

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. 32-17

A BY-LAW TO PROHIBIT, RESTRICT, AND REGULATE ACCESS TO THE REGIONAL ROAD SYSTEM.

WHEREAS The Regional Municipality of Halton has established a Regional road system and has exclusive jurisdiction over Regional roads within its boundaries, including the power to remove or restrict the common law right of passage over and access to a Regional road by owners of land abutting the Regional road, pursuant to sections 11 and 35 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended.

AND WHEREAS The Regional Municipality of Halton has planning interests, powers, and responsibilities respecting Regional roads, passage over them, and access to them under, among other things, the *Planning Act*, R.S.O. 1990, c.P.13, as amended, the Regional Official Plan, and Regional master plans.

AND WHEREAS a Region by-law must conform with The Regional Municipality of Halton's Official Plan, pursuant to section 24 of the *Planning Act*, R.S.O. 1990, c. P.12, as amended.

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF HALTON HEREBY ENACTS AS FOLLOWS:

**1. PURPOSES, GOALS, AND OBJECTIVES OF THIS BY-LAW**

1.1 THAT the purposes, goals, and objectives of this By-law are to:

- (a) ensure that the Region has legal authority to use the full array of measures available to it to prevent unauthorized access to a Regional road and ensure compliance with all policies, standards, guidelines, and decisions that apply to Regional road access and to the maintenance and upkeep of Regional road access;
- (b) ensure that access to a Regional road is limited to maintain a high level of service for through traffic;
- (c) ensure that where new access is necessary, such access is planned, designed, maintained and operated for safe access and to maintain a high level of service for through traffic;
- (d) implement into law the Region's administrative practices regarding access, including its longstanding review and approval process for new access to a Regional road; and

- (e) provide appropriate delegation of administrative powers and responsibilities to ensure that every application for access to a Regional road is processed fairly and efficiently, and results in a written decision that is timely, public, and supported by reasons.

## 2. DEFINITIONS

### 2.1 THAT in this By-law:

- (a) “access” means, depending on the context, any form of ingress or egress to or from a Regional road or the use of same to enter or exit a Regional road;
- (b) “access permit” means a permit issued under this By-law by the Regional road authority and includes the approved design of the access;
- (c) “application” means an application for an access permit that is completed in a form approved by the Commissioner;
- (d) “Commissioner” means the Region’s Commissioner of Public Works;
- (e) “development” means a change in the use of land that must be in accordance with or requires approval under the *Planning Act* or the *Niagara Escarpment Planning and Development Act*, as amended;
- (f) “existing access” means access in active use on the date that this By-law is passed;
- (g) “guideline” means a document published by the Region in a form approved by the Commissioner;
- (h) “local road” means a highway, street, or lane owned by or under the sole or joint jurisdiction of a local or lower-tier municipality within the meaning of the *Municipal Act, 2001*, as amended;
- (i) “*Municipal Act, 2001*” means the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;
- (j) “new access” means access that is: (i) not an existing access; or (ii) a new location for access to abutting lands; or (iii) a change in the purpose or use of an access;
- (k) “*Niagara Escarpment Planning and Development Act*” means the *Niagara Escarpment Planning and Development Act*, R.S.O. 1990, c. N.2, as amended;

- (l) “permit”, when used as a noun, means a permit issued under this By-law and includes a servicing agreement concluded with the Region;
- (m) “*Planning Act*” means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
- (n) “*Provincial Offences Act*” means the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended;
- (o) “Region” means The Regional Municipality of Halton;
- (p) “Regional road” means a road defined by the Region’s By-law 80-101, as amended;
- (q) “Regional road authority” means a person appointed by the Commissioner to implement specified aspects of this by-law; and
- (r) “transportation impact study” (TIS) is a study in accordance with terms of reference approved by the Regional road authority and in a form as set out in a Regional guideline that has the goals of assessing the potential effects of additional traffic generated by a proposed development or other change in the use of lands on the surrounding transportation network, and determining what provisions are needed for safe and efficient site access and traffic flow, and, where relevant, related issues for transit and active transportation.

