

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW No. 2004-12

Being a BY-LAW To Regulate Entrances onto Municipal Highways

WHEREAS Section 11 and 27 of *The Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes the passage of By-laws by local Municipalities regarding highways under its jurisdiction;

AND WHEREAS Section 35 of *The Municipal Act, 2001*, S.O. 2001, c.25 as amended, provides that except as otherwise provided in this *Act*, under the sphere of jurisdiction “highways, including parking and traffic on highways”, a Municipality may pass By-laws removing or restricting the common law right of passage by the public over a highway and the comm law right to access to the highway by the owner of land abutting a highway;

AND WHEREAS Section 427 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a Municipality to enter onto property to complete works and to recover costs related thereto;

AND WHEREAS the Council of the Municipality of Magnetawan deems it appropriate to restrict and regulate entrances to Municipal highways from private lands;

NOW THEREFORE the Council of the Corporation of the Municipality of Magnetawan enacts as follows:

1. Definitions

In this By-law:

- 1.1 ‘Entrance’ shall mean an access point from a highway to lands adjacent to the highway and may include a driveway, laneway, private road or structure;
- 1.2 ‘Highway’ shall mean a highway as defined in the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, and under the jurisdiction of the Municipality;
- 1.3 ‘Corporation’ or ‘Municipality’ shall mean the Corporation of the Municipality of Magnetawan.

2. Administration of By-law

- 2.1 Unless otherwise indicated, the administration of the By-law is assigned to the Municipal Road Superintendent who may delegate the performance of his/her functions under this By-law from time to time as occasion requires.

3. Prohibition

- 3.1 No person shall construct or alter or cause to be constructed or altered any entrance to a highway unless an entrance permit has been issued by the Municipality for such entrance.

4. Change in Use

- 4.1 No person shall make or permit any change of use of any entrance onto a highway unless such change of use has been authorized by an entrance permit issued by the Municipality.

5. Municipal Responsibilities

- 5.1 That the Road Superintendent of the Municipality will grant an Entrance Permit after being satisfied that the proposed entrance location is the most suitable location having regard to matters of safety, good road building practices and providing that drainage of Municipal Roads is not adversely affected;
- 5.2 That the Road Superintendent of the Municipality shall determine whether gravel,

asphalt, cement or other hard surface will be permitted to that portion of an entranceway which crosses over any part of Municipal Road allowance;

- 5.3 That prior to the refund of any portion of the deposit, an 'Inspection Form' shall be completed by the Road Superintendent or his designate, certifying that the condition of the curbing, sidewalk or roadway is satisfactory, or recommending that certain repair work be carried out at the expense of the abutting property owner;
- 5.4 That the Municipality shall be the sole judge of damage and for determining charges for repairs to be charged against the deposit;
- 5.5 That in the event that the amount of the deposit fails to cover the amount of the damages, the person who paid the initial deposit shall be issued an Invoice for the balance of the costs.

6. Municipal Boundaries / Road Work Agreements

- 6.1 Where Highways within the Municipality form a boundary between adjoining Municipalities, and where there are road work agreements between adjoining Municipalities to share road work on common roads, the Road Superintendent of the Municipality shall have jurisdiction over that portion of the roadway that lies within the boundaries of the Corporation of the Municipality of Magnetawan;
- 6.2 That the Road Superintendent will consult with the adjoining Municipalities Road Superintendent on matters of safety, good road building practices and providing that drainage of Municipal Roads is not adversely affected.

7. Permits

- 7.1 An Entrance Permit may be issued by the Municipality whereupon the Municipality is satisfied that the proposed use of the entrance and the entrance location is appropriate having regard to the issues of safety, good road building practices and drainage and such permit may set out the terms and conditions that apply to the permit.

8. Applications

- 8.1 An application for entrance permit shall be in a form prescribed by the Municipality and attached hereto as Schedule 'A'.

9. Fees and Deposits

- 9.1 An entrance permit applications shall be accompanied by the fees and security deposit set out in Schedule 'B' attached hereto.

10. Costs

- 10.1 All costs arising from the issuance of an entrance permit and works authorized thereunder shall be the responsibility of the entrance permit applicant. The Municipality shall require the applicant to provide a security deposit to cover the cost of any damages to Municipal property and to cover the costs of works undertaken by the Municipality pursuant to Section 11 and 12 herein.

11. Construction of Works on Municipal Property

- 11.1 Where an entrance requires the placement, installation or alteration of a culvert or bridge over a Municipal drain or watercourse located on Municipal lands, such culvert or bridge shall be constructed by the Municipality or its agents and the costs of such construction, pursuant to Section 10 herein, shall be the responsibility of the entrance permit applicant.

12. Incomplete Works

- 12.1 Where the construction or alteration of an entrance authorized by an entrance permit, has not been completed in accordance with the entrance permit and any terms or conditions therein and where, in the opinion of the Municipality, the condition of such entrance constitutes a hazard, the Municipality shall enter upon the applicant's lands to complete all necessary works to eliminate the hazard, whether or not such permit had become null and void pursuant to Section 13.
- 13. Expiry of Permit**
- 13.1 Where an entrance has not been constructed or altered within one (1) year of the issuance of the permit therefore, the permit shall become null and void.
- 14. Inspection**
- 14.1 Upon the completion of works authorized under an entrance permit, the Municipality shall inspect the entrance and where necessary identify any further works that must be completed. Upon satisfaction of all terms and conditions and whereupon the Municipality approves of an entrance, the Municipality shall issue a letter certifying that the entrance complies with the entrance permit.
- 15. Release of Deposits**
- 15.1 Upon the issuance of a certification pursuant to Section 14 herein, the Municipality shall release the deposit collected with the application, less any amounts used by the Municipality under authority of this By-law.
- 16. Fines for Contravention**
- 16.1 Every person who contravenes this By-law and every director or officer of a Corporation who concurs in such contravention by a Corporation, is guilty of an offence and on conviction is liable to a fine not exceeding \$5,000.00.
- 17. Continuation - Repetition - Prohibited - By Order**
- 17.1 The court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted, and such order shall be in addition to any other penalty imposed on the person convicted.
- 18. Integrity of By-law - Severability**
- 18.1 Notwithstanding that any part or parts, section or sections of this By-law, a part or parts thereof, may be found by any court of law to be bad or illegal or beyond the power of the Council to enact, such part or parts, section or sections or a part or parts thereof shall be deemed to be severable, and all other sections of this By-law, or parts thereof, are separate and independent therefrom and enacted as such.
- 19. Repeal**
- 19.1 That all By-laws, or parts thereof, contrary hereto or inconsistent herewith, are hereby repealed.
- 20. THIS BY-LAW SHALL TAKE EFFECT UPON THE DATE OF PASSAGE.**

**Passed in open Council as read a First, Second and Third time,
this 26th day of May, 2004.**

Sam Dunnett, Mayor

Brenda J. Fraser, Clerk/Administrator

SCHEDULE 'B'
to By-law No. 2004-12

Fees and Deposits

1. Application Fee: \$50.00
2. Security Deposit: \$ 500.00 plus the estimated cost of works to be undertaken by the Municipality pursuant to Section 11 of this By-law.