportation Services.

Purpose:

To establish a harmonized process to administer and process Municipal Road Damage Deposits from builders across the City and enact the necessary bills to enable the collection of such deposits. The report also responds to the City's external auditor's recommendations that a policy and process be developed to deal with unclaimed deposits currently being held by the City.

Financial Implications and Impact Statement:

The recommendations in this report will not result in any financial impact to the City of Toronto. Any costs of repairs related to construction projects will be paid out of accounts to which deposits were credited specifically for this purpose.

Any surplus realized from applicants/owners not requesting a refund of their deposits, unclaimed or new, within the controls and restrictions outlined in this report, should be transferred to a Transportation Services Division account and be specifically assigned to fund roads and sidewalk repair and maintenance projects.

Recommendations:

It is recommended that:

- (1) for the harmonization of the Municipal Road Damage Deposits process:
 - (a) a Municipal Road Damage Deposits By-law be adopted, in the form set out in Appendix "A" in this report;
 - (b) two Roads Inspectors in the Transportation Services Division and two Counter Clerks in the Building Services Division be hired to address the anticipated increase of work resulting from this program; and
 - (c) a non-refundable fee of \$50.00 (fifty dollars) per application, included in the Municipal Road Damage Deposits, be levied to cover the additional costs of staffing for this program;
- (2) for the processing of currently unclaimed Municipal Road Damage Deposits:
 - (a) the General Manager of Transportation Services Division post a notice in a major newspaper and on the City's website, generally in the form shown in Appendix "B" to this report;
 - (b) the appropriate amount be refunded, from the unclaimed deposit accounts, to individuals who can show a legitimate claim within a period of 30 days after the notices are posted; and
 - (c) the General Manager of Transportation Services Division be authorized to transfer any funds, which remain unclaimed after the 30-day notice period, to appropriate road and sidewalk maintenance and repair accounts; and
- (3) appropriate City officials be authorized and directed to take the necessary action to implement the foregoing, including the introduction in Council of any Bills that might be required.

Background:

Most of the former municipalities within Metropolitan Toronto required builders/owners to provide a security deposit, generally known as "Municipal Service Damage Guarantees" or "Street Repair Deposits", as a condition of issuance of a building permit where there was the possibility of damage to a portion of the road allowance.

The deposit was retained for the duration of a project's construction period. Securing the funds enabled prompt and proper restitution of any damages to the municipality's road and laneway infrastructure (such as pavements, curbs, boulevards, sidewalks, etc.) that resulted from the construction activity.

Prior to the amalgamation of the Metropolitan Toronto municipalities, the fees collected and the processes followed were based on a variety of factors, as dictated by the Councils of the former municipalities, as outlined in Table 1. Some municipalities levied a fixed fee deposit, some based the deposit on the affected length of frontage of the property, and some did not collect any deposits.

Table 1 – Current Municipal Road Damage Deposits Processes

Former Municipality	Deposit Amount	Authority	Inspection of Project
Metropolitan Toronto	Based on proposed work or estimated costs of potential damage	By-law No. 211-74	Pre & Post
York	\$25/m of frontage or flankage	Chapter 1004	Pre & Post
East York	\$26/m or frontage or flankage	By-law No. 57-78	Pre & Post
Toronto	No Deposit	N/A	Post
North York	\$100/m frontage \$150/m w/sw frontage \$3,000 backsloping \$90/m culvert	(Council Approval)	Pre & Post
Etobicoke	\$33/m frontage or flankage Minimum \$500	Chapter 231-27 TO Chapter 231-32	Pre & Post
Scarborough	\$25/m frontage or flankage	Municipal Act	Pre & Post

In some of the municipalities, the process included an inspection of the roads adjacent to the construction site before the project start and another inspection after its conclusion to determine the extent of any damages. Where deposits were collected, the final inspection determined the amount, if any, that had to be refunded to the builder. Other municipalities did not conduct pre-inspections and the cost of repairs to damages was included in their regular operating budgets. As a result of the different processes, there still is great variation in the amounts that have to be deposited by builders for similar projects across the City, and the manner in which these deposits are collected, administered and refunded.

