

THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER

BY-LAW NO. 2005-038

Being a By-law to regulate and govern the construction and alteration of entrances onto highways under the jurisdiction of the Township of Springwater and to repeal By-law No. 99-026

(Entrance Permit By-law)

WHEREAS Section 8 of the Municipal Act S.O. 2001, as amended provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act.

AND WHEREAS Section 9 (3) of the Municipal Act S.O. 2001, as amended provides that without limiting the generality of subsections (1) and (2), a by-law under section 11 respecting a matter may,

(a) regulate or prohibit respecting the matter; and

(b) as part of the power to regulate or prohibit respecting the matter, require persons to do things 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 The Corporation of the Township of Springwater has authority to pass by-laws relating to Highways under its jurisdiction, including parking and traffic pursuant to Section 11 of the Municipal Act, 2001, S.O. 2001, as amended;

AND WHEREAS Section 391 of the Municipal Act provides that a municipality and a local board may pass by-laws imposing fees or charges on any class of persons,

(a) for services or activities provided or done by or on behalf of it;

(b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or local board; and

(c) for the use of its property including property under its control;

AND WHEREAS the Council of The Corporation of the Township of Springwater enacted By-law No. 99-026 - Being A By-Law To Regulate And Govern The Construction And Alteration Of Entrances Onto Highways Under The Jurisdiction Of The Township Of Springwater (Entrance Permit By-Law);

AND WHEREAS Council approved an increase in the Entrance Permit fee from \$20 to \$75 in conjunction with the 2005 and Notice of Intent was given in the March 10th, 2005 edition of the Springwater Source in accordance with the Notice Procedures By-law;

NOW THEREFORE the Council of The Corporation of the Township of Springwater enacts as follows:

1. DEFINITIONS

For the purpose of this By-law,

1.1 "Council" means the Council of The Corporation of the Township of Springwater or Committee of Council as may be designated by Council for the purposes of this By-law.

1.2 "entrance" means a public or private roadway, driveway, sidewalk, footpath or easement, gate structure or any facility constructed or used as a means of ingress and egress to and from any road.

1.3 "entrance, agricultural" means an entrance to a private farm or farmland, which may or may not include a farm residence.

1.4 "entrance, commercial" means an entrance from a commercial establishment of any kind, and includes an entrance to a multi-residential property with more than four (4) residential units.

- 1.5 “entrance, industrial” means an entrance from an industrial establishment of any kind.
- 1.6 “entrance, institutional” means an entrance from an institutional establishment of any kind.
- 1.7 “entrance, walkway/utility” means an entrance to a pedestrian walkway or an access entrance to a public utility used for maintenance purposes.
- 1.8 “entrance, residential” means an entrance from a private single family residence or multiple-family residence with four (4) or less dwelling units.
- 1.9 “Entrance Permit” means a permit issued under the provisions of this By-law.
- 1.10 “owner” means the person as identified as the owner on the Assessment Roll for Taxation Purposes during the current year, and where the context relates to the making of application for an Entrance Permit under this By-law, includes a representative or agent of the Owner.
- 1.11 “person” means any human being, association, firm, partnership, private club, incorporated company, corporation, agent or trustee and the heirs, executors or other legal representatives of a person to whom the context can apply according to law.
- 1.12 “Director of Public Works” means the Director of Public Works for the Township of Springwater as may be appointed by Council from time to time, or designate.
- 1.13 “road” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for use by the general public for the passage of vehicles and includes all lands lying within the limits of the road allowance or right-of-way all of which are owned or within the jurisdiction of the Township.
- 1.14 “street line” means the limit of a road allowance and is the dividing line between a lot and a road.
- 1.15 “sidewalk” means a paved pedestrian walk area located within a road or designated as a public walkway.
- 1.16 “sight line” means a line of clear vision measured from the point of entrance upon the road at a height of one (1) metre, along a road to a point above the centre line of the road at a height of one (1) metre.
- 1.17 "Township" means The Corporation of the Township of Springwater.
- 1.18 “Township Engineering Standards” means the Engineering Standards adopted by Council for the construction of facilities, utilities, access driveways, etc. as may be adopted by Council from time to time.
- 1.19 “Vehicle” means an automobile, motorcycle, trailer, truck, traction engine, farm tractor, snowmobile, and any vehicle drawn, propelled or driven by any kind of power, including muscular power.
- 1.20 “Utility” means watermain, sanitary sewer, storm sewer, private drain connection, water service, water valve, fire hydrant, manhole, valve chamber and other related appurtenances with respect to the operation of the water and sewer networks.

