



THE CORPORATION OF THE CITY OF BRAMPTON

OFFICE CONSOLIDATION

Driveway Permit By-law 105-2019

**A By-law to Regulate the Installation, Construction,
Paving, Resurfacing, Expansion and Alteration of
Residential Driveways**

(amended by By-laws 147-2019, 291-2019)

WHEREAS The Corporation of the City of Brampton considers it desirable to regulate the resurfacing, construction, alteration and expansion of residential Driveways;

AND WHEREAS subsection 8(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 (hereinafter the "***Municipal Act, 2001***") provides that a municipality's powers are to 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 subsection 11(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 11(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: Economic, social and environmental well-being of the municipality; Health, safety and well-being of persons; Protection of persons and property, including consumer protection;

AND WHEREAS section 23.1 of the *Municipal Act, 2001* provides that a municipality may delegate its powers and duties under that Act;

AND WHEREAS for the purposes of subsection 23.2(4) of the *Municipal Act, 2001* it is the opinion of Council that the powers delegated pursuant to this By-law are of a minor nature;

AND WHEREAS section 425 of the *Municipal Act, 2001* provides that any person who contravenes any by-law of the municipality is guilty of an offence;

AND WHEREAS section 444 of the *Municipal Act, 2001* provides that a municipality may make an order requiring a person who contravened a 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;

AND WHEREAS subsection 446(1) 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 or otherwise has failed to do; and

AND WHEREAS subsection 446(3) of the *Municipal Act, 2001* provides that the costs incurred by a municipality in doing a thing or matter under section 446(1) may be recovered by adding the costs to the tax roll and collecting it in the same manner as taxes;

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

1.0 SHORT TITLE

1.1 This by-law shall be known as the “Driveway Permit By-Law”.

2.0 ADMINISTRATION

2.1 This by-law shall be administered by the Commissioner of Public Works and Engineering or their designate.

2.2 The Commissioner may prescribe forms for purposes of this by-law, including amending the forms from time to time.

3.0 DEFINITIONS

3.1 In this by-law,

“**Agent**” means a Person authorized in writing by the Owner to act on their behalf to obtain a Driveway Permit, and includes a Driveway Paving Contractor;

“**City**” means The Corporation of the City of Brampton;

“**Commissioner**” means the Commissioner of Public Works and Engineering of The Corporation of the City of Brampton or their designate;

“**Council**” means the Council of The Corporation of the City of Brampton;

“**Driveway**” means an area of hard and level surface (consisting of, but not limited to, asphalt, pavement, concrete, patterned concrete, compacted gravel and dirt, interlocking brick or paving stone), including a surfaced walkway and any hard and level surface that is capable of being parked or driven upon by part or the whole of a vehicle;

“**Driveway Permit**” means a permit issued by the Commissioner pursuant to the provisions of this by-law;

“**Officer**” means a Municipal Law Enforcement Officer or other person appointed by Council to enforce the City’s by-laws;

“**Owner**” includes

- (a) a Person who is the registered Owner of Premises;
- (b) a Person who is in physical possession of Premises;
- (c) a Person who has responsibility for and control over the condition of Premises or the activities there carried on, or control over the persons allowed to enter the Premises; and,
- (d) a Person occupying Premises.

“**Person**” means an individual, firm, corporation, partnership, association or organization, including a charitable organization;

“Premises” means real property owned by Persons, other than property owned by The Corporation of the City of Brampton, used, or intended to be used for residential purposes and includes real property owned by individuals, local boards, corporations and public authorities; and,

“Sight Distance” means the length of roadway ahead visible to the driver for safe and efficient operation of a vehicle.

4.0 APPLICATION

4.1 An application for a Driveway Permit may be made by an Owner or Agent.

4.2 Every application for a Driveway Permit shall include:

- (a) a complete application in the form specified by the Commissioner;
- (b) two (2) copies of a drawing, or other plans as requested by the Commissioner, showing the dimensions and layout of the work to be done;
- (c) complete details of the work to be done, including any additional information that may be requested by the Commissioner;
- (d) a copy of any permits required by the City;
- (e) written approval from the appropriate authority where a Driveway is to be located within the minimum distance to a utility as described in Section 5.1(4) below;
- (f) written approval from the Commissioner where a Driveway is to be located within 0.9 metres of a tree located on City property;
- (g) written approval from the appropriate authority where poles, hydrants, manholes, signs and any other road works require relocation to facilitate a Driveway;
- (h) the Driveway Permit fee as set out in the City’s User Fee By-law 380-2003, as amended; and,
- (i) such other information that may be required by the Commissioner.

