



Municipal Land Use Guideline

Infrastructure and Public Works Department

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Definitions (Note: Words in *italics* in this document are defined terms)

Act: Shall mean the Highway Traffic Act R.S.O. 1990, H.8.

Application: Shall mean the application prescribed by the *Director* to apply for a *land use permit*.

By-law: Shall mean By-law #2014-65.

Commercial/Industrial/Institutional Entrance: Provides access to Commercial/Industrial/Institutional lands.

Construction Equipment and Vehicles: Steel track, drum, pad or wheel vehicles and construction vehicles with EASL ratings greater than 0.5 including dump trucks, concrete trucks, loaders, equipment and material delivery vehicle etc.

Damage Deposit: Shall mean a sum of money paid by the *owner* to the Town as a condition of the issuance of a land use permit which may be used by the Town to repair any damage caused to *town land* during the installation of the *works* for which a *land use permit* is issued for or during the construction of any buildings or structures on the *owner's* land.

Director: Shall mean the person holding the title of Director of Infrastructure & Public Works or the Director of Community Services for the Town or his or her designate, depending on the location of the buildings or structures or the proposed *works* on *town land*.

Easement: Shall mean an easement appurtenant to land granted in favour of the Town for construction of municipal and utility infrastructure.

Emergency Access: Provides access to developments, for emergency vehicles only, in the event that the main access to the development is not available. Adequate measures are to be incorporated into the emergency access to prevent (actively discourage) use by private residences or delivery vehicles.

Field Entrance: Shall mean an entrance to access agricultural lands where no buildings or structures exist. Typically 1 access may be granted per field.

Municipal Road: Shall mean a common and public highway under the jurisdiction of the Town the types of which are more particularly described in section 26 of the *Act* and includes a Municipal Road that has not been assumed by by-law for public use. Private (Condo) Roads, County Roads and Provincial Highways are not Municipal Roads.

Install: Shall also mean erect, construct, reinstall, reconstruct, undertake, perform, place or store.

Land Occupancy Agreement: Shall mean an agreement between the *owner* and the Town permitting the installation and defining the terms of *works* on *town land* and the encroachment on or occupation of *town land* by buildings, structures or *works*.

Licence Fee: Shall mean an annual fee set out in the Town's fees and charges by-law to be paid to the Town for the right for buildings, structures and *works* to encroach on and occupy *town land* in accordance with a *land use permit* or *land occupation agreement*.

Municipal Land Use Permit: Shall mean a permit issued by the Director in accordance with the by-law for the installation of *works* on *town land* and the encroachment on or occupation of *town land* by buildings, structures or *works*.

Order: Shall mean an order made under Section 445 of the Act.

Owner: Shall mean the person who, as the context of By-Law 2014-65 requires, is the *owner* of the works of the encroaching buildings, structures or *works* or the vehicle for which the *land use permit* is issued.

Permit Fee: Shall mean a non-refundable fee set out in the Town's fees and charges by-law to be paid to the Town for a *land use permit*.

Person: Shall mean an individual and includes a corporation and the successors, assignees, heirs, executors, administrators and other legal representatives of a person.

Residential Entrance: Provides access to a residential lot as per the applicable zoning provisions.

Right of Way (ROW): Shall mean the full width of the highway granted as *town land* and includes the travelled portion of the highway as well as the boulevards.

Staging: Shall mean the placement, deposit, temporary storage, loading or unloading of equipment and materials of any kind on *town land*, but does not include the lawful parking of vehicles.

Street Furniture: Objects and equipment installed within the Right of Way (ROW) for different purposes including municipal infrastructure such as hydrants, valves, maintenance holes, buried pipes and wires, inspection ports, signage, guide rails, guards, benches, landscape features, street trees etc. and utility infrastructure such as poles and associated guys, pedestals, transformers, switching gear, buried pipe conduit and wires etc.

Temporary Entrance: Provides access to properties for a limited period of time, to be determined by the Town typically one (1) year, for construction, repairs or improvements on the subject property.
Temporary Entrance Permits

Town: Shall mean the Corporation of the Town of The Blue Mountains.

