



# The Corporation of the Town of Milton

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Report To: Council

From: Jill Hogan, Commissioner, Development Services

Date: May 29, 2023

Report No: DS-027-23

Subject: Housekeeping Update to Road Occupancy, Fouling and Entrance Permit By-Law 035-2020

Recommendation: **THAT DS-027-23, Housekeeping Update to By-Law 035-2020 (Town of Milton Road Occupancy, Fouling and Entrance Permit By-Law) be received for information;**

**AND THAT By-Law 035-2020 (Road Occupancy, Fouling and Entrance Permit By-law) be amended as outlined in this Report and Appendix I;**

**AND FURTHER THAT the appropriate updated by-laws be presented to and approved by Council.**

## EXECUTIVE SUMMARY

The purpose of this report is to seek Council approval for the housekeeping amendments to By-Law 035-2020, including the repealing and replacing of By-Law 035-2020. The report outlines the required updates to the Town of Milton Road Occupancy, Fouling, and Entrance Permit By-law (035-2020) to ensure enforceability, flexibility and clarity with respect to compliance timelines.

## REPORT

### Discussion

The Town of Milton Road Occupancy, Fouling, and Entrance Permit By-Law was last amended in 2020 (ref: DS-012-20).

Since these respective amendments, staff in consultation with the Town's solicitor identified additional amendments required to ensure clarity with respect to compliance details and associated timelines. The required housekeeping amendments are outlined below:



## Discussion

### The Town of Milton Road Occupancy, Fouling and Entrance Permit By-Law (035-2020):

Section 31 of the by-law currently reads as follows:

31. Where the Town has reason to believe that any Person is in contravention of this By-law, or any term or condition of a Permit, the Town, may issue a Work Order directing the Person or Persons to take such actions as are necessary to comply with this By-law or the Permit as the case may be, within ten (10) days of the service of the Order upon the Person or Persons listed in the Order.

Section 31 is to be updated as follows:

31. Where the Town has reason to believe that any Person is in contravention of this By-law, or any term or condition of a Permit, the Town, may issue a Work Order directing the Person or Persons to take such actions as are necessary to comply with this By-law or the Permit as the case may be, by the date set out in the Order.

The recommended change to Section 31 allows for the resident to conduct remedial work related to non-compliance in a time line that allows for professional consultation, retaining a suitable contractor or arranging the necessary resources to ensure compliance.

In addition the change above, there are several minor clerical amendments proposed, as identified in Appendix I to this report.

All other elements of by-law 035-2020 are to remain.

## Financial Impact

There is no direct financial impact associated with the By-law amendments being recommended through this report. Permit fees referenced in the By-laws are charged in accordance with the Town's User Fee By-law.

Respectfully submitted,

Jill Hogan  
Commissioner, Development Services

For questions, please contact: Diana Jiona  
Director, Infrastructure

Phone: Ext. 2513



## Attachments

Appendix I – Proposed Changes to By-Law 035-2020

Approved by CAO  
Andrew M. Siltala  
Chief Administrative Officer

## Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.

**THE CORPORATION OF THE TOWN OF MILTON**

**BY-LAW NO. 035-2020**

A BY-LAW TO REGULATE THE CONSTRUCTION, INSTALLATION, WIDENING, ALTERING OF ENTRANCES TO AND THE OCCUPATION OR FOULING OF ROAD ALLOWANCES UNDER THE JURISDICTION OF THE TOWN

**WHEREAS** Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, (the “Municipal Act, 2001”) provides that a municipality has the capacity, rights, powers and privileges of a natural person;

**AND WHEREAS** Sections 11(2) & (3) of the *Municipal Act, 2001* permits a municipality to pass by-laws respecting the matters dealing with its public assets and highways;

**AND WHEREAS** Section 44(1) of the *Municipal Act, 2001*, provides that a municipality that has jurisdiction over a highway or bridge shall keep it in a state of repair that is reasonable in the circumstances, including the character and location of the highway or bridge;