4.3 The Driveway Permit application fee shall be non-refundable.

4.4 No Driveway Permit is required where a Person installs, constructs or paves a Driveway in accordance with:

- (a) an approved siting plan for a new dwelling constructed in conjunction with the initial development of a plan of subdivision; or
- (b) an approved site plan under the Planning Act.

5.0 PERMIT REQUIREMENTS

5.1 Every Person that resurfaces, constructs, expands or alters a Driveway shall:

- (1) comply with the requirements of the City's Zoning By-law 270-2004, as amended, unless a valid permission, supporting decision or approval required by law is obtained and provided to the Commissioner with the application;
- (2) comply with the City's Fill By-law 143-95, as amended;
- (3) comply with the City's Traffic By-law 93-93, as amended;
- (4) ensure that the minimum distance of a Driveway edge to the face of a utility shall not be less than:

Any vertical pole installed with roadway lighting, traffic signals or carrying electrical/telecommunications cables	0.9 metre
Fire Hydrant	0.9 metre
Communications Pedestals or boxes	0.9 metre
Hydro Transformer	0.9 metre

- (5) ensure that no Driveway obstructs or interferes with City approved on-street parking spaces;
- (6) comply with any requirements imposed by the Commissioner that in his or her opinion are reasonably necessary for the protection of the public safety and right to travel along the street, including, but not limited to:
 - (a) installation of bioswales or culverts along streets with ditches;
 - (b) provision of flag persons, uniformed police officers and/or traffic warning devices;
 - (c) supervision of the work site;
 - (d) provision of barricades, platforms or other structures necessary for the protection of the public; and
 - (e) any other condition that, in the Commissioner's opinion, is reasonably necessary for the protection of the public safety and right to travel along the street;
- (7) notify the Commissioner in writing when they have completed the work;
- (8) complete all maintenance work deemed necessary by the Commissioner within 72 hours of notice to undertake such repairs. In the case of emergency repairs deemed necessary by the Commissioner, the necessary works shall be completed immediately;

- (9) finish all Driveways with asphalt, paving stones, impressed concrete or such other hard durable surface as approved by the Commissioner;
- (10) construct and maintain Driveways to prevent surface drainage, dirt, dust, and debris from the Driveway entering the street from the Owner's property in an amount that, in the opinion of the Commissioner, constitutes a hazard or nuisance;
- (11) concurrent with resurfacing, constructing or altering a Driveway, the Owner shall remove any existing Driveway that, in the opinion of the Commissioner, is redundant as a result of constructing or widening a Driveway, and shall restore that portion of the street previously occupied by the redundant Driveway to the satisfaction of the Commissioner; and
- (12) restore the boulevard, sidewalk and road, at their expense, to a standard equal to or better than that of the existing boulevard, sidewalk and road, and to the satisfaction of the Commissioner.

6.0 PERMITS

- 6.1 The Commissioner shall issue a Driveway Permit where the application submitted complies with the permit requirements in this by-law. Without limiting the generality of the foregoing, the Commissioner shall not issue a Driveway Permit unless the proposed work complies with the City's Zoning By-law 270-2004 and any other applicable regulations, by-laws or approvals.
- 6.2 The Commissioner may approve the issuance of a Driveway Permit where there is substandard Sight Distance in situations where there is no other means of access to the property, and in such cases the Commissioner may issue a permit subject to such special conditions as the Commissioner considers appropriate.
- 6.3 The Driveway Permit shall be valid only during the dates and times indicated on the permit.
- 6.4 The Commissioner may inspect the Driveway at any time for compliance with a Driveway Permit.
- 6.5 A Driveway Permit may be renewed by the Commissioner for a further period at the discretion of the Commissioner upon submission of a written request for renewal to the Commissioner.