### **3. INTERPRETATION**

#### **3.1 THAT in this By-law:**

- (a) words imparting the singular number or the masculine gender only, include more persons, parties, or things of the same kind than one, and females as well as males and the reverse;
- (b) a word interpreted in the singular number has corresponding meaning when used in the plural;
- (c) where an individual is authorized to do any act pursuant to this By-law, such act may be done by such individual’s authorized designate; and
- (d) the headings contained in this By-law are for reference only.

#### **4. PROHIBITIONS**

##### **Unauthorized Access**

- 4.1 THAT no person or vehicle shall access a Regional road except through an existing access or in accordance with an access permit.

##### **Unauthorized Change to Access**

- 4.2 THAT no person shall change or attempt to change an access to a Regional road except in accordance with this By-law.

##### **Barring or Restricting Entry onto Lands by Regional Personnel or Contractors**

- 4.3 THAT no person shall bar or restrict Regional personnel from entry onto lands for purposes of inspecting or investigating an access or for any purpose related to this By-law.

#### **5. ADMINISTRATION**

- 5.1 THAT unless explicitly stated otherwise in this By-law, the Regional road authority is responsible for the administration of this By-law and is delegated authority to:

- (a) perform all administrative functions identified in this By-law, including all incidental functions necessary for the administration of this By-law, and specifically to:
  - (i) receive and process all applications for access received by the Region under this By-law;
  - (ii) issue access permits in accordance with this By-law; and
  - (iii) refuse access permits in accordance with this By-law.
- (b) make all Region decisions required under this By-law.

- 5.2 THAT the Regional road authority may, in writing and for a designated period, delegate the performance of any one or more functions under this By-law to one or more persons as circumstances require, and may also impose conditions on such delegation, and revoke such delegation.

#### **6. GENERAL POLICIES AND PROCEDURES**

- 6.1 THAT this By-law implements the following policies for access:

- (a) access to a Regional road from private property shall be permitted only where such access is necessary because access to a local road is not feasible;
- (b) where access to a Regional road from private property is necessary, the applicant for access shall, following consultation with the Region and in accordance with Region direction, submit a study that considers all reasonable alternative access locations, types, and designs;
- (c) access shall maintain the safety, function, and efficiency of Regional roads;
- (d) access shall maintain or enhance the multiple uses of Regional rights-of-way beside Regional roads;
- (e) the Region may require that an application for access be accompanied by a transportation impact study; and
- (f) access shall be finalized, constructed, and made operational prior to development or any other change in the use of land that depends on access.

6.2 THAT for purposes of assisting implementation of this By-law, the Region may from time to time:

- (a) publish a guideline or amend a published guideline on, among other things, access to Regional roads, applications for access, access studies, access design information, access permits, transportation impact studies, implementation of policies, coordination with land use planning approvals, Regional road right-of-ways, road design, roadway illumination, and traffic signals and controls; and
- (b) reference in a guideline published standards or codes of practice relevant to the guideline.

Any published guideline or reference may be used to implement the purposes, goals, and objectives of this By-law so long as it is subject to all provisions in this By-law and not used to overrule any provision in this By-law.

## 7. **PROCESS**

7.1 THAT any application for new access shall be subject to a three-phase process: planning, design, and permitting.

7.2 THAT the planning phase shall focus on why access to a Regional road is necessary, and, if necessary, what access location and type is preferred. The Region shall provide direction to the applicant on the

study required to address applicable policy, demonstrate whether or not access is necessary and compare and evaluate alternative access locations and types. In considering alternative access locations, the Region shall ensure that the study considers applicable land use policies and standards for a) minimum spacing between different access locations, and b) visibility to and from the access location. On receipt of the required study, the Region shall review the study for its conformity with the Region's direction, the adequacy of the information presented, and the conclusions reached. Where the Region is not satisfied that it has sufficient information, the Region may seek to receive timely input on the study from the applicant or other persons the Region believes have relevant interest or expertise. The planning phase concludes with a Region decision on whether or not access is necessary, and, if necessary, the preferred access location and type.

