



The Corporation of the Town of Milton

Report To:	Council
From:	M. Paul Cripps, P.Eng., Commissioner, Engineering Services
Date:	August 12, 2019
Report No:	ENG-026-16
Subject:	House Keeping Update to Engineering By-Law 035-2016 (Road Occupancy and Entrance Permits)
Recommendation:	<p>THAT ENG-026-19, Housekeeping Update to By-Law 035-2016 (Road Occupancy and Entrance Permit) be received for information;</p> <p>AND THAT By-Law 035-2016 be amended accordingly;</p> <p>AND FURTHER THAT the appropriate by-laws be presented to and approved by Council;</p>

EXECUTIVE SUMMARY

The report provides amendments required to the Town of Milton Road Occupancy and Entrance Permit By-Law (035-2016).

REPORT

Background

The Town of Milton Road Occupancy and Entrance Permit By-law was last amended in 2016 (ENG-009-16). The update in 2016 reflected changes in the processes for Road Cut, Entrance, Curb Cut, and Road Occupancy Permits, as well as the associated permit documents. This 2019 update will help to further improve efficiencies in these processes and clearly identify when permits are required. If passed, the amendments to the by-law will come into effect January 1, 2020.

Discussion

The 2016 update to the previous version of the by-law (75-2004) has been in place for the last three years. As staff have had the opportunity to evaluate the new processes that have been implemented, there have been a few areas identified for improved efficiency, and these are reflected in the proposed by-law updates. The comprehensive



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changes to the by-law are included in Appendix I, and a clean copy of the updated by-law is provided in Appendix II. The following list provides a summary of the proposed updates:

- Ensure titles are current (i.e. Commissioner of Engineering, not Director of Engineering)
- Update several definitions in the by-law to improve clarity
- Reduces the formal permit requirements for Industrial, Institutional, Commercial and Multi-Unit Residential Site Plan applicants to obtain an Entrance Permit (as the review of the entrance details are already completed during the Site Plan review - this ensures consistency in larger development applications, as subdivision applicants are not required to obtain Entrance Permits)
- Clarifies that the restriction on the number of lot lines where an entrance is permitted is applicable only to the urban residential area
- Eliminate unnecessary repetition within the by-law
- Ensure consistency between this By-Law and the Comprehensive Zoning By-Law with respect to entrance details
- Clearly indicate when securities are required for permits, and when these will be released by the Town, to ensure sufficient funds are available should the Town need to repair or remove work that is subject to this by-law.

The purposes of this report is to seek Council approval for the housekeeping amendments to By-Law 35-2016.

Financial Impact

Fees associated with Road Occupancy and Entrance permits are charged in accordance with the Town's User Fee By-law. During regular comprehensive reviews of the Town's user fees, with the last review being CORS-047-16, the cost of providing the service is evaluated and fees are set with the intention of full cost recovery. On an annual basis fees are indexed to maintain the cost recovery ratio.

The amendments being proposed to the Road Occupancy and Entrance Permit By-law are not expected to impact the cost of providing the service or the resulting fees being charged.

Respectfully submitted,

M. Paul Cripps, P. Eng.
Commissioner, Engineering Services



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For questions, please
contact:

Diana Jiona 905-878-7252 x2513

Attachments
Appendix I: Proposed Changes to By-Law 35-2016
Appendix II: Clean Copy of Revised By-Law XX-2019

CAO Approval
Andrew M. Siltala
Acting Chief Administrative Officer

THE CORPORATION OF THE TOWN OF MILTON

Appendix I

BY-LAW NO. ~~035-2016~~035-2019

A BY-LAW TO REGULATE THE CONSTRUCTION, INSTALLATION, WIDENING OR ALTERING OF ENTRANCES, ~~ROAD CUTS, CURB CUTS, TO AND ROAD OCCUPANCIES LOCATED ON TOWN OWNED~~THE OCCUPATION OF ROAD ALLOWANCES OR OTHER PROPERTY UNDER THE JURISDICTION OF THE TOWN AND TO REPEAL BY-LAW NUMBER ~~75-2004~~035-2016

WHEREAS Section 8 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 Section 11(2) permits a municipality to pass by-laws respecting matters dealing with highways;

AND WHEREAS pursuant to Section 44(1) of the Municipal Act, 2001, the 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:

DEFINITIONS

1. ~~1)~~ In this By-law:

~~(e)(a) a)~~ “Adjacent Property” means ~~the~~a property abutting ~~the Highway or the municipal property to which the entrance is intended to provide Entrance~~a Road Allowance;

~~(f)(b) b)~~ “Applicant” means any person ~~and all successors including any builders, contractors, servants, employees, consulting engineers and agents acting pursuant to this By-law who applies~~as applied for ~~and/or has received~~ a Permit under this By-law ;

~~c)~~ “Curb Cut” means ~~any point at which the curb along a Road is interrupted or depressed to provide Entrance to the property~~;

~~(c)~~(d) —“Curb Line” means the edge of the traveled portion of the Road ~~—(Allowance which shall be the line~~outer edge of the curb, or where no curb exists, the edge of asphalt ~~where no curb exists);~~or in the case of a gravel road, .5 m before the start of the foreslope of the ditch;

~~(d)~~(e) —“Director” ~~—~~Commissioner means the Town’s ~~—~~Director ~~—~~Commissioner of Engineering Services, or Director of Infrastructure or their designates;

- or his/ her designate;
- ~~f)~~ ~~“Director of Corporate Services” means the Town’s Director of Corporate Services, or his/her designate;~~
- ~~(f)(e) g)~~ ~~“Entrance” means any lane, driveway, laneway, ramp or drive intended to provide vehicular, 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 the an Adjacent Property;~~
- ~~h)~~ ~~“Frontage” means the horizontal distance measured along the front lot line between the side lot lines of a property adjacent to a Road;~~
- ~~(f) i)~~ ~~“Intersection” means the location where the side lot lines are parallel. In cases where the side lot lines are not parallel, the distance is 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.;~~
- ~~(z)(g)~~ ~~“Intersection” means the location where two or more Roads Road Allowances converge or the convergence of a Road Allowance with a road allowance not under the jurisdiction of the Town;~~
- ~~(h) j)~~ ~~“Public Owner” means any person who is the registered or beneficial owner of, an Adjacent Property or who leases, maintains or otherwise controls an Adjacent Property;~~
- ~~(i)~~ ~~“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.~~
~~;~~
- ~~(j)~~ ~~“Permit Holder” means the Person to whom a Permit has been issued, or transferred to with the consent of the Commissioner. .~~
- ~~(k)~~ ~~“Person” includes a natural person, company, corporation, partnership, firm, association, society, organization, party or other like entity; ***I grabbed this from another municipalities~~
- ~~(l)~~ ~~“Restricted Entrance” means any Entrance that is approved and constructed for directionally controlled traffic;~~
- ~~(m)~~ ~~“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;

(n) “Road Occupancy” means:

- i. the use of the Town Road Allowance for any work and/or construction related activities;
- ii. the obstruction 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 dumping or storage of any material, containers (bins or otherwise), vehicles, or any other item, for any length of time within a Town Road Allowance, including any items not covered under the Town’s Uniform Parking By-Law, as may be amended from time to time; or
- v. any other alteration of a Town Road Allowance, including any alteration to grading, landscaping or trees;

~~(ee)(o)~~ “Services” means all servicing to be done by the Applicant on all on any lands and easements owned or held by the Town, including, water, wastewater and without limiting the generality of the foregoing, shall include storm drainage water facilities, roads, structures, required fencing, boulevard grading, sodding, tree planting, landscaping, walkways, driveways, street lights, erosion control work, street signs, traffic control devices, and all other works required to be done by an Applicant in accordance with this By-law;

~~k)~~ “Restricted Entrance” means any Entrance that is approved and constructed for directionally controlled traffic;

~~l)~~ “Road” means a common and public highway, which is a Town highway, and includes any bridge, trestle, viaduct or other structure forming part of the highway, and includes the whole of the road allowance.

