
Chapter 3

Permit Application Requirements

Conditions of Permit Application

Permits are issued by the General Manager Public Works or designate to allow an Applicant to perform work related to the installation and maintenance of plant within the streets.

A permit may be required whenever the Applicant's proposed work includes:

- performing maintenance to existing plant
- installing new plant
- making additions or upgrades/alterations to existing plant
- excavating, directional boring and/or drilling within the right-of-way

Please refer to [Appendix M, Permits Required to Perform Work](#).

By submitting an application to perform work within the public right-of-way, the Applicant agrees to:

- Indemnify and hold harmless the City of Hamilton and its elected officials, officers, directors, employees, representatives, successors and assigns collectively, the Indemnities for injury or damage including legal costs, howsoever arising, due to the construction, operation and/or maintenance of the work or temporary repairs referred to in this application.
- Indemnify and hold harmless the Indemnities from all claims and actions resulting from any preserved or perfected lien under the *Construction Lien Act (Ontario)* in connection with the construction, operation and/or maintenance of the work or temporary repairs referred to in this application. The Applicant shall cause any such lien or claim which may be filed or made to be released, vacated or otherwise discharged within five days of receiving notice of the lien or claim by the City or otherwise. If the Applicant fails to release, vacate or discharge any such lien or claim, the City may, but is not obligated to, obtain a discharge or release of the lien or claim or otherwise deal with the lien or claim, and the Applicant shall pay all costs and expenses, including legal fees, incurred by the City in so doing.

- Conform to and comply with all applicable laws and regulations including, but not limited to, the *Occupational Health and Safety Act (OHSA)*. The Applicant will indemnify and hold harmless the City of Hamilton from and against all liability resulting from any and all failures to meet the responsibilities referred to in the OHSA, including any fine(s) levied against the City of Hamilton as a result of any breach of the responsibilities of the employer for the project, to the extent attributable to the Applicant's failure to fulfil its obligations.
- Perform all work in accordance with any legislated or negotiated agreements, such as municipal access agreements, applicable bylaws, the permit and this document.

Extension of Permit Duration

If the work arising out of an application will not be completed by the expiry date of the permit, the Applicant will be required to apply for an extension of the permit. Any such request for extension must be submitted to the General Manager Public Works or designate no less than seven days prior to the expiry of the existing permit. Only one extension may be granted for any permit.

Extension approval shall be at the sole discretion of the General Manager Public Works or designate based on:

- a review of the proposed work
- the progress of the work up to the date of the extension request
- the performance of the Applicant during the period of the existing permit
- a review of any potential conflict with other planned or ongoing work which may be affected by the requested extension, and
- the safety and convenience of the public

Expired permits may not be renewed if an application for extension has not been received within seven calendar days of the expiry of the existing permit. The Applicant must submit a new application in accordance with the requirements of this document, including, but not limited to, updated circulations, sign-offs and notifications. Documentation from previous applications will not be accepted.

Moratorium on Newly Improved Streets

To ensure the long-term sustainability of the City's infrastructure, the General Manager Public Works or designate enforces a moratorium on all newly improved streets.

The moratorium ensures that the integrity of the pavement structure is protected and also serves to minimise the disruptions and inconvenience to the public resulting from repeated construction activity.

Scope

The moratorium applies to the enhancement, maintenance, repair or replacement of existing plant and construction of new plant which may undermine the integrity of the newly improved street infrastructure. Unless otherwise stated the moratorium applies to the whole street, from property line to property line. The expiry of the moratorium shall be measured from December 31 of the calendar year in which the improvement was performed.