Town Land: Shall mean any land owned, managed or leased by the Town and shall include, but not be limited to, parkland, public open space, public waterfront access points, highways and easements appurtenant in the Town's favour and any Town owned infrastructure installed on town land.

Works: Shall mean any works, including but not limited to, filling, grading, drainage, culverts, driveways, berms, fencing, trees, shrubs, hedges, landscaping of any kind, property entrances, utilities, private plumbing, scaffolding, staging material, debris, patios, planters, signage, rural mailboxes or any other object or thing. The total construction and related services that change the pre-construction condition.

Introduction

The Town of The Blue Mountains enacted By-Law 2014-65, being a By-law to regulate the installation of *works* on *town land* and establish a process to issue *Municipal land use permits*, on September 22, 2014. The following guidelines provide direction on the design and implementation of *works*. From the By-Law 2014-65 Section 2 “No person shall install or cause to be installed, either temporarily or permanently, any *works* on, over or under any portion of *town land*, without the *owner* having first obtained a *land use permit* from the *Director* in accordance with this by-law”. The *owner* of the *works* is ultimately responsible for all compliance with the *Municipal Land Use Permit* requirements and the materials, construction methods and construction forces associated with the *works*.

Town Land may be misunderstood by some *owners*. Most are aware that a municipal road, typically 6 to 9 meters (20 to 30 feet) wide consisting of asphalt and possibly curbs, exists within a *right of way (ROW)* that is typically 20 metres (66 feet) wide. The entire *ROW* is *town land* which means a portion of the residential front yards that are maintained by the *owner* are actually on *town land*. In addition to *ROWS*, *town lands* include parks, blocks and easements for municipal infrastructure like water mains, sanitary and storm sewers, storm drainage routes, and unopened road allowances etc.

Owners should be aware of:

- the presence of *town land* such as easements appurtenant on their lands. An easement granted to the Town as a condition of the Planning Agreement for example, will have restrictions on the *owner's* use of their land within the easement. Typically an easement is granted to allow construction of infrastructure required, access to infrastructure or a storm drainage route to service the development. Typically these easements must be clear of all encumbrances to allow the Town access to monitor and maintain the infrastructure. These lands shall not be encumbered by the land owner beyond what is allowed by the easement without a valid *land occupancy agreement*;
- the presence of *town land* abutting their property. The Town owns numerous blocks of land that were typically granted as a condition of a Development Agreement or registration of a Plan of Subdivision. *Owners* of land abutting *town lands* shall not encumber these lands with anything more than natural ground cover. In some cases these lands will be left to naturalize by the Town. Abutting land owners shall not encumber or occupy these lands without a valid *land occupancy agreement*;
- Where land *owners* have constructed *works* on *town land* either inadvertently, as in the case of extending landscaping from their property, or without due regard to the ownership of land, a *land occupancy permit* shall be required or the *works* removed.

A *Municipal Land Use Permit* is required:

- When any *works*, either temporary or permanent, are undertaken or constructed on, over or under any portion of *town land* a permit is required. This permit is needed regardless if the *works* are being constructed under a planning agreement, municipal contract, or operations and maintenance of existing *works*. The permit shall be obtained prior to the start of the

construction of the *works*. A fine may be levied when *works* are undertaken without a permit and the *works* may be required to be removed.

- There are three main types of Municipal Land Use Permits namely:
 1. Entrance Permits
 2. Frontage Deposits
 3. Land Occupancy Permits

Entrance Permits with Frontage Deposits are required:

- when land is developed or redeveloped; structures are constructed or expanded; significant landscape constructed; occupancy changes (such as residential to commercial); when activities on the land involve *construction equipment and vehicles* or any staging/storage of material or vehicles on *town land*, regardless of the presence any existing form of entrance to the land;
- when an existing entrance is being changed in any way (such as surface material, dimensions or grade), relocated, occupancy changes (such as residential to commercial);
- when a temporary entrance is required (this class of permit requires renewal if it remains in place beyond the term of the permit and/or the lot is not developed with a permanent entrance permit);
- when a field entrance is required for agricultural purposes.