~~(p, m)~~ “Road Cut” Town” means The Corporation of the Town of Milton;

(q) “Town Road Allowance” means a Road Allowance under the jurisdiction of the Town;

“Town Standards” means any installation or construction of Public Services

~~carried out within the limits of the Town's Road or property;~~

- ~~n) "Road Occupancy" means the use of the Town's Road for the storage of any material, containers (bins or otherwise), vehicles, or any other item that may be specified upon application for a permit, for any length of time and for any item not covered under the Town's Uniform Parking By-Law, as may be amended from time to time, and for which a Road Cut is not proposed;~~
- ~~e) "Permit" means a permit issued by the Town in accordance with those standards, requirements of this By-law that allows the Applicant on to a Road to perform and complete an Entrance and/or Curb Cut and/or Road Cut and/or Road Occupancy, as provided in Schedule A and as may be~~

~~amended from time to time at the discretion of the Director.~~

- ~~p) "Town" means The Corporation of the Town of Milton;~~
- ~~q) "Town Standards" means those standards, requirements and specifications set out in the Town's Engineering and Parks Development~~

~~(r) Standards Manual and Restoration~~ 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;

GENERAL

~~2) An application under this By-law shall provide the Director with the information required in the appropriate application form attached as Schedule "A" to this By-law, and shall supply any additional material as may be required by the Director. The Applicant shall comply with every regulation and procedure set out in this By-law.~~

~~3) All information as noted in Schedule "A" shall form part of this By-law.~~

~~(s) 4) A non-refundable administration fee~~ "Treasurer" means the Town's Treasurer, or his/her designate ;

~~(t) "Urban Area" means those lands within the Urban Expansion Area Boundary as set out in the in force and effect Town of Milton Official Plan;~~

~~(u) "Rural Area" means those lands outside the Urban Expansion Area Boundary as set out in the in force and effect Town of Milton Official Plan. This area includes hamlets and rural settlement areas such as Moffat, Campbellville etc.~~

PROHIBITIONS

~~2. No person shall construct, install, widen, or alter any Entrance without a Permit.~~

~~3. No person shall undertake a Road Occupancy without a Permit.~~

~~4. Where a Permit has been issued, no person shall construct, install, widen or alter any Entrance or undertake any Road Occupancy except in accordance with the Town's User Fee By-law, as amended from time to time, shall be required as part of any application under this By-law. In addition, a minimum of one (1) non-refundable inspection fee 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.~~

5. An Entrance, if authorized by a Permit, may only be used to provide access to the Adjacent Property for which the Permit was issued and shall not be used, constructed, installed, widened or altered for any other purpose.
6. No Entrance may be used for the parking of vehicles or the storage of any other equipment, materials, goods or things.
7. A property in Milton's Urban Area with a principle residential use shall not have an Entrance on more than one lot line.

EXCEPTIONS

8. Notwithstanding Section 2, within unassumed registered plans of subdivision, no Permit is required for the construction of an Entrance to an unassumed Road Allowance, provided the Entrance is constructed in accordance with the drawings, plans and specifications approved by the Town in connection with the registration of the plan of subdivision.

MAINTENANCE, REPAIR AND RELOCATION

9. 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.
10. The Town may alter, construct or remove any Entrance, or Road Occupancy located within a Town Road Allowance without notice to, or permission from, the Permit Holder or Owner and without compensation. This right also extends to work by third party utility service, provided such work is approved by the Town.

APPLICATIONS FOR PERMITS

11. The following persons may apply to the Commissioner for a Permit:
 - (a) an Owner may apply for a Permit to authorize an Entrance; or
 - (b) a Person may apply for a Permit to authorize a Road Occupancy.
12. Except as provided in Section 13, an application for a Permit shall:
 - (a) be in such form as approved by the Commissioner;
 - (b) contain all such information and documents as may be required by the Commissioner; and
 - (c) include the following non-refundable fees in accordance with the Town's User Fee By-law, as amended from time to time, shall be required as part of any:
 - i. an application under this By-Law. Additional fee;
 - ii. a minimum of one (1) inspection fee; and

~~i.iii. inspection fees may be required, at the discretion of the Director, pending the details of the application for any additional inspections as may be deemed necessary by the Commissioner.~~

~~(e)(d) 5) Removal of trees and shrubs from the Road or other Town property pursuant to the provisions of this By-law if required by the Commissioner, 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 the review and approval of the Town of Milton Engineering Services Department by the Commissioner; and~~

~~(e) 6) 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 Commissioner.~~

~~13. 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 Adjacent Property, the Applicant is exempt from the Permit application requirements set out in Subsections 12 (b) and (c).~~

PERMIT APPROVAL

~~14. Prior to the issuance of a Permit, the Applicant shall:~~

~~(a) complete all application requirements set out in Section 12;~~

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

~~i. the cost estimate approved under Subsection 12 (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 information requested by the Commissioner;~~

~~(d) obtain and provide the Commissioner with proof of all permits, approvals and authorisations 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; and

(e) demonstrate compliance with applicable Town Standards.

2.15. The Town of Milton's Official Plan, as amended from time to time, may dictate that access to certain Roads 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.

16. 7) — After considering an application for a Permit, the Commissioner may:

(a) issue a Permit, subject to such terms and conditions as the Commissioner deems appropriate, provided that the Commissioner is satisfied that Section 14 of this By-law has been complied with and the issuance of the Permit would not be contrary to Section 15; or

(b) decline to issue a Permit.

17. 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 the applicable fees must be obtained before proceeding with such work.

18. 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.

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

20. 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, and all other terms and conditions of the Permit, are completed in conformity with the Town's Standards and to the satisfaction of the Commissioner and any applicable warranties with respect to the work conducted under the Permit have expired.

21. A Permit Holder may not assign or transfer a Permit without the consent of the Commissioner.

PERMIT CONDITIONS

22. In addition to any terms or conditions imposed by the Commissioner, 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 Commissioner, 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; and

(a)(d) all drains, ditches, culverts and watercourses shall be installed, and maintained in accordance with Town's Standards and the requirements of the following agencies, as applicable: ~~Conservation~~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. ~~The Applicant, prior to issuance of a Permit under this By-law must obtain permits or approvals and satisfy all requirements of these agencies, where applicable.~~

23. 8) The Applicant is required In addition to supply any terms or conditions imposed by the Commissioner or under Section 22, the following conditions apply to the Director all Permits for Entrances:
- (a) all entrances shall extend sufficiently onto the Adjacent Property to allow parking on the Adjacent Property and not on the Road Allowance;
 - (b) all Entrances within the urban boundary must have a detailed cost estimate hard surface (consisting of any proposed 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 Cut, Road Cut and/or Public Services for which application 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 Commissioner 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 made under 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

ORDERS AND POWERS OF THE COMMISSIONER

24. Where the Town has reason to believe that a Person is or will be in contravention of this By-law, for his or her review, and the approval of the estimate must be obtained from the Director, before or any term or condition of a Permit can be, the Commissioner or a Municipal Law Enforcement Officer appointed by the Town, may issue a Stop Work Order directing the activities cease immediately, upon service of the Order to any or all of the following:
- (a) the Owner;
 - (b) the Permit Holder; and
 - (c) any other Person the Town has reason to believe is or will be in contravention of this By-law or any term or condition of a Permit.

