

THE CORPORATION OF THE TOWN OF KEARNEY

By-Law No.2026-01

Being a By-law to Permit and Regulate the Size and Mode of Construction of Culverts and Entranceways Which Cross Any Drain or Watercourse on A Public Highway Under the Jurisdiction of The Corporation

WHEREAS Section 11(3)(6) of the *Municipal Act*, S.O. 2001, c. 25, as amended, authorizes a municipality to pass by-laws respecting matters within the spheres of jurisdiction regarding drainage and flood control;

AND WHEREAS Section 27(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25 provides that a Municipality may pass by-laws in respect of a highway if it has jurisdiction over the highway;

AND WHEREAS it is desirable and expedient that the Corporation of the Town of Kearney regulate the entrance ways and placement of culverts on public highways under Council's control;

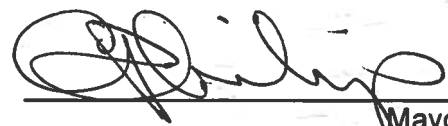
NOW THEREFORE the Council of the Corporation of the Town of Kearney enacts as follows:

1. **THAT** an entrance way, for the purposes of this by-law, is any driveway, laneway, private road, entrance or other structure or facility constructed or used as a means of access to a Town road and includes the tiling and covering of a roadside ditch for the purpose of improving a lawn or other frontage.
2. **THAT** no entrance, culvert or bridge over any ditch or watercourse or adjacent to any Town road may be constructed without approval by the Public Works Superintendent or designate of the Corporation.
3. **THAT** a completed application form be received, reviewed, and approved by the Town of Kearney before any work commences and include the applicable fees as set out in the Town of Kearney's current fee by-law, payable to the Town of Kearney.
4. **THAT** the application form mentioned above be used for all new entrance ways, entrance ways constructed without a permit after 1996, or, where substantial changes to existing entrance ways or use of the property are proposed.
5. **THAT** the location of the entrance must be approved by the Public Works Superintendent or designate to ensure public safety and convenience and to provide favourable sight lines, grade and alignment for all traffic using the proposed access and roadway; no undue interference with the safe movement of traffic; and will not adversely affect other properties.
6. **THAT** the diameter, gauge, length, and type of culvert to be used shall be determined by the Public Works Superintendent or designate.
7. **THAT** landowners shall purchase and install, or have installed, the approved culvert.
8. **THAT** all landowners, or their contractors, installing an entrance way / culvert shall be responsible for contacting any service providers that may have underground services located on their property or in the area of the installation of the culvert.
9. **THAT** all landowners, or their contractors, installing an entrance way/culvert are responsible for damage to the travelled portion of the highway, street, or road as a result of the construction. The Town may affect the repairs at the cost of the landowner.
10. **THAT** the Public Works Superintendent or designate and By-Law Enforcement Officer are hereby authorized, in the event an entrance way / culvert has been installed or improved to an unacceptable standard, to affect such installation or repair as necessary, at the expense of the assessed owner of the benefitting property.
11. **THAT** the deposit taken at the time of the application submission shall be returned to the applicant following the completed construction of the entrance way / culvert and its approval by the Public Works Superintendent or designate. There shall be a maximum of six months from the date of approval for the completion of construction. Failure to complete construction and receive final approval in this time will result in forfeiture of the deposit to the Corporation. A temporary entrance for a maximum period of six months may also be approved, which will also require an application and the payment of the applicable fee. Failure to remove the temporary entrance way / culvert within the approved time will result in forfeiture of the permit fee to the Corporation.

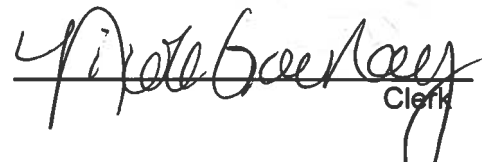
12. **THAT** entrance approval is a pre-requisite to the issuance of a Building Permit by the Chief Building Official of the Corporation.
13. **THAT** no person shall apply an asphalt or other hard surface to that portion of an entrance way on the road allowance except under written authorization from the Public Works Superintendent or designate. No concrete surfaces are permitted on that portion of the entrance way that is over any part of the road allowance of the Corporation.
14. **THAT** the Corporation shall, after the final inspection and approval by the Public Works Superintendent or designate, maintain, and replace from time to time as required, all culverts and structures installed under this by-law. The maintenance of the driving surface of all entrance ways shall be the responsibility of the applicant or landowner to whom the entrance way gives access. The Council of the Corporation reserves the right to make policy decisions on the timing and scope of replacement of culverts as dictated by financial constraints in place within the Corporation from time to time.
15. **THAT** second and subsequent entrance ways shall only be permitted by written authorization and approval by the application process by the Public Works Superintendent and shall be expressly at the expense of the landowner. Such landowner will be required to file a statement with the Corporation acknowledging that the undertaking and all future maintenance is at his expense and shall be done under the direction of the Public Works Superintendent or designate.
16. **THAT** if the work to be done by the person directed, or required to do is in default, such matter or thing shall be done by the Town of Kearney at the expense of the property owner and the Corporation may recover the expense incurred by the forfeiture of the required application deposit, plus all other associated costs in the same manner as municipal taxes.
17. **THAT** every person who contravenes the provisions of this by-law is guilty of an offense and upon conviction is liable to a fine as determined under the *Provincial Offenses Act, RSO 1990*.
18. **THAT** any previous by-laws pertaining to construction of culverts and entranceways which cross any drain or watercourse on a public highway, is hereby rescinded.
19. **THAT** Council approves this By-law substantially in the format of providing for small amendments to be made by Staff that do not change the intent of the By-law;
20. **THAT** this By-law shall come into full force and take effect on the day of the final passing thereof;
21. **THAT** the By-law 1996-11 be repealed in its' entirety.

READ A FIRST, SECOND AND THIRD TIME, passed, signed and the Corporate Seal attached hereto, this 15th day of January 2026.

THE CORPORATION OF THE
TOWN OF KEARNEY



Mayor



Clerk