Bill 124, recently enacted by the Province, does not include municipal requirements such as road damages as “applicable law” which might prevent the issuance of a building permit. The new legislation does not permit the postponement of the issuance of a building permit for internal City review processes. As a result, the detailed review of some applications to estimate Municipal Road Damage Deposits might not be completed prior to the issuance of a building permit and additional authority is required to obtain deposits that will secure the City’s road infrastructure.

The harmonization and consolidation of former processes has already been initiated with the development of a common application form that is used in all Districts and which offers the public the possibility to apply for the necessary approvals and leave the appropriate deposit at any of a number of City locations.

Currently, there is no process through which the City can make use of deposits that have been clearly forfeited by an applicant. Staff were asked to detail the status of unclaimed Municipal Road Damage Deposits that are currently held by the City. This report outlines a process to address this matter and recommends that the funds that remain unclaimed at the conclusion of the process be transferred to appropriate road and sidewalk maintenance and repair accounts.

The recommendations in this report also include proposals for the actions to be taken for the appropriate disposal of those future Municipal Road Damage Deposits which would remain unclaimed.

Discussion:

The review that staff undertook with the objective of developing a harmonized process for the collection and administration of Municipal Road Damage Deposits included a number of components:

- develop a common application process;
- develop a common investigation process for review of road conditions before and after construction;
- establish a common rate for Municipal Road Damage Deposits;
- design a common process for the collection, administration and refund of these deposits; and
- investigate the feasibility of providing joint processing and collection with Building Services to facilitate the process for the public.

Construction projects which are considered a “development” as defined by the Planning Act are the subject of review and approval through the Site Plan Review Process prior to reaching the building permit stage. Projects that are not considered a “development” as defined by the Planning Act or that are exempt by provisions of Site Plan By-laws, reach the building permit stage without the requirement of a Site Plan approval. The latter process comprises the majority of applications and typically includes projects related to single family homes (additions, renovations, reconstruction, etc.) as well as commercial/industrial renovations. These applications were, at times, referred to as “Builders’ Files”, “Municipal Service Damage Guarantees”, “Road Repair Files”, etc.

Municipal Road Damage Deposits are deposits that the municipality collects and retains for the duration of a project, to ensure the quick repair of damage to one or more road elements (pavement, curb, boulevard or sidewalk) caused by heavy equipment operation, haulage of materials, removal of rubble, etc., during the construction period.

The authority to collect the appropriate deposits for the various building categories has to be granted through a by-law which would include the following elements:

Projects Requiring Site Plan Approval:

Currently, applications under site plan control are circulated by City Planning Services to other Divisions for review and comment. The comments currently submitted include all the technical aspects of the application, however, they do not include estimates associated with Municipal Road Damage Deposits. These deposits are normally calculated and requested at the building permit stage.

For these projects, and to facilitate and expedite the issuance of subsequent building permits, Transportation Services Division staff should include estimates of the necessary funds to cover Municipal Road Damage Deposits and include these amounts as part of the comments and conditions that are normally included in Site Plan reviews.

In this manner, when these applications reach the building permit stage, City Planning Services and Building Services staff would be able to grant the application without requiring further circulation to Transportation Services Division for estimates of Municipal Road Damage Deposits.

Projects Not Requiring Site Plan Approval:

The overwhelming majority of building permit applications fall under this category and are processed principally during the peak construction season which extends from May to October. These applications are varied in range and scope, and those that necessitate the movement of construction equipment over the road allowance to gain access into the construction site, or that involve excavation activity, would require a deposit as security for the protection of the road allowance. Typical projects are the construction or addition to single family dwellings, construction of pools or fencing enclosing such pools, additions to industrial and commercial buildings that did not require site plan approval, etc.

There are several steps that are followed in the processing of such a project:

- Application: the applicant submits an application requesting authorization to use the City's infrastructure (road, curbs, boulevards and sidewalks) as access to a construction site. Deposits for possible damage are calculated at this stage.
- Pre-Inspection: at the request of the applicant, City inspectors will visit the site, to identify damage that is existing prior to the project start and that will not be linked to the project at its completion.
- Final Inspection: upon notification by the applicant that the project has been completed, City inspectors will visit the location to determine if any damage was done as a result of the work and, if any, to estimate the cost of its repair.
- Refund/Charge: if there is no damage or if the cost of repair is less than the deposit, an appropriate refund is processed. If the cost of repair is higher than the deposit, an additional charge is levied.