Frontage Deposits are required:

- when an permanent entrance exists and grading or landscaping will be performed on the associated land that has a value greater than \$25,000 or excavations will be performed;
- when an permanent entrance exists and activities on the land involve *construction equipment and vehicles* or any staging/storage of material or vehicles on town land;
- when a permanent entrance exists and the improvement on the associated land that has a value greater than \$25,000;

Lands Occupancy Permits / Land Occupancy Agreements are required:

- when *works* are proposed to be constructed on, over and under *town lands*.

Restrictions to Staging on *Town Land*

Owners must ensure that staging/storage of material on open roads or sidewalks are removed and the road/sidewalk cleaned by 4:30pm each day Monday to Friday. No staging/storage of materials is allowed on weekends or holidays or between November 1st and May 31st which is the winter control season. At no time shall staging/storage of material restrict an open road to less than a 6.0m wide clear route for emergency vehicle passage. Emergency vehicles have planned routes through the road network for emergency response and they rely on these routes to be clear of obstructions. *Construction equipment and vehicles* associated with the construction must also adhere to the same restrictions as staging and storage of material on open roads.

Entrance Permits

Site Plan

All entrance permits shall be accompanied by a detailed, scaled site plan that describes the existing conditions, drainage patterns and the *works* that are proposed for the entrance and the lot frontage. The site plan must show sufficient detail of the existing lot and surrounding land as appropriate for the complexity of the *work*. The site plans shall include:

- North arrow.
- Street names.
- Drainage features both upstream and downstream of the planned entrance such as existing entrance culverts or road crossing culverts and proposed ditch grades.
- Existing *street furniture* such as hydrants, street lights, utility pedestals, sidewalks, street trees etc.
- Width of entrance and proposed entrance material (paved in ROW on hard surface roads)
- Length diameter, gauge/wall thickness of culvert, clearance from property line, clearance from existing culverts and drainage structures.
- Clearance of the entrance required by zoning from the property line and *street furniture* such as hydrants, utility poles, utility pedestals, hydro vaults, street lights street trees etc.

Location of Entrance

The Town may restrict the location of an entrance onto a *municipal road* in the interest of public safety. General considerations for the location and design of an entrance are:

- Interference with safe movement of public traffic, pedestrians or other users of the road;
- Sight lines/distances, grade and alignment of the new entrance;
- Proximity of proposed entrance to intersections, bridges and street furniture
- Grade of the Entrance within the Right of Way (boulevard)
- Rural road culvert end treatment/driveway ditch slope/drainage from entrance
- Zoning requirements for the land to which an entrance is granted

Entrance Sight Line Distances

The following minimum sight distances are recommended for entrance locations:

<u>Posted Speed Limit</u>	<u>Minimum Sight Distance</u>
50km/h	120m
60km/h	140m
70km/h	160m
80km/h	180m

When measuring the sight distance the following standard measurements shall be used:

Driver's eye level above ground	1.05m
Height of oncoming vehicle roof	1.30m
Eye level location for vehicles entering road	3.0m back from edge of road

Entrances on Rural Road Cross-Sections

A rural road cross-section does not mean a road in the rural area of Town. A rural road cross-section means any road that has a roadside ditch. The entrance to land or lots on a rural road cross-section will require a culvert to allow the water in the ditch to flow under the entrance. The Town has developed "Rural Entrance Profile Guidelines" and "Rural Culvert Profile Guidelines" drawings, see Appendix A.

The entrance must be constructed in conformance with the road's cross-section design. For lots within new subdivisions that have not been assumed by the Town, there may be features that have not been constructed. Homes and entrances may be constructed before all of the developer's work is complete. The entrances shall be constructed to accommodate the road design.

The entrance must have a low spot over the culvert for a number of reasons:

- The storm water flowing off the driveway must be directed to the ditch rather than the road;
- The snow plowing operation requires that the entrance between the edge of the road and the culvert continue the cross fall of the road to allow the snow to be pushed off the road and reduce damage to the entrance surface; and,
- Culverts are typically undersized for significant storm runoff events, if the storm event washes out the culvert this damage must be contained in the ditch line and not erode the road structure.

