

THE CORPORATION OF THE COUNTY OF MIDDLESEX

BY-LAW #7193

A BY-LAW to regulate activities on County Highways.

WHEREAS:

- A. The Corporation of the County of Middlesex is an upper-tier municipality and municipality, as defined by the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or replaced (“hereinafter, referred to as *Municipal Act, 2001*”);
- B. Section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or replaced, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable municipalities to govern their affairs as they consider appropriate and (b) enhance their ability to respond to municipal issues;
- C. Section 11(3) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting highways under its jurisdiction;
- D. Subsection 8(3) of the *Municipal Act, 2001* provides that a by-law passed under section 11 respecting a matter may provide for a system of licenses, permits, approvals or registrations regarding matters that are so regulated;
- E. Section 391(1) of the *Municipal Act, 2001* provides that a municipality may pass by-laws imposing fees or charges on any person for services or activities provided by the municipality or done on behalf of it;
- F. Section 429(1) of the *Municipal Act, 2001* provides that a municipality may establish a system of fines for a by-law passed under the Act and subsection 434.1(1) allows a municipality to establish additional administrative penalties to promote compliance with by-laws;
- G. Section 444 of the *Municipal Act* provides that a municipality may make an order to require a person to discontinue contravening a by-law and to do the work required to correct the contravention;
- H. Subsections 446(1-8) and 432.2(2) of the *Municipal Act, 2001* provides that a municipality may cause itself and/or its agents to perform any actions or complete any repairs to remedy the commission of a by-law offence committed and that an upper-tier municipality may cause any expense incurred by itself and its authorized agents to address the commission of the offence or any unpaid administrative penalty to be added to the tax roll of property by the local municipality where the land is situate and be collected in like manner as municipal taxes;
- I. Section 110 of the *Highway Traffic Act*, RSO 1990, c. H.8, as amended or replaced, provides that a municipality may grant a permit for the use of a highway by a vehicle or combination of vehicles in excess of the dimensional and weight limits set out therein;
- J. The Council of the Corporation of the County of Middlesex deems it necessary and desirable to:
 - i. regulate the use, construction and alteration of private roads, entrance ways or other facilities that permit access to County highways and to provide for the issuing of permits related thereto;

- ii. regulate work on County highways and to provide for the issuing of permits related thereto;
- iii. regulate the use of County highways by oversized vehicles and to provide for the issuing of permits related thereto;
- iv. regulate the sale of items on County highways and to provide for the issuing of permits related thereto; and
- v. prohibit obstructions or projections onto County highways.

NOW THEREFORE the Council for the Corporation of the County of Middlesex enacts as a By-law the following:

1.0 DEFINITIONS

1.1 In this By-law the following terms have the following meanings:

- (a) **“Applicant”** means the applicant for an Entrance Permit, Work Permit, Oversized Load Permit, or Sales Permit as the context requires.
- (b) **“Council”** means the Council of the Corporation of the County of Middlesex.
- (c) **“County”** means the Corporation of the County of Middlesex.
- (d) **“County Engineer”** means the individual appointed by the Council of the Corporation of the County of Middlesex as the County Engineer or his or her designate.
- (e) **“Development”** means any land-use or activity that creates an impact on the County transportation system, as determined by the County Engineer in his sole and absolute discretion, including but not limited to any land-use or activity requiring an application to the appropriate approval authority under the *Planning Act*.
- (f) **“Developer”** means the Person responsible for a Development.
- (g) **“Entrance Permit”** means a permit, with or without conditions, issued by the County Engineer authorizing the Applicant to construct or alter or cause to be constructed or altered, or to make or permit any change of use of, any private road, gate or other structure or facility that permits access to any Highway.
- (h) **“Highway”** means all roads included in the County of Middlesex road system as defined in By-law 5399 of the Corporation of the County of Middlesex and any amending By-laws thereto, and includes one or both of the following: (a) any street, road, avenue, parkway, lane, driveway, boulevard, sidewalk, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles or persons, or (b) the area between the lateral property lines of any highway or road allowance including any curbs, gutters, boulevards, culverts, ditches and retaining wall.
- (i) **“Highway Improvement”** includes, but is not limited to, existing intersection and interchange improvements; new intersections, interchanges and grade separations; widening and alterations to lane configurations; signalization and illumination; drainage works; and other actions designed to enhance the safety and functional integrity of the highway.
- (j) **“Highway Traffic Act”** means the *Highway Traffic Act*, RSO 1990, c. H.8, as amended or replaced.
- (k) **“Infrastructure”** includes, but is not limited to, any public or private utility structure, copper or coaxial wire, fibre optic cable, pipe, conduit, pedestal, cabinet, antenna, vault, support structure, bus stop facility,

culvert, noise barrier, fence, guiderail, barricade, traffic island, traffic control device, sign, light, rail facility, pavement, subgrade, manhole, catch basin, handwell, valve chamber, valve box, curb, gutter, sidewalk, driveway, mailbox, hydrant, sod, berm, ditch or watercourse.

