**BY-LAW NUMBER 123-24 (As amended by By-law 119-26)**

- of -

THE CORPORATION OF THE COUNTY OF BRANT

To repeal By-Law 176-99, as amended

And enact a new by-law to regulate property entranceways and culverts.

**WHEREAS** section 8(1) of *the Municipal Act, 2001,* S.O. *2001,* c.25, as amended, *(the "Act")* confers broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enable the municipality to respond to municipal issues; and

**WHEREAS** pursuant to Section 8(3) of *the Act,* the by-laws of a municipality may (a) regulate or prohibit regarding a certain matter; (b) require a person to do certain things respecting such matter; and/or (c) provide for a system of licenses respecting that matter; and

**WHEREAS** section 10(1) of *the Act* authorizes that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public; and

**WHEREAS** section 10(2) of *the Act,* authorizes a single-tier municipality to pass by-laws respecting the health, safety, and well-being of persons and the protection of persons and property; and

**WHEREAS** sections 23.1 and 23.2 of *the Act* permits a municipality to delegate its powers and duties under *the Act* to an employee of the municipality; and

**WHEREAS** section 35 of *the Act* further authorizes a municipality to pass by-laws removing or restricting the common law right of passage by the public over a *Highway* and the common law right of access to the *Highway* by an *Owner* of *Land* abutting a *Highway;* and

**WHEREAS** section 391(1) of *the Act* provides that a municipality may impose fees and charges on persons; and

a) for services or activities provided or done by or on behalf of it;

b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and,

c) for the use of its property including property under its control; and

**WHEREAS** subsection 434.1 of the Municipal Act, 2001 provides that a municipality may require a person to pay an administrative penalty if the municipality is satisfied that a person has failed to comply with a by-law of the municipality passed under the Municipal Act; and

**WHEREAS** subsection 434.2(1) of the Municipal Act, 2001 provides that an administrative penalty imposed by a municipality on a person constitutes a debt of the person to the municipality; and

**WHEREAS** the Council of The Corporation of the County of Brant deems it desirable to execute these authorized powers by by-law to regulate the placement, construction, and alteration of *Entrances* onto its *Highways;*

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS** as follows:

## 1. Short Title

1.1 This By-Law may be cited as the "Entrance By-Law"

## 2. Definitions

2.1 In this By-law:

(a) *"Act"* means *the Municipal Act, 2001,* S.O. *2001,* c. *25,* as amended;

(b) *"Change of use"* means a change to the purposes for which or the circumstances in which a property is used to that after that change, the *Entrance* to the property does not conform to the requirements of Schedule "A" of this by-law;

(c) *"County"* means The Corporation of the County of Brant;

(d) *"Culvert"* means a structure that forms an opening through a *Roadway* or *Entrance* whose primary function is to convey surface water;

(e) *"Entranceway"* or *"Entrance"* means any alteration of a *Highway* that is intended to provide a means of access between the *Highway* and *Property;*

(f) *"General Manager"* means the General Manager of Operations or their designate;

(g) *"Highway"* has the same meaning as in the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended;

(h) *"Modify"* or *"Modification"* means any construction, change, or alteration of an *Entrance* including, but not limited to, paving and repaving;

(i) *"Officer"* means an individual employed by the *County* for the administration and enforcement of this by-law;

U) *"Owner"* means the registered owner, occupant or tenant of a *Property,* or a Person who, for the time being or permanently, is managing or receiving the rent from a *Property,* whether on his own account or on account of an agent, trustee or any other *Person,* or are one or more of the aforesaid;

(k) *"Permit"* or *"Entrance Permit"* means a permit issued by the County Operations Department for the construction, *Modification,* Relocation or removal of an *Entrance;*

(l) *"Person"* means a natural person, partnership, or corporation, and includes the

heirs, executors, administrators or other legal representatives to whom the context can apply according to law;

(m) *"Property"* means land that may or may not have a building (occupied or unoccupied) or structure;

(n) *"Roadside Ditch"* or *"Ditch"* means a channel alongside a *Roadway* constructed to facilitate drainage of the *Roadway;*

(o) *"Roadway"* has the same meaning as in the Highway Traffic Act, R.S.O. 1990, c. H.8, as amended.

**3. Property Entrance Standards**

3.1 The Property Entrance Standards, setting out the requirements to construct, *Modify* or relocate any *Entrance* within the *County,* attached hereto as Schedule "A," are hereby adopted as the municipality's minimum requirements for an *Entrance*.