**NOW THEREFORE** the Council of The Corporation of the Town of Milton hereby enacts as follows:

**PART I DEFINITIONS**

1. In this By-law:

- (1) “Abutting Property” means a property abutting a Road Allowance;
- (2) “Applicant” means any person who has applied for a Permit under this By-law;
- (3) “Curb Line” means the edge of the traveled portion of the Road Allowance which shall be the outer edge of the curb, or where no curb exists, the edge of asphalt or in the case of a gravel road, 0.5 m before the start of the foreslope of the ditch;
- (4) “Corporation” includes a company, corporation, cooperative, partnership, firm, sole proprietorship, association, society, organization, any other legal entity that is not an Individual;
- (5) “Director” means the Town’s Director of Infrastructure, the holder of a successor position at the Town, or their designates;
- (6) “Derelict Vehicle” means a Vehicle that:

- (i) is not licensed or eligible to be licensed by virtue of a current valid Safety Standards Certificate having been issued for that vehicle;
  - (ii) is in a state of disrepair by reason of missing doors, glass or body parts;
  - (iii) is inoperative by reason of removed wheels battery motor transmission or other parts or equipment necessary for its operation; or
  - (iv) otherwise appears inoperable or incapable of use as a means of lawful transportation.
- (7) “Election Sign” means any sign promoting, opposing or taking a position with respect to:
- (i) Any candidate or political party in an election under the *Canada Elections Act*, the *Election Act (Ontario)*, or the *Municipal Elections Act, 1996*;
  - (ii) An issue associated with a person or political party in an election under the *Canada Elections Act*, the *Election Act (Ontario)*, or the *Municipal Elections Act, 1996*; or
  - (iii) A question, law or by-law submitted to the electors under the *Canada Elections Act*, the *Election Act (Ontario)*, or the *Municipal Elections Act, 1996*;

Such signs are subject to the applicable Town of Milton Election Sign By-law, as may be amended from time to time;

- (8) “Entrance” means any driveway, lane, ramp, private road, or any other structure or facility, used as a means of access to a Town Road Allowance, including any point at which a curb is interrupted or depressed to provide access from the traveled portion of a Town Road Allowance to an Abutting Property;
- (9) “Frontage” means, where the side lot lines are parallel, the distance measured along the front lot line between the side lot lines. Where the side lot lines are not parallel, the distance measured from a point on each side lot line that is located equal to the required front yard from the front lot line or the hypothetical intersection of the front lot line and the side lot line.
- (10) “Individual” means a natural person;
- (11) “Intersection” means the location where two or more Road Allowances converge;
- (12) “Material” includes, but is not ~~be~~ limited to, earth, gravel, sand, ashes, snow,

rocks, ice, signs, fences, hedges, trees, bushes, leaves, organic matter of any kind, waste, refuse, litter and rubbish;

- (13) "Owner" means any Person who is the registered or beneficial owner of a property or who leases, rents, occupies, maintains, manages, receives rent from or otherwise controls a property;
- (14) "Permit" means a permit issued by the Town pursuant to this By-law or under a repealed By-Law of the Town to which this By-Law is a successor;
- (15) "Permit Holder" means the Person to whom a Permit has been issued, or transferred to with the consent of the Director;
- (16) "Person" includes an Individual and a Corporation;
- (17) "Public Authority" includes the Town, Region of Halton, Halton District and Halton Catholic School Boards, the Crown in Right of Ontario, the Crown in Right of Canada or any of their ministries, agencies, boards or Crown corporations.
- (18) "Public Property" means property that is owned, leased or rented by a Public Authority.
- (19) "Private property" means property which is privately owned and is not Public Property;
- (20) "Restricted Entrance" means any Entrance that is approved and constructed for directionally controlled traffic;
- (21) "Road Allowance" includes all road allowances, highways, streets, roads, parkways, avenues, lanes, boulevards, squares, roundabouts, trails, paths, walkways, bridges, viaducts, trestles or other structure forming part of a highway, used by or intended for use by the general public for the passage of persons or vehicles;
- (22) "Road Occupancy" means:
  - (i) the use of the Town Road Allowance for any work and/or construction related activities;
  - (ii) the obstruction of a Town Road Allowance or hindrance of the passage of persons or vehicles;
  - (iii) the installation or construction of utilities or Services carried out within a Town Road Allowance;
  - (iv) the discharging, releasing, depositing, dumping or storage of any Material or substance within a Town Road Allowance, including without restriction, containers (bins or otherwise), Derelict Vehicles,