25. Where the Town has reason to believe that a Person is in contravention of this By-law, or any term or condition of a Permit, the Commissioner or a Municipal Law Enforcement Officer appointed by the Town, may issue a Work Order directing any or all of the following 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:

(a) the Owner;

(b) the Permit Holder; and

(c) any other Person the Town has reason to believe is in contravention of this By-law or any term or condition of a Permit.

26. 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 safety, the Work Order may provide that the actions set out therein be taken immediately.

6.27. The Commissioner may at any time and without notice, remove, repair or alter any Entrance or Road Occupancy for which a Permit has not been issued, or remove, repair or alter or take any other corrective action with respect to any Entrance or Road Occupancy which has not been constructed, repaired or altered or undertaken in accordance with a Permit and this By-law.

~~9) Prior to the issuance of a Permit, the Applicant shall deposit with the Town cash, certified cheque or letter of credit in the amount of 100% of the cost estimate approved under s. 8 above.~~

~~10) Any letter of credit submitted to the Town as security under this By-law, must be in a form acceptable to the Town's Director of Corporate Services, and must contain the following provisions:~~

~~a) the letter of credit shall be security for any obligations of the Applicant pursuant to the provisions of the Permit, without any limitations whatsoever;~~

~~b) the letter of credit shall be an irrevocable letter of credit drawn on a financial institution acceptable to the Director of Corporate Services and shall contain the address of the branch of the financial institution where inquiries can be made and the letter of credit called upon;~~

~~c) drawings on the letter of credit shall be permitted upon presentation of a letter from the Town to the financial institution claiming default by the Applicant under the terms of the Permit and such default shall not be limited to the actions of the Applicant;~~

- d) ~~partial drawings shall be permitted;~~
- e) ~~if the Town has not determined the extent of the default or the amount required to rectify the default or compensate the Town or third parties as a result thereof, the Town may draw on the full amount of the letter of credit without any requirement to justify the amount of the draw;~~
- f) ~~the letter of credit shall renew automatically;~~
- g) ~~the letter of credit shall contain a clause stating that thirty (30) days notification will be given to the Town in writing prior to its expiry or cancellation;~~
- h) ~~In the event that the Owner has provided a letter of credit and the Owner or the financial institution who issued the letter of credit notifies the Town that the letter of credit will not be renewed, the Town will~~

~~automatically cash said letter of credit and set up a cash account as a performance guarantee.~~

- ~~11) The Town will not return securities to the Applicant until the Curb Cut, Road Cut and/or Public Services, which are the subject of the Permit, and all other terms and conditions of the Permit, are completed in conformity with the Town's Standards and to the satisfaction of the Director.~~
- ~~12) The Applicant shall be responsible for obtaining location and stakeout information for all utilities and public services prior to the commencement of construction and shall be responsible for all damages to all existing services within the Road or other Town property when such damages arise out of the work undertaken by the Applicant.~~
- ~~13) Where an Applicant fails to comply with any of the provisions of this By-law or the terms and conditions of any Permit, the Town may undertake and/or complete the Curb Cut, Road Cut and/or Public Services or other terms and conditions of the Permit, to effect compliance with the By-law and the Permit, and all costs and expenses incurred shall be borne by the Applicant or the same may be recovered in a like manner as municipal taxes against the Adjacent Property or from securities posted by the Applicant.~~
28. 14) Upon removal, repair or alteration of any Entrance or Road Occupancy pursuant to Section 27, the Permit Holder and any other Person the Town 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. Such costs, as determined by the Commissioner, shall constitute a charge under the Municipal Act, 2001, S.O. 2001, c. 25 as amended, and may be added to the tax roll in the manner provided for therein.
29. Any Person to whom an Order is issued pursuant to this By-law shall comply with the terms of such Order.
30. Where the Person to whom a Work Order is issued fails to perform the work required by the Order, the Town may perform such work and the Person shall be responsible for all costs of the Town incurred in the performance of the work, including administrative costs. Any costs of the Town incurred in the performance of such work, as determined by the Commissioner, shall constitute a charge under the Municipal Act, 2001, S.O. 2001, c. 25 as amended, and may be added to the tax roll in the manner provided for therein.

ENFORCEMENT

~~44.31.~~ 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 subject to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, and every such penalty shall be recoverable under the Provincial Offences Act.

~~15) 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.~~

~~16) No Permit shall be issued unless the application therefor, complies with Town Standards, and all Curb Cuts, Road Cuts and Public Services shall be completed in conformity with the Town Standards.~~

ENTRANCES, ROAD CUTS, AND OCCUPANCIES

~~17) No residential property shall have an entrance on more than one property line.~~

~~18) No person shall construct, install, widen, or alter any Entrance, Road Cut, Road Occupancy or Curb Cut located on a Road or other Town property without a Permit issued by the Director under this By-law.~~

~~19) Notwithstanding Section 17, no Permit shall be required under this By-law, for the construction of new Entrances, Road Cuts or Curb Cuts within~~

- ~~unassumed plans of subdivision that are approved in conjunction with a plan of subdivision by the Town.~~
- ~~20) No person shall construct, install, widen or alter any Entrance, Curb Cut or Road Cut located on a Road or any other Town property except in accordance with the plans, specifications, documents, Town Standards and any other information used as the basis for the issuance of a Permit and in accordance with any terms or conditions of the issuance of a Permit.~~
- ~~21) A Permit shall expire three (3) months 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 three (3) month term, a new Permit including the applicable fees must be obtained before proceeding with such work.~~
- ~~22) An Entrance, if permitted by the granting of a Permit under this By-law, is permitted on a Road or other Town property only to provide Entrance to an Adjacent Property and shall not be constructed, installed, widened or altered to perform any other function, including the parking of vehicles as defined under By-law No. 1984-1, as amended from time to time.~~
- ~~23) The Director may remove, repair or alter any Entrance, Curb Cut or Road Cut on a Road or other Town property for which a Permit has not been issued, or remove, repair or alter such Entrance, Curb Cut or Road Cut which has not been constructed, repaired or altered in accordance with the Permit issued.~~
- ~~24) The Applicant and Adjacent Property owner, upon removal, repair or alteration of any Entrance, Curb Cut or Road Cut on a Road or other Town property pursuant to Section 22 of this By-law, shall be jointly responsible for the costs of such removing, repairing or altering on the Road and other Town property, or any other related work required, as determined by the Director.~~
- ~~25) Every Entrance located on a Road or other Town property shall be maintained in good condition by the Adjacent Property owner at his or her own expense in accordance with Town Standards.~~
- ~~26) All costs associated with the constructing, installing, repairing, widening or altering on a Road or other Town property required as a consequence of the application and any Permit issued, or any work undertaken as a result, as determined by the Director, shall be the joint responsibility of the Applicant and the Adjacent Property owner.~~
- ~~27) The Applicant agrees, as part of the application for a permit, 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 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, and will be responsible for damages, injuries or accidents resulting from any of his or her operations, or caused by reason of the construction, repair, maintenance or existence of the Entrance, Road Cut or Curb Cut, or of any materials, plants or equipment used in connection with the construction, repair, maintenance or existence of an Entrance, Road Cut or Curb Cut completed.~~
- ~~28) The Town reserves for itself the right to alter, construct or remove any Entrance, Curb Cut or Road Cut located on a Road or other Town property without notice to, or permission from, the Adjacent Property owner or Applicant. This right also extends to allow work by third party utility services, provided such work is approved by the Town.~~
- ~~29) In addition to any other requirements of this By-law, no Entrance, Curb Cut, Road Occupancy or Road Cut shall be installed, constructed, altered or removed except in accordance with the following regulations noted below and as outlined in Schedule "A":~~
- ~~a) all Entrances, culverts, Curb Cuts and Road Cuts shall be in accordance with current municipal standards and specifications;~~
 - ~~b) all Entrances shall extend sufficiently onto the Adjacent Property to allow parking on the Adjacent Property and not on the Road or other Town property;~~
 - ~~c) where an Entrance widening on a Road or other Town property is permitted pursuant to this By-law, it is to be constructed from a similar material and be of similar appearance to the original Entrance, except in commercial/industrial/institutional areas and in certain urban residential areas where asphalt or other permanent hard surface may be required;~~
 - ~~d) no Entrance shall meet the traveled portion of the Highway at an angle of less than seventy (70) degrees;~~
 - ~~e) where an existing Entrance is being replaced, relocated or abandoned, it shall be removed from the Road at the time of creating the new Entrance, and the Road and other Town property shall be repaired by the Adjacent Property owner, at his or her expense, in accordance with Town Standards and any terms or conditions of the Permit, to the satisfaction of the Director;~~
 - ~~f) All entrances shall conform to the Town of Milton's Standards, as may be amended from time to time.~~