7.0 REFUSAL OR REVOCATION OF PERMIT

- 7.1 The Commissioner may revoke, refuse or refuse to renew a Driveway Permit where:
 - (a) the work being performed does not comply with the approved application or any conditions imposed by the Commissioner;
 - (b) the work being performed does not meet the standards and specifications of the Commissioner, including if required by the Commissioner and at no cost to the City, the installation of bioswales or culverts along streets with ditches;
 - (c) the work is conducted at a date or time other than authorized;

- (d) the work, in the opinion of the Commissioner, constitutes a danger;
- (e) the Driveway Permit was issued on mistaken or false information;
- (f) if six months after the issuance of a Driveway Permit, the work has not been seriously commenced.

7.2 Prior to revoking a permit in accordance with this by-law, the Commissioner may give written notice of intention to revoke the permit to the owner at their last known address and if, on the expiration of thirty (30) days from the date of such notice, the grounds for revocation continue to exist, the permit shall be revoked without further notice.

8.0 PROHIBITIONS

8.1 No person shall install, construct, pave, resurface, expand or alter a Driveway without obtaining a Driveway Permit from the Commissioner prior to doing the work.

8.2 No person shall permit the installation, construction, paving, resurfacing, expansion or alteration of a Driveway without obtaining a Driveway Permit from the Commissioner prior to doing the work.

8.3 No person shall install, construct, pave, resurface, expand or alter a Driveway that impedes a roadway's Sight Distance, horizontal or vertical alignment or other considerations, unless authorized by the Commissioner.

8.4 No person shall permit the installation, construction, paving, resurfacing, expansion or alteration of a Driveway that impedes a roadway's Sight Distance, horizontal or vertical alignment or other considerations, unless authorized by the Commissioner.

8.5 No person shall install, construct, pave, resurface, expand or alter a Driveway except in accordance with the provisions of this by-law.

8.6 No person shall permit the installation, construction, paving, resurfacing, expansion or alteration of a Driveway except in accordance with the provisions of this by-law.

9.0 SECURITIES

9.1 Prior to the issuance of a Driveway Permit, the Commissioner may require the Owner to pay any security and/or deposit an amount calculated by the Commissioner based upon the Commissioner's estimate of the cost which will be incurred to reinstate the Driveway or highway and for other services provided by the City.

9.2 The Commissioner shall not require securities from any person where, in the opinion of the Commissioner, payment of sufficient securities for this purpose has already been made as a condition of approval in a development or site plan agreement with the City.

9.3 If the Driveway and any associated work is not completed to the satisfaction of the Commissioner, or should the Owner or Agent fail to complete work ordered pursuant to this by-law, the Commissioner shall use the securities to cover the cost of the works done.

- 9.4 Upon satisfactory completion of the work and following a warranty period of twelve months (one years) or a term set by the Commissioner, the amount of the security and/or deposit which exceeds the cost incurred by the City will be returned to the applicant.
- 9.5 Where the costs exceed the amount of security and/or deposit provided to the City, the City shall invoice the applicant, who shall pay the amount invoiced within 30 days of receipt of the invoice from the City.
- 9.6 Where a person does not reimburse the City within 30 days of receiving an invoice from the City requesting payment of the outstanding amount, the City may recover the costs owing by action, or by adding the costs owing to the tax roll and collecting them in the same manner as municipal taxes.
- 9.7 Where the Agent deposits security, the Agent is responsible to advise the Owner of the requirements herein that may affect that security.

10.0 ENFORCEMENT & INSPECTION

- 10.1 The provisions of this by-law may be enforced by an Officer.
- 10.2 An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether any provision of this by-law is being complied with.
- 10.3 For the purposes of conducting an inspection pursuant to this by-law, an Officer 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 from any person concerning a matter related to the inspection; and,
 - (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.
- 10.4 No Person shall prevent, hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this by-law, including refusing to identify themselves when requested to do so by an Officer.

11.0 ORDERS TO COMPLY

- 11.1 Where an Officer believes that a contravention of this by-law has occurred, the Officer may issue:
- (a) an order to discontinue the contravening activity;
 - (b) an order to do work to correct the contravention; or
 - (c) an order to discontinue the contravening activity and to do work to correct the contravention.

