

CORPORATION OF THE TOWNSHIP OF EAST HAWKESBURY

BY-LAW NO. 2020-52

BEING a By-Law to regulate the installation of private entrances, culverts and catch basin for residential front yard drainage. To prohibit the obstruction of ditches, watercourses and other water outlets.

Whereas section 8 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, (the “Act”) provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities, a) To enable them to govern their affairs as they consider appropriate; and b) to enhance their ability to respond to municipal issues.

And whereas section 11(3) of the Act provides that the Corporation of the Township of East Hawkesbury may pass by-laws with respect to the use of its highway and matters concerning drainage.

And whereas section 391(1) of the Act provides that without limiting sections 9, 10 and 11, those sections authorize the Corporation of the Township of East Hawkesbury to impose fees or charges on person, for a) Services or activities provided or done by or on behalf of it; b) Costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and c) The use of its property including property under its control.

And whereas section 27 (1) of the Act authorizes the Corporation of the Township of East Hawkesbury to pass by-laws in respect of a highway under its jurisdiction.

And whereas Council deems it expedient to regulate the construction of entrances upon any Municipal Road forming part of the Highway system of the Corporation of the Township of East Hawkesbury.

And whereas Council deems it expedient to regulate the construction of culverts and catch within the Corporation of the Township of East Hawkesbury.

And whereas Council deems it expedient to prohibit the obstruction of drainage ditches, watercourses and other water outlets within the Corporation of the Township of East Hawkesbury.

The Council of the Corporation of the Township of East Hawkesbury enacts as follows:

1. Definitions

1.1. The following definitions apply to this By-Law:

“**entrance**” means any driveway, laneway, private road, entrance or other structure or facility constructed or used as a mean of access and/or egress to and/or from a highway under the jurisdiction of the Corporation,

“**front yard ditch filling**” means the tiling and covering or filling in, of a Municipal roadside ditch, in front, on the side or in the rear of the property for the purpose of improving a lawn or other frontage, side yard or backyard;

“Corporation” or **“Municipal”** or **“Municipality”** means the Corporation of The Township of East Hawkesbury;

“applicant” means any person, group or corporate body who applies to the Corporation for permission to construct an entrance or a front yard ditch filling;

“Road Superintendent” means the responsible of Public Works of the Corporation of the Township of East Hawkesbury appointed to administer and manage the provisions of this by-law and includes his authorized subordinates and assistants.

2. Classification of Entrances

2.1 The entrances classifications in this By-law are defined as follow:

“Public Entrance” means an entrance opening onto a Municipal road from a public road, street or highway or other thoroughfare, maintained by a municipality or other authority;

“Residential Entrance” means an entrance opening onto a Municipal Road from one or more residential dwelling units where there is no common parking area;

“Commercial Entrance” means an entrance opening onto a Municipal Road from a property used for commercial, industrial or institutional use or a combination thereof and includes residential properties such as apartments, townhouse developments and other multiple dwelling unit developments having common parking areas;

“Farm Entrance” means an entrance opening onto a Municipal Road from an active farm or other agricultural use, primarily for access to barns and outbuildings;

“Field Entrance” means an opening onto a Municipal Road from a field or bush forming part of a farm or for the purpose of harvesting crops. It shall be used only for agricultural related activities.

“Temporary Entrance” means an entrance that will be used for a limited period of time to permit construction or other short-term access.

3. General

3.1. No person, group or corporate body shall undertake to construct, alter or change an entrance or the use of an entrance or shall proceed with the filling or alteration of a front yard ditch adjacent to a Municipal Road, until he has obtained a permit issued from the Corporation and paid the prescribed fees.

3.2. Each application for a permit shall be made on the form provided by the Road Superintendent.

3.3. The installation permit shall be issued on behalf of the Corporation by the Road Superintendent subject to the terms and conditions provided herein and shall be valid only upon the completion of the terms and conditions contained therein.

3.4. Each application for a permit shall be accompanied by proof of ownership of the subject property, in a form satisfactory to the Road Superintendent.

3.5. The cost of construction or alteration of all entrances or front yard ditch filling, including the construction of catch basins, curbs, gutters, sidewalks, islands, granular, pipes, vegetation or other necessary appurtenances shall be fully covered by the applicant.

3.6. The Township Road Superintendent shall determine the location, size and mode of construction of the culvert, bridge or other structure to be used in the construction of an entrance way, and shall state these requirements, and any other special provision he deems necessary, on the permit issued to the applicant(s).

3.7. Every application for a permit shall be subject to a fee and shall be accompanied by a security deposit, as set out in By-Law 2020-48 (Fees and Charges). No permit shall be issued until the required security deposit has been deposited and the fee has been paid. No fee paid for a permit shall be refunded. If the Road Superintendent is satisfied that all the requirements of the permits have been met, the applicant's security deposit will be returned. In the event that a permit is not approved by the Municipality for issuance, the security deposit is refundable.