- ~~g) the minimum distance at the Curb Line between Entrances on the same property frontage shall be:

 - ~~i) a minimum of 15 meters for urban residential lots;~~
 - ~~ii) a minimum of 30 meters for rural residential and farm lots;~~
 - ~~iii) at the discretion of the Director for commercial/industrial/institutional lots;~~~~
- ~~h) the minimum distance at the Curb Line between any Entrance and any intersection shall be to Town Standards based on Road classification, traffic volume and speed or as otherwise determined by the Director;~~
- ~~i) any Entrance to a commercial or industrial property shall conform to the Town's Site Plan Approval process and the Town Standards;~~
- ~~j) ramping is not permitted in lieu of a Curb Cut;~~
- ~~k) if the Applicant proposes a reversed (negative sloped) Entrance on private property, the Applicant must demonstrate to the satisfaction of the Director that the Entrance will not be flooded by the overland flow during a 100 year storm event or by flows in the storm sewer system. This Stormwater assessment must be completed by a qualified Civil Engineer utilizing the Town of Milton's Standards all to the satisfaction of the Director;

 - ~~i) all Entrances shall have unobstructed visual sightlines for entry/exit for any part of the Road including sidewalks and/or bike trails;~~
 - ~~ii) Entrance location and design is subject to the specifications within Town Standards;~~
 - ~~iii) sight distance criteria, as referenced in the Town of Milton's Engineering and Parks Standards Manual shall restrict the location of any Entrance based on the Road geometries, and may result in refusal or relocation of the Entrance. This sight line assessment will be completed by the Town of Milton, utilizing the Town's Standards and TAG Guidelines, all to the satisfaction and discretion of the Director.~~~~

CEASE AND DESIST ORDER

- ~~30) Where an Owner or any other person is in contravention of this By-law, or~~

~~any term or condition of a Permit issued under this By-law, the Director may make an Order directing that the Owner or such person cease the work immediately.~~

WORK ORDER

~~31) Where a Permit has been issued and an Owner or Applicant is in contravention of this By-law, or any term or condition of a Permit issued under this By-law, the Director or officer may issue a Work Order directing the Owner or Applicant, within twenty-one days of the issuance of the Order, to take such steps as are necessary so that the work which was the subject of the Permit is completed in accordance with the Permit Application, plans, documents and other information upon which the Permit was issued under this By-law and in accordance with the terms and conditions of the Permit.~~

ORDER FOR REMOVAL

~~32) Where a permit has not been issued and the owner is in contravention of this By-law, the Director or an Officer may issue an Order for Removal requiring the Owner to restore the property to a condition it was prior to commencement of such work, to the satisfaction of the Director, within twenty-one (21) days of the issuance of the Order.~~

COMPLIANCE WITH ORDERS

~~33) Any person to whom a Cease and Desist Order or a Work Order is issued pursuant to this By-law shall comply with the terms of such Order.~~

~~34) Where the Owner to whom a Work Order is issued fails to perform the work required by the Order, the Town may perform such work at the Owner's expense and may recover the cost incurred in doing such work in like manner as municipal taxes.~~

ENFORCEMENT

~~35) The administration and enforcement of this By-law shall be performed by the Director and by those persons designated as Officers under Schedule "B" as attached to the By-law and may be amended from time to time by the Director.~~

~~32.~~ 36) The Director and 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.

33. 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.

34. An Owner or Permit Holder is not liable under Section 33 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; and

(b) upon becoming aware of the contravention, the Owner or Permit Holder, as the case may be, took all reasonable steps to stop the contravention of this By- law.

152.35. The Commissioner and Municipal Law Enforcement Officers shall have all powers necessary to carry out the administration and enforcement of this By-law, and may, at any reasonable time, enter and inspect any land to determine whether this By-law, Cease and Desist Order or a Work Order, a condition to a Permit issued pursuant to this By-law, or a Court Order is being complied with.

SERVICE

36. 37) — Service required to be given under this By-law is sufficiently given if:

a. delivered personally;

b. in respect of an Applicant or Permit Holder, emailed to the email address provided in the application for a Permit; or

a.c. sent by registered mail to the last known address of the ~~Owner of person to whom~~ the ~~land~~Order is directed.

153.37. 38) — Where service is effected by registered mail, it shall be deemed to be made on the fifth (5) day after the date of mailing.

PENALTY

154.38. 39) — Any Person who contravenes this By-law or ~~a Cease and Desist Order or a Workan~~ Order issued ~~under section 29 or 30 of~~pursuant to this By-law is guilty of an offence and is liable, on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$10,000, and on any subsequent conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$25,000.

39. 40) — Despite ~~section~~Section 38 to this By-law, where the ~~person~~Person

convicted is a corporation, the maximum fine for a first conviction is \$50,000-
~~and, for each day or part of a day on which the offence occurs or continues,~~
~~and~~ for any subsequent conviction is \$100,000, for each day or part of a day on
which the offence occurs or continues.

~~156.40.~~ 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.

SEVERABILITY

~~157.41.~~ 41)—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.

EFFECT

~~42)~~—~~This By-law will take effect on the date it is passed.~~

SHORT TITLE

~~158.42.~~ 43)—This By-law may be cited as the Town of Milton Road Occupancy,
~~Curb Cut~~ and Entrance Permit By-law.

REPEAL

~~159.43.~~ 44)—By-law No. ~~75-2004035-2016~~ is ~~hereby~~ repealed upon the coming
into effect of this By-law.

EFFECT

44. This By-law will take effect on January 1st, 2020.

PASSED IN OPEN COUNCIL ON ~~APRIL 25, 2016~~August 12, 2019.

Gordon A. Krantz Mayor

Troy McHarg Town Clerk

SCHEDULE "A" TO BY-LAW NO. 035-2016

Road Occupancy Permit

Town of Milton
 Engineering Services
 150 Mary Street
 Milton, ON L9T 6L5
 905-878-7252 x2500
 engineering@milton.oe

Permit No. _____

Permit information on this form is collected under the authority of sections 41 of the Municipal Act, 2001, SO 2001-c.25, and the by-law used for the purpose of administration.