- 11.2 An order under this Part shall identify:
- (a) the name of the Owner of the Premises and any Person believed to have contravened this by-law;
 - (b) the municipal address or location where the contravention occurred;
 - (c) the reasonable particulars of the contravention;
 - (d) the date and time by which there must be compliance with the order, and
 - (e) if applicable, the work to be done and the date by which the work must be done.

11.3 An order under this section shall be given in writing.

11.4 An order may be served personally or served by registered mail to the last known address of the Person and such other persons affected by it as determined by the Officer and a copy of the order may be posted on any property to which the contravention or Driveway Permit applies.

11.5 If an order is served by registered mail, the service shall be deemed to have been made five (5) days after the mailing.

11.6 If the Person fails to do the work required by the order within the period specified in the order, the City, in addition to all other remedies it may have, may do the work at the Person's expense.

11.7 The City's cost of doing work pursuant to section 11.6 may be added to the tax roll and collected in the same manner as property taxes.

11.8 Every Person shall comply with an order issued pursuant to this by-law.

12.0 CONTRAVENTIONS AND PENALTIES

12.1 Every Person who contravenes any provision of this by-law is guilty of an offence and is liable to penalties as provided for in the *Provincial Offences Act*.

12.2 Every Person who fails to comply with an order made under this by-law, is guilty of an offence and is liable to penalties as provided for in the *Provincial Offences Act*.

12.3 Every Person who obstructs or attempts to obstruct any City employee in carrying out his or her duties under this by-law is guilty of an offence and on conviction is liable to penalties as provided for in the *Provincial Offences Act*.

12.4 A director or officer of a corporation who knowingly concurs in the contravention of this by-law by the corporation is guilty of an offence and is liable to penalties as provided for in the *Provincial Offences Act*.

12.5 In addition to sections 12.1, 12.2, 12.3 and 12.4:

- (a) any Person who is convicted of an offence under this by-law is liable to a fine of not less than \$500.00 and not more than \$100,000.00; and
- (b) notwithstanding section 12.5(a), any Person who is convicted of failing to comply with an order made pursuant to this by-law is liable to a fine of not less than \$500.00 and not more than \$10,000.00 for every day during which the failure to comply continues after the time given for complying with the order has expired; and the total of all daily fines for the offence is not limited to \$100,000.00.

- 12.6 If a Person is convicted of an offence under this by-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any court of competent jurisdiction, may make an order prohibiting the continuation or repetition of the offence by the Person convicted.
- 12.7 Where a Person fails to pay any part of a fine for a contravention of this by-law and the fine is due and payable under section 66 of the *Provincial Offences Act*, including any extension of time to pay the fine provided under that section, the City Treasurer, or the Treasurer's designate may give the Person a written notice specifying the amount of the fine payable and the final date on which it is payable, which date shall not be less than twenty-one (21) days after the date of the notice.
- 12.8 If any part of a fine for a contravention of this by-law remains unpaid after the final date specified in the notice given under section 12.7, the outstanding fine is deemed to be unpaid taxes for the purposes of the collection of the fine pursuant the *Municipal Act, 2001*.

13.0 INTERPRETATION, COMPLIANCE AND SEVERABILITY

- 13.1 In this by-law, words used in the present tense include the future; words used in the masculine gender include the feminine; and the singular includes the plural and the plural the singular.
- 13.2 Wherever a word is used in this by-law with its first letter capitalized, the term is being used as it is defined in this by-law. Where any word appears in ordinary case, the commonly applied English language meaning is intended.
- 13.3 The headings and subheadings used in this by-law shall not form a part of the by-law, but shall be deemed to be inserted for convenience of reference only.
- 13.4 This by-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.
- 13.5 If there is a conflict between a provision of this by-law and a provision of any other City by-law, the provision that establishes the higher standard to protect the health and safety of the public and to maintain clean and tidy conditions on the highway shall apply.
- 13.6 If a court of competent jurisdiction declares any provision or part of a provision 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.

14.0 FORCE AND EFFECT

- 14.1 This By-law shall come into force and effect on January 2, 2020. **(By-laws 147-2019, 291-2019)**

ENACTED and PASSED this 22nd day of May, 2019.

THE CORPORATION OF THE CITY OF BRAMPTON

Original signed by: Patrick Brown, Mayor

Original signed by: Peter Fay, City Clerk