

STAFF REPORT: ENGINEERING AND PUBLIC WORKS DEPARTMENT



REPORT TO: Infrastructure and Recreation
 Committee
MEETING DATE: January 15th 2013
REPORT NO.: EPW.13.003
SUBJECT: Town Wide Entrance Permit,
 Landscaping and Mailbox By-law
PREPARED BY: Reg Russwurm, Director of Engineering and
 Public Works

A. Recommendations

THAT Council receive Staff Report EPW.13.003, entitled "Town Wide Entrance Permit, Landscaping and Mailbox By-law";

AND THAT Council direct Staff to advertise and schedule a Public meeting to receive comments regarding the proposed Municipal Land Work Permit (Entrance, Landscaping Mailbox) By-Law.

B. Background

An Entrance Permit enables the Town to regulate the location and form of entrances permitted from private lands onto municipal lands, and the abilities to collect funds through deposits or otherwise to pay to correct deficiencies or damage to municipal works. The former Township of Collingwood has an Entrance Permit By-Law, being 95-29, while the former Town of Thornbury does not. Staff have experienced in the past and again recently where a resident has a compromised entrance since the entrance location was not reviewed by Roads and Drainage Division Staff prior to construction of the building. These problems could be alleviated if an Entrance Permit is required prior to the issuance of a building permit for sites not otherwise covered under a Site Plan Agreement.

The attached Draft Entrance Permit By-law is the result of updating the former Township of Collingwood Entrance Permit By-law to ensure that Entrance Permits are required throughout the entire Town, not only in the former Township. The proposed By-law is intended to act as an interim By-law, pending finalization of a comprehensive Municipal Land Work Permit By-law. The comprehensive By-law, in addition to addressing Entrance Permits, would speak to a multitude of issues related to work on municipal lands including within new developments. The attached By-law is thereby recommended at this time to regulate the construction of new entrances in both the former Township and Town in a similar manner, pending completion of the comprehensive By-law.

The draft By-law has been reviewed and reflects input from Staff within Engineering and Public Works, Financial Services and Building and By-law, together with legal advice from John Metras.

Fees and Charges By-law 2008-111, Schedule "F", currently shows the Entrance Permit Fee at \$125 and a Deposit at \$400. No change to the current fee and charge is proposed at this time.

Corporate Policy POL.COR.07.03, Provision of Notice and Manner of Giving Notice to the Public states a Class 3 Notice for Major issues, including consulting with the public on the development of new regulatory by-laws and amendments to those regulatory by-laws that affect general population, is a minimum of 21 days.

Staff recommends that Council authorize Staff to finalize the Entrance Permit By-law to the satisfaction of the Director of Engineering and Public Works and the Town solicitor and schedule a Public meeting for March 4, 2013, regarding the proposed by-law and to seek input and comments from the public.

C. The Blue Mountains' Strategic Plan

The Entrance Permit By-law would further the Town's Strategic Plan Goal No. 2, "Addressing the Town's Municipal Infrastructure needs".

D. Environmental Impacts

None

E. Financial Impact

The Town would collect \$125.00 for each Entrance Permit Application, with a Pre and Post construction inspection required.

A security deposit in the amount of \$400.00 would be received for each Entrance Permit to guarantee performance of the works. Where remediation is required the Town could utilize the security deposit to perform the works and where necessary, additional remediation could be performed with additional costs collected in manner like property taxes.

F. In Consultation With

Jim McCannell, Manager of Roads and Drainage
David Finbow, Director of Planning and Building
Greg Miller, Manager of Building and By-Law / CBO
Ruth Prince, Manager of Revenue
John Metras, solicitor retained to act on behalf of the Town

G. Attached

1. Draft Entrance Permit By-law
2. Draft Municipal Works Permit
3. Draft Notice of Public Meeting

Respectfully submitted,

Reg Russwurm
Reg Russwurm
Director, Engineering and Public Works

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THE CORPORATION OF THE TOWN OF
THE BLUE MOUNTAINS

BY-LAW NO. 2013 -

Being a By-law to regulate the construction, reconstruction, installation, or placing of property entrances, landscaping, rural mailboxes and other works on public highways

WHEREAS Subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, C. 25 (the Act), states a municipal power, including a municipality's capacity, rights, powers and privileges of a natural person, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS Sections 11 and 27 of the Act enables the council of a municipality to pass by-laws regarding highways under its jurisdiction;

AND WHEREAS Section 398 of the Act enables the treasurer of a local municipality to add fees and charges imposed by the municipality, upper-tier municipality or local board, respectively, to the tax roll for a property in the local municipality and collect them in the same manner as municipal taxes;

AND WHEREAS Section 446 of the Act states where a municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense and the municipality may recover the costs of doing a matter or thing from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes;