equipment, or any other item or thing; or

- (v) any other alteration of a Town Road Allowance, including any alteration to grading, landscaping or trees;
- (23) "Services" means all servicing on any lands and easements owned or held by the Town, including, water, wastewater and storm water facilities, roads, structures, fencing, boulevard grading, sodding, tree planting, landscaping, walkways, driveways, street lights, erosion control work, street signs, traffic control devices;
- (24) "Town" means The Corporation of the Town of Milton;
- (25) "Town Road Allowance" means a Road Allowance under the jurisdiction of the Town;
- (26) "Town Standards" means those standards, requirements and specifications set out in the Town's Engineering and Parks Standards Manual and Right of Way Construction Standards Manual as may be amended from time to time and all other applicable policies and by-laws of the Town as may be amended from time to time, including without limitation, applicable zoning by-laws;
- (27) "Treasurer" means the Town's Treasurer, or their designate ;
- (28) "Urban Area" means those lands within the Urban Expansion Area Boundary as set out in the Town's Official Plan;
- (29) "Rural Area" means those lands outside the Urban Expansion Area Boundary as set out in the in force and effect Town's Official Plan. This area includes hamlets and rural settlement areas such as Moffat and Campbellville;
- (30) "Vehicle" includes a motor vehicle as defined in the Highway Traffic Act, a trailer, traction engine, farm tractor, road building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle, street car, cars of electric or steam railways running only upon rails or power-assisted bicycle.

## **PART II PROHIBITIONS**

- 2. No person may construct, install, widen, or alter any Entrance without a Permit.
- 3. No person may, without a Permit, undertake a Road Occupancy, or do, allow, permit or cause to be done any of the following:
  - (a) foul a Town Road Allowance;
  - (b) excavate, damage, encumber or alter any Town Road Allowance, including any pavement, sod or curbing;
  - (c) obstruct or otherwise interfere with public travel or use of a Town Road

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Allowance;

- (d) obstruct or interfere with the functioning of any appurtenance to a Town Road Allowance;
- (e) deposit, store, park or plant any Material, Derelict Vehicle, [equipment](#), item or thing, within a Town Road Allowance;
- (f) discharge, release, spill, leak, pour or spill, oils, chemicals or other substances onto a Town Road Allowance, whether directly or indirectly;
- (g) cause a public nuisance in or upon a Town Road Allowance by fire, vapour, dust, smoke, noise or any other means whatsoever;
- (h) throw, push, plow, dump or otherwise deposit snow or ice from Private Property onto Public Property or a Town Road Allowance;
- (i) construct or maintain a gate or door which opens or swings over a Town Road Allowance;
- (j) walk, ride, drive, travel upon or otherwise disturb a newly constructed sidewalk or pavement within a Town Road Allowance before it has been opened for use by the public;
- (k) enter an area within a Town Road Allowance that has been closed to the public for construction, maintenance, emergency or other similar purposes;
- (l) move or remove a barricade, street sign, traffic sign or traffic control devices, within a Town Road Allowance; ~~and~~
- (m) post a notice, handbill, sticker, placard or advertisement in or upon a Town Road Allowance.

- 4. Any Person employing or using trucks, graders, loaders, construction vehicles or other vehicles in any operation which involves the passage of such vehicles to or from any property, whether for building purposes or otherwise, shall at once remove from the Town Road Allowance or from any other Public Property, all material which may fall from such trucks, graders, loaders or other vehicles or ~~their or may~~ otherwise be tracked onto a Town Road Allowance or Public Property.
- 5. Where a Permit has been issued, no person shall construct, install, widen or alter any Entrance, undertake any Road Occupancy or any other activity or thing prohibited by Section 3, except in accordance with the plans, specifications, documents, and any other information submitted to the Town and relied upon by the Town in issuing the Permit and in accordance with any applicable terms or conditions of the Permit.

