

THE CORPORATION OF THE CITY OF BURLINGTON

BY-LAW NUMBER 20-2010

A by-law regulating the expansion of driveways.  
File: 795-03-1 (E-27-10)

WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25 (hereinafter the “*Municipal Act, 2001*”) provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act, 2001*; and

WHEREAS section 8(1) of the *Municipal Act, 2001* provides that a municipality’s powers are to be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues; and

WHEREAS section 391(1)(c) of the *Municipal Act, 2001* provides that a municipality may pass by-laws imposing fees and charges on any class of persons for the use of its property including property under its control; and

WHEREAS section 446(1) of the *Municipal Act, 2001* provides that a municipality may proceed to do things at a person’s expense, which that person is otherwise required to do under a by-law or otherwise has failed to do; and

WHEREAS section 446(3) of the *Municipal Act, 2001* provides that the costs incurred by a municipality in doing a thing or matter under section 446(1) may be recovered by adding the costs to the tax roll and collecting it in the same manner as taxes;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF BURLINGTON ENACTS AS FOLLOWS:

**1.0 SHORT TITLE**

1.1 This by-law shall be known and may be cited as the “Driveway By-Law”.

**2.0 DEFINITIONS**

2.1 For the purpose of interpreting the provisions set forth in this By-law, the following definitions shall apply:

“**agent**” means a person authorized in writing by the owner to act on their behalf to obtain a driveway permit;

“**City**” means the Corporation of the City of Burlington;

“**Council**” means the Council of the Corporation of the City of Burlington;

**“curb cut”** means where a curb requires a cut to accommodate a driveway or a driveway widening;

**“curb line”** means:

- a) where a curb has been constructed, the line of the curb; or
- b) where no curb has been constructed, the edge of the roadway;

**“driveway”** means a single passageway or series of interconnected passageways, for exclusive or shared private use, providing vehicular access between a highway or condominium common element roadway and an area used for the parking, loading or storage of a vehicle;

**“driveway apron”**

- a) means the portion of a driveway located between the edge of sidewalk closest to the highway and the curb line; or
- b) where no sidewalk is present, means the portion of driveway located between the private property line and the curb line;

**“driveway apron taper”** means the transition width of a driveway between the sidewalk or private property line to the curb line;

**“Driveway Permit”** means a permit issued by the Director of Engineering pursuant to the provisions of this by-law.

**“Director”** means the Directors of Engineering, Transit & Traffic, Building, or Roads and Parks Maintenance Departments of the Corporation of the City of Burlington or designate;

**“highway”** means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

**“Local Board”** means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding a school board and a conservation authority;

**“Municipal Law Enforcement Officer”** means any person authorized by the Corporation of the City of Burlington to enforce the City’s by-laws;

**“owner”** means:

- a) the registered owner of a private property;
- b) the registered owner of a condominium unit;
- c) any agent of an owner;
- d) any tenant of an owner;

**“private property”** means real property owned by persons, other than property owned by the Corporation of the City of Burlington, and includes real property owned by individuals, local boards, corporations and public authorities;

**“sign”** means any surface, structure and other component parts, which are used or capable of being used as a visual medium to attract attention to a specific subject matter for identification, information or advertising purposes and includes an advertising device or notice;

**“sight Distance”** means the length of roadway ahead visible to the driver for safe and efficient operation of a vehicle.

### **3.0 DRIVEWAY REGULATIONS**

- 3.1 Unless work is subject to site plan approval, no new driveway shall be constructed or an existing driveway widened without a Driveway Permit from the City’s Engineering Department.
- 3.2 Unless otherwise approved by the City, each driveway shall generally be perpendicular to the street and:
  - a) For all detached homes, semi-detached, duplex, triplex, fourplex, street townhouse or townhouse, driveways shall not be less than 2.7 metres in width.
  - b) The width of a driveway may exceed 2.7 metres to the maximum width permitted by this by-law, the City’s Zoning By-law, and a Niagara Escarpment Development Permit.
  - c) Driveways and driveway aprons shall be finished with a material such as asphalt, paving stones, impressed concrete or other durable hard surface to the satisfaction of the Director of Engineering.
  - d) For lots equal to or greater than 12 metres in width, the maximum width of a curb cut shall be 6.8 metres.

BY-LAW NUMBER 20-2010

- 4 -

- e) For lots less than 12 metres in width, the maximum width of a curb cut shall be 3.5 metres.
  - f) For lots equal to or greater than 10 metres in width, a 6.8 metre driveway apron may be permitted without a corresponding 6.0m driveway on private property, subject to the approval of the Director of Engineering.
- 3.3 Where a driveway is to be located within the minimum distance to a utility as described in Section 3.4 below, written approval must be obtained by the owner from the appropriate authority and provided to the City prior to the **application for** a Driveway Permit.
- 3.4 The minimum distance of a driveway to the face of a utility shall be as follows:
- |                                       |  |
|---------------------------------------|--|
| Hydro Pole/Signal Pole/Light Standard | 1.0 metre (City of Burlington or Burlington Hydro) |
| Fire Hydrant                          | 1.2 metres (Region of Halton)                      |
| Communications Pedestal               | 1.0 metre (Telecommunication utilities)            |
| Hydro Transformer                     | 1.0 metre (Burlington Hydro)                       |
- 3.5 Where a driveway is to be located within 4 metres of a tree located on City property, written approval must be obtained from the Director of Roads and Parks Maintenance and provided to the City prior to the application for a Driveway Permit.
- 3.6 No driveway shall obstruct or interfere with City approved on-street parking spaces.
- 3.7 Where poles, hydrants, manholes, signs and any other road works require relocation to facilitate a driveway, written approval must be obtained by the owner from the appropriate authority and provided to the City prior to the application for a Driveway Permit. The cost of these works shall be borne by the owner.
- 3.8 In the event of a conflict between this by-law and an approved subdivision agreement, the subdivision agreement shall prevail.
- 3.9 Despite any other provisions of this by-law, no person shall construct a driveway that creates hazardous conditions that impede a roadway's sight distance, horizontal or vertical alignment or other considerations