General Information

M.C. No. _____ Building Permit No. _____ Site Plan No. _____
 Property Address _____
 Applicant Name _____
 Address _____
 Company _____
 Business No. _____ Cd No. _____
 Email _____

Type of Work and Purpose	Location
Repair _____	Road Name _____ Road No. _____ At/Between _____
New _____	Legal Property Description _____
Occupancy _____	Plan No. _____

Boulevard Cut _____ Pavement Cut _____ Filler _____ Sidewalk Cut _____ Augered/Soft Road Crossing _____

Special Provisions:

The Applicant agrees to:

- 1) Accept full responsibility for the protection of all utilities, private property and persons affected by his/her operations;
- 2) Provide proof of liability insurance (\$5,000,000 minimum) naming the Town of Milton as additional insured;
- 3) Indemnify and save harmless the Town of Milton and all assets and personnel in its lawful responsibility.

Proof of insurance must be presented at the time of the permit application. Without valid proof of insurance, this application will not be processed and a permit will not be issued.

This permit does not constitute site plan, M.C., and/or service connection approval.

Town Permit Inspector must be notified at least 48 hours prior to commencement of work or this permit is invalid.

Failure to comply with all conditions will void this permit.

From _____ Duration Approved _____
 Applicant must review all applicable conditions, especially the underlined items, prior to signature.
 Applicant's Signature _____ Date (MM/DD/YYYY) _____
 _____ or Milton Approval _____ Date (MM/DD/YYYY) _____

I have read, understood, and will comply to the attached General Terms & Conditions which form part of this permit application.

Town Permit Inspector: _____

Email: _____ Application Fee _____ Paid
 Phone: _____ Job Fee _____ Paid
 Security Deposit _____ Paid
 Inspection Fee _____ Paid

Conditions on next page.

General Conditions

1. ~~All works carried out under this permit must be completed in accordance to the Town of Milton Restoration Standards and to the satisfaction of the Town of Milton.~~
2. ~~All work within the Municipal Right of Way or Other Town property shall be carried out by the Town of Milton or the Town of Milton's contractor, at the sole cost of the applicant, as determined by the Director.~~
3. ~~The Applicant assumes all responsibility of existing site conditions with the location of the proposed works. Any pre-existing conditions may be field verified/checked by the Town's Permit Inspector at least 46 hours prior to commencement of work.~~
4. ~~If road is unassumed, written concurrence is required by the developer.~~
5. ~~Prior to commencing work, stakeouts must be obtained from all utilities in the Town of Milton.~~
6. ~~When working, a copy of this permit and stakeouts must be on site at all times.~~
7. ~~This permit is not valid until signed by the Town of Milton.~~
8. ~~Construction plans drawings must be submitted at all times with application.~~
9. ~~A copy of the permit or written notification of completion of work must be provided to the Town of Milton for final approval and warranty.~~
10. ~~Positive drainage shall be maintained during the course of the work.~~
11. ~~No work is to be done during rush hour period (7:00 am to 9:00 am or 4:00 pm to 6:00 pm) on the travelled portion of the roadway.~~
12. ~~All signs and equipment must be off the travelled portion of the roadway before 9:00 a.m., or after 4:00 p.m.~~
13. ~~———— Lane(s) of traffic must be maintained during working hours as per OTM Book 7.~~
14. ~~All lanes of traffic must be maintained when not working.~~
15. ~~All utilities shall be protected and supported, to the satisfaction of the affected utility.~~
16. ~~The road surface and sidewalks shall be kept clear of obstructions or debris, to avoid hazard or inconvenience to the public.~~
14. ~~Mud tracking or dust nuisance shall not be allowed. Any accumulation must be cleaned from the road and/or shoulders immediately. Failure to do so could result in the Town causing the cleaning to be carried out at the Applicant's expense and/or charges under the TCN's Obstructing Highways By-law (97-2000) as amended.~~
15. ~~The Applicant shall not cut, trim or interfere with any trees (including roots) in the right-of-way without TCNIO of Milton approval.~~
16. ~~All changes and/or deviations from the approved plans and/or location shall be subject to re-approval by the TCN of Milton.~~
17. ~~The use of steel plating within the travelled portion of the R.O.W shall not be permitted unless preapproved by the Town of Milton.~~
18. ~~The road shall not be closed without the consent in writing of the Director, Engineering Services.~~
19. ~~Property owners and/or residents shall receive a minimum of 24 hours written notice prior to temporary closing of an entrance unless an emergency.~~
20. ~~The applicant agrees and accepts full responsibility to supply, maintain, clean and place all barricades, warning signs, delineators, and flashing lights, necessary for the protection of the public and the safe operation of the installation, at the applicant's own expense, as per the Ontario Traffic Manual (OTM), Book 7, Temporary Conditions latest revision. (Note: This manual depicts minimum standards, additional signing may be required)~~
21. ~~All disturbed or affected areas to be maintained and guaranteed for two years after completion and acceptance of the work by the TCN, at the applicant's expense.~~
22. ~~The applicant accepts the Town's right to perform any necessary remedial work caused by the applicant's operation, subject to the following conditions:-~~
 - a) ~~The Director, Engineering Services will give the applicant not less than twenty-four (24) hours notice of any remedial work required, except for emergency work.~~
 - b) ~~If at the expiration of the time allowed, the applicant or his/her contractor has not commenced remedial work to the Director's satisfaction, the Town of Milton may undertake to have this work done by whatever means it deems necessary.~~
 - e) ~~The applicant agrees to reimburse the TCN of Milton for all costs incurred under 22a) and/or 22b) and/or to supply the TCN with a Security Deposit, for a specified amount where applicable as noted in the Road Cut and Entrance By-Law.~~
23. ~~Access for emergency vehicles and driveways must be maintained at all times.~~
24. ~~Vehicles are not permitted to park any closer than 3.0 m from fire hydrants; 6.0 m from crosswalks (marked unmarked). No Stopping Zones (Full, Partial, or rush hour) must be adhered to. Fire hoses, cords, pipes that cross the sidewalk must be ramped. Pedestrian traffic must be controlled on the pedestrian right of way when it is necessary to cross the right of way.~~
25. ~~If a lane closure is required, the Applicant must submit a traffic control plan with the permit application. The traffic control plan must be in compliance with the OTM Book 7 Temporary Conditions latest revision.~~
26. ~~By signing this application, the Applicant agrees that they have reviewed By-Law No. 75-2004 and further that the Applicant will comply with all requirements set out in that By-law.~~

ALL CONDITIONS ARE SUBJECT TO REVISION AS NECESSARY. REPAIRS SHALL BE EQUAL OR SUPERIOR TO THE ORIGINAL CONDITION. TOWN

OF MILTON 1150 MARY ST. ■ ENGINEERING SERVICES ■ L9T 6Z5 ■ TEL: 905.878.7252 ■ FAX: 905.878.5029 ■ EMAIL: ENGINEERING@MILTONCA



Curb Cut and Entrance Permit

Town of Milton

Engineering Services
450 Mary Street
Milton, ON L9T 6Z5
905-878-7252 x2500
Engineering@milton.ca

Site No. _____ Permit No. _____
Chargeback No. _____

Personal information on this form is collected under the authority of sections 41 of the Municipal Act, 2001, SO 2001, c. 25, and will be used for the purpose of administration.

Site Plan No. _____

Building Permit No. _____

Property Address

Property Owner (must be completed)

Name

Address

City

Postal Code

Phone Number (Bus.)

Phone Number (Res.)

Email

Company/Contractor, acting on behalf of the Property Owner

Business Name

Address

Contact

City

Phone Number (office)

Phone Number (cell)

Email

Complete drawing on page two with existing and proposed measurements in metres.
For Site Plan/Building Permit/Curb Cut and Entrance Permit application submit a copy of the development application drawings.