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6. An Entrance, if authorized by a Permit, shall be used to provide access to the Abutting Property for which the Permit was issued and shall not be used, constructed, installed, widened or altered for any other purpose.
7. No equipment, materials, goods, Vehicles, Derelict Vehicles or things shall be placed, stored, deposited within an Entrance.
8. No Person shall place or cause or allow to be placed an Election Sign within a Town Road Allowance that interferes with traffic, traffic sight lines, road service or maintenance.
9. A property in Milton's Urban Area with a principle residential use shall not have an Entrance on more than one lot line.

### **PART III EXCEPTIONS**

10. Notwithstanding Sections 2 and 3, within registered plans of subdivision whose Road Allowances have not yet been assumed by the Town pursuant to section 31(4) of the *Municipal Act, 2001*, no Permit is required for:
  - (a) the construction of an Entrance; or
  - (b) conducting work and/or construction related activities;provided the Entrance, and/or construction related activities are conducted in accordance with the drawings, plans and specifications approved by the Town in connection with the registration of the plan of subdivision;
11. Sections 2, 3 and 4 do not apply so as to prohibit the Town its agents contractors and employees, and Persons authorized by the Town in writing from altering, depositing material upon, or excavating, any Road Allowance within the Town, in the course of their normal operations, or in the course of Town authorized infrastructure related projects and improvements.
12. Sections 3(e) and 7 do not apply to a Vehicle, other than a Derelict Vehicle, that is parked in accordance with the Town's by-laws regulating parking.
13. Subject to Section 8, this By-law does not restrict the placement of an Election Sign, provided such signs are removed within 72 hours (3 days) immediately following 11:59 p.m. of the day of the election.

### **PART IV MAINTENANCE, REPAIR AND RELOCATION**

14. Every Entrance located on a Town Road Allowance shall be maintained in good condition by the Owner at his or her own expense in accordance with Town Standards and shall be free and clear of all obstructions.
15. The Town may alter, construct or remove any Entrance, or Road Occupancy within a Town Road Allowance without notice, or compensation to any Person, including

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any Permit Holder or Owner. This right also extends to a third-party utility service, provided the work by the third party utility service is approved by the Town.

#### **PART V APPLICATIONS FOR PERMITS**

16. The following persons may apply to the Director for a Permit:
  - (a) the registered or beneficial Owner of an Abutting Property, may apply for a Permit to authorize an Entrance; or
  - (b) a Person may apply for a Permit to authorize a Road Occupancy.
17. Except as provided in Section 18, an application for a Permit shall:
  - (a) be in such form as approved by the Director;
  - (b) contain all such information and documents as may be required by the Director; and
  - (c) include the following non-refundable fees in accordance with the Town's User Fee By-law as amended:
    - i. an application fee;
    - ii. a minimum of one (1) inspection fee; and
    - iii. inspection fees for any additional inspections as may be deemed necessary by the Director.
  - (d) if required by the Director, a detailed estimate of costs for any proposed Entrance or Road Occupancy, including the costs of restoring the Town Road Allowance, which shall be subject to review and approval by the Director; and
  - (e) an executed agreement to indemnify and save harmless the Town from all actions, causes of action, suits, claims, demands and costs whatsoever arising by reason of the Applicant, his/her agents or employees and contractors doing, failing to do, or doing incorrectly or negligently anything the Applicant is required to do under the terms of the Permit or this By-law in such form as approved by the Director.
18. Where a Permit is required for an Entrance, and a complete application has been submitted for Site Plan Approval or Site Alteration in respect of the Abutting Property, the Applicant is exempt from the Permit application requirements set out in Subsections 17 (b) and (c).

#### **PART VI PERMIT APPROVAL**

19. Prior to the issuance of a Permit, the Applicant shall:
  - (a) complete all application requirements set out in Section 17;

(b) deposit with the Town financial security in the amount of 100% of the combined total of:

- i. the cost estimate approved under Subsection 17 (d); and
- ii. the estimated cost of any work to be performed by a Town contractor, including curb cuts and culverts.

any financial security deposited with the Town must be in a form acceptable to the Town's Treasurer;

(c) provide any additional documents ~~of~~ or information requested by the Director;

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(d) obtain and provide the Director with proof of all permits, approvals and authorizations required for the Road Occupancy or Entrance, including any required by the Halton Region Conservation Authority, the Credit Valley Conservation Authority, the Grand River Conservation Authority, the Niagara Escarpment Commission, the Ministry of Transportation, the Ministry of Natural Resources and Forestry and the Ministry of the Environment, Conservation and Parks or any other Public Authority; and

(e) demonstrate compliance with applicable Town Standards.

