

# **The Corporation of the City of Kawartha Lakes**

## **By-Law 2017-151**

### **A By-law to Regulate Access to Municipal Right of Ways in the City of Kawartha Lakes**

#### **Recitals**

1. Part II of the Municipal Act, S.O. c.25, as amended authorizes a single-tier municipality to pass By-Laws for the regulation of matters under its jurisdiction and to provide for a system of licenses, permits, approvals or registrations regarding matters that are so regulated.
2. Section 10 of the Municipal Act, 2001, S.O. 2001, c.25 authorizes the councils of municipalities to pass By-Laws for the health, safety and well-being of persons.
3. Section 391 of the Municipal Act, 2001, S.O. 2001, c.25 authorizes the councils of municipalities to impose fees or charges for services rendered.
4. Council of the Corporation of the City of Kawartha Lakes deems it necessary and desirable to regulate the use, construction and alteration of Access or other facilities that permit access to City right of ways.

**Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2017-151.**

#### **Section 1.00: Definitions and Interpretation**

##### **1.01 Definitions:** In this by-law,

**“Access” or “Entrance”** is any driveway, laneway, private road, entrance, bridge or other structure or facility constructed or used as a means of access from private property to a City Road on a Municipal Right of Way, and includes the tiling and covering or filling in of a roadside ditch for the purpose of improving a lawn or lot frontage.

**“Access Permit”** means approval of an application to construct, alter or retain any Access received in accordance with the requirements of this By-Law.

**“Agricultural Entrance”** means an Access that provides access to farm buildings (barns, etc.), agricultural lands, environmentally sensitive areas, or wooded areas, which are separate from other entrance categories defined in the By-law.

**“Applicant”** means a person, partnership, agency, corporation (public or private) or institution who submits an application to construct, alter or retain any access to a City Road.

**“City”, “City of Kawartha Lakes” or “Kawartha Lakes”** means The Corporation of the City of Kawartha Lakes and includes its entire geographic area;

**City Road”** means a road on a Municipal Right of Way owned by the City which is assumed and open in accordance with the Municipal Act.

**“Commercial/Industrial/Institutional/Multi-Residential Entrance”** means an Access that provides access to a business where goods or services are manufactured and/or are sold to the public, to any institutional use, or to a multi-residential development containing five (5) or more dwelling units or as deemed appropriate by the Director of Public Works.

**“Contractor”** means a Contractor that has received permission to work within the City’s right of way by the Director of Public Works in accordance with this By-Law. Documentation required prior to permission will be granted includes proof of Workplace Safety and Insurance Board of Ontario (WSIB) coverage, and professional / liability insurance coverage

**“Council” or “City Council”** means the municipal council for the City;

**“Director”** means the person who holds the position of Director of Engineering and Corporate Assets or the Director of Public Works and his or her delegate(s) or, in the event of organizational changes, another person designated by Council.

**“Emergency Access”** means an Access that provides access to subdivision developments for emergency vehicles only, in the event the main access is not passable. Adequate measures are to be incorporated on the emergency access to prevent (adequately discourage) use by private residents or delivery vehicles.

**“Lot Frontage”** means the horizontal distance between the side lot lines measured along the front lot line. Where the front lot line is not a straight line or where the side lot lines are not parallel, the lot frontage shall be measured by a line 9m back from and parallel to the chord of the lot frontage. The chord of the lot frontage shall be a straight line joining the two points, where the side lot lines intersect the front lot line.

**“Municipal Law Enforcement Officer”** means a person within the administration of the City who has been appointed as an officer for the purposes of the enforcement of any or all of the City’s By-Laws.

**“Permanent Entrance”** means an Access that will be used for access from private property on a continual basis.

**“Public Entrance”** means an Access to private property, being part of a registered subdivision by means of a public right of way.

**“Residential Entrance”** means an Access that provides access to a private residential property containing from one (1) and up to four (4) dwelling units. This also includes a farm related dwelling.