The most expeditious manner in which to process the applications considered in this report would be to institute flat Municipal Road Damage Deposits rates based on the category of the project. In this manner, delays to the processing of an application resulting from the need to estimate possible damage are reduced.

Based on historical information and an estimate of general costs for the restitution of damaged elements within the road allowance staff determined that, on an average, the appropriate Municipal Road Damage Deposits on projects that do not require Site Plan approval would be as follows:

- Single Family Homes: \$2,000.00 per dwelling unit for applications that are not subject to a Development Agreement.
- Commercial/Industrial Sites: \$5,000.00 per property for applications that are not subject to a Development Agreement.

The draft by-law should recognize that damage deposits for applications administered through the City of Toronto's FASTRACK building permit application process are not required, as it deals with minor interior/exterior building renovations and additions that do not typically result in damage to the public road allowance.

Should the conditions of this program not change, the General Manager of Transportation Services Division should be authorized to continue the program modifying the amount of the above-noted deposits on the first of January every year, by an equivalent to the Consumer Price Index (CPI). If any of the other components of the program should require modification, the specific matter should be brought forward to Council for approval.

Refunds and/or Charges:

When the applicant advises of the completion of a project, City inspection staff will determine if the work that was undertaken resulted in damage to the road. If the project was completed without causing any damage or, if the estimated cost of repairs does not exceed the deposit, then an appropriate refund would be processed. However, if the cost of repairing the damage that was created exceeds the initial deposit, then the applicant will be requested to pay for the additional cost.

If the additional cost has not been paid by the applicant after a pre-determined length of time (90 days is a typical adjournment timeframe for similar matters), the draft by-law should give the Municipality the ability to recover these unclaimed funds through the appropriate municipal taxes.

Processing of Applications:

Staff of Building Services and Transportation Services Division have been co-ordinating the development of a process that will facilitate the applications for the necessary permits associated with building projects. Various reviews are underway as initiatives to improve the service to the public, both in the development application process and in a consolidated fee structure.

The establishment of flat rates for Municipal Road Damage Deposits facilitates the prompt processing of building permits, as staff of Building Services would be able to collect the appropriate deposits associated with Transportation Services Division requirements, incorporating them into the collection of all other Building Services fees.

The new process proposes that initial inspections would only be undertaken at the request of the applicant, otherwise, it will be assumed that there is no damage to the boulevard/right-of-way at the time of application.

Staffing and Equipment Requirements:

This co-ordination of fee and deposit collection has equipment and staffing implications for Building Services required to co-ordinate cashiering functions between Building Services and Transportation Services Division front counters. Staff will report back with an evaluation of these needs, their implications and appropriate recommendations for their introduction.

The introduction of a new process requiring the collection of Municipal Road Damage Deposits, in the areas where such deposits were not collected and pre-inspection of construction projects where they were not required in the past, also has resource implications regarding staff, training and equipment for Transportation Services Division. This is the case in the former City of Toronto, where deposits were not collected and pre-inspections of the road were not conducted.

In a manner similar to other activities for which the City is compensated through a fee for the staff time and equipment that is required for the administration and inspection of these applications, an appropriate fee should be charged for the processing of Municipal Road Damage Deposits.

It has been determined that, in the Toronto East York District of the Transportation Services Division, two additional Road Inspectors would be required to address the workload increase related to inspection of projects locations. The Building Services Division would require two additional Counter Clerks to assist with the increased cashiering activities related to this program. This process would easily integrate with any selected alternative of those currently under review to develop "one window" services to the public.

Of the approximately 25,000 building permit applications per year, it is estimated that between 8,000 and 10,000 require a road damage deposit. Therefore, a fee of \$50.00 per application would cover the additional costs of appropriately staffing, training and equipping this program.

Unclaimed Deposits:

When the necessary permits are granted for a construction project, appropriate wording in the application forms clearly places the onus on the applicant to advise the City of the project completion, so that staff can ascertain that no damage has occurred which would require the use of the deposited funds for its repair.