2. ENTRANCE PERMITS

- 2.1. Requirement for Entrance Permit
No person shall construct an entrance or install a culvert pipe or make a curb cut on a road until the Owner has applied for and obtained an Entrance Permit from the Director of Public Works.
- 2.2. Entrance Established Without Permit

Any entrance established contrary to the provisions of this By-law and for which a permit cannot be issued in compliance with the provisions of this By-law may be removed or altered by the Township at the Owner's expense.

2.3. Alterations to Existing Entrances

No person shall extend or alter an existing entrance until the Owner has applied for and obtained an Entrance Permit from the Director of Public Works.

2.4. Pave Existing Entrance

No person shall pave that portion of an existing entrance which is located on the road until the Owner has applied for and received written permission from the Director of Public Works. All work shall be carried out in accordance with the Township specifications at the expense of the Owner.

2.5. Entrance Use Change

A Residential Entrance shall not be used as any other type of entrance until the Owner has applied for and obtained an approved Entrance Permit from the Director of Public Works.

2.6. Conditions for Entrance Permits

2.6.1. Every Owner who makes application for a Entrance Permit shall complete and submit the necessary application form available from the Public Works Office.

2.6.2. All applications for an Entrance Permit shall be accompanied by the prescribed fee as set out in Schedule "A" attached hereto and forming part of this By-law.

2.6.3. Prior to the issuance of any Entrance Permit, the Director Public Works shall review the application for compliance with the Township Engineering Standards. No Entrance Permit shall be issued by the Director of Public Works which does not meet these standards without the prior written authorization of Council.

2.6.4. Every permit issued by the Director of Public Works shall be subject to the conditions listed in Schedule "B", attached hereto and forming part of this By-law.

2.6.5. No entrance shall be constructed, extended, altered or maintained so as to cause or create any interference with mains, trunks, hydrants, laterals or any other part of any Township water system, sewer system or any other public utility.

2.6.6. The Owner shall be responsible for the construction of the entrance to the specifications of the Director of Public Works and shall be responsible for any and all accidents which may occur to any person or property during or after the construction of the entrance by the Owner.

2.7. Maintenance

2.7.1. The Township shall maintain and replace, as becomes necessary, any culvert installed under the provisions of an Entrance Permit. When and where maintenance work is carried out, the Township will reinstate the surface of the entrance within the road allowance to its original condition insofar as is possible.

2.7.2. The owner of a property serviced by an entrance shall be responsible for maintaining the surface of each entrance from the property line to the travelled portion of the road.

2.7.3. Despite the provisions of Subsection 2.7.1, where the need to replace or repair any culvert has arisen from any act done or permitted to be done by any person, the cost of the replacement or repair shall be recoverable against that person under the provisions of this By-law.

- 2.8. Hazardous Entrances
Any entrance on a road which, in the opinion of the Director Public Works is considered to be a hazard to pedestrian and vehicular traffic or impedes the flow of water such as to create a potential danger to the public will be immediately removed by the Township and the provisions of Sections 2.7.3 shall apply.
- 2.9. Work Performed by Township
Where this By-law provides that the Township may complete any work required to be done by an owner or person, or where the Township may rectify any action of an owner or person which is contrary to this By-law, such work done by the Township shall be completed at the expense of the owner, and any costs incurred by the Township in completing the works, together with any charges, damages (including damages for injury) or other expenses payable by the Township arising out of its completing the works shall be paid by the owner within 90 days of receiving an invoice for same and if not paid, the same may be recovered by the Township in the same manner as taxes and/or by due process of law.
- 2.10. Indemnify
Every person, before carrying out any work under a permit on any road, shall insure or provide proof of insurance against all damages or claims for damage against the Township that may arise as a result of the work in an amount satisfactory to the Director of Public Works.

3. PENALTIES

- 3.1. In addition to the provisions under Section 2.9 of this By-law, any person who contravenes any provision of this By-law is guilty of an offence, and upon conviction is liable to a fine as provided for in the Provincial Offences Act and each day that a breach of this By-law continues shall constitute a separate offence.

4. MISCELLANEOUS

- 4.1. If any provision of this By-law is inconsistent with the Municipal Act, the Public Transportation Act, the Highway Traffic Act or any other Act, the provisions of the applicable Act shall prevail.
- 4.2. Should any section, subsection, clause, paragraph or provision of this By-law, including any part of the Schedules to this By-law, be declared by a court of competent jurisdiction to be invalid, the same shall not effect the validity of the By-law as a whole or any part, other than the provision or part of the Schedule declared invalid.
- 4.3. Where the context permits, words importing the singular also include more than one persons, parties or things of the same kind. Where the context permits, words importing the masculine gender also include female as well as male.
- 4.4. For the purposes of this By-law, the word "may" must be construed as discretionary and the word "shall" must be construed as mandatory.
- 4.5. THAT this By-law may be cited as the "Entrance Permit Permit By-law".
- 4.6. THAT this By-law shall apply to all highways under the jurisdiction of the Township of Springwater.