**“Service”** means a water line, sanitary sewer and/or storm sewer lateral connection.

**“Temporary Entrance”** means an Access that provides access to properties for a limited period not to exceed one year for the purpose of construction, repairs or improvements on that property or to facilitate a staged development.

**“Utility Entrance”** means an Access to access from property owned or leased by a Utility.

#### 1.02 **Interpretation Rules:**

- (a) The Schedules attached to this by-law form part of the by-law, and are enforceable as such.
- (b) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.
- (c) This policy applies to all City Roads within the geographic boundary of the City of Kawartha Lakes.

#### 1.03 **Statutes:** References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

#### 1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

### **Section 2.00: Policy Statement and Rationale**

- 2.01 The City has a responsibility to keep all City Roads safe for users, and for this reason it is important for staff to be able to regulate entrances for the purpose of access and egress to roads in urban and rural settings. This policy will be implemented with consideration for:

- The protection of the public through the orderly control of traffic movements onto and from City Roads, including possible requirements for left and right turn lanes.
- Maintaining the traffic carrying capacity of the City Road network.
- The protection of the public investment in City Road infrastructure.
- Providing legal access onto City Roads from adjacent private property.

This policy shall not override approvals granted by the City under the Planning Act nor any transportation policies contained in the City Official Plan. This policy applies to all City Roads as defined within this By-Law in the City.

- 2.02 No person shall construct or alter or cause to be constructed or alter any private road, gate or other structure or facility that permits access to any City Road, unless such access has been approved by the Director as evidenced by the issuance of an Access Permit.
- 2.03 No person shall make or permit any change of use of any private road, Access, gate or other structure or facility that permits access to any City Road, unless such access has been approved by the Director as evidenced by the issuance of an Access Permit.
- 2.04 An Access Permit must be issued in accordance with the standards, policies and fees established within this By-Law and accompanying Schedules by the Director or any employee of the Corporation of the City who is delegated at the direction of the Director.
- 2.05 Authorization of the Director:
  - a. Where authorization is granted from the Director, any contractors installing an Access pursuant to an Access Permit shall conform to the requirements contained in this By-Law.
  - b. Any and all work performed outside the requirements of this By-Law must be approved in advance of construction and clearly identified within an Access Permit approved by the Director.
  - c. Any such access constructed, altered, or the use of which has been changed, under the provisions of this By-Law shall conform to the standards and principles set out in this By-Law and shall further comply with all terms and conditions attached to any Access Permit issued hereunder.
- 2.06 All costs associated with an Access Permit and construction of the entrance access in accordance with the terms of the permit will be the responsibility of the Applicant.
- 2.07 The Director appointed by City Council or any employee of the City who acts at the direction of the Director shall remove or correct any entrance that does not conform to the requirements of this By-Law and recover the costs from the property owner of the lands where the access is installed.

### **Section 3.00: Application and Process**

- 3.01 Where Council has approved subdivisions, consents, and/or site plans, entrances shall be granted in accordance with these prior approvals. The applicant must provide the necessary background for such approvals.
- 3.02 All Applicants are required to submit a completed application.
- 3.03 The application covers two processes:
  - a. The Applicant may request the City to review a potential Access to confirm suitability of a proposed or revised Access; or
  - b. The Applicant may request permission for installation of an Access.
- 3.04 Fees
  - a. Applicants are required to pay the prescribed fee for processing the application in accordance with the Consolidated Fees By-Law; and

- b. All costs associated with installation of the entrance shall be the responsibility of the applicant in accordance with the Consolidated Fees By-Law. This includes but is not limited to administration, design, labour, materials and equipment.
  - c. Site Plan Application and Plan of Subdivision Applications are exempt from the fee schedules pertaining to this By-Law, however, all standards and policies contained within the By-Law shall be adhered to including but not limited to the use of a City Approved Contractor for installation.
- 3.05 Depending on the entrance requirements, installation work may be completed by either a City approved contractor hired by the Applicant or by a Contractor hired and approved by the City. The Director will determine the appropriate means by which the Access will be installed on a case by case basis. In general, it is the City's preference for the Applicant to hire a City Approved Contractor to install an access. On some occasions, the Director may require the work to be performed by a City hired Contractor. Each Applicant and Contractor shall adhere to the requirements the "Information to Contractors and Applicants" as amended.