- 7.3 THAT if the Region decides on a new access location and type, it shall provide direction to the applicant on the information it requires, including detailed drawings and plans, to review the design of the new access. Where the Region is not satisfied that it has received the required design information, the Region may seek to receive timely input on any or all received information from the applicant or other persons the Region believes have relevant interest or expertise. Following receipt of the required design information and the period for requested input, the Region shall review the design information to identify the preferred access design. The design phase concludes with a Region decision on the access design.
- 7.4 THAT once the Region decides on the access design, it shall proceed to draft an access permit. The access permit shall include all conditions required to ensure that construction of the new access accords with the access design. The Region may seek to receive timely input on all or part of a draft access permit by sharing that draft with the applicant or other persons the Region believes have relevant interest or expertise. The permit phase concludes with the Region issuing an access permit to the applicant.

## **8. MAINTENANCE AND UPKEEP**

- 8.1 THAT any access to a Regional road shall be maintained in a manner consistent with Regional policies, standards, guidelines and decisions that relate to the maintenance and upkeep of Regional road access.

## **9. FEES AND SECURITY**

- 9.1 THAT the Region shall collect from the applicant for new access all applicable fees stipulated in the Region's Fees and Charges By-law, as amended, in force on the date of receipt of an application.

- 9.2 THAT in addition to collecting applicable fees from the applicant, the Region may seek to collect appropriate security from the applicant. The Region may include in any access permit any condition required to collect appropriate security from the applicant.
- 9.3 THAT the Region may use the security collected from the applicant for any purpose related to ensuring compliance with an access permit or this By-law or in relation to any other applicable regulatory plan or approval, including to cover any costs the Region has incurred to ensure that access is constructed and maintained in accordance with an access permit.
- 9.4 THAT the Region will return any remaining security to an applicant within 30 days after the Region's final inspection confirms that the access is constructed and maintained in accordance with the access permit.

## **10. APPEAL OF DECISION**

- 10.1 THAT on receipt of a decision from the Region made under any of subsections 7.2, 7.3, or 7.4, the applicant shall have up to and including 30 days to file with the Region a written appeal of any or all parts of the decision.
- 10.2 THAT the appeal shall be directed to the Commissioner and, to be considered complete, shall provide the appellant's address, identify the parts of the decision that are subject to appeal, provide reasons in support of the appeal, provide copies of relevant documentation, and pay to the Region all applicable fees for the appeal set out in the Region's Fees and Charges By-law, as amended, in force on the date of receipt of an application.
- 10.3 THAT on receipt of a complete appeal of a decision within the time for appeal, the Commissioner shall review the appeal for its merits and make a decision on whether or not to allow the whole or any part of the appeal. The Commissioner shall make best efforts to make and deliver to the applicant a decision on the appeal within 30 days of receipt of the complete appeal.
- 10.4 THAT where the Commissioner seeks clarification from the applicant on any matter relevant to the appeal, the time required by the applicant to provide the requested clarification shall be excluded from the 30-day period allocated to the Commissioner to render a decision on the appeal.
- 10.5 THAT where the Commissioner seeks information or clarification from any person with expertise not employed by the Region on any matter relevant to the appeal, the Commissioner shall prepare a written

request to that person and shall deliver a copy of that request to the applicant. The time required by that person to provide the requested information or clarification shall be excluded from the 30-day period allocated to the Commissioner to render a decision on the appeal.

10.6 THAT the Commissioner's decision shall be in writing.

10.7 THAT the decision of the Commissioner is final.

10.8 THAT within 30 days of delivery of any Commissioner decision to change the whole or any part of an access permit decision provided under subsection 7.4, the Region shall deliver to the applicant an access permit that incorporates all changes made by the Commissioner.