3.8. The permit may, at the discretion of the Road Superintendent, designate any further terms or conditions of permit deemed necessary.

3.9. In the event that an entrance or front yard ditch filling has not been constructed or installed in accordance with the Permit, it shall be removed by the applicant upon written direction issued by the Municipality. Failure to do so will result in the removal by the Municipality at the expense of the applicant, all subject to the enforcement provisions of this By-Law. All costs incurred by the Municipality shall be paid by the applicant and may be drawn from the security deposit deposited at the time of the permit issuance.

3.10. Where the applicant wishes to construct an entrance, the Road Superintendent shall determine the size, location and mode of construction of the culvert, bridge, pipe or other structure to be used in the construction of an entrance and he shall state these requirements and any other special provisions he deems necessary on the permit issued to the applicant.

3.11. Where the applicant wishes to construct a front yard ditch filling, the Road Superintendent shall determine the size, location and mode of construction of the culvert, bridge, pipe or other structure to be used in the construction of a front yard ditch filling and he shall state these requirements and any other special provision he deems necessary on the permit issued to the applicant.

3.12. Each entrance or front yard ditch filling onto a Municipal Road must be designed, constructed and maintained in a manner that will prevent surface water from adjoining properties being discharged via the entrance onto the travelled portion of the Municipal Road.

3.13. No person shall obstruct any ditch, drain, watercourse or culvert either situated on or adjacent to a Municipal road or any ditch, drain, watercourse or culvert providing an outlet for water discharged from a Municipal Road.

3.14. Any person found to be obstructing a drain, ditch, watercourse or culvert, shall, when requested by the Road Superintendent to do so, remove the obstruction within such time as is reasonable having regards to all circumstances but, in any event, within twenty-four (24) hours, and in default thereof, same shall be done by the Corporation at the person's expense as provided in Section 446(1) of the *Municipal Act, 2001*, S.O., 2001, Chapter 25, as amended.

4. Location of entrances

4.1 An entrance will not be permitted in a location that in the opinion of the Road Superintendent would cause a traffic hazard.

4.2. A new entrance may be permitted for an existing lot where no entrance has previously been provided, subject to the provision of this By-Law.

4.3. A new entrance may be permitted where such a new entrance would replace an existing entrance and would establish superior entrance standards over existing conditions.

5. Maintenance

5.1. Property owners having access to a Municipal Road are solely responsible for the maintenance and replacement of the access including but not limited to the removal of snow and ice, shoulder gravel and winter sand, keeping the portion of the access within the right-of-way in a safe condition for vehicular traffic. Such property owner shall ensure the replacement of all portions of the access as and when necessary. A culvert pipe or any other structure installed under the terms of this by-law shall be the property of the property owner and all subsequent maintenance, repairs, alterations, replacements, etc., shall be the responsibility of the property owner.

5.2. Any existing entrance or any entrance installed under the terms of this by-law shall be the property of the property owner upon acceptance of the work and all subsequent maintenance, repairs, alterations, replacements, surface repairs etc., shall be the responsibility of the property owner. The applicant or his successor shall maintain and replace from time to time, as required, any works installed under the provisions of this By-Law and installed prior to the passing of this By-Law.

5.3. Any existing front yard ditch filling or any front yard ditch filling installed under the terms of this by-law shall be the property of the property owner upon acceptance of the work and all subsequent maintenance, repairs, alterations, surface repairs etc., shall be the responsibility of the property owner. The property owner shall maintain and replace from time to time, as required, any works installed under the provisions of this By-Law and works installed prior to the passing of this By-Law.

5.4. Where an existing entrance is affected solely by the reconstruction of a Municipal Road or the reconstruction or cleaning of a ditch, the Municipality shall reinstate, at the Municipality's cost, the affected entrance only when the reconstruction of the entrance or the cleaning or reconstruction of the ditch is required by the Municipality or for the Municipality's purposes. Municipality shall reinstate the surface with asphalt or gravel. The property owner shall be responsible for the reinstatement of any other type of material on the surface. Any original materials of construction salvaged, shall remain the property of the Municipality.

5.5. The County shall maintain the authority to relocate/close any entrance that does not comply with any section of the by-law.

6. Temporary Entrance

6.1. Notwithstanding the provisions of this by-law, Temporary Entrances may be permitted by the Road Superintendent. The Road Superintendent shall specify the mode of construction, establish the standards and specifications of construction and establish the time period the Temporary Entrance shall be permitted to exist.

6.2. If at the end of the specified time period for which a Temporary Entrance installation permit was issued, the said permit is not renewed by the Director, or the structure of the entrance removed, the applicant to which the permit was issued shall be deemed to be causing an obstruction and the provisions of this by-law shall be applied.