### 3.06 Deposit or Payment

Where permitted to do so by the Director, the Applicant shall arrange for and engage a Contractor approved by the City to undertake installation of the Access. Prior to commencement of work the Contractor must provide to and receive acceptance from the City, documentation for insurance, WSIB coverage and a traffic control plan meeting the requirements of the Ontario Traffic Manual.

- a. Work completed by Applicant Hired Contractor:
  - i. For each residential, agricultural, temporary or utility entrance, applicants are required to pay the prescribed deposit to the City in accordance with the Consolidate Fees By-Law.
  - ii. For each Commercial, Industrial, Institutional, emergency or public entrance, applicants are required to pay a deposit to the City in the amount estimated by the applicant and determined to be appropriate by the Director or in accordance with associated planning approvals.
- b. Work Completed by City Hired Contractor:

The City shall determine an estimate of the costs associated with the entrance construction (including but not limited to the curb cut, sidewalk works, restoration and drainage). The Applicant shall pay to the City the estimated costs plus an appropriate contingency and administration fee prior to commencement of work.

Any deposit received will be returned to the applicant after the City completes a final inspection and approves the entrance installation. Should the applicant not complete the installation and construction of the entrance in accordance with City standards and requirements, the City may at its sole discretion, utilize the deposit monies to complete the work including any required drainage improvements and restoration, to the satisfaction of the Director. Any monies remaining (less administration costs) will be returned to the applicant.

- 3.07 The proposed access location is to be clearly illustrated on a sketch which is to accompany the application for an Access Permit. The sketch must provide enough information to enable staff to locate the proposed entrance on the property, i.e. distance from the proposed Access to buildings, service location, landmarks like fences, hedgerows and tree lines, etc. A copy of the current plan of Survey or relevant excerpt of the Registered Plan of the Applicant's property must accompany the permit application. All applications will be circulated to the City's Building Division to determine compliance with the Zoning By-Law.
- 3.08 Where an entrance application has been submitted, the City shall review the entire property for conformance with applicable by-laws. Corrective action to bring the property in compliance with applicable by-laws may be

ordered by a Municipal Law Enforcement Officer. No permits will be issued until the required corrective action is complete.

- 3.09 Cancellation of Permit – Where the entrance has not been constructed and approved by the City within one year of the date of the Access Permit, the Access permit shall be deemed null and void.

## **Section 4.00: Access or Entrance Location**

- 4.01 The City must restrict access onto City Roads in the interest of public safety. New accesses must be located so as to provide, in the opinion of the Director:
- No undue interference with the safe movement of public traffic, pedestrians or other users of the highway.
  - Favourable vision, grade, alignment conditions for all traffic using the proposed access to the City Road.
  - No conflict with services.
- 4.02 In general, new entrances will not be permitted:
- Where access can reasonably be gained via an alternate City right-of-way.
  - Along a lane which is identified for the purpose of an exclusive vehicular turning movement.
  - In close proximity to intersections and bridges per section 4.03.
  - Where the required sight distance for the proposed Access identified within the Transportation Association of Canada (TAC) guidelines are not achievable. Consideration must be given to the type of entrance and geometry of the road (vertical and horizontal curvature, speed, relative location to entrances, structures, etc). Where design information is limited, distances shall conform to stopping requirements contained within Table 1.2.5.7 of the TAC manual (Decision Sight Distance).
- 4.03 An entrance adjacent to a bridge or other structure which may interfere with the clear vision of traffic using the entrance must be located as follows:
- A commercial entrance in an area where the speed limit is 80 km/hr or more must be located at least 145 metres (475 feet) from the end of the deck of the bridge or from the nearest part of the structure which actually interferes with the clear vision of traffic using that entrance.
  - A residential or agricultural entrance in an area where the speed limit is 80 km/hr or more must be located at least 30 metres (100 feet) from the end of the deck of the bridge or from the nearest part of the structure which actually interferes with the clear vision of the traffic using that entrance.
  - Other entrances will be approved in locations as deemed safe and appropriate by the Director.
- 4.04 In areas where the speed limit is less than 80 km/hr, the Director may restrict the location of an entrance to that distance from the bridge or other structure which the Director deems advisable.