The majority of projects for which deposits are placed as securities are typically completed within a one year period and the applicant then requests an inspection of the adjacent road allowance for an appropriate refund. In the remaining cases, the applicant either contacts the municipality at a later date, or does not contact the municipality at all and the deposits that were left with the City as securities remain unclaimed.

In the latter case, while applicants appear to be willing to forfeit their security deposits, the City still has to invest staff time and effort to administer these funds because the municipality does not have, at this time, any recourse to make use of the unclaimed deposits.

Given the above, a period of two years after the deposit of securities would provide builders with ample time to address any concluding transactions related to relevant projects and apply for the appropriate refunds. Should the applicant request an extension of this timeframe because the project might take longer than two years, provision has been made in the proposed by-law to grant such a request.

Therefore, if an applicant has not contacted the City within two years of depositing securities for a Municipal Road Damage Deposits, these funds would be transferred into a Transportation Services Division account and the attached by-law includes a clause to permit the appropriate use of unclaimed funds in the future.

Currently Unclaimed Deposits:

In a review of the City's finances, the City's external auditor recommended that a policy and process be instituted to address the large number of old unclaimed Municipal Road Damage Deposits which are currently in hand with the City. These are deposits that have remained in City accounts, because the applicants have not advised the municipality of the completion of the projects.

In a number of these cases, staff attempted to contact the applicants listed on the original permit and application forms. However, in almost all of these attempts, contact could not be established with the applicant because the applicant was no longer at the address on record.

It is a common practice with builders of small projects that the agent for the homeowner (an architect, a contractor, etc.) registers as the "applicant" for the variety of permits that are required. Any subsequent refund of the deposit at the completion of the project is made to the individual who placed the deposit in the first place.

It is also typical that the homeowner's agent will consider the Municipal Road Damage Deposits as an additional cost that is charged to the project for which a refund is not anticipated. In other cases, the agent or builder is aware that the cost to repair the damage to the road allowance created by the construction exceeds the deposited security and, therefore, has no incentive to advise the municipality of the project completion.

The municipality continues to administer nearly \$19.9 million, in approximately 8,700 individual accounts. Some of these accounts date back to the municipalities that existed prior to amalgamation. While attempts to contact all of the applicants listed in these accounts were not made due to the great staff resources required, the attempts to contact some of the applicants were time consuming and generally not successful.

As of December 2004, of the above noted totals, about 4,300 individual accounts, totalling approximately \$9.9 million, are dated prior to December 31, 2002, and are considered inactive. The remaining 4,400 individual accounts totalling approximately \$10.0 million, are accounts dated after January 1, 2003, and are considered still active.

While it appears that, in most cases, applicants decided to forfeit their refunds, the City currently has no mechanism through which it can properly dispose of the unclaimed funds related to those applications which are considered inactive.

To bring this matter to an adequate conclusion, it is proposed that first the City should make a final effort to contact those applicants that might still have a bona fide claim to these deposits.

To reach as much of the public as possible in this regard, appropriate notices should be posted in a major newspaper, as well as on the City's webpage, advising the public of the existence of these unclaimed deposits. A sample of such notice is attached as Appendix "B".

Those individuals who can present a legitimate claim to a deposited security, satisfactory to the General Manager of Transportation Services Division, will have the deposit refunded. As is customary in similar notices to the public, a period of 30 days from the date of the notice posting can be allowed, within which claims for refunds could be made.

The final disposition of unclaimed deposits cannot be determined at this stage, as it is difficult to assess the final amount of funds that will be claimed and those that will remain.

However, as these funds were collected to specifically address deficiencies on roads resulting from adjacent construction, it would be appropriate that, after the conclusion of the 30-day notice period, authority be granted to the General Manager of Transportation Services Division to transfer the remaining funds to appropriate road and sidewalk repair and maintenance accounts in the Transportation Services Division.

The Chief Building Official, the City Solicitor and the Deputy City Manager and Chief Financial Officer, were consulted in the preparation of this report.

Conclusion:

Several factors have necessitated the review of current processes and charges related to the collection of securities for Municipal Road Damage Deposits.