20. The Town of Milton's Official Plan, as amended from time to time, may dictate that access to certain Town Road Allowances and or Town Road Allowance classifications is not to be permitted and in such instance, notwithstanding any other provision in this By-law, no Permit shall be issued under this By-law.

21. After considering an application for a Permit, the Director may:

(a) issue a Permit, subject to such terms and conditions as the Director deems appropriate, provided that the Director is satisfied that Section 19 of this By-law has been complied with and the issuance of the Permit would not be contrary to Section 20; or

(b) decline to issue a Permit.

22. A Permit expires ninety (90) days after the date of issuance, if the work which is the subject of the Permit, has not commenced within that time. After the expiration of the ninety (90) day period, a new Permit including payment of the applicable fees must be obtained before proceeding with such work.

23. The work which is the subject of the Permit must be completed by the date set out in the Permit. If no date is set out in the Permit, work must be completed within (30) days of commencement of work.

24. Notwithstanding any other provisions of this By-Law, the Director may revoke, alter or amend a Permit after issuance if the Director has reason to believe it is in the public interest to do so.

25. The Town will return any financial security to the Permit Holder, in accordance with the Town's financial policies when, the Entrance or Road Occupancy which are the subject of the Permit, are completed in conformity with the Town's Standards and to the satisfaction of the Director; any applicable warranties with respect to the work conducted under the Permit have expired; and all other terms and conditions of the Permit have been satisfied.
26. A Permit Holder may not assign or transfer a Permit without the consent of the Director.

#### **PART VII PERMIT CONDITIONS**

27. In addition to any terms or conditions imposed by the Director, the following conditions apply to all Permits:
  - (a) the Permit Holder shall be responsible for obtaining location and stakeout information for all utilities and Services prior to the commencement of construction and shall be responsible for any damage to existing utilities and Services within the Town Road Allowance when such damages arise out of the work undertaken by the Permit Holder;
  - (b) all costs associated with the constructing, installing, repairing, widening or altering a Town Road Allowance incurred as a consequence of any Permit issued, as determined by the Director, shall be the responsibility of the Permit Holder;
  - (c) all construction, installation, repair or other work performed in connection with a Permit shall meet all applicable Town Standards;
  - (d) the Permit Holder shall ensure that upon the earlier of
    - a. completion of the work authorized by the Permit; or
    - b. expiration of the Permit;the Road Allowance shall be returned to a clean and unencumbered state and shall be fully rehabilitated to the satisfaction of the Director; and
  - (e) all drains, catch basins, ditches, culverts and watercourses shall be installed, and maintained in accordance with Town's Standards and the requirements of the following agencies, as applicable: the Halton Region Conservation Authority, the Credit Valley Conservation Authority, the Grand River Conservation Authority, the Niagara Escarpment Commission, the Ministry of Transportation, the Ministry of Natural Resources and the Ministry of the Environment.
28. In addition to any terms or conditions imposed by the Director and the terms and conditions in Section 27, the following conditions apply to all Permits for Entrances:
  - (a) all Entrances shall extend sufficiently onto the Abutting Property to allow parking on the Abutting Property and not on the Road Allowance;

- (b) all Entrances within the urban boundary must have a hard surface (consisting of such material as is approved by the Town, including asphalt, concrete, patterned concrete, interlocking brick, or paving stone);
- (c) the minimum distance at the Curb Line between Entrances on the same property Frontage shall be:
  - i. a minimum of 15 meters for Urban Area lots;
  - ii. a minimum of 30 meters for Rural Area lots; or
  - iii. at the discretion of the Director or delegate for commercial/industrial/institutional lots;
- (d) any Entrance to a commercial or industrial property shall conform to the Town's Site Plan Approval process;
- (e) ramping is not permitted in lieu of an Entrance; and
- (f) all Entrances shall have unobstructed visual sightlines for entry/exit to any part of the Road Allowance including sidewalks and/or bike trails