7. Time Limit

7.1 The applicant shall install the entrance within 1 year from the date of the issuance of the permit and 6 months for a Front yard ditch filling. All work shall be supervised and approved by the Road Superintendent. However, the Road Superintendent may

upon application, renew or extend any permit issued under this By-Law, at no charge to the applicant, if it is deemed appropriate by the Road Superintendent, in his sole discretion.

8.1 Refusal

8.1 Entrance applications that do not conform to this by-law shall be denied and the applicant shall be so informed in writing within five days of the Road Superintendent decision. The applicant's security deposit, if received by the Municipality at the time of the application as per Subsection 3.7 of this by-law, will be released within 30 calendar days following the application refusal.

9. Schedules

9.1. Schedules attached to this by-law form part of this by-law and have the same force and effects as if the information in them were contained in the body of this by-law.

10. Remedial Action

10.1. Every person who fails to comply with the requirements set out in this By-law, shall by the date specified within any notice by the Municipality, take all necessary steps to comply.

10.2. A notice issued under Subsection 10.1 shall contain:

10.2.1 The municipal address and/or the legal description of the property on which the person fails to comply with the requirements set out in this By-law;

10.2.2. A description of the By-law and/or the permit provisions that have not been complied with;

10.2.3. A statement that the entrance and/or front yard ditch filling must be brought into compliance with the provisions of this By-law and/or the conditions of the permit issued for the entrance and/or front yard ditch filling or to remove the entrance and/or front yard ditch filling within the time specified; and

10.2.4. A statement that if the notice is not complied with, the Municipality may do the work at the expense of the owner.

10.3. A notice issued under Subsection 10.1 shall be served personally on the property owner or by prepaid registered mail to the last known address of the property owner as shown on the municipal tax roll.

10.4. In the event that a person fails to comply with the notice provided by the Municipality, the Municipality may do the work at the expense of the owner by adding the costs incurred by the Municipality to the tax roll for that property and collecting them in the same manner as taxes.

11. Offence and Penalty Provisions

11.1. Any person who contravenes the provisions of this by-law is guilty of an offence and, upon conviction, is subject to a fine as provided in the *Provincial Offences Act* and to any other applicable penalties.

11.2. If this by-law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

11.3. Each day of default by the owner in complying with any of the provisions of this by-law shall constitute a separate offence. **11.4.** This By-Law is subject to and in furtherance of The Drainage Act, R.S.O., 1990, Chapter D.17 as amended.

12. Validity

12.1. If a court of competent jurisdiction declares any provision, or any 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 each and every provision of this bylaw authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

12.2. By-Laws Number 2008-29 and 2000-10 and amendments are hereby repealed in their entirety.

BY-LAW READ A FIRST, SECOND, AND THIRD TIME, AND PASSED ON AUGUST 10, 2020.

Rober Kirby, Mayor

Luc Lalonde, Clerk

SEAL

**Schedule "A" to By-law 2020-52
Minimum size and type of pipe**

The diameter, gauge, length and type of culvert to be used to convey surface water drainage either through an entrance or a front yard ditch filling shall be determined by the Municipality with the minimum size of culverts to no less than 450 mm in diameter and 9 meters in length. A larger size culvert may be required depending on the contributing drainage area, as determined by the Road Superintendent.

Only new standard corrugated steel pipe with a minimum wall thickness of 1.6 mm for pipes size up to 1,200 mm or high-density polyethylene (HDPE) materials 320 kpa for entrances and 210 kpa for front yard ditch filling; approved by the Director shall be used. The wall thickness for corrugated steel pipes with a larger diameter than 1,200 mm shall be evaluated on a case by case basis.

Culverts shall be installed at the proper grade so as to provide free and unimpeded flow of water through the culverts.

The culvert shall be centered on the entrance and in the ditch line unless otherwise approved by the Road Superintendent. The invert of the culvert must be set plus or minus 150 mm below the existing ditch grade(if not included otherwise by Road Superintendent)

A front yard fill application could be denied if it implies a connection to a cross-culvert inlet or outlet that would cause restrictions in the maintenance or replacement of that cross-culvert.

The use of water tanks, barrels, concrete blocks, concrete pipe, used corrugated steel pipe or used plastic pipe shall not be permitted.

Applicants shall acknowledge that they may be required to submit a site grading plan depicting the existing topography and the proposed site grades, spot elevations, swales, cross-sections etc., at the discretion of the Road Superintendent.

Applicants shall acknowledge that they may be required to install catch basins, clean-outs, inlet and other structures as may be necessary to facilitate drainage from or alongside the road, at their cost. Only new manufactured components (grills, tees, catch-basins, manholes, couplers, etc.) of the exact same type and size as the pipes shall be used for the construction of the front yard fill and entrance.