**4. Application for Entrance Permit**

4.1 Every *Person* who intends to construct, *Modify* or relocate an *Entrance* or have a *Change of Use* or cause or permit the construction, *Modification* or relocation of an *Entrance* shall first submit an application for a *Permit* in the form approved by the *County.*

4.2 An application for a *Permit* shall:

(a) be accompanied by the applicable fee as prescribed in Schedule "A," and,

(b) contain a description of the proposed *Entrance*.

4.3 An application for a *Permit* shall be deemed incomplete, and a *Permit* shall not be issued if:

(a) the application has not been completed in full,

(b) the *Owner* of the *Property* has not signed the application,

(c) the party who will be undertaking or will be responsible for the construction, *Modification* or relocation of an *Entrance* has not signed the application, or,

(d) the application fee has not been paid.

4.4 A *Permit* may be cancelled at any time for a breach of this bylaw, or the conditions and terms of use of a *Permit* that has been issued or for such reasons as the *General Manager* deems appropriate in the circumstances.

**5. Entrance Permit Required**

5.1 No *Person* shall construct, *Modify* or relocate an *Entrance* or cause or permit the construction, *Modification* or relocation of an *Entrance* unless a *Permit* has been issued therefor by the *General Manager for* said *Entrance*.

**6. Compliance with Terms and Conditions of Permit**

6.1 No *Person* shall construct, *Modify* or relocate an *Entrance* or cause or permit the construction, *Modification* or relocation of an *Entrance* unless said construction, *Modification* or relocation is conducted in accordance with this bylaw, the Development and Engineering Standards and the terms and conditions of the *Permit.*

6.2 No *Person* shall obstruct or permit the obstruction of any *Roadside Ditch* or *Culvert* upon a *Highway*

**7. Enforcement**

7.1 The provisions of this bylaw shall be enforced by Officers or employees of the municipality as appointed by Council of the *County.*

**8. Inspections**

8.1 An *Officer* may, at any reasonable time and without a warrant, enter and inspect any land to determine whether this bylaw, a direction or order made under this bylaw, the terms and conditions of a *Permit* issued under this bylaw, or a court order under section 431 of *the Act* is being breached or complied with.

8.2 For the purposes of an inspection under this bylaw, an *Officer* may;

(a) require the production for inspection documents or things relevant to the inspection;

(b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;

(c) require information from any person concerning a matter related to the inspection including his or her name and address; and

(d) alone or in conjunction with a person possessing special or expert knowledge make examinations or take tests, samples or photographs necessary for the purpose of the inspection.

8.3 If a sample is taken under subsection 8.2(d) of this bylaw, the sample shall be divided into two (2) parts, and one (1) part shall be provided to the person from whom the sample was taken, if the person so requests at the time the sample is taken and provides the necessary facilities.

8.4 If a sample taken under subsection 8.2(d) of this bylaw has not been divided into two (2) parts, a copy of any report on the sample shall be given to the person from whom the sample was taken.

8.5 A receipt shall be provided for any document or thing removed under subsection 8.2(b) of this bylaw and the document or thing shall be promptly returned after the copies or extracts are made.

8.6 Copies of or extracts from documents and things removed under this section and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the

originals.

8.7 No *Person* shall hinder or obstruct or attempt to hinder or obstruct an *Officer* or any *Person* who is exercising a power or performing a duty under this By-law, including, but not limited to, by refusing to identify themselves when requested to do so by an *Officer* or a *Person* exercising a power or performing a duty under this by-law.

**9. Orders**

**Order to Discontinue**

9.1 Where an *Officer* is satisfied that a contravention of this bylaw has occurred, or a condition of a *Permit* has been breached, the *Officer* may make an order requiring the *Person* who contravened the bylaw or who caused or permitted the contravention or the *Owner* of the land on which the contravention occurred to discontinue the contravening activity. The order shall set out:

(a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred, and

(b) the date by which there must be compliance.