## **11. INSPECTIONS AND ACCESS ONTO PROPERTY**

11.1 THAT the Region may enter onto land at any reasonable time for the purpose of carrying out an inspection to determine whether or not there is compliance with this By-law, an order made under this By-law, or a condition of an access permit issued under this By-law.

11.2 THAT for the purposes of an inspection under subsection 11.1, the Region may:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any person concerning a matter related to the inspection; and
- (d) alone or in combination with a person possessing special or expert knowledge, make examinations or take tests, samples, or photographs necessary for the purposes of the inspection.

## **12. ENFORCEMENT**

12.1 THAT where the Commissioner is satisfied that there is a contravention of this By-law, the Commissioner may issue an order to the person who contravened the By-law or caused or permitted the contravention. The order shall be served on the person or persons subject to the order and set out:

- (a) reasonable particulars of the contravention;
- (b) particulars of the location where the contravention occurred or is occurring;



- (c) the work to be done to comply with this By-law;
  - (d) the date by which the work must be done; and
  - (e) that if the work is not completed by the date specified to the satisfaction of the Commissioner, the Commissioner may cause the work to be done at the expense of the person or persons specified.
- 12.2 THAT every person served with an order under this By-law shall comply with the requirements of the order within the time period specified in the order.
- 12.3 THAT where the person or persons served with an order fail to comply with the requirements of the order within the time period specified in the order, the Commissioner may cause such work to be done or take such steps as are necessary to meet the requirements of the order.
- 12.4 THAT the costs incurred by the Region as a result of the Commissioner taking action under subsection 12.3 may be recovered from the person or persons by legal proceeding or by adding same to the property tax roll for a property owned by the person or persons served the order and collecting these costs in the same manner as property taxes.
- 12.5 THAT in addition to any other action taken by the Region to administer this By-law, where the Region has reasonable grounds to believe that legal action is required by it to restrain a contravention of this By-law, the Region may commence an application to court for required relief.

### **13. OFFENCES**

- 13.1 THAT every person who contravenes any provision of this By-law is liable to a fine as provided in the *Provincial Offences Act*.
- 13.2 THAT consistent with the exception set out in section 61 of the *Provincial Offences Act*:
- (a) every person who is convicted of an offence is liable to a fine of not more than \$50,000 for a first offence and to a fine of not more than \$75,000 for any subsequent offence;
  - (b) despite subsection 13.2 (a), every corporation that is convicted of an offence is liable to a fine of not less than \$500 and not more than \$100,000 for a first offence and to a fine of not less than \$500 and not more than \$100,000 for any subsequent offence;
  - (c) despite subsections 13.2 (a) and 13.2 (b), every person who contravenes any of the provisions in this By-law shall be liable

to a fine of not more than \$10,000 for each day or part day that the offence continues and the total of all of the daily fines for the offence shall not be limited to \$100,000;

- (d) despite subsection 13.2 (c), every corporation who contravenes any of the provisions in this By-law shall be liable to a fine of not less than \$500 and not more than \$10,000 for each day or part day that the offence continues and the total of all of the daily fines for the offence shall not be limited to \$100,000.

13.3 THAT in addition to any other fine under section 13 of this By-law, every person who gains an economic advantage or economic gain from contravening this By-law shall be liable to a special fine in an amount equal to the fair market value of the economic advantage or economic gain so obtained from the contravention and such special fine shall not be limited to \$100,000.

13.4 THAT this By-law shall be enforced by the by-law enforcement officers of the Region and by the Halton Region Chief of Police.

**14. SHORT TITLE**

14.1 THAT the short title of this By-law is “Regional Road Access By-law”.

**15. DATE BY-LAW EFFECTIVE**

THAT this By-law comes into force on the day it is passed.

READ and PASSED this 17th day of May, 2017.

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REGIONAL CHAIR

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REGIONAL CLERK