

**CORPORATION OF THE TOWNSHIP OF**

**NORTH KAWARTHA**

**BY-LAW # 50/09**

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**A BY-LAW TO ADOPT A POLICY CONCERNING DEVELOPMENT ADJACENT TO MUNICIPAL ROADS**

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**WHEREAS** the Municipal Act, S.O. 2001, Chapter 25, Section 8 confers broad authority on municipalities to enable them to govern their affairs as they consider appropriate;

**AND WHEREAS** the Municipal Act, S.O. 2001, Chapter 25, Section 11 provides that a municipality may pass By-Laws respecting drainage and flood control;

**AND WHEREAS** the Municipal Act, S.O. 2001, Chapter 25, Section 27.(1) provides that a municipality may pass By-Laws in respect of a highway over which it has jurisdiction;

**AND WHEREAS** the Municipal Act, S.O. 2001, Chapter 25, Section 96 provides that a municipality may exercise its powers for the purpose of preventing damage to property as a result of flooding;

**AND WHEREAS** it is deemed expedient to provide for the regulation of the size and mode of construction of culverts that cross any drain or watercourse situated on a highway;

**AND WHEREAS** the Council of the Corporation of the Township of North Kawartha deems it necessary to update its policy concerning development adjacent to Municipal Roads.;

**NOW THEREFORE** the Council of the Corporation of the Township of North Kawartha enacts as follows:

1. Definitions

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| <b>“Applicant”</b>        | means a person being the owner(s) of a lot or his or her authorized agent applying for an Entrance Permit.   |
| <b>“Council”</b>          | means the Council of the Corporation of the Township of North Kawartha.  |
| <b>“Roads Supervisor”</b> | means the Roads Supervisor of the Township of North Kawartha or his designated representative.   |
| <b>“Entrance”</b>         | means that part of a highway which is used to gain access to private property.   |
| <b>“Boulevards”</b>       | means that part of a highway where grass is grown or which is not intended for use of vehicles, which is located either between the curb or outside edge of the shoulder or roadway inclusive of the area covered by a sidewalk or footpath or a centre portion of a highway not intended for vehicular traffic. |
| <b>“Street Line”</b>      | means the line dividing a private lot and the road allowance.  |

**“Highway”** means a common and public highway, street, avenue, parkway, driveway, 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.

**“Structure”** means anything constructed or erected, the use of which requires location on the ground or attached to something having location on the ground and used for the shelter or accommodation of person, animals or goods.

**“Township”** means the Corporation of the Township of North Kawartha.

2. That an “entrance way” for the purpose of this by-law is any driveway, laneway, private road, entrance, bridge or other structure or facility constructed or used as a means of access to a Municipal Road, and includes the tiling and covering or filling in of a roadside ditch for the purpose of improving a lawn or frontage.
3. That no person shall construct an entrance way without obtaining a permit from the office of the Road Supervisor. The permit fee shall be as set by Council from time to time.
4. That the diameter, gauge, length and type of culvert to be used shall be determined by the Roads Supervisor or their designate, having due consideration for the drainage area, height of fill and ground condition, but in no case shall the culvert be less than 400 millimetres in diameter and 9 metres in length.
5. That the location of the entrance way must be approved by the Road Supervisor to ensure maximum safety and free flow of traffic, and to minimize the possibility of interference with the road and avoid the creation or aggravation of any maintenance problem.
6. That unless authorized in writing on the permit issued by the Road Supervisor, the construction of all entrance ways, culverts and bridges shall be carried out under the direction of the Road Supervisor. In all cases the entire cost of the work shall be paid by the owners.
7. 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 side the road.
8. That no person shall apply an asphalt or other hard surface to that portion of an entrance way on the road allowance of a Municipal Road except under a permit issued by the Road Supervisor. No concrete surface or structures are permitted on the road allowance as part of any entrance way. Work referred to in the clause shall be carried out under the control of the Road Supervisor, in accordance with Municipal specifications and shall be paid by the owner. The Roads Department shall not be responsible for replacing any structures connected with the entrance culvert.
9. That the Corporation shall maintain and replace, from time to time as deemed necessary by the Corporation, all culverts installed under the provisions of this by-law. The maintenance of the driving surface of all entrance ways shall be the responsibility of the owner.