**Work Order**

9.2 Where an *Officer* is satisfied that a contravention of this bylaw has occurred, or a condition of a *Permit* has been breached, the *Officer* may make an order requiring the *Person* who contravened the bylaw or who caused or permitted the contravention or the *Owner* of the land on which the contravention occurred to do work to correct the contravention. The order may require work to be done even though the facts which constitute the contravention of the bylaw were present before the bylaw making them a contravention came into force. The order shall set out:

(a) to whom the order is directed,

(b) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred,

(c) the work to be done to correct the contravention,

(d) the date by which the work must be completed, and

(e) a statement that if the work is not completed by the time set out in the order, the *County* may do the work at the expense of the *Person* named in the order.

**Order - Modification, Relocation or Removal of an Entrance**

9.3 When, in the opinion of the *General Manager,* it is necessary for an *Entrance* to be *Modified,* relocated or removed, the *General Manager* may issue an order to the *Owner* to *Modify,* relocate or remove an *Entrance.* The order shall set out,

(a) to whom the order is directed;

(b) set out reasonable particulars as to the reasons for the *Modification,* relocation or

removal of the *Entrance,*

(i) In the case of a Removal of an *Entrance,* adequate particulars to identify the *Entrance* the order addresses, the method and means by which the removal shall take place and the manner in which the affected area shall be remediated to the satisfaction of the County,

(c) the date by which the work must be completed, and

**10. Change of Use**

10.1 If an owner intends on making a *Change of Use* which would require a *Modification* or Relocation of an *Entrance,* the *Owner* shall apply for a *Permit* pursuant to section 4 of this bylaw so as to construct or cause or permit to be constructed an *Entrance* that complies with the requirements of this By-law before such *Change of Use* occurs.

10.2 A permit issued under a *Change of Use* can require that any pre-existing *Entrance* or *Entrances* be removed, and the *Highway* remediated to the satisfaction of the *County.*

10.3 Failing to apply for a *Permit* prior to a *Change of Use* constitutes an offence under this by-law should the *Change of Use* require a *Modification* or Relocation of an *Entrance.*

10.4 Failing to construct an *Entrance* that meets the requirements of this by-law to accommodate the *Change of Use* constitutes an offence under this by-law.

10.5 Failing to remediate any pre-existing *Entrance* or *Entrances* as a result of a *Permit* being issued for a *Change of Use* constitutes an offence under this by-law

**11. Restoration, Removal and Remedial Action**

11.1 Where any *Person* constructs, *Modifies* or relocates or permits the construction, *Modification* or relocation of an *Entrance* without a *Permit* or fails to comply with the terms and conditions of a *Permit,* the affected portion of the *Highway* may be restored by the *County* at the *Owner's* expense and collected in like manner as taxes.

11.2 Any *Entrance* established contrary to the provisions of this bylaw may be removed by the *County* at the expense of the owner and the *County* may recover any costs incurred, by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

*Person's* or *Owner's* expense and may recover the costs by action or adding the costs to the tax roll and collecting them in the same manner as property taxes.

**12. Service**

12.1 An order issued under this bylaw may be served personally or served by sending it by regular mail to the last known address of:

(a) the *Person* to whom the order is directed,

(b) the *Owner* of the *Property;* and

(c) any *Person* constructing, *Modifying* or relocating an *Entrance*.

12.2 Where service of an order is made by regular mail, service shall be deemed to have been affected on the fifth day after the order is mailed.

12.3 In addition to serving an order as per section 12.1 of this bylaw, an officer may also place a placard containing the terms of the order in a conspicuous place on the property.

12.4 Where service cannot be carried out under subsection 12.1 of this bylaw, the officer shall place a placard containing the terms of the order in a conspicuous place on the property and the placing of the placard shall be deemed to be sufficient service of the order on the person or persons to whom the order is directed.

**13. Penalties**

13.1 Any *Person* who contravenes any provision of this bylaw, the terms or conditions of a *Permit,* or fails to comply with an order, direction or other requirement made under this bylaw or any court order is guilty of an offence.

13.2 Every *Person* who is guilty of an offence under this bylaw shall be subject to the following penalties:

(a) upon a first conviction, to a fine not more than $10,000.00 and to a fine not more than $25,000.00 for a second or subsequent conviction;

(b) If a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is $50,000 for a first offence and $100,000 for a second or subsequent conviction and not as provided in subsection (a);

(c) Upon conviction for a continuing offence, to a fine of not less than $100 and not more than $10,000 for each day or part of a day that the offence continues. The total of daily fines may exceed $100,000.

13.3 For the purposes of this bylaw, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction has been entered at an earlier date for the same offence.