Duration

The moratorium shall apply:

Within **5** years from the date of:

- maintenance or repair work undertaken on roads, curbs, sidewalks, and boulevards
- construction, reconstruction, maintenance or repair of embankments, handrails of highway bridges, rail bridges, pedestrian bridges and culverts

Within **5** years from the date of the:

- construction or reconstruction of roads, curbs, sidewalks, and boulevards
- full resurfacing of streets including base repairs
- construction, reconstruction, maintenance or repair of abutment walls, piers, un-waterproofed bridge approaches, slope protection of highway bridges, rail bridges and pedestrian bridges
- construction, reconstruction, maintenance or repair of culverts

Within **10** years from the date of:

- construction, reconstruction, maintenance or repair of bridge decks, sidewalks, parapet walls, asphalt wearing surface, deck waterproofing, superstructure, bearings, expansion joints, ballast walls, and foundations of highway bridge and pedestrian bridges
- construction, reconstruction, maintenance or repair of decks, parapet walls, superstructure, bearings, expansion joints, ballast walls, and foundations of railway bridges

Exceptions

While these requirements represent the General Manager's current policy, it is recognised that, under certain circumstances, such as emergency work, providing service to a new customer, or construction identified by the General Manager Public Works or designate as being necessary to ensure public safety, an exception to the moratorium may be made. Exemptions may be made, at the sole discretion of the General Manager Public Works or designate, provided that the Applicant has investigated and evaluated all other options and can demonstrate that they are not feasible or practical.

When such exceptions are granted, the Applicant shall exhaust all trenchless methods available to minimize the number and size of cuts in the street. The City, acting reasonably, may perform more extensive site restoration than would normally be expected, at the Applicant's expense, in order to mitigate the concerns of public inconvenience and the premature degradation and aesthetics of newly improved streets.

Work Not Requiring Excavation – Road Occupancy Permit

For temporary street occupation not requiring excavation, consent is required through a Road Occupancy Permit, included as [Appendix U, Road Occupancy Permit Application](#), or issued by the appropriate permit office as indicated in [Appendix A, Permit Application Offices](#).

Work Requiring Excavation – Cut Permit

For work involving excavation, consent is required through an excavation permit, included as [Appendix V, Road Excavation Permit Application](#), or issued by the appropriate permit office as indicated in [Appendix A, Permit Application Offices](#).

Excavation permits will only be issued to Applicants having authority to construct, operate and maintain their plant within City streets, as established through legislation or the terms of a municipal access agreement or encroachment agreement.

Identification of Planned Work

Applications will be checked against the list of planned capital projects submitted to the HUCC capital coordination subcommittee. For proposed work that is anticipated to cause a major disruption but was not identified on the list of planned capital projects, the Applicant may be required to submit an explanation of why the project was not identified at the time the list was prepared prior to the application being processed.

Alignments

Wherever possible, installation of plant should follow the alignments shown in the standard right-of-way cross sections in [Appendix P, Standard Utility Location ROW Drawings](#).

The City, in its sole discretion, may direct the Applicant to propose an alternate alignment if, in the opinion of the General Manager Public Works or designate, the proposed alignment is not in the best interests of the efficient and organised usage of the right-of-way.

Services

Wherever possible, services and service drops shall be designed and constructed directly in front of the customer being serviced in a straight line perpendicular to the road. Where an application shows a service that is not in a straight line perpendicular to the road, the Applicant may be required to submit rationale explaining why this could not be achieved.

Clearance from Other Plant

Horizontal and vertical clearances shall be in compliance with [Appendix O, Vertical and Horizontal Clearance Guidelines](#). The indicated clearances are minimums and shall be interpreted to be measured from the outermost edge of the existing plant to the outermost edge of the proposed plant.

Any encasement, steel plating or other non-excavatable material shall be considered to be part of the proposed plant and must meet the required clearance from existing plant.

Exemptions from the minimum clearances may be granted, at the discretion of the affected plant owners and the approval of the General Manager, acting reasonably. As a minimum, any consideration for exemption will require written consent from the affected plant owners giving explicit permission to the Applicant to reduce the clearance. To ensure the acceptability of the proposed reduction in clearance, the Applicant may be required to submit a detailed drawing identifying the existing and proposed plant.

Depth of Cover

The depth of cover for all installations shall meet the depths indicated below. Please also refer to drawing in [Appendix J, Depth of Cover](#). Where there is a conflict at the proposed depth of cover, the Applicant shall plan to go deeper to accommodate the existing plant and meet the required clearances.

Where an Applicant demonstrates that the depth requirements cannot be met, exceptions may be granted on a case-by-case basis. Applicants **must** contact the City for such an exemption at the planning stage of their project, prior to submission of a permit application.