**PART VIII ORDERS AND POWERS**

- 29. The Director and Municipal Law Enforcement Officers appointed by the Town shall have all powers necessary to carry out the administration and enforcement of this By-law, including without limitation, issuing Orders. For clarity, where Part VIII of this By-Law provides that the Town may take any action or do anything:
  - (a) the action or thing may be taken or done at the direction of either the Director or a Municipal Law Enforcement Officer, unless this By-Law specifies otherwise;
  - (b) the Director or a Municipal Law Enforcement Officer may enlist such forces as deemed appropriate to undertake that action or thing, including without restriction, third party contractors, agents or suppliers of goods and services.
- 30. Where the Town has reason to believe that any Person is or will be in contravention of this By-law, or any term or condition of a Permit, the Town may issue a Stop Work Order directing the activities cease immediately upon service of the Order on the Person or Persons listed in the Order.
- 31. Where the Town has reason to believe that any Person is in contravention of this By-law, or any term or condition of a Permit, the Town, may issue a Work Order directing the Person or Persons to take such actions as are necessary to comply with this By-law or the Permit as the case may be, by the date set out in the order. ~~within ten (10) days of the service of the Order upon the Person or Persons listed in the Order.~~

32. Where the Town has reason to believe that a contravention of this By-law or any term or condition of a Permit, which may result in the issuing of a Work Order, poses a risk to public health or safety, the Work Order may provide that the actions set out therein be taken immediately.
33. Any Person to whom an Order is issued pursuant to this By-law shall comply with the terms of such Order.
34. Where the Person or Persons to whom a Work Order is issued fails to perform the work required by the Order within the time stipulated in the Order, the Town may without further notice perform such work as it deems appropriate.
35. The Town may at any time without issuing an Order, and without notice or compensation to any Person:
  - (a) remove, repair or alter any Entrance or Road Occupancy for which a Permit has not been issued; or
  - (b) remove, repair, alter or take any other corrective action or work with respect to anything that has not been constructed, repaired, undertaken, stored, placed, planted or deposited in accordance with this By-law or a Permit issued under this By-law.
36. Where the Town undertakes any removal, repair, alteration, corrective action or work pursuant to Section 34 and 35:
  - (a) anything removed may be destroyed or disposed of without notice or compensation to any Person; and
  - (b) a Permit Holder, Owner and any other Person the Town reasonably determines is in contravention of this By-law or any term or condition of a Permit shall be jointly and severally responsible for all costs of the Town incurred in the exercise of the powers thereunder, including administrative costs and interest. Such costs, as determined by the Director, shall constitute a charge under the Municipal Act, 2001, S.O. 2001, c. 25 as amended, and may be added to the tax roll of Property held by the Permit Holder, Owner or other Person in the manner provided for therein.

## **PART IX SERVICE**

37. An Order may be served by any of the following means:
- (a) delivered personally;
  - (b) posted on an Abutting Property;
  - (c) emailed to the last known email address of the Person to whom the Order is directed;
  - (d) deposited in the mailbox or mail slot of the Person to whom the Order is directed;
  - (e) sent by prepaid regular mail to the last known address of the Person to whom the Order is directed or
  - (f) sent by registered mail to the last known address of the Person to whom the Order is directed.
38. Where service is effected by:
- (a) regular mail, it shall be deemed to be made on the fifth (5th) day after the date of mailing;
  - (b) registered mail, it shall be deemed to be made on the second (2<sup>nd</sup>) day after the date of mailing;
  - (c) any other means, it shall be deemed effective on the day the document served was delivered, posted, emailed or deposited;
  - (d) service by multiple means, it shall be deemed effective on earliest applicable date set out in Subsections (a)-(c).