13.4 Every offense shall be deemed as a continuing offence and is subject to, for each day or part of a day that the offence continues, a maximum of not more than $10,000.00. The total daily fines imposed for each offence may exceed $100,000.00.

**14. General**

14.1 The word "shall" is mandatory and not discretionary, and the word "may" is discretionary and not mandatory.

14.2 Words in the plural include the singular, and a word in the singular includes the plural.

14.3 Words used in the present tense include the future.

14.4 Words importing the masculine gender include the feminine and neuter genders.

14.5 For the purposes of this by-law, some words are defined herein, while words not defined in this By-law may have their meaning expressed in other County By-laws as identified herein or shall otherwise be given their usual and customary meaning.

14.6 Schedule 'A' forms a part of this by-law.

14.7 Should any section, subsection, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this by-law as a whole or any part thereof, other than the part so declared to be invalid.

**15. Rebuttable Presumption**

15.1 An *Owner* shall be presumed to have constructed, *Modified* or relocated or causes or permitted to be constructed, *Modified* or relocated an *Entrance,* or contravened or caused or permitted the contravention of the terms or conditions of a *Permit* issued under this bylaw or caused or permitted a *Change of Use,* as the case may be, which presumption may be rebutted by evidence to the contrary on the balance of probabilities.

**16. Repeal**

16.1 By-law Number 176-99 of the County of Brant, as amended, is hereby repealed.

**17. Force and Effect**

17.1 This by-law comes into force and effect on the date of passage.

**READ** a first and second time, this 17th day of December 2024.

**READ** a third time and finally passed in Council, this 17th day of December 2024.

**THE CORPORATION OF THE COUNTY OF BRANT**

David Bailey, Mayor

Sunayana Katikapalli, Clerk

**SCHEDULE A**
**BY-LAW NUMBER 123-24**

**CORPORATION OF THE COUNTY OF BRANT PROPERTY ENTRANCE STANDARDS**

## 1. Purpose and Review Criteria

The Corporation of the County of Brant shall consider the following criteria when reviewing all applications for new *Entrances* or *Modifications* to *Entrances:*

a. Protection of the public through the orderly control of traffic movements on, onto and from a *Highway,* including possible requirements for left and/or right turn lanes and concrete centre median and/or directional islands.
b. Protection of the public investment in *Highway* facilities.
c. Minimizing municipal expenditures on maintenance of private *Entrance* ways.
d. Provision of safe legal access onto municipal *Highways* from adjacent private Property.
e. Implementation of the *County's* Development and Engineering Standards, Plans, Policies, and By-laws.
f. When applicable, the recommendation of a Transportation Impact Analysis.

## 2. Definitions

In addition to the definitions contained in the by-law, in this Schedule,

*Emergency Entrance* - Provides access to subdivision developments and individual properties for
emergency vehicles only, in the event that the main access to the development is not passable.
Adequate measures are to be incorporated in the emergency access to prevent use by private residents or delivery vehicles.

*Farm Entrance* - Provides access to farm buildings and agricultural lands.

*Field Entrance* - Provides access to agricultural lands.

*Industrial/Commercial/Institutional/Multi-Unit Residential (ICIM) Entrance* - Provides access to properties as defined by the Zoning By-Law.

*OPSD* - means Ontario Provincial Standard Drawings

*OPSS* - means Ontario Provincial Standard Specifications

*Residential Entrance* - Provides access to properties as defined by the Zoning By-Law.

*Temporary Entrance* - Provides access to properties for a limited use and period of time.

*Unimproved or Non-Maintained Road Allowance* - Means any *Highway* not maintained by the *County* on a year-round basis or a *Highway* containing a roadway cross section not

constructed to a standard acceptable to the *County.* This shall include unopened road allowances.

## 3. Location of Entrances

The proposed *Entrance* location is to be clearly illustrated on a sketch or site plan which is to accompany the submitted application for a *Permit.*

The sketch or site plan must provide enough information to enable staff to locate it in digital mapping and in a visit to the site. This may include the need to illustrate the distance to buildings or other landmarks like fences, hedgerows, and tree lines, etc. Additionally, the applicant shall visibly stake on site the proposed location.

New *Entrances* must be located so as to provide satisfactory sightlines, grade and alignment in both directions for any traffic using the proposed *Entrance* to the *Highway.*

Upon review of an application for a *Permit,* the *General Manager,* at their discretion, may approve or deny an *Entrance* location.