**4.0 DRIVEWAY PERMIT**

- 4.1 Upon application, a Driveway Permit may be issued by the City for works not related to a site plan, to be carried out in, over, or under a City highway, subject to any other conditions the City may impose.
- 4.2 The applicant shall pay fees for a Driveway Permit in accordance with the City's fee, as approved by Council.
- 4.3 The Driveway Permit shall be valid only during the dates and times indicated on the permit, which shall be determined by the City. Where no dates or times are indicated on the Driveway Permit, the permit shall be valid for thirty days from the date of issuance between 7:00 a.m. to 7:00 p.m, excluding Sundays and statutory holidays.
- 4.4 The work shall be fully described in writing, complete with drawings and dimensions, where required by the City.
- 4.5 The applicant shall pay by security and/or deposits to the City an amount calculated by the City based upon the City's estimate of the cost which will be incurred to reinstate the highway and for other services provided by the City.
- 4.6 Upon satisfactory completion of the work and following a warranty period of one year or as deemed appropriate by the City, the amount of security and/or deposit which exceeds the cost incurred by the City will be returned to the applicant, or in the case where the costs exceed the security, and/or deposit, the applicant shall pay the amount invoiced within 30 days of receipt of the invoice from the City.
- 4.7 A Driveway Permit shall be subject to the following conditions to obtain, keep and renew a permit:
  - a) All work shall meet the standards and specifications of the City's Engineering Department and be as per approved plans where applicable.
  - b) The applicant shall inform the City's Engineering Department at least seven days in advance of commencing road works on any highway.
  - c) The applicant shall contact all utility companies to determine the location of their plant prior to the commencement of construction or road works.
  - d) The applicant and/or contractor shall notify the City in writing when they have completed the works and request inspection.
  - e) The applicant shall complete all maintenance work deemed necessary by the City within 72 hours of notice to undertake such repairs. In the case of emergency repairs deemed necessary by the City, the necessary works shall be completed immediately.

- f) Should the applicant fail to complete works ordered by the City, the City may retain any securities deposited by the applicant and/or contractor to cover the cost of the works done and deposits in excess of the actual cost of the works shall be refunded by the City upon satisfactory completion. If the costs of such works exceed the security deposits, then the additional costs will be charged to the owner.
- g) Where the applicant's agent deposits security, the agent is responsible to advise their client of the requirements herein that may affect that security.

4.8 The City may also require as conditions to a Driveway Permit:

- a) That flag persons, uniformed police officers and/or traffic warning devices be provided.
- b) That the work site be constantly attended and supervised.
- c) That barricades, platforms or other structures be erected for the protection of the public.
- d) Compliance with any other condition as in his or her opinion is reasonably necessary for the protection of the public safety and right to travel along the street.

4.9 A Driveway Permit issued in accordance with this by-law is invalidated if the work authorized by the permit is conducted in a manner other than as approved by the City.

4.10 A Driveway Permit issued in accordance with this by-law is invalidated if the work is conducted at a date or time other than authorized.

4.11 A Driveway Permit issued in accordance with this by-law is invalidated if the work for whatever reason constitutes a danger.

## **5.0 SCHEDULES and SEVERABILITY**

5.1 If a Court of competent jurisdiction declares any section or part of a section of this by-law invalid, it is the intention of Council that the remainder of the by-law shall continue to be in force and effect.

## **6.0 COMPLIANCE WITH OTHER BY-LAWS AND REGULATIONS**

6.1 This by-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations.

6.2 If there is a conflict between a provision of this by-law and a provision of any other City by-law, the provision that establishes the higher standard to protect the health and safety of the public and to maintain clean and tidy conditions on the highway shall apply.

BY-LAW NUMBER 20-2010

- 7 -

**7.0 ENFORCEMENT**

- 7.1 A Municipal Law Enforcement Officer or other person authorized to enforce the *Provincial Offences Act*, is hereby vested with the authority of administering and enforcing the provisions of this by-law.
- 7.2 Any person who contravenes any provision of this by-law, who obstructs or attempts to obstruct any City employee in carrying out his or her duties under this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.
- 7.3 Where the City has performed the work required to bring the lands into compliance with this by-law, the expenses incurred in doing the work may be collected by action or the costs may be added to the tax roll for the lands and collected in the same manner as taxes.

ENACTED AND PASSED this 22<sup>nd</sup> day of March, 2010.

\_\_\_\_\_  
Cam Jackson

MAYOR

\_\_\_\_\_  
Suzanne Jones

ACTING CITY CLERK