AND WHEREAS it is deemed expedient by Council to pass a by-law so as to regulate the orderly and reasonable construction and reconstruction and resurfacing of property entrances on highway lands to and from travelled highways and to regulate the placing of landscaping and rural mailboxes on highway lands where such installation might interfere with highway operations, drainage or maintenance and to remedy any required remediation by application of Section 398 and/or Section 446 of the Act ;

NOW THEREFORE Council of the Corporation of the Town of The Blue Mountains does hereby enact as follows:

1. **DEFINITIONS:**

- i) **Highway:** shall mean and include a common and public highway, street, avenue, parkway, road allowance, lane, driveway, entrance, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.
- ii) **Property Entrance:** shall mean that portion of an entrance intended to provide access from a private property to a travelled highway and which is constructed, reconstructed, resurfaced, installed or placed upon municipal lands contained in the highway so as to adjoin the entrance to the travelled portion of the highway.
- iii) **Landscaping:** shall include, but not be limited to, tree plantings, decorative vegetative plantings, planters, headwalls, retaining walls and decorative features placed or constructed upon municipal lands contained in a highway.
- iv) **Rural Mailbox:** shall mean a receptacle intended for incoming or outgoing mail delivery located on or overhanging municipal lands contained in a highway.
- v) **Town:** shall mean The Corporation of the Town of The Blue Mountains.
- vi) **Works:** shall mean any construction, reconstruction, recontouring, filling, erection, placing or installation, either temporarily or permanently, on or over a highway

- vii) **Municipal Work Permit:** shall mean a Permit issued by the Director of Engineering and Public Works or his or her designate in response to the submission of a complete Application together with prescribed fees and charges as contained in the Town Fees and Charges By-law as may be amended from time to time and said Application and Permit shall be in a format approved by the Director and said format shall be subject to revision by the Director from time to time.
2. **THAT no person shall** construct or install or reconstruct any works representing a property entrance on, in or over any highway or portion thereof under the jurisdiction of the Town, without having first obtained a Municipal Work Permit.
 3. **THAT no person shall** construct or install any works representing landscaping on, in or over any highway or portion thereof under the jurisdiction of the Town, without having first obtained a Municipal Work Permit.
 4. **THAT no person shall** construct or install any works representing a rural mailbox on, in or over any highway or portion thereof under the jurisdiction of the Town, without having first obtained a Municipal Work Permit.
 5. **THAT no person shall** construct, reconstruct, erect, place or install, either temporarily or permanently, any works on, in or over any highway or portion thereof under the jurisdiction of the Town without having first obtained a Municipal Work Permit.
 6. **THAT** with regard to Clauses 2, 3, 4 and 5 aforementioned, any prescribed Permit Deposit submitted together with an Application for Permit and prescribed Permit Fee, may, upon approval by the Director, be utilized to repair or remediate any damage caused by works completed on municipal land in connection with a Permit and not repaired or remediated by the Applicant to the satisfaction of the Town. Determination of any required repair or remediation shall be at the sole discretion of the Director or his or her designate. The Director, at his or her sole discretion, may utilize the Permit Deposit to either correct damage caused as a result of the works under the Permit, or to transfer an equal amount into an appropriate reserve designated by the Treasurer to be utilized at a date convenient to the Town to correct the damage.
 7. **THAT** in the instance of works being completed on, in or over any highway in the absence of a Municipal Work Permit, the Town may undertake repairs utilized to repair or remediate any damage caused by works completed on municipal land and not repaired or remediated by the Applicant to the satisfaction of the Town. Determination of any required repair or remediation shall be at the sole discretion of the Director or his or her designate.
 8. **THAT** with regard to Clauses 6 and 7 aforementioned, in the event that there is an insufficient Permit Deposit, or no Permit Deposit, or no Municipal Lands Work Permit obtained, and any remediation costs remain unpaid, the Director is authorized to request the Treasurer under Section 398 and/or Section 446 of the Act to add those costs to the tax roll as charges to be collected in a manner like property taxes.
 9. **THAT every person** who contravenes any provision of this By-law is guilty of an offence and shall, upon conviction, be liable to a fine as provided under the *Provincial Offences Act*.
 10. **THAT** Township of Collingwood By-law No. 95-29 is hereby rescinded.

Enacted and passed this day of , 2013

.....
Ellen Anderson, Mayor

.....
Corrina Giles, Clerk

Municipal Work Permit Application

Application Fee: Shall include a Permit Fee together with a Deposit to be returned upon request from applicant for Town inspection and upon Town acceptance of final works. This fee must accompany any application. The applicant must request a preliminary inspection prior to any works being completed.

To be completed by registered owner (please print):

Name _____

Lot/Plan _____ Lot/Concession _____

Fronting highway _____ Telephone _____

Civic and Mailing address _____

E-mail address _____

Application is hereby made for the following:

- construct a new entrance
- resurface/reconstruct an existing entrance
- construct curbs, gutters or
- change the design or location of an existing entrance
- change of classification of entrance any existing entrance (residential to temporary commercial, etc.)
- construction of a temporary use lands or right-of-way for property access
- installation of landscaping/rural mailbox
- construction of a culvert headwall

For Utility Locates, call Ontario One Call at 1 800 400 2255

Land Severance Information: Is this application a Condition of Consent: Yes/No _____

If Yes, please provide the Application No. _____

Entrance is required for:

Residential Commercial Industrial Field/Bush

Design Details:

Number of entrances requested: _____

Material proposed for construction, including culvert or drainage works if required and entrance surface and landscaping features:

It is agreed that all works will be completed at the expense of the applicant. No works shall proceed prior to issuance of a Municipal Work Permit. The issuance of a Permit does not relieve the applicant from the responsibility of compliance with other Town By-laws, where applicable.

The applicant and heirs, executors, administrators, successors and assigns agree in making this application to indemnify and save harmless the Town of The Blue Mountains, its employees and agents against all loss, cost, changes, damages whatsoever to which the Town may be put or suffer or sustain or for which the Town may be liable by reason of anything done or omitted to be done in the construction, maintenance, alteration or operation of the works authorized by the Town.

Date

Signature of applicant

Municipal Work Permit No. _____ 911 Property Number _____

Please attach a complete sketch showing the location of proposed entrance and/or landscape works. Show entrance in proximity to existing buildings and structures, driveways, highway. Complete in dark ink and include a north arrow. The applicant must request a preliminary inspection of proposed works prior to any works being initiated or completed by calling **519 599 3131, ext 276.**

Fee received _____ Date _____ Receipt No. _____

Deposit fee to be returned upon request from the applicant for a final Town inspection and upon Town acceptance of final works once completed. For final acceptance by the Town, all works must be completed in compliance with Conditions of Permit issuance.

The roadside must be left in a neat and clean condition, and landscaping repaired.

If roadside ditches are present, slopes must be neatly trimmed with topsoil and not steeper than 2:1.

If a culvert has been placed, culvert ends must be clean, and culvert must not be damaged.

If a culvert must be placed, ditches should be cleaned out to prevent ponding at culvert ends.

Landscaping features must not interfere with or block existing drainage and cannot extend past edge of shoulders of the road.

Landscaping features cannot block sight lines or interfere with pedestrian traffic.

This section for Town use only

Length of pipe or culvert _____ Size of pipe or culvert _____

Width of entrance _____ Gauge /thickness _____

Approximate distance approaching traffic is visible from the point of entrance to highway

From the right _____ From the left _____

Which, if any, of the following will be affected:

____ Road Drainage ____ Trees, shrubs, plantings ____ Guide Rail ____ Signage

____ Sight Lines ____ Winter Maintenance ____ Pedestrian Traffic ____ Nil

Approved for issuance by: _____ Date _____

Not approved for issuance by: _____ Date _____

Remarks, if any, regarding initial application details and approved Permit Conditions:

Please clean out ditch before installing a pipe or culvert so ponding is not created at either end.

Final inspection approved by _____ Date _____

Deposit refund approved by _____ Date _____

Deposit refund issued by _____ Date _____

Deposit refund cheque No. _____ Date _____

NOTE: This Permit will expire ONE year from the date of approval for issuance if proposed works are not completed and upon such expiry the deposit fee alone shall be refunded. If the proposed works are constructed without a preliminary inspection and/or a final inspection having been requested within TWO weeks following construction, the applicant agrees the deposit fee shall be forfeited to the Town.

**NOTICE OF PUBLIC MEETING
REGARDING A NEW REGULATORY BY-LAW**

In accordance with the Corporate Provision of Notice Policy, please take notice that on Monday, March 4, 2013, the Council of The Corporation of the Town of The Blue Mountains will hold a public meeting regarding a proposed Municipal Work Permit By-law (Entrance, Landscaping, Mailbox Permit). The current Permit fee of \$125 and security deposit charge of \$400 will remain unchanged.

The proposed By-law would replace former Township of Collingwood By-law 95-29 and would apply in the whole of The Blue Mountains.

All interested parties are invited to attend the public meeting:

Date: Monday, March 4, 2013
Time: 7:00 PM
Location: Town Hall, Council Chambers
32 Mill Street, Thornbury, ON

Any person may attend the public meeting and make written or verbal representation either in support of or in opposition to the by-laws. Written submissions are invited and should be directed to the Town Clerk no later than 12:00 pm (noon) on Wednesday, January 16, 2013. Written comments received and submissions made at the public meeting will be considered by Council prior to the enactment of a new Work Permit By-law.

Copies of the proposed Municipal Work Permit By-law will be available at Town Hall, Engineering and Public Works Department (second floor) and through the Town's website, www.thebluemountains.ca

Inquiries should be directed to Stephen Keast, (519) 599-3131 ext. 279 or skeast@thebluemountains.ca

Dated December 19, 2012

Corrina Giles, Town Clerk
Town of The Blue Mountains
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519-599-7723 (Fax)