## **PART X ENFORCEMENT**

39. For the purpose of ensuring compliance with this By-law, a Municipal Law Enforcement Officer or a Police Officer may, at all reasonable times, enter upon and inspect any land, including without limitation Private Property, to determine whether or not the following are being complied with:
- (a) this By-law;
  - (b) a direction or order made under this By-law; or
  - (c) a prohibition order made under s. 431 of the Municipal Act, 2001.
40. A Municipal Law Enforcement Officer or a Police Officer may, for the purposes of the inspection under Section 39:

- (a) require the production for inspection of documents or things relevant to the inspection;
  - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) require information in writing or otherwise as required by the officer from any person concerning a matter related to the inspection; or
  - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
41. Any cost incurred by the Town in exercising its authority to inspect, including but not limited to the cost of any examination, test, sample or photograph necessary for the purposes of the inspection, shall be paid by the Owner of the property where the inspection takes place.
42. An Municipal Law Enforcement Officer or a Police Officer may undertake an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the Municipal Act, 2001 where he or she has been prevented or is likely to be prevented from carrying out an inspection under Sections 39 and 40 of this By-law.
43. No person shall hinder or obstruct, or attempt to hinder or obstruct, a Municipal Law Enforcement Officer, or a Police Officer from carrying out inspections of land to ensure compliance with this By-law
44. Sections 39, 40 and 42, do not restrict the authority of the Director, Town Municipal Law Enforcement Officers, Town employees, agents, contractors and other Persons authorized by the Town from entering upon Town Road Allowances, including Entrances, at any time to conduct inspections or for any other Town purpose.

#### **PART XI OFFENCES**

45. Every Person who contravenes any provision of this By-law or an Order issued pursuant to this By-Law is guilty of an offence, and, upon conviction is liable to a fine in accordance with the penalty provisions of the By-Law.
46. Where a contravention of a provision of this By-law or an Order is committed on or continues for more than one day, the Person who commits it is liable to be convicted for a separate offence for each day on which it is committed or continued. For clarity, in the case of an Order, a contravention continues for every day or part of a day past the date set out in the Order by which the work must be complete or action taken, as the case may be.
47. Where a contravention of this By-law has occurred, the Owner or Permit Holder

may be charged with and convicted of an offence for which any Person subject to this By-law may be charged and, on conviction, the Owner or Permit Holder is liable to pay the penalty prescribed for the offence.

48. An Owner or Permit Holder is not liable under Section 47 where the Owner or Permit Holder establish that:
- (a) the contravention of this By-law was without the knowledge and consent of the Owner or Permit Holder, as the case may be;
  - (b) upon becoming aware of the contravention, the Owner or Permit Holder, as the case may be, took all reasonable steps to stop and rectify the contravention of this By-law; and
  - (c) in the case of a contravention of an Order, the Owner or Permit Holder was not named in the Order.

#### **PART XII PENALTY**

49. Every Person who is convicted of an offence contrary to this By-law is liable,
- (a) on a first conviction to a fine of not more than \$10,000, in the case of an Individual, and to a fine of not more than \$50,000 in the case of a Corporation; and
  - (b) on any subsequent conviction, to a fine of not more than \$25,000 in the case of an Individual, and to a fine of not more than \$100,000 in the case of a Corporation.
50. Despite Section 49, a Person convicted of a continuing offence is liable to a fine of no less than Five Hundred Dollars (\$500) and no more than Ten Thousand Dollars (\$10,000) for each day or part of a day on which the offence occurs or continues.
51. Where a conviction is entered for contravention of the By-law, in addition to any other remedy or any penalty provided by law, 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.

#### **PART XIII SEVERABILITY**

52. When a court of competent jurisdiction declares any section or part of this By-law invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

**PART XIV SHORT TITLE**

53. This By-law may be cited as the Town of Milton Road Occupancy, Fouling and Entrance Permit By-law.

**PART XV REPEAL**

54. By-law No. 080-2019 and By-law No.115 – 2005, as amended are repealed upon the coming into force and effect of this By-law.

**PART VI EFFECT**

55. This By-law comes into force and effect on the day it is passed.

**PASSED IN OPEN COUNCIL ON May 25th, 2020.**

\_\_\_\_\_ Mayor  
Gordon A. Krantz

\_\_\_\_\_ Deputy Clerk  
Meaghen Reid