5. REPEAL

THAT By-law No. 99-026 be and is hereby repealed.

6. ENACTMENT

THAT this By-law shall take force upon final passage hereof and take effect retroactive to April 4, 2005-04-07.

READ A FIRST, SECOND AND THIRD TIME THIS 11^h DAY OF APRIL, 2005

THE CORPORATION OF THE TOWNSHIP OF SPRINGWATER

Mayor John Brown

Clerk Eleanor J. Rath

SCHEDULE "A"

BY-LAW NO. 2005-038

PERMIT FEES

Entrance Permits

Residential Entrance	\$75 per entrance
Agricultural Entrance	\$75 per entrance
Commercial Entrance	\$75 per entrance
Institutional Entrance	\$75 per entrance
Industrial Entrance	\$75 per entrance
Walkway/Utility Entrance	\$75 per entrance

SCHEDULE "B"

BY-LAW NO. 2005-038

ENTRANCE PERMIT CONDITIONS

Entrance Permits are subject to the following conditions and to any supplementary conditions established by the Township at the time of issuance.

1. This Entrance Permit is subject to all municipal by-laws.
2. Work on the construction or alteration of an entrance must not be started before an Entrance Permit for the work has been issued by the Township.
3. Work on an installation or development for which a permit is granted must start within six months of the date of issue of the permit or the permit shall be void and shall be cancelled by the Township.
4. All works related to or forming a part of an entrance shall be carried out in accordance with the approved plans and specifications and subject to the approval of the Township. The Owner of the property shall bear all expense related thereto.
5. Trees, shrubs etc. on the right of way of a Township road must not be cut or trimmed without the written permission of the Township and such cutting or trimming may only be done under the direct supervision of the Township of its duly authorized agent. Where it is necessary to cut or trim trees on property adjacent to a Township road, the applicant must make the necessary arrangements with the property Owners and must bear all expenses in connection therewith, including any damages occasioned as a result of such cutting or trimming.
6. Each entrance must be designed, constructed and maintained in a manner that prevents surface water from the entrance way and/or the adjoining property from being discharged via the entrance onto the Township road.
7. The applicant is responsible for the construction, marking and maintenance of the detours required and for maintaining safety measures for the protection of the public during the construction of any works in respect to an entrance.
8. The design and specifications of an entrance must not be changed without the approval of the Township if the Owner of a property desires to change the design on an entrance or odd curbs, gutter etc., an application to do so must be submitted to the Township for approval.
9. The use or purpose of an entrance must not be changed in a manner that changes the classification of the entrance. Improper use of an entrance may result in cancellation of the permit thereof. If the Owner of a property desires to change the classification of an entrance, an application to do so must be submitted to the Township for approval.
10. The Owner of a property served by an entrance shall maintain each entrance to his property in accordance with the requirements of the Township.
11. If there is an expiry date named on this permit and a further term is desired, an application for the renewal of the permit shall be made to the Township before the expiry date named in this permit. A further term may be approved or refused by the Township.
12. If this permit expires and is not renewed for any reason, all work constructed, maintained or operated under this permit shall, if the Township so requests, be removed without expense to the Township and the Township road shall be left in as good a condition as it was before the said works were installed or constructed.
13. This permit must not be assigned or transferred from one Owner to another. Each new permit is subject to the conditions applying at time of issue.
14. An Entrance Permit may be cancelled at any time for breach of the regulations or conditions of the permit or for such reasons as the Township in its discretion deems proper.
15. If during the life of this permit any by-laws or regulations adopted which affect the rights and privileges herein granted, the said by-laws or regulations shall be applicable to this permit from the date on which they came into force.

16. Entrance must be approved and cleared by Director of Public Works before the issuance of any building permit (if applicable).
17. It is the responsibility of the applicant to determine if the proposed entrance is on to a public highway, or unopened road allowance. No Entrance Permits will be issued on an unopened road allowance, or an unassumed road unless contained within a plan of subdivision under the Planning Act.
18. No entrance shall be constructed along a channelization lane, acceleration lane, deceleration lane or any other lane designated for traffic movement.
19. No entrance shall be constructed within 55.0 metres of a signalized intersection, 30.0 metres from an intersection, 15.0 metres from a at grade railway crossing, 65 metres of a bridge, within the sight triangle of an intersection or where minimum sight distance requirements are not met. Distances shall be measured from the centreline of the entrance to the property line abutting the intersection.
20. Minimum sight distances shall be as per the Geometric Design Standards for Ontario Highways.