- (l) **“Local Municipality”** means any one or more of the following: The Corporation of the Township of Adelaide-Metcalf; The Corporation of the Township of Lucan Biddulph; The Corporation of the Municipality of Middlesex Centre; The Corporation of the Municipality of North Middlesex; The Corporation of the Municipality of Southwest Middlesex; The Corporation of the Municipality of Strathroy-Caradoc; The Corporation of the Municipality of Thames Centre; and The Corporation of the Village of Newbury.
- (m) **“Municipal Act, 2001”** means *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or replaced.
- (n) **“Municipal Law Enforcement Officer”** means:
 - i. a by-law enforcement officer appointed by the County or a Local Municipality whose responsibilities include the enforcement of this By-law.
 - ii. the County Engineer;
 - iii. a police officer; and
 - iv. any other officer, employee or agent of any municipality or any local board of any municipality whose responsibilities includes the enforcement of this By-law;

each of which are provincial offences officers, as defined in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended or replaced.

- (o) **“Oversized Load Permit”** means a permit for the use of a Highway by a vehicle or combination of vehicles in excess of the dimensional limits or weight limits set out in section 109 and Part VIII of the *Highway Traffic Act*, respectively.
- (p) **“Permit”** means an Entrance Permit, a Work Permit or a Sales Permit, but does not include an Oversized Load Permit.
- (q) **“Person”** includes a corporation.
- (r) **“Planning Act”** means *Planning Act*, RSO 1990, c. P.13, as amended or replaced.
- (s) **“Provincial Offences Act”** means the *Provincial Offences Act*, RSO 1990, c P.33, as amended or replaced.
- (t) **“Sales Permit”** means a permit, with or without conditions, issued by the County Engineer authorizing the Applicant to sell items in, on, over, under, across or along a Highway.
- (u) **“Warranty Period”** means a period of twelve (12) months following the date of the final repair of the Highway by the Applicant.
- (v) **“Work”** means any excavation, cut or trench or other activity or project to install, construct, place, move, remove, relocate, adjust, alter, clean, maintain, test, repair, replace, improve, or restore Infrastructure in, on, over, under, across or along a Highway including any work that extends from a Highway to private property or on an unopened County road or any occupation of a Highway for work adjacent to a Highway, but does not include very short duration work undertaken by staff of a local municipality, work undertaken by County staff or work requiring the issuance of an Entrance Permit;

- (w) **“Work Permit”** means a permit, with or without conditions, issued by the County Engineer authorizing the Applicant to perform Work in, on, over, under, across or along a Highway.

2.0 ENTRANCE PERMITS

- 2.1 No Person shall (i) construct or alter or cause to be constructed or altered; or (ii) make or permit any change of use of; any private road, gate or other structure or facility that permits access to any Highway, unless such access has been approved by the County Engineer as evidenced by the issuance of an Entrance Permit.
- 2.2 Right in and right out entrances shall not be permitted on any Highway.
- 2.3 The County Engineer may issue an Entrance Permit, with or without conditions, in accordance with the standards and policies set out in *Schedule "A"* of this By-law.
- 2.4 If required by the County Engineer, the Applicant shall submit engineering drawings, signed and stamped by a licensed professional engineer qualified to practice in the Province of Ontario, for approval by the County Engineer, inclusive of detailed designs and specifications, demonstrating details of the proposed construction.
- 2.5 An Entrance Permit shall be in the form specified by the County Engineer and, where necessary, include the terms and conditions for the construction, alteration, or use of the proposed access as required by the County Engineer.
- 2.6 All costs associated with an Entrance Permit and the activities to be undertaken in connection with the terms and conditions of the Entrance Permit, shall be the responsibility of the Applicant.
- 2.7 The County Engineer or any employee of the Corporation of the County of Middlesex who acts at the direction of the County Engineer is hereby authorized to order the improvement or removal from any Highway any entrance that does not conform to the requirements of this By-law at the expense of the owner of the lands to which the entrance serves, failing which the County may complete said improvement or removal at the expense of the owner.