10. (a) Where a Municipal Road intersects with another highway and the Municipal Road is not the through road, no entrance will be permitted at a distance of less than 30 metres from the through highway and must comply with regulations as set out by the authority having jurisdiction over the other highway.
- (b) Each assessed parcel abutting a Municipal Road shall be entitled to one entrance permit only per land holding. A second entranceway onto a Municipal Road shall not be permitted unless it is an auxiliary/field entrance used solely for agricultural purposes or is replacing an existing entrance which is not an auxiliary/field entrance or is part of a circular driveway used solely for residential purposes in which case the distance between entrances of circular driveways shall not exceed 70 metres.
- (c) No new entrance permits shall be given to existing lots of record which currently have an approved access whether shared or otherwise onto a Municipal Road.

11. The following exemptions shall apply.

- (a) When an agricultural entrance becomes used for any other purpose, it shall be subject to the provisions of this by-law including Section 10.
- (b) If an agricultural entrance is used for any other purpose its location must comply with the non-agricultural provisions of this by-law.
- (c) The restriction of Section 10 does not apply where a legally prescribed reduced speed limit of 60 km or less has been established and the road supervisor is satisfied that all visibility and safety requirements have been met.
- (d) Multiple commercial or industrial entrances in conformance to Appendix "A" and on a single application for entrance shall, for the purpose of this by-law be regarded as a single entrance.
- (e) When a second entrance may be required to access a garage or a portion of the property restricted by natural features or buildings.

12. That every person who contravenes the provisions of this by-law is guilty of an offense and on summary conviction is liable to a fine of not less than \$50.00 and not more than \$300.00 exclusive of costs, and the Municipality may remove the entrance at the owners expense.

13. All non-agricultural entrances shall provide for adequate visibility in both directions based on the following:

- (a) Vertical Obstruction (crest in road) Observers eye at 1.1 metres above shoulder of road at proposed location being able to see 1.3 metres above centre line of on-coming lane for the following table of distances.

Speed Limited	Required Visibility
80 km/hr	180 metres
70 km/hr	160 metres
60 km/hr	130 metres
50 km/hr	100 metres

14. Should any section, clause or provision of this by-law be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the

validity of the by-law as a whole or any part hereof other than the part so declared to be invalid.

15. A person who wishes to install an entrance that is not in accordance with this by-law may apply for special consideration of their application. The Road Supervisor may grant an entrance if all visual obstructions and other adverse conditions are considered of a minor nature. The variance from the by-law specifications shall be noted on the application form releasing the Municipality of any liability arising from the noted changes.
  - (a) In the event that the Road Supervisor does not agree that the variance requested is minor, the applicant may request that the matter be referred to Municipal Council.
16. That the guidelines concerning development adjacent to Municipal Roads as stated in "Schedule A" attached hereto and forming part of this by-law, be and are hereby approved and adopted by the Corporation of the Township of North Kawartha;
17. That By-law #15-1983 is hereby repealed; and
18. That this By-law shall come into full force and effect on the date of passage.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED IN OPEN COUNCIL ON THE 21<sup>ST</sup> DAY OF APRIL, 2009.**

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Jim Whelan, Reeve

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Connie Parent, Clerk

**BY-LAW #50/09**

**APPENDIX 'A'**

Department of Highways of Ontario – CS-5, Rural 2 Lane Highway near side location

Department of Highways of Ontario – CS-5A, Rural 2 Lane Highway (one access only) near side location

Department of Highways of Ontario – CS-7, Rural 2 Lane Highway far side location

Department of Highways of Ontario – CS-11, Rural 2 Lane Highway between intersections

Department of Highways of Ontario – CS-17A, Rural 2 lane Highway (one access only) far side location

Department of Highways of Ontario – CS-10, Recommended Truck Access (to D.H.O. patrol yards industrial sites)

Department of Highways of Ontario – CS-25, Rural 2 Lane Highway near side location

Department of Highways of Ontario – CS-27, Rural 2 Lane Highway far side location

Department of Highways of Ontario – CS-31, Rural 2 Lane Highway between intersections

Department of Highways of Ontario – CS-35, Lands and Forests Park Site Entrance