I have read, understood, and will comply to the attached General Terms & Conditions which form part of this permit application

Signature (Property Owner)

Date

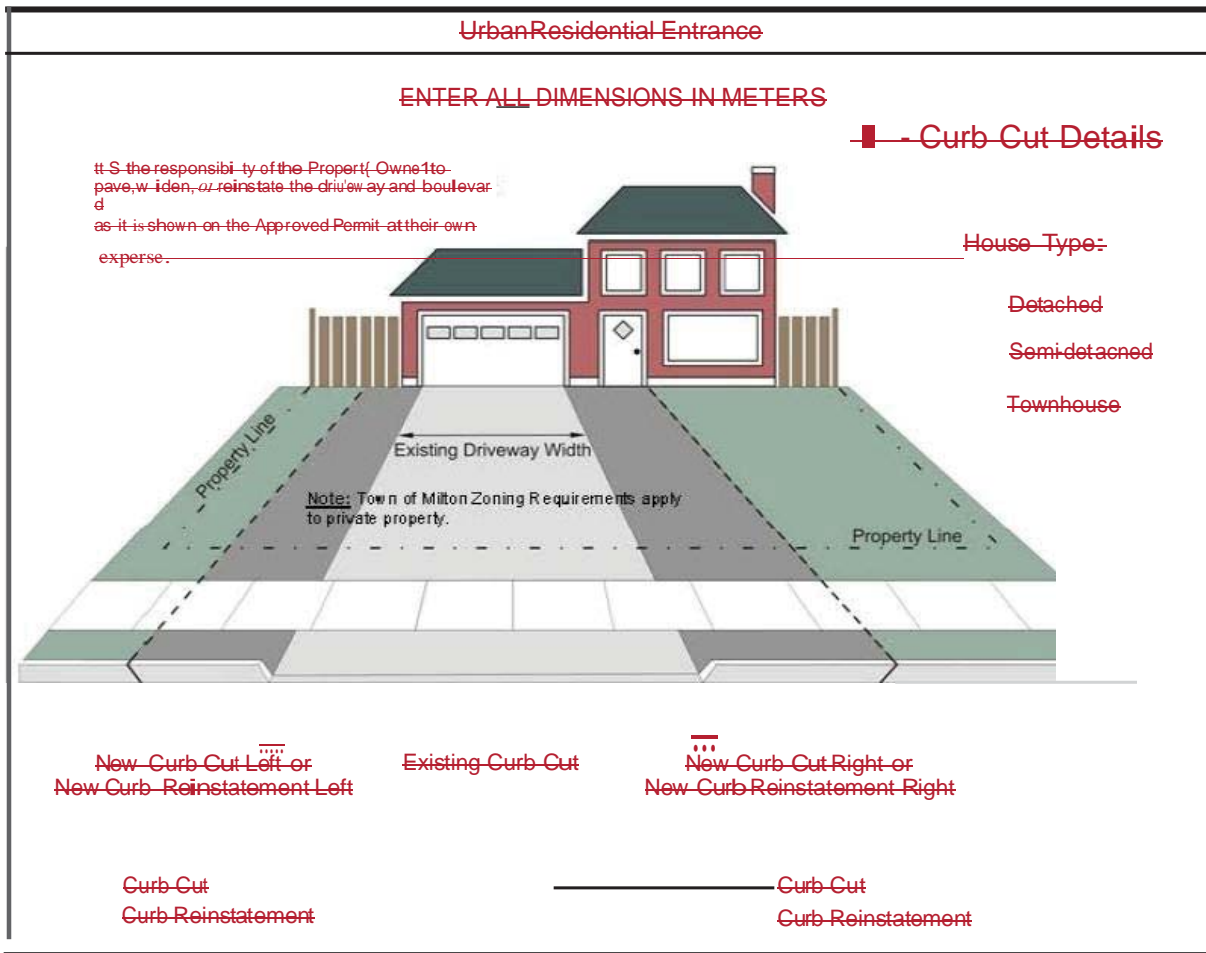
Signature (Contractor)

Date

Town Approval

Approval Date

Application Fee	Paid
Job Fee	Paid
Security	Paid
Inspection	Paid



Total New Entrance Width =
 = 6.0m as per Town of Milton Engineering Standards

Rural Entrance

All Rural Entrance Permits must be submitted With a drawing showing all existing and proposed entrances.

A copy of the property survey may be used to create a drawing when the Entrance Permit is not related to a Development application.

The drawing must show all existing and proposed driveway widths in meters including measurements to adjacent property lines.

The drawing must show any existing culvert locations including their length and size. Entrance location shall be staked out prior to permit application.

New Culvert Requirements:

Culverts shall be new, Boss 2000 dual-wall corrugated HDPE drainage pipe or approved equivalent.

Culverts shall be backfilled with a minimum compacted cover of 300 mm of 19 mm Limestone. The remainder of the entrance within the right of way shall have a minimum compacted thickness of 150 mm 19 mm Limestone (or as specified by the Town and/or manufacturer).

Culverts must have a minimum size of 375 mm. With driveway side slopes top dressed with a minimum 100 mm of topsoil, sodded and graded to a maximum 3:1 ratio from the entrance driveway platform to the ends of the culvert invert.

General Terms & Conditions

- ~~1. No curb cut, access, or access modification works shall be carried out without an approved and issued Curb Cut and Entrance Permit~~
- ~~2. All work within the Municipal Right of Way or other Town property will be carried out by the Town of Milton or the Town of Milton's contractor, at the sole cost of the applicant, as determined by the Director.~~
- ~~3. The permit shall expire three (3) months after the date of issuance, if the work which is the subject of the Permit, has not commenced within that time. After expiration of the three (3) month term, a new Permit must be obtained before proceeding with such work.~~
- ~~4. Any Entrance to a commercial or industrial property shall conform to the Town's Site Plan Approval process and the Town Standards, as per By-Law No. 75-2004~~
- ~~5. Works approved by the Town of Milton under an Issued Curb Cut and Entrance Permit will be performed between April 1 and October 31. Works requested outside of those dates will be deferred.~~
- ~~6. Urban Entrances shall be paved with an asphalt surface or other approved material within 30 days of the entrance widening by the applicant at their sole expense.~~
- ~~7. Any Entrance to a commercial or industrial property shall conform to the Town's Site Plan Approval process and the Town Standards.~~
- ~~8. The Town of Milton will not accept responsibility for any damages to private sprinkler/irrigation heads, systems or other fixtures encroaching on Town property when performing works approved under a Curb Cut and Entrance Permit.~~
- ~~9. Should Applicant(s) proceed with work which has not been approved by the Town and for which an Curb Cut and Entrance Permit has not been issued; the Applicant(s) will be held responsible for any repair of damages and/or restoration of non-approved works back to the original condition at the Applicant(s) own expense. All costs incurred by the Town related to construction or rectification will be recovered by direct invoicing to the applicant. A 20% surcharge will be applied to cover the Town's overhead and administration costs.~~
- ~~10. Should Permit Holder(s) decide not to proceed with work for which an Curb Cut and Entrance Permit has been issued and paid; the Application Fee will not be refunded.~~
- ~~11. The Town of Milton will not guarantee the completion of any Curb Cut and Entrance Permit works by a specific date as requested by the Permit Holder(s).~~

Town Standards and Zoning Requirements

- ~~• Urban Residential Entrances shall have a minimum width of 3.2 m.~~
- ~~• Rural Residential Entrances shall have a minimum width of 5.0 m.~~
- ~~• **Maximum widths** for Residential Entrances:

 - ~~(a) 3.2 m for lots having a frontage of less than or equal to 6.5 m;~~
 - ~~(b) 4.0 m for lots having a frontage greater than 6.5 m and less than or equal to 8.0 m;~~
 - ~~(c) 5.0 m for lots having a frontage greater than 8.0 m and less than or equal to 9.0 m;~~
 - ~~(d) 6.0 m for lots having a frontage greater than 9.0 m and less than or equal to 11.5 m;~~
 - ~~(e) 8.0 m for lots having a frontage greater than 11.5 m.~~~~
- ~~• The minimum distance at the Curb Line between Entrances on the same property frontage shall be:

 - ~~(a) a minimum of 15 meters for urban residential lots;~~
 - ~~(b) a minimum of 30 meters for rural residential and farm lots~~
 - ~~(c) at the discretion of the Director for commercial/industrial/institutional lots~~~~
- ~~• The minimum distance at the Curb Line between any Entrance and any intersection shall be to Town Standards based on Road classification, traffic volume and speed or as otherwise determined by the Director.~~
- ~~• All Entrances shall have unobstructed visual sightlines for entry/exit for any part of the road including sidewalks and/or bike trails.~~
- ~~• Driveways are to be 1.2 m clear of utility structures and hydrants.~~

Working within the Municipal Right of Way

1. ~~The Applicant agrees to:~~ 1) Accept full responsibility for the protection of all utilities, private property and persons affected by his/her operations; 2) Provide proof of Liability insurance (\$5,000,000 minimum) naming the Town of Milton as additional insured; 3) Indemnify and save harmless the Town of Milton and all assets and personnel it is in law responsible for.
2. All works carried out under this permit must be completed in accordance to the Town of Milton Restoration Standards and to the satisfaction of the Town of Milton.
3. The Applicant assumes all responsibility of existing site conditions within the location of the proposed works. Any pre-existing conditions may be field verified/noted by the Town's Permit Inspector at least 24 hrs prior to commencement of works.
4. Prior to commencing work, stakeouts must be obtained from all utilities in the Town of Milton.
5. When working, a copy of this permit and stakeouts must be on site at all times.
6. **A copy of the permit or written notification of completion of work must be provided to the Town of Milton for final approval and warranty.**
7. Positive drainage shall be maintained during the course of the work.
8. **No work is to be done during rush-hour period (7:00a.m. to 9:00a.m., or 4:00p.m. to 7:00p.m.) on the travelled portion of the roadway.**
9. All signs and equipment must be off the travelled portion of the roadway before 9:00a.m., or after 4:00 p.m.
10. Lane(s) of traffic must be maintained during working hours as per OTM Book 7.
11. All Lanes of traffic must be maintained when not working.
12. All utilities shall be protected and supported, to the satisfaction of the affected utility.
13. The road surface and sidewalks shall be kept clear of obstructions or debris, to avoid hazard or inconvenience to the public.
14. Mud tracking or dust nuisance shall not be allowed. Any accumulation must be cleaned from the road and/or shoulders immediately. Failure to do so could result in the Town causing the cleaning to be carried out at the Applicant's expense and/or charges under the Town's Obstructing Highways By-law (97-2000) as amended.
15. The Applicant shall not cut, trim or interfere with any trees (including roots) in the right-of-way without Town of Milton approval.
16. All changes and/or deviations from the approved plans and/or location shall be subject to re-approval by the Town of Milton.
17. The road shall not be closed without the consent in writing of the Director, Engineering Services.
18. The applicant agrees and accepts full responsibility to supply, maintain, clean and place all barricades, warning signs, delineators, and flashing lights, necessary for the protection of the public and the safe operation of the installation, at the applicant's own expense, as per the Ontario Traffic Manual (OTM), Book 7, Temporary Conditions latest revision. (Note: This manual depicts minimum standards, additional signing may be required)
19. All disturbed or affected areas to be maintained and guaranteed for **two years** after completion and acceptance of the work by the Town, at the applicant's expense
20. The applicant accepts the Town's right to perform any necessary remedial work caused by the applicant's operation, subject to the following conditions:
 - a) The Director, Engineering Services will give the applicant not less than twenty-four (24) hours notice of any remedial work required, except for emergency work.
 - b) If at the expiration of the time allowed, the applicant or his/her contractor has not commenced remedial work to the Director's satisfaction, the Town of Milton may undertake to have this work done by whatever means it deems necessary.
 - c) The applicant agrees to reimburse the Town of Milton for all costs incurred under 22a) and/or 22b) and/or to supply the Town with a Security Deposit, for a specified amount, where applicable as noted in the Road Cut and Entrance By-Law.
21. Access for emergency vehicles and driveways must be maintained at all times.

SCHEDULE "B" TO BY-LAW 035-2016

The following Town employees or agents are hereby designated as Officers for the purpose of this By-law and authorized to carry out the administration and enforcement of this By-law:

- Director of Engineering Services and his/her designate.
- Municipal Law Enforcement Officers

THE CORPORATION OF THE TOWN OF MILTON

Appendix II

BY-LAW NO. 0XX-2019

A BY-LAW TO REGULATE THE CONSTRUCTION, INSTALLATION, WIDENING OR ALTERING OF ENTRANCES TO AND THE OCCUPATION OF ROAD ALLOWANCES UNDER THE JURISDICTION OF THE TOWN AND TO REPEAL BY-LAW NUMBER 035-2016

WHEREAS Section 8 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 Section 11(2) permits a municipality to pass by-laws respecting matters dealing with highways;

AND WHEREAS pursuant to Section 44(1) of the Municipal Act, 2001, the 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:

DEFINITIONS

1. In this By-law:
 - (a) “Adjacent Property” means a property abutting a Road Allowance;
 - (b) “Applicant” means any person who has applied for a Permit under this By-law ;
 - (c) “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, .5 m before the start of the foreslope of the ditch;
 - (d) “Commissioner” means the Town’s Commissioner of Engineering Services or Director of Infrastructure or their designates;
 - (e) “Entrance” means any driveway, laneway, 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 Adjacent Property;

- (f) “Frontage” means the distance measured along the front lot line between the side lot lines where the side lot lines are parallel. In cases where the side lot lines are not parallel, the distance is 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.;
- (g) “Intersection” means the location where two or more Road Allowances converge or the convergence of a Road Allowance with a road allowance not under the jurisdiction of the Town;
- (h) “Owner” means any person who is the registered or beneficial owner of, an Adjacent Property or who leases, maintains or otherwise controls an Adjacent Property;
- (i) “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. ;
- (j) “Permit Holder” means the Person to whom a Permit has been issued, or transferred to with the consent of the Commissioner. .
- (k) “Person” includes a natural person, company, corporation, partnership, firm, association, society, organization, party or other like entity; ***I grabbed this from another municipalities
- (l) “Restricted Entrance” means any Entrance that is approved and constructed for directionally controlled traffic;
- (m) “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;
- (n) “Road Occupancy” means:
- i. the use of the Town Road Allowance for any work and/or construction related activities;
 - ii. the obstruction 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 dumping or storage of any material, containers (bins or otherwise), vehicles, or any other item, for any length of time within a Town Road Allowance, including any items not covered under the Town’s Uniform Parking By-Law, as may be amended from time to

time; or

- v. any other alteration of a Town Road Allowance, including any alteration to grading, landscaping or trees;
- (o) “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;
- (p) “Town” means The Corporation of the Town of Milton;
- (q) “Town Road Allowance” means a Road Allowance under the jurisdiction of the Town;
- (r) “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;
- (s) “Treasurer” means the Town’s Treasurer, or his/her designate ;
- (t) “Urban Area” means those lands within the Urban Expansion Area Boundary as set out in the in force and effect Town of Milton Official Plan;
- (u) “Rural Area” means those lands outside the Urban Expansion Area Boundary as set out in the in force and effect Town of Milton Official Plan. This area includes hamlets and rural settlement areas such as Moffat, Campbellville etc.

