



Committee of the Whole Report

Report Number:	RD2024-008
Meeting Date:	June 4, 2024
Title:	By-Law 2017-151 - A By-law to Regulate Access to Municipal Right of Ways in the City of Kawartha Lakes
Description:	Council Review and Discussion of By-Law 2017-151
Author and Title:	Bryan Robinson, Director of Public Works

Recommendation(s):

That Report RD2024-008, **Review of By-Law 2017-151 - A By-law to Regulate Access to Municipal Right of Ways in the City of Kawartha Lakes**, be received; and

That this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

As per a request from the Mayor and Council, Staff have brought forward the By-Law 2017-151 for review and consideration.

Report PW2017-008 presented a draft By-law to regulate entrances to Council for consideration on July 11, 2017. Council passed Resolution CR2017-630 to implement the By-law as written as well as to amend the Consolidated Fees By-law to impose consistent fees for entrances. An entrance permit fee and requirement to provide a deposit for constructing or altering an entrance was emplaced per CR2017-630.

The rationale included in the 2017 report is as follows:

"Staff drafted this proposed By-Law through extensive collaboration and cooperation from various stakeholders within the City including Engineering, Planning, Building, By-Law and Public Works. The draft By-Law has been through several iterations and consensus has been reached with the version proposed to Council.

Providing a process to review and regulate access to the right of way is essential to ensuring safety and proper use of the right of way. Through providing Owners and Contractor with a clear and concise process, customer service will be improved. Having a citywide By-Law will avoid confusion and ensure the City's liability related to entrances will be mitigated.

Staff created supporting documentation for the By-Law including a general information sheet for Owners and Contractors and a permit application form. These documents will not form part of the By-Law. The forms and information will be managed by Staff and updated as necessary, not to change the requirements of the By-Law."

It is important to note that although driveways only benefit the property the entrance enters onto, the portion of the driveway from the property line to the edge of the road remains City property. As the By-law is currently written, maintenance of the entrance remains the responsibility of the property owner, but the City remains responsible for the culvert, if applicable.

Rationale:

The request to bring the By-law forward enables discussion about the deposits currently required and for Staff to pose additional items for Council consideration that were already in plan.

Permit and deposit:

Rationale for the City to issue permits and obtain deposits for alternation of an entrance includes:

- allowing the City to document the state of the entrance and provide direction for any required changes for safety reasons (headwalls in road allowance/grades/etc)
- allowing staff to assess the condition of storm infrastructure (culverts) and to replace such infrastructure if needed to prevent the need to cut into newly resurfaced driveways.
- allowing the City to ensure that the driveway complies with standards – Ie. driveway width, number of entrances on the property, the water curb stop is not located within the paved surface and the driveway is not over top of the sanitary lateral; and
- allowing staff to review the pre-construction condition of the road to assess if the contractor damaged the road during their operations.

Since 2017, information on entrances has been available on the City's website. The process has remained unchanged. Adherence to the By-law is mandatory. Where non-compliances are observed, Staff work with Municipal Law Enforcement to enforce the requirements.

Entrance accountability / ownership:

The United Counties of Prescott Russell passed their entrance By-law in 2020. Within the By-law they have taken a slightly difference approach with logical rationale. Their By-law States:

"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 borne entirely by the applicant"; and

"Property owners having access to a County 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."

The rationale for the By-law is that the property owner is the sole beneficiary of the entrance and therefore should be responsible for all aspects of the entrance.

Currently within the City of Kawartha Lakes' By-law, the initial installation of the entrance is the responsibility of the property owner. The City then assumes responsibility for the culvert (maintenance and replacement), but the owner retains responsibility for the entrance and surface (maintenance and replacement).

Alternatives for potential direction from Council to consider these items is provided in the "Other Alternatives Considered" section of this report.

Other Alternatives Considered:

There are two separate items Council could consider directing Staff to amend within the By-law.

Permit and deposit:

Council could opt to direct Staff to amend the By-law, reclassifying "driveway resurfacing" (removal and replacement of asphalt to match existing) as a "review only" process. This would still require homeowners to obtain an Entrance Permit per the existing By-law, enabling the necessary site reviews to take place, but there would no longer be a requirement for the refundable deposit. All other driveway modifications/alterations (new entrances, conversion from gravel to asphalt, widening, etc.) would still require a permit, plus a refundable deposit per the existing By-law. The Resolution would be:

That Staff be directed to bring forward a Report with draft amendments to the By-law 2017-151 (Entrance By-law) and By-law 2018-234 (Consolidated Fees By-law) for consideration to treat entrance resurfacing the same as 'Review Only'.

Entrance accountability / ownership:

Council could opt to recognize that entrances only serve to benefit local property owners and as such could opt to make property owners responsible for the entire entrance infrastructure the same as the United Counties of Prescott Russell. If this is desired, the resolution would be:

That Staff be directed to bring forward a Report with draft amendment to By-law 2017-151 for consideration to recognize that benefitting property owner is responsible for all aspects of the entrance infrastructure.

Alignment to Strategic Priorities

This report aligns with the Strategic Plan as follows:

1. Good Government – Making appropriate and responsible By-laws to protect the greater good of the residents of the City is essential. The existing By-law not only protects the fiscal interests of the City's residents, but it ensures safety of the public and appropriate use of the municipal road allowance.

Financial/Operation Impacts:

There are no financial implications from receiving this report.

Should Council opt to provide direction as considered in the Alternatives section of the report, the following should be considered:

Permit and Deposit:

There are no immediate financial implications by removing the deposit requirement for entrance resurfacing projects. There is increased risk if an entrance is modified contrary to the issued permit because the City does not hold funds to influence correction of the issue at the applicant's expense. The City could end up expending tax payer funds to improve the entrance.

Entrance accountability / ownership:

Should Council opt to direct staff to modify the By-law to align with the United Counties of Prescott Russell, the City would realize substantial cost reduction over time. Within the 2024 budget, the allocation for culverts is \$1.527M. This budget is used to replace all culverts in the City that are under 1.2 metres in diameter, inclusive of driveway culverts and cross culverts. Although not tracked separately, it is estimated that 25%

(or \$382,000) of the budget is spent annually on driveway culverts. Directing Staff to amend the By-law would allow a reallocation of this resource to other critical activities.

Staff would support the implementation of both alternatives at once.

Consultations:

Treasurer

Attachments:

Appendix A – By-Law 2017-151



2017-151 Access to
Municipal Right of \

Appendix B – Report PW2017-008



PW2017-008 Road
Entrance Access By-l

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