3.0 WORK PERMITS

- 3.1 No Person shall undertake Work in, on, over, under, across or along any Highway without first having obtained the approval of the County Engineer as evidenced by the issuance of a Work Permit.
- 3.2 A Work Permit is not required for an owner or occupant to plant and maintain a grassed area and landscape upon the portion of a Highway which abuts the owner or occupant's premises.
- 3.3 The County Engineer may issue a Work Permit, with or without conditions, in accordance with this By-law.
- 3.4 Where required by the County Engineer, the Applicant shall submit engineering drawings, signed and stamped by a licensed professional engineer qualified to practice in the Province of Ontario, for approval by the County Engineer, inclusive of detailed designs and specifications, demonstrating details of the proposed Work.

- 3.5 A Work Permit shall be in the form specified by the County Engineer and, where necessary, include the terms and conditions for the Work as required by the County Engineer.
- 3.6 All costs associated with a Work Permit and the Work to be undertaken in accordance with the terms and conditions of the Work Permit, shall be the responsibility of the Applicant.
- 3.7 Subject to the terms of any applicable legal agreement, the County Engineer is hereby authorized to order an owner to repair, remove or relocate, at the expense of the owner, any Infrastructure located in, on, over, under, across or along a Highway for any *bona fide* municipal purpose, including but not limited to reasons of public safety and health or the proper functioning of public services, failing which, in addition to any other remedy the County may have, the County Engineer is hereby authorized to cause said repair, removal or relocation at the expense of the owner.

4.0 SALES PERMIT

- 4.1 No Person shall, either directly or indirectly, either by himself or by permitting or authorizing others, sell, display or offer for sale any goods or otherwise conduct any retail sales in, on, over, under, across or along a Highway without first having obtained the approval of the County Engineer as evidenced by the issuance of a Sales Permit.
- 4.2 The County Engineer may issue a Sales Permit, with or without conditions.
- 4.3 A Sales Permit shall be in the form specified by the County Engineer and may, where necessary, include terms and conditions.
- 4.4 All costs associated with a Sales Permit and the activities to be undertaken in connection with the terms and conditions of the Sales Permit, shall be the responsibility of the Applicant.
- 4.5 The County Engineer or any employee of the Corporation of the County of Middlesex who acts at the direction of the County Engineer is hereby authorized to order the removal from any Highway any sales operation that does not conform to the requirements of this By-law at the expense of the owner, failing which the County may complete said removal at the expense of the owner.

5.0 REFUSAL, EXTENSION OR REVOCATION OF AN ENTRANCE, WORK OR SALES PERMIT

- 5.1 The County Engineer may refuse to grant a Permit to any Applicant for any of the following reasons:
 - (a) persistent and/or serious violations of any condition of a Permit of the same type previously issued to the Applicant;
 - (b) non-payment or late payment of monies due to the County as a result of inspection, or of any necessary work undertaken by the County, in the course of administering any provision of this By-Law;
 - (c) where Highway construction, reconstruction or resurfacing has occurred within the previous three years of the proposed road cut; or
 - (d) such other reason as the County Engineer may deem proper which reason shall be delivered in writing to the Applicant, if so requested.
- 5.2 At any time after the County Engineer has granted a Permit, the County Engineer may:

- (a) Impose a condition on the Permit, upon giving notice to the Applicant;
- (b) Extend the Permit to allow for additional activities or time, at the request of the Applicant.

5.3 At any time after the County Engineer has granted a Permit, the County Engineer may revoke or suspend the Permit.

6.0 FEES, TRANSFERABILITY AND EXPIRY

6.1 For each Permit application, the Applicant shall pay the Permit fees identified in County of Middlesex By-law #6410, A By-law to Establish User Fees and Service Charges for Transportation Services, as amended or replaced.

6.2 A Permit is not transferrable without the written consent of the County Engineer.

6.3 A Permit is valid for the period of time identified on the Permit.

6.4 With respect to Entrance and Work Permits, if the activity authorized by the Permit is not completed to the satisfaction of the County within the required period of time, the Permit will automatically expire.