## **Section 5.00: Entrance Standards**

- 5.01 **Access Design** - All Access designs shall adhere to the City of Kawartha Lakes Design Standards or Ontario Provincial Standards where not clarified in the City standards. Where a standard does not exist, installation shall be determined by the Director.

Concrete or paving stones shall not be used within a municipal road allowance unless approved through the permitting process.

- 5.02 **Entrance Grade** – The finished surface of the access must drop away from the edge of the driving surface to the end of the shoulder rounding at a rate equal to the slope of the shoulder. For a distance of 5.0 metres beyond the shoulder rounding, the slope of the access is not to exceed 3%.

- 5.03 **Agricultural, Residential Entrance or Multi-Residential Entrance** – Shall be constructed with a minimum of 150 mm (6”) crushed gravel (Granular A). Where deemed necessary by the Director of Public Works, surface treatment consisting of 50 mm of HL-3A hot mix asphalt shall be applied to the Access. Where a culvert is required, its length must be sufficient to provide a 2:1 slope up the ditch invert to an entrance width of no less than 6.0 metres. A minimum cover on the culvert is to be 300 mm (12”).
- 5.04 **Commercial, Industrial or Institutional Entrance** – Shall be designed in accordance with expected use and weight of vehicular traffic. Where deemed necessary by the Director of Public Works, surface treatment consisting of minimum 75 mm of OPS HL-3 hot mix asphalt shall be applied to the Access. Asphalt requirements may be within Rural or Urban settings depending on the existing City Road surface treatment. Where a culvert is required, its length will be dictated by the entrance design which will be site specific, having regard for number and type of vehicles expected to utilize the entrance. A minimum cover on the culvert is to be 150 mm (6 inches).
- 5.05 **Headwalls** – Headwalls are to be avoided wherever possible. Installation of a headwall is subject to the approval of the Director. Where approved, no headwall shall extend above the surface of the roadway shoulder within the limits of the shoulder and its rounding. All headwalls are constructed at the sole expense and risk of the applicant.
- 5.06 **Curb and Gutter** – Where a curb and gutter exists at the location of the proposed entrance, construction of a drop curb is required. The existing curb shall be cut or removed and replaced using materials and construction methods acceptable to the Director. The area between the curb and sidewalk is to be paved with hot mix asphalt, concrete or paving stones, in accordance with the Director’s requirements. If there is no sidewalk, the entrance is to be paved a distance of 2 metres behind the curb.
- 5.07 **Sidewalk** – All sidewalk impact by the installation of an entrance shall be replaced to meet current City standards including, but not limited to base preparation, sidewalk thickness, materials, surrounding grades, sidewalk grades, etc.
- 5.08 **Drainage** – That where a culvert in excess of 14 metres in length is requested, the owner shall be required to pay the entire cost of constructing as many catch basins, inlet or outlet structures as may be necessary to facilitate drainage from or along the side of the road.
- 5.09 **Ditch Alteration** – Infill of ditches is not a permitted practice. Entrance installation shall not impact drainage patterns of the surrounding area. Should entrance installation cause potential adverse impact on surrounding drainage, an alternate design to mitigate such impacts must be implemented at the applicants sole expense. Such measures could be re-grading surrounding drainage swales or installation of an approved storm sewer at the discretion of the Director.
- 5.10 **Temporary/Emergency/Public Entrance** – The design and construction of temporary/emergency and public entrances must be submitted to, and approved by the Director and an access permit issued prior to work commencing on the entrance within the limits of the road allowance of a City road or any works related to said entrance.
- 5.11 **Number and Width of Accesses** – It shall be the policy of the City to:
- Limit the width of accesses to discourage the construction of entrances wider than that required for the safe and reasonable use of the entrance.
  - Limit the number of accesses to a property to ensure safe and reasonable access to the City road and in general conformity with the following:

Residential Entrance	1 entrance for 0 – 16 metres of lot frontage 2 entrances for 17 -50 metres of lot frontage. *Note, two (2) entrances will only be allowed where governing planning policy permits and subject to approval of the Director of Public Works.
Agricultural Entrance	1 field entrance per property for agricultural use. *Note, Additional field entrances are permitted where natural obstructions within the field prevent reasonable access across the field.
Commercial / Industrial / Institutional Entrance / Multi-Residential	Maximum 2 with a minimum spacing of 30 metres between entrances.

## Section 6.00: Maintenance of Entrances

- 6.01 Every property owner having access to a City road shall be fully responsible for the maintenance of the access including the removal of snow and ice and shall keep the portion of the access within the roadway in a safe condition for vehicular traffic.
- 6.02 The City shall maintain and replace, from time to time as deemed necessary by the City, all culverts installed under the provisions of this by-law. The maintenance of the driving surface of all Access shall be the responsibility of the owner.
- 6.03 No person shall install landscaping within City Roads without written approval from the Director. This includes but is not limited to retaining walls, plantings, stone and paving stone. The Owner shall be responsible for any and all costs related to the maintenance and removal/replacement of landscaping where authorization is granted. As a practice, the City will not replace landscaping within City Roads when it is required to be removed.

## Section 7.00: Enforcement and Penalties

- 7.01 **Enforcement:** This By-Law may be enforced by every Municipal Law Enforcement Officer or Police Officer.
- 7.02 **Penalties:**
- Any person who contravenes any provision of this By-Law is guilty of an offence, and upon conviction, is liable to a fine in accordance with the provisions of the Provincial Offences Act, 1990 c.P33 and to any other applicable penalty.
  - In addition to the Provincial Offences Act, every person who contravenes any provision of this By-Law shall upon conviction be liable to payment of a fine in accordance with the Consolidated Fees By-Law. Every such penalty shall be recoverable under the provisions of the Provincial Offences Act as amended from time to time.
- 7.03 **Court Order:** 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.

**Section 8.00: Fulfillment of Applicant’s Obligations**

- 8.01 City May Complete Work:
  - a. Where an Applicant fails to comply with a Notice within the specified time frame, a Municipal Law Enforcement Officer may, in addition to any enforcement of this By-law, cause the City’s forces to complete the work required by the Notice, without further notice to the Applicant.
- 8.02 Cost Recovery:
  - b. Where Sections 2.07, 7.00 (all) or 8.01 this By-law are invoked, all costs associated with the work shall be added to the tax roll of the property which is the subject matter of the Notice and shall be collected in the same manner and with the same priorities as municipal real property taxes.

**Section 9.00: General Provisions**

- 9.01 **Administration of By-Law:** Unless otherwise indicated in this By-Law, the administration of this By-Law is assigned to the Director, who may delegate the performance of any of the Municipal Law Enforcement Officer functions under this By-Law.
- 9.02 **Caveat:** Any process underway prior to the passage of this by-law shall follow the process described within the prior applicable Entrance By-Law, as amended, providing the disposition is carried through by August 30, 2017, at which point this By-law will apply.
- 9.03 **Effective Date:** Subject to section 9.02, this By-Law shall come into force on the date it is finally passed.

By-law read a first, second and third time, and finally passed, this 11<sup>th</sup> day of July, 2017.

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Andy Letham, Mayor

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Judy Currins, City Clerk