PROHIBITIONS

2. No person shall construct, install, widen, or alter any Entrance without a Permit.
3. No person shall undertake a Road Occupancy without a Permit.
4. Where a Permit has been issued, no person shall construct, install, widen or alter any Entrance or undertake any Road Occupancy 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.
5. An Entrance, if authorized by a Permit, may only be used to provide access to the Adjacent Property for which the Permit was issued and shall not be used, constructed, installed, widened or altered for any other purpose.
6. No Entrance may be used for the parking of vehicles or the storage of any other equipment, materials, goods or things.

7. A property in Milton's Urban Area with a principle residential use shall not have an Entrance on more than one lot line.

EXCEPTIONS

8. Notwithstanding Section 2, within unassumed registered plans of subdivision, no Permit is required for the construction of an Entrance to an unassumed Road Allowance, provided the Entrance is constructed in accordance with the drawings, plans and specifications approved by the Town in connection with the registration of the plan of subdivision.

MAINTENANCE, REPAIR AND RELOCATION

9. 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.
10. The Town may alter, construct or remove any Entrance, or Road Occupancy located within a Town Road Allowance without notice to, or permission from, the Permit Holder or Owner and without compensation. This right also extends to work by third party utility service, provided such work is approved by the Town.

APPLICATIONS FOR PERMITS

11. The following persons may apply to the Commissioner for a Permit:
 - (a) an Owner may apply for a Permit to authorize an Entrance; or
 - (b) a Person may apply for a Permit to authorize a Road Occupancy.
12. Except as provided in Section 13, an application for a Permit shall:
 - (a) be in such form as approved by the Commissioner;
 - (b) contain all such information and documents as may be required by the Commissioner; 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 Commissioner.
 - (d) if required by the Commissioner, 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

Commissioner; 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 Commissioner.

13. 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 Adjacent Property, the Applicant is exempt from the Permit application requirements set out in Subsections 12 (b) and (c).

PERMIT APPROVAL

14. Prior to the issuance of a Permit, the Applicant shall:

- (a) complete all application requirements set out in Section 12;
- (b) deposit with the Town financial security in the amount of 100% of the combined total of:
 - i. the cost estimate approved under Subsection 12 (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 information requested by the Commissioner;
 - (d) obtain and provide the Commissioner with proof of all permits, approvals and authorisations 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; and
 - (e) demonstrate compliance with applicable Town Standards.
15. 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.
 16. After considering an application for a Permit, the Commissioner may:

- (a) issue a Permit, subject to such terms and conditions as the Commissioner deems appropriate, provided that the Commissioner is satisfied that Section 14 of this By-law has been complied with and the issuance of the Permit would not be contrary to Section 15; or
 - (b) decline to issue a Permit.
17. 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 the applicable fees must be obtained before proceeding with such work.
 18. 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.
 19. Notwithstanding any other provisions of this By-Law, the Commissioner may revoke, alter or amend a Permit after issuance if the Commissioner has reason to believe it is in the public interest to do so.
 20. 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, and all other terms and conditions of the Permit, are completed in conformity with the Town's Standards and to the satisfaction of the Commissioner and any applicable warranties with respect to the work conducted under the Permit have expired.
 21. A Permit Holder may not assign or transfer a Permit without the consent of the Commissioner.

PERMIT CONDITIONS

22. In addition to any terms or conditions imposed by the Commissioner, 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 Commissioner, 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; and
 - (d) all drains, 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.

23. In addition to any terms or conditions imposed by the Commissioner or under Section 22, the following conditions apply to all Permits for Entrances:
- (a) all entrances shall extend sufficiently onto the Adjacent Property to allow parking on the Adjacent 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 Commissioner 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

ORDERS AND POWERS OF THE COMMISSIONER

24. Where the Town has reason to believe that a Person is or will be in contravention of this By-law, or any term or condition of a Permit, the Commissioner or a Municipal Law Enforcement Officer appointed by the Town, may issue a Stop Work Order directing the activities cease immediately, upon service of the Order to any or all of the following:
- (a) the Owner;
 - (b) the Permit Holder; and
 - (c) any other Person the Town has reason to believe is or will be in contravention of this By-law or any term or condition of a Permit.

25. Where the Town has reason to believe that a Person is in contravention of this By-law, or any term or condition of a Permit, the Commissioner or a Municipal Law Enforcement Officer appointed by the Town, may issue a Work Order directing any or all of the following 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:
 - (a) the Owner;
 - (b) the Permit Holder; and
 - (c) any other Person the Town has reason to believe is in contravention of this By-law or any term or condition of a Permit.
26. 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 safety, the Work Order may provide that the actions set out therein be taken immediately.
27. The Commissioner may at any time and without notice, remove, repair or alter any Entrance or Road Occupancy for which a Permit has not been issued, or remove, repair or alter or take any other corrective action with respect to any Entrance or Road Occupancy which has not been constructed, repaired or altered or undertaken in accordance with a Permit and this By-law.
28. Upon removal, repair or alteration of any Entrance or Road Occupancy pursuant to Section 27, the Permit Holder and any other Person the Town 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. Such costs, as determined by the Commissioner, shall constitute a charge under the Municipal Act, 2001, S.O. 2001, c. 25 as amended, and may be added to the tax roll in the manner provided for therein.
29. Any Person to whom an Order is issued pursuant to this By-law shall comply with the terms of such Order.
30. Where the Person to whom a Work Order is issued fails to perform the work required by the Order, the Town may perform such work and the Person shall be responsible for all costs of the Town incurred in the performance of the work, including administrative costs. Any costs of the Town incurred in the performance of such work, as determined by the Commissioner, shall constitute a charge under the Municipal Act, 2001, S.O. 2001, c. 25 as amended, and may be added to the tax roll in the manner provided for therein.

ENFORCEMENT

31. 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 subject to the provisions of the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended, and every such penalty shall be recoverable under the Provincial Offences Act.
32. 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.
33. 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.
34. An Owner or Permit Holder is not liable under Section 33 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; and
 - (b) upon becoming aware of the contravention, the Owner or Permit Holder, as the case may be, took all reasonable steps to stop the contravention of this By-law.
35. The Commissioner and Municipal Law Enforcement Officers shall have all powers necessary to carry out the administration and enforcement of this By-law, and may, at any reasonable time, enter and inspect any land to determine whether this By-law, Cease and Desist Order or a Work Order, a condition to a Permit issued pursuant to this By-law, or a Court Order is being complied with.

SERVICE

36. Service required to be given under this By-law is sufficiently given if:
 - a. delivered personally;
 - b. in respect of an Applicant or Permit Holder, emailed to the email address provided in the application for a Permit; or
 - c. sent by registered mail to the last known address of the person to whom the Order is directed.
37. Where service is effected by registered mail, it shall be deemed to be made on the fifth (5) day after the date of mailing.

PENALTY

38. Any Person who contravenes this By-law or an Order issued pursuant to this By-law is guilty of an offence and is liable, on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$10,000, and on any subsequent conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$25,000.
39. Despite Section 38 to this By-law, where the Person convicted is a corporation, the maximum fine for a first conviction is \$50,000, for each day or part of a day on which the offence occurs or continues, and for any subsequent conviction is \$100,000, for each day or part of a day on which the offence occurs or continues.
40. 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.

SEVERABILITY

41. 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.

SHORT TITLE

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

REPEAL

43. By-law No. 035-2016 is repealed upon the coming into effect of this By-law.

EFFECT

44. This By-law will take effect on January 1st, 2020.

PASSED IN OPEN COUNCIL ON August 12, 2019.

Gordon A. Krantz Mayor

Troy McHarg Town Clerk