

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2021 - 11

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 common law right to access to the highway by the owner of land abutting a highway;

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

BE IT RESOLVED THAT the Council of the Corporation of the Municipality of Magnetawan enacts as follows:

1. This By-law may be cited as the “Magnetawan Entrance By-law”.
2. This By-law unless otherwise stated in specific section hereof shall apply to the whole geographic area of the Municipality of Magnetawan.

3. DEFINITIONS

- i. **“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.
 - ii. **“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;
 - iii. **‘Corporation’** or **‘Municipality’** shall mean the Corporation of the Municipality of Magnetawan.
 - iv. **“Public Works Superintendent”** shall mean the Superintendent of Public Works or their designate.
4. **THAT** unless otherwise indicated, the administration of the By-law is assigned to the Public Works Superintendent who may delegate the performance of his/her functions under this By-law from time to time as occasion requires.
 5. **THAT** 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 and that an application for entrance permit shall be in a form prescribed by the Municipality.
 6. **THAT** 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.
 7. **THAT** an entrance permit application shall be accompanied by the fees and security deposit set out in accordance with the current fees and charges By-law.
 8. **THAT** if the applicant is not the property owner(s) of the land that is subject to the Entrance Application the owners must complete the authorization of owner for agent and by completing the authorization assumes all responsibilities as if they were the entrance permit applicant.
 9. **THAT** all costs arising from the issuance of an entrance permit and works authorized thereunder shall be the responsibility of the property owner. The Municipality shall require the property owner 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 13 herein.
 10. **THAT** the Public Works Superintendent of the Municipality will determine the suitability of the proposed entrance location having regard to matters of safety, good road building practices and providing that drainage of Municipal Roads is not adversely affected and that the Public Works Superintendent will determine whether gravel, asphalt, cement, or other hard services will be permitted to that portion of an entranceway which crosses over any part of municipal road allowance.
 11. **THAT** 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 9 herein, shall be the responsibility of the property owner.

12. **THAT** the Municipality shall be the sole judge of damage and for determining charges for repairs to be charged against the deposit.
13. **THAT** 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 property owner's lands to complete all necessary works to eliminate the hazard, whether or not such permit had become null and void pursuant to Section 14.
14. **THAT** 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.
15. **THAT** the entrance permit grants permission for the property owner(s) to have access over the Municipality's road allowance and further that the maintenance of the driveway, including the portion over the road allowance is the sole responsibility of the owner and not the Municipality.
16. **THAT** prior to the refund of any portion of the deposit, written confirmation by the Public Works Superintendent will be sent to the Treasurer, certifying that the entrance construction is considered complete.
17. **THAT** in the event that the amount of the deposit fails to cover the amount of the damages, the property owner shall be responsible for any additional costs. Payments for additional costs must be received within thirty (30) days of invoicing and if unpaid will be added to the tax roll for the property in the Municipality and additional costs will be collected in the same manner as municipal taxes.
18. **THAT** where Highways within the Municipality form a boundary between adjoining Municipalities, and where there are road work agreements between adjoining Municipality's to share road work on common roads, the Public Works Superintendent will consult with the adjoining Municipalities Public Works Superintendent on matters of safety, good road building practices and providing that drainage of Municipal Roads is not adversely affected. The Public Works 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.
19. **THAT** 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.
20. **THAT** 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.
21. **THAT** 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.

22. EXISTING BY-LAWS REPEALED

THAT By-law 2004-12 is hereby repealed in its entirety.

READ A FIRST, SECOND, AND THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto this 17th day of March 2021.

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**



Mayor



CAO/Clerk