Under no circumstances shall plant be installed shallower than the minimum depths indicated without specific written consent from the General Manager Public Works or designate.

The depths listed below are minimums. Where deemed necessary to accommodate other existing plant or future work, additional depth of cover may be required at the application review stage or during construction at the sole discretion of the General Manager Public Works or designate. Anticipate your company's needs and allow the applicable depth.

Curbed Roads

For areas under the road, curb, the portion of the boulevard within one metre of the back of curb, and the entire right-of-way within thirty metres of an intersection, the minimum depth of cover on shall be **1.0 m**.

Uncurbed Roads

For the entire right-of-way, from street-line to street-line, on uncurbed roads, the minimum depth of cover shall be **1.0 m** below the road, or **1.2 m** below the lowest point of the adjacent ditch, whichever is deeper.

Boulevards

The minimum depth of cover on all streets shall be **1.0 m**.

Tree Protection Zone

For any means of construction other than directional boring, the minimum depth of Cover shall be a minimum of **1.5 m** within the TPZ. If the installation of plant is executed via directional boring, the depth of cover may be reduced to a minimum of **1.2 m**.

Directional boring {trenchless technology} is required for utility construction within driplines to a minimum depth of **1.2 m** below the grade at the base of the tree {not the road centreline}. When employing trenchless technology, all sending and receiving pits must remain well outside Municipal driplines.

Soil removed from the sending or receiving pits should not be stored ahead of the pit within the open side of the tree protection fencing but off to the side or behind the excavation. Any roots encountered that are 20 mm or greater in diameter should be cleanly cut with a sharp tool such as sidecutters back to the side of the excavation and not left ragged sticking out into the hole. Roots larger than 20 mm requiring removal will require approval from the Manager of Forestry or Horticulture or their designate.

The bore hole should never go directly beneath the trunk due to downward growing tap roots and should be offset according to the information provided.

Below are the minimum distances that the closest edge of the sending or receiving pits or the directional bore should be to any face of the tree.

Trunk Diameter (cm)	Min. Offset / Trunk Face (m)
5.0 cm	0.3 m
7.5 cm	0.6 m
12.5 cm	1.5 m
25.0 cm	3.0 m
38.0 cm	3.7 m
50.0cm or larger	4.6 m

When encountering Municipal roots outside tree preservation zones, the use of Hydro-vac technology is preferable to the use of an Air-Spade. Our objective is to preserve as many roots as feasible using the fan nozzle attachment with a pressure which does not exceed 600 psi.

If excavation within the tree dripline is required, Forestry and Horticulture review and approval must be obtained prior to commencing work. For further details, please refer to [Appendix E, Tree Protection Policy](#).

Cancelled Projects

The permit office must be notified of any cancelled projects for which an application has been submitted or a cut permit has been issued. Applicants with an excessive number of existing open permit requests **will not** be issued additional permits by The City of Hamilton until their backlog of not started work is cleared.

Structures with Surface Access

Any new buried structures which have surface access, with the exception of vaults where the structure roof is monolithic with the sidewalk or flush with the surrounding finish grade shall be constructed with the ability for fine adjustment of their elevation to accommodate future changes to surface grading. The amount of vertical adjustment available for lowering and lifting shall not be less than 300 mm.

For buried structures, including, but not limited to, vaults and chambers, the top of the structure shall conform to the minimum depths described above. Where such a structure requires access, it shall be designed so that only the access chimney protrudes to the surface.

Joint-Builds / Common Trenches

To make effective use of the limited space in the right-of-way, the General Manager Public Works or designate may request that utility companies planning installations in close proximity to one another, or to service the same customer, enter into an agreement to share a common trench. Where the parties have agreed to construct in a common trench, one of the utilities companies shall be designated as the Applicant for purposes of obtaining a cut permit, adherence to permit conditions, completion of restoration, billing process, and submission of location certificates. Joint-builds shall be clearly identified as such, including the names of all participating utility companies, on both the application and the drawings.

Abandoned / Decommissioned Infrastructure

The utility company shall continue to be responsible and liable for all abandoned infrastructure and any issues that arise as a result of that abandoned infrastructure until such time that it has been completely removed from the right-of-way to the satisfaction of the General Manager Public Works or designate.