In general, new *Entrances* will not be permitted at the following locations:

a) Along a *Roadway* which is identified for the purpose of an exclusive vehicular turning movement;
b) In close proximity to intersections, other *Entrances,* or bridges;
c) On an *Unimproved or Non-Maintained Road Allowance;* and
d) Where the following minimum sight distance requirements, as measured from an eye height 1.08 metres measured 3.0 metres from outer edge of the *Roadway* to an object height of 1.3 metres above the *Roadway* surface, are not met:

| Posted Speed (km/h) | Minimum Siqht Distance (m) |
|---|---|
| 50 | 130 |
| 60 | 150 |
| 70 | 170 |
| 80 | 190 |

**Note:**

a) *Entrances* onto low volume and low speed roads (30km/h and 40km/h) may not be assessed for sight distance requirements, except at the discretion of the *General Manager.*
b) Adjustment for sight distance length based on the approach grade of the road may be required at the discretion of the *General Manager.*

## 4. Number of Entrances

The number of *Entrances* to a *Property* shall be limited to the number required for the safe and reasonable access to the *Highway* and in general conformity with the following, at the discretion of the *General Manager.*

*Residential Entrance* - One (1) per *Property.*

*Farm Entrance* - One (1) per *Property.*

*Field Entrance* - In addition to the *Farm Entrance,* one (1) *Field Entrance* per *Property* with additional *Field Entrances* permitted when justification is provided that is acceptable to the *County,* based on natural obstructions restricting access across the field, property size and road classification.

*ICIM Entrance* - Two per *Property,* with a minimum spacing of 30 metres between new and existing *Entrances* to the *Property.* Shared *Entrances* between two (2) *Properties* are encouraged.

## 5. Entrance Design

The design of the *Entrance, Culvert,* sidewalk and concrete curb shall follow the *County's* Development and Engineering Standards and appropriate *OPSD's.* Within rural cross sections, concrete curbs for *Entrance* radii shall not extend above the surface of the *Highway* shoulder and its rounding. All curbs are constructed at the sole risk of the applicant.

Where the *Property Owner* proposes the paving or placement of material other than that of the same type as is on the existing *Roadway* within the *Highway* and said proposal is approved by the *County* the *Property Owner* acknowledges that they are responsible for any replacement or repairs no matter what the cause.

## 6. Entrance Installation

All work upon *County Highway's* shall be completed by a contractor acceptable to the *County.* The chosen contractor shall submit a schedule of the proposed works, traffic control plan, WSIB, security deposit and proof of liability insurance in an amount acceptable to the *County* for review.

All costs for the *Entrance* installation are the sole responsibility of the *Owner* who shall guarantee the construction and placement of the work for a period of one (1) year from the date of installation. It is the responsibility of the *Owner* to obtain locates of utilities prior to construction and ensure proper cover over and separation from existing utilities is maintained.

## 7. Entrance Maintenance

*Property Owners* having an *Entrance* to a *Highway* are fully responsible for the continual maintenance of the *Entrance* including the removal of snow and ice and keeping the portion of the *Entrance* within the *Highway* in a safe condition for vehicular traffic.

Each *Entrance* shall be maintained to the specifications within the *County's* Engineering and Development Standards and to the *Permit* conditions as determined by the *General Manager.* If an *Entrance* falls into disrepair due to neglect, the use of the *Entrance* may be forfeited, as determined by the *General Manager.*

Each *Entrance* to a *Highway* must be designed, constructed, and maintained in a manner that will prevent surface water from the *Entrance* way or from adjoining *Property* being discharged via the *Entrance* onto the *Roadway.*

## 8. Order of Precedence

Any inconsistencies between sections of this By-law and other documents shall be resolved in accordance with the following descending order of precedence:

- The *Permit*
- The Bylaw
- The *County's* Development and Engineering Standards, as amended.
- Other applicable *County* By-laws, Policies and Plans
- *OPSO* and *OPSS*

## 9. Entrance Permit fees

A *Permit* application shall not be considered completed until the applicable fee, as per the Fees and Charges Bylaw, is remitted. Such fee is non-refundable.

## 10. Cancellation of Permit

Where the *Entrance* has not been constructed to the satisfaction of the *County* within one (1) year of the date of the *Permit* approval, then the *Permit* shall be considered null and void.