Several methods of collection and various fee structures are still in place which need to be consolidated and harmonized. Recent changes in Provincial legislation, which will come into effect in the near future, require that the building permit application review process be streamlined to ensure that appropriate securities are collected. These securities are required to ensure that funds are available for the immediate reinstatement of municipal infrastructure that was damaged during the course of a construction project.

This report proposes a process that harmonizes the requirements for Municipal Road Damage Deposits, streamlines and clarifies the application process for homeowners and their agents, and facilitates for staff, the inspection, organization and administration of the applications.

The City currently has in hand a significant amount of deposits, many of which date back prior to amalgamation and appear to have been abandoned by the original applicants. There is no current mechanism through which the City could relinquish these funds. This report proposes a process through which a final attempt to return the deposits to the legitimate owners can be made and failing that, use the funds in appropriate Transportation Services Division road and sidewalk maintenance and repair accounts.

Contact:

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Appendix "A"

Authority:
Enacted by Council:

CITY OF TORONTO

Bill No.

BY-LAW No. - 2005

**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*, 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 *Municipal Act, 2001*, 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 *Municipal Act, 2001* 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 of the *Municipal Act, 2001* permits the treasurer of a local municipality to add fees and charges imposed by the municipality under Part XII of the *Municipal Act, 2001* 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 *Municipal Act, 2001* 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 *Municipal Act, 2001* 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;

BOULEVARD – That portion of the highway between the curb or edge of roadway and the street line, exclusive of the area covered by sidewalk;

CITY - The City of Toronto;

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;

COUNCIL - The Council of the City;

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;

GENERAL MANAGER – The General Manager of Transportation Services Division;

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;

PERSON - Includes one or more individuals, partnerships, bodies corporate, unincorporated organizations, governments, government agencies, trustees, executors, administrators or other legal representatives, other than the City or its legal representatives;

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. Section 743-3 is amended by inserting the following:

“743-3. 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 743-3B, 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 §743-3 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 (a) 30 days after the completion of the Work, or (b) 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 §743-3G:
- (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 743-3H, 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 §743-3H.
- K. Despite 743-3G(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 §743-3H, 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 743-3A through to 743-3O 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 §743-3 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, §743-3 shall prevail.”

ENACTED AND PASSED this _____ day of _____, _____.

Mayor

City Clerk

Appendix “B”

Notice

Refund of Unclaimed Municipal Road Damage Deposits

The City of Toronto advises those individuals who deposited funds as securities for damages to municipal roads prior to December 31st, 2002, who neglected to request that the deposit be refunded and who are entitled to receive a refund, that application to receive such refund can be made subject to the following requirements:

- (1) present legitimate documentation in the form of cancelled cheques, receipts, etc., satisfactory to the General Manager of Transportation Services Division or his designate, showing that funds were deposited with the City of Toronto (or with a municipality within the former Metropolitan Toronto, if prior to 1998) for municipal road damage Deposits (also known as builder’s files, road repair deposits, etc.);
- (2) must be the registered owner of the property for which the funds were deposited, or substantiate the reason why the deposit should be refunded to another individual; and

- (3) will have to indemnify the City of Toronto, guaranteeing that the request is the only claim for the unclaimed refund that will be made for a specific property.

Requests for the unclaimed refunds stated in this notice, will be processed until the XX of XXX of 2005. Any deposits, for which no claim has been made after this date, will be forfeited and transferred to an appropriate City account.

Requests for refunds as described above can be made at the Transportation Services Division offices:

Metro Hall
55 John Street, 17th floor
Toronto ON M5V 3C6
Phone: 416-392-7877

Etobicoke Civic Centre
399 The West Mall, 3rd floor
Toronto ON M9C 2Y2
Phone: 416-394-8352

City Hall
100 Queen Street West, 1st floor W
Toronto ON M5H 2N2
Phone: 416-392-1911

Scarborough Civic Centre
150 Borough Drive
Toronto ON M1P 4N7
Phone: 416-338-9999

North York Civic Centre
5100 Yonge Street
Toronto ON M2N 5V7
Phone: 416-395-6205

Further information can also be found in the Transportation Services Division website at www.toronto.ca/transportation/.

Roberto Stopnicki, Director, Transportation Services Division, North York District, gave a presentation on the Municipal Road Damage Deposits program.