7.0 SECURITY

7.1 Every Applicant for an Entrance or Work Permit shall provide a security deposit in an amount to be determined by the County Engineer having regard to the size and scope of the activity to be undertaken in connection with the Entrance or Work Permit. Such security may be drawn upon by the County for any costs incurred by the County in relation to the Applicant's activities under the applicable permit, including but not limited to costs incurred as a result of the Applicant's failure to observe or perform any term or condition of the permit. The security deposit shall only be released following the County's final inspection and approval of the restoration of the Highway by the Applicant. Notwithstanding the foregoing, the County reserves the right to retain all or part of the deposit for the duration of the Warranty Period.

8.0 GENERAL RESPONSIBILITIES OF APPLICANT

8.1 When undertaking any activity authorized by a Permit, the Applicant shall:

- (a) Comply with all municipal by-laws and provincial and federal laws;
- (b) Obtain any and all necessary approvals, including but not limited to all environmental approvals and approvals required by the applicable Conservation Authority;
- (c) Avoid interference with or damage to existing Infrastructure;
- (d) Maintain access to all properties with access affected by the activity undertaken, and consult with adjacent property owners for this purpose;
- (e) Avoid damage to properties adjacent to the work zone or sales area;
- (f) Avoid injuring or damaging any tree;
- (g) Not place material on the Highway or sidewalk where it creates a hazard to pedestrians or vehicles;
- (h) Maintain safe and convenient passage for pedestrians though and around the work zone or sales area, if applicable;
- (i) Not allow material to obstruct the free passage of water through any drain, gutter, ditch or watercourse;
- (j) Not allow and immediately take action to control unnecessary dust or any other unnecessary or unreasonable annoyance to the public;
- (k) Ensure that construction materials and equipment are properly secured within the work zone or sales area;

- (l) Pay all County costs in accordance with any invoice delivered to it by the County.

9.0 LOCATES AND DAMAGE TO EXISTING INFRASTRUCTURE

- 9.1 It is the sole responsibility of an Applicant for an Entrance or Work Permit to request, from the appropriate authority, marking or other location information to determine the location and to provide safeguards for all existing Infrastructure.
- 9.2 Should the Applicant cause damage to any existing Infrastructure, the entire cost and responsibility of restoring any such Infrastructure shall be at the sole expense of the Applicant.

10.0 TRAFFIC CONTROL MEASURES AND TEMPORARY ROAD CLOSURES

- 10.1 Prior to undertaking any activity in connection with a Permit, an Applicant shall supply, erect and maintain all signage, barricades and warning devices in accordance with the *Occupational Health and Safety Act*, R.S.O. 1990, c. 0.1, as amended or replaced and any applicable provincial traffic control regulations, including the Traffic Control Manual for Roadway Work Operations, as amended or replaced.
- 10.2 No Person shall close a Highway to traffic or one direction of traffic on a Highway unless:
 - (a) The written consent of the County Engineer is obtained;
 - (b) All necessary signage, barricades and warning devices are erected and maintained in accordance with section 7.1 of this By-law;
 - (c) A temporary detour route is clearly marked; and
 - (d) Notifications have been made to the appropriate emergency services personnel.
- 10.3 The County Engineer, in his sole discretion, may temporarily close any Highway to public travel to:
 - (a) undertake maintenance or repair work deemed necessary by the County Engineer,
 - (b) to facilitate cultural, social, recreational, community and athletic events, or
 - (c) to maintain public safety.
- 10.4 Every Person who uses a Highway closed to traffic in accordance with this section does so at his own risk.

11.0 RESTORATION OF HIGHWAY AND WARRANTY

- 11.1 Temporarily, at the end of each day, the Applicant shall:
 - (a) Bring all excavations, cuts or trenches in a Highway to grade, unless permission is obtained from the County Engineer to do otherwise; and
 - (b) Bring all entrances to grade so that the entrances provide safe and convenient passage unless the Applicant has made reasonable alternative arrangements in consultation with the owner of the property serviced by the driveway; and
 - (c) Leave the Highway in a neat, clean, and safe condition to the satisfaction of the County.
- 11.2 Permanently and as soon as possible upon completion of the activity undertaken in connection with a Permit, the Applicant shall, at its expense:

- (a) repair and restore all infrastructure in, on, over, under, across or along a Highway, including but not limited to the surface of the road, ditch, sidewalks, curbs and gutters, to the satisfaction of the County Engineer. Such work shall include all necessary sodding or seeding;
- (b) remove all debris, refuse and excess excavated material from the work zone or sales area leaving it in a neat, clean, safe condition free from nuisance and similar to or better than the condition