Note: This responsibility shall include, but not be limited to, providing all available information for any abandoned or decommissioned plant as part of the Applicant's response to any request for information by the General Manager or other members of the HUCC. All abandoned plant **must** be shown on all cut permit application plans.

Installations on City Owned Lands Other than Streets

Installations on city owned land other than streets require the prior approval of the city division that has jurisdiction over that land. The City of Hamilton Real Estate Section must also be contacted at 905-546-2424 ext. 6698, as the lands in question may not always be Public Works holdings. Any easement documents or licenses that may be required by the General Manager Public Works or designate for work in these locations shall be submitted with the application.

Protected Locations & Cultural Heritage Resources

Archaeology

The City is responsible for archaeology on lands under its ownership, and is obliged to perform due diligence in considering archaeology when carrying out activities resulting in soil disturbances on its properties. Where soil disturbance is proposed, City staff shall use archaeological potential mapping to determine whether some or all of the area to be impacted is within an area of archaeological potential or whether there will be impacts to registered and/or reported archaeological sites. Where areas of archaeological potential or archaeological site(s) will be impacted, the City shall provide recommendations or requirements to the applicant on how to address them.

Applicants shall consult with [Heritage Planning staff](#) to confirm if the property has archaeological potential. Typically, if an area is identified as having archaeological potential, a Stage 1-2 Archaeological Assessment must be completed prior to disturbance taking place. If archaeological resources are identified, further Stage 3 and Stage 4 work may be required. Alternatively, if an area is shown to retain no archaeological potential, no further assessment is required.

The Province administers archaeology under the authority of the *Ontario Heritage Act*. The legislation stipulates that any archaeology carried out in the Province must be conducted under license granted by the Province to individuals. Work conducted under a license is reviewed by the Province to ensure that the technical standards and guidelines are being met. All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the Ministry of Tourism, Culture and Sport.

Note: Should deeply buried archaeological materials be found on the property as a result of the soil disturbance activities, the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately at 416-314-7143. In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services at 416-326-8392.

Built Heritage and Cultural Heritage Landscapes

Applicants shall verify with [Heritage Planning staff](#) whether the proposed work is located on, or adjacent to, a Protected Heritage Property, and whether a Heritage Permit is required to permit the work.

Protected Heritage Properties include: individual properties designated under Part IV of the *Ontario Heritage Act*; properties and public right-of-ways located in a Heritage Conservation District designated under Part V of the *Ontario Heritage Act*; and, properties subject to a heritage conservation easement under Part IV of the *Ontario Heritage Act*.

If a Heritage Permit is not required, the applicant shall take extra care not to disturb any landscaping or architectural features when performing work in the vicinity of a Protected Heritage Property.

For further information on Cultural Heritage Resources, the applicant should contact a Cultural Heritage Planner in the Development Planning, Heritage and Design Department at:

For further information on heritage properties, the Applicant may contact Heritage Planning at:

East Hamilton Area: 905-546-2424 ext. 1214

West Hamilton Area: 905-546-2424 ext. 1202

To determine whether the location is in the East or West area, view the online map located on the Heritage Planning page:

www.hamilton.ca/CityDepartments/PlanningEcDev/Divisions/Planning/CommunityPlanning/HeritagePlanning

Changes to Permit

Any request for changes to an issued cut permit and the applicable drawings must be reviewed and approved by the City.

Depending on the nature and extent of the requested change, the Applicant may be required to:

- meet with General Manager Public Works or designate in the field to review proposed change
- submit, in writing, an explanation of the proposed change
- submit a revised drawing highlighting the proposed change
- obtain sign-off from owners of affected plant
- submit a new application, if applicable, for the revised work

As a point of reference, any change in alignment that goes beyond 0.3m of the initial proposed alignment would require drawings to be submitted for review.

Examples:

- If the proposed change in alignment, involves moving closer to an existing utility, then Sign-Off documents will be required from that particular utility company.
- If the proposed plant requires a 0.3 m shift in alignment due to field conditions and if this shift does not cause the proposed plant to fall within the proximity of any existing utilities, sign-off documents are not required.