The maximum length of a culvert for a residential entrance is 9 metres. The maximum width of a residential entrance is 6.1m. Depending on the width of the entrance and the depth of the ditch a number of issues should be considered:

- A standard road side ditch with the current Town standard road structure should have an invert approximately 1.0m below the road centreline. With the road cross fall at 2% carried to the location of the culvert, the entrance at this point should be approximately 0.85m above the culvert invert. Using a 3:1 slope from the culvert inverts up to the edge of the entrance will result in an entrance width of approximately 4m.
- If a wider entrance than 4m is desired the slope from the invert of the culvert to the edge of driveway will be steeper than the recommended maximum 3:1 slope and some form of culvert end treatment/entrance side slope support or culvert headwall will be required.
- A shorter culvert may also be selected by the owner with appropriate culvert end treatment/entrance side slope support or culvert head wall. The Town generally prefers the shortest culvert possible.
- Where driveway side slope support or culvert headwall is used, the feature shall not be higher than the entrance surface within the boulevard.

The entrance structure must be constructed properly to reduce frost heaving of the culvert. Culvert humps and culvert headwall failures are typically associated with poor preparation, poor construction techniques and unsuitable materials. Construction of the entrance shall include the following:

- All organic material (topsoil, vegetation, stumps and roots) shall be removed from the footprint of the entrance and culvert. All organic material, soil and rock shall be removed to a depth of 200mm below the design invert of the road side ditch.

- Please note that for older roads the ditches may be partially filled with winter sand and naturalized vegetation. The ditch across the lot being developed may need to be re-graded as part of the entrance construction. Elevations of the nearest upstream and downstream culvert shall be confirmed and included on the permit site plan to determine the required inverts for the new entrance culvert.
- All pipe bedding, pipe embedment, backfill and entrance base shall be Granular A. Proper compaction of this granular material is key to the performance of the entrance and culvert.
- Entrances that are extended from roads that are paved with any form of surface treatment (asphalt, concrete, tar and chip, etc.) must be paved with a minimum of 65mm HL-3A compacted to 92% of the material's Maximum Relative Density (MRD) on a Granular A base of 200mm compacted to 98% of the material's Standard Proctor Maximum Dry Density (SPMDD).

The minimum diameter of an entrance culvert is 500mm. Where a lot is located in an engineered subdivision, the culvert size and grades must conform to the requirements of the subdivision design. In some rare cases, where the upstream catchment area is small or the entrance is located at a highpoint in the road, a culvert smaller than the minimum may be allowed at the discretion of the *Director*. Corrugated Steel Pipe (CSP) entrance culverts shall have a minimum wall thickness of 2.0mm (14 gauge) and shall be Z610 galvanized ($610\text{g}/\text{m}^2$) with a 50 year service life. High Density Poly Ethylene (HDPE) entrance culverts shall be open profile (Boss 2000) and rated as 320 kPa.

The location of the culvert and entrance in the ROW is governed by the Town's infrastructure maintenance requirements as well as the Zoning By-law requirements. The definition of the projection of the side property line and side yard is critical to this discussion. The side property line projection is a theoretical line that extends from the front lot corner to the centre of the ROW either along a line perpendicular to the centreline of the ROW or the centre point of a cul-de-sac or an expanded elbow. The culvert shall have a minimum of 1.0m clearance from the projection of the side property line. The entrance shall have a same side yard clearance required by the zoning of the subject property from the projection of the side property line.

Where an entrance will serve land that has not been "engineered", significant work by the *owner* may be required. Examples of these would be lots created by severance or lots in an older Plans of Subdivision. The work could include extensive ditch and boulevard work to create the proper road cross-section in front of the lot. Permits from other agencies may be required. Engineering analysis of the local storm run-off and culvert size may also be required.

The maximum grade for an entrance within the ROW is 4%. The minimum grade should be sufficient to promote drainage. The entrance must have a low point over the culvert so that water draining off the road and the driveway will be directed to the ditch.

Landscaping is not allowed within the ROW other than ground cover consisting of either grass on topsoil or wood chips on filter fabric. Any landscaping within a Town right of way or an easement granted to the Town may be removed at any time and will be restored to the allowable ground cover mentioned above.

Entrances on Urban Road Cross-Sections

An urban road cross-section does not mean a road in the urban area of Town. An urban road cross-section means any road that is serviced by a storm sewer system and does not have a roadside ditch.

Urban cross-section roads where homes are being constructed that require new entrances are often in new subdivisions. The development process allows these lots to be sold and homes constructed before all of the subdivision work is complete. The roads in a new subdivision are not assumed by the Town until all the work is complete and deficiency free. If *owners* complete entrance *works* before the subdivision work is assumed by the Town the entrance may have to be partially removed to allow the subdivision work completed. This may result in a patched appearance for the entrance. The *owner* should coordinate their entrance work with the developer's completion of the subdivision work.

One example of incomplete subdivision work are the sidewalks. The entrances shall be constructed to accommodate the future sidewalks. The sidewalks has a design grade within the ROW and this will not be altered to match entrances constructed without regard to the sidewalk grades. The entrances and driveways will have to be reconstructed as required to match the sidewalks. The *owner* may wish to pave the entrance after the sidewalk is constructed.

Another example is curb that is damaged prior to assumption and must be replaced. If the entrance is completed before assumption and damaged curbs have to be replaced, partial replacement of the entrance may be required. The partial replacement of an entrance is relatively simple with asphalt but it becomes more difficult with concrete that is coloured, stamped or exposed aggregate. The *owner* may wish to pave the entrance after the curbs are deficiency free.

The maximum width of an entrance shall be as per the zoning regulations for the land being developed, typically 6.1m.

The entrance structure must be constructed properly to avoid differential settlement and frost heaving. Premature failure of entrances is typically associated with poor preparation, poor construction techniques and unsuitable materials. Entrances are the property of the associated land that they serve, constructed under a permit from the Town. Construction of the entrance shall include the following:

- All organic material (topsoil, vegetation, stumps and roots) shall be removed from the footprint of the entrance.
- Entrances that are extended from roads that are paved with any form of surface treatment (asphalt, concrete, tar and chip, etc.) must be paved with a minimum of 65mm HL-3A compacted to 92% of the material's Maximum Relative Density (MRD) on a Granular A base of 200mm compacted to 98% of the material's Standard Proctor Maximum Dry Density (SPMDD).

The location of the entrance in the ROW is governed by the Town's the Zoning By-law requirements. The definition of the projection of the side property line and side yard is critical to this discussion. The side property line projection is a theoretical line that extends from the front lot corner to the centre of the ROW either along a line perpendicular to the centreline of the ROW or the centre point of a cul-de-

sac or an expanded elbow. The entrance shall have a same side yard clearance required by the zoning of the subject property from the projection of the side property line.

Where an entrance will serve land that has not been “engineered”, significant work by the land owner may be required. Examples of these would be lots created by severance or lots in an older Plan of Subdivision. The work could include extensive ditch and boulevard work to create the proper road cross-section in front of the lot. Permits from other agencies may be required. Engineering analysis of the local storm run-off and culvert size may also be required.

The maximum grade for an entrance within the ROW is 4%. The minimum grade for an entrance will be sufficient to promote drainage. The cross fall for a sidewalk shall be between 2% and 4%.

Temporary Entrances

When an *owner* requires access to their property for a limited time they shall obtain a *Temporary Entrance Permit*. The Town will issue *temporary entrance* permits for a specific time period and not longer than 2 years. At the end of the permit's time period the entrance shall be removed by the *owner*. If the *owner* requires the *temporary entrance* beyond the permit time period they shall apply for a new *temporary entrance* permit.

A *temporary entrance* may be issued when:

- A permanent entrance to the land exists but access to the works is not possible from the permanent entrance.
- The *owner* needs access to their land, for a limited time, maximum term is 2 years.
- A new temporary entrance permit is required if at the end of the term of an existing permit the access is still required

Field Entrances

When a land *owner* requires access to their property for an agricultural purpose and no structures are present or proposed for the land, they shall obtain an Entrance Permit for that purpose. Typically the Town issues 1 field entrance permit for a single field or contiguous fields.

Frontage Deposits

Frontage Deposits are required (with some specific exceptions) with an Entrance Permit. Frontage Deposits are also required when *works* are constructed on land fronting a Municipal Road. The Frontage Deposit includes a non-refundable fee as well as a damage deposit.

The purpose of the Frontage Deposit is to capture a deposit against damage that might be caused to the existing municipal infrastructure when entrances are constructed or significant *works* are being constructed on the private lands.

A Frontage Deposit is required when any of the following conditions apply:

- A permanent entrance exists and construction of works with a value greater \$25,000 will be performed.
- Construction staging associated with the site work will occur on *town land*.
- A permanent entrance exists and grading or landscaping will be performed on the associated land that has a value greater than \$25,000 or excavations will be performed;
- A permanent entrance exists and activities on the land involve *construction equipment and vehicles* or any staging/storage of material or vehicles on town land;
- A permanent entrance exists and the improvement on the associated land that has a value greater than \$25,000;

Land Occupancy Permits

By-law 2104-65 Section 2 states “No person shall install or cause to be installed, either temporarily or permanently, any *works* on, over or under any portion of *town land*, without the *owner* having first obtained a *land use permit* from the *Director* in accordance with this by-law”. The *owner* of the *works* is ultimately responsible for all compliance with the Municipal Land Use Permit requirements and the materials, construction methods and construction forces associated with the *works*.

The *Director* may refuse to issue or renew a Land Occupancy Permit if the *Director* decides that the installation of the *works* on *town lands* or the continuing encroachment on or occupation of *town land* with any *works* will interfere with the current or future use, operations, maintenance and construction activities of the Town. An *owner* may appeal a decision made by the *Director* under this section to the Town Council whose decision on the appeal will be final.

The *owner* of the *works* that has a valid permit shall pay the *licence fee* associated when due in accordance with the *land occupancy agreement*. The *owner* of the *works* shall remove same, at their own expense, if they fail to pay the *licence fee* or the Town refuses to renew the permit. If the *owner* does not remove the *works* the Town may, at the *owner's* expense, remove same, restore the town land and recover the costs, along with a 25% administration fee, from the *owner*.

The *owner* of *works* installed on *town land* before the enactment of By-Law 2014-65 shall obtain a land use permit for such works if required by the Director regardless of the date of installation and circumstances of the *works* regardless of whether the works are temporary or permanent.

Landscape allowed on *town lands* without a *Land Occupancy Agreement*

Generally private land owners shall not encumber *town lands* with any landscape, structures or works either above or below ground. *Town lands* that are not developed with roads, sidewalks, trails, parking areas, scour protection measures, municipal infrastructure etc. are grass covered or allowed to naturalize.

Town lands that are a *ROWs* typically contain the municipal infrastructure such as roads, sidewalks, street trees etc. on the surface and water distribution and wastewater and storm water collection systems below grade. The *ROWs* also contain utility infrastructure such as the Bell, Rogers, Hydro One, Collus/Power Stream, Union Gas utility systems. The utility systems include the mains and services underground or on pole lines as well as the distribution control devices such as pedestals, transformers, control apparatus, valves etc. The Town and the utilities require the boulevards be kept clear of encumbrances to allow access for maintenance and repair. Any private encumbrances present on *town lands* may be removed at any time by the Town or Utilities for any reason and the disturbed area will only be restored with grass seed.

With this understanding of the *town lands*, it is clear that private front lawns extend from the private lands onto the *town land*. The private landowner should understand that limited landscaping is allowed beyond their private land onto the *ROW*. The default condition of landscaping within the *town land* is

grass ground cover over 150mm of topsoil. For no more than 0.9m into the ROW from a private lot the following is allowed:

- Plantings and herbaceous shrubs no more than 0.6m above the boulevard grade,
- Stones less than 0.45m diameter at their largest dimension,
- Raised flower beds less than 0.15m in height,
- Low voltage solar powered landscape or feature lighting.

Notwithstanding the above, at least 0.6m wide strip of grass is required adjacent to the sidewalk or back of curb where there is no sidewalk. Only grass ground cover is allowed between the curb and sidewalk.

Works not described above are not permitted within the road allowance, including:

- Fences,
- Signs,
- Retaining walls,
- Underground sprinkler systems,
- Rocks, cobbles, boulders,
- Private underground electrical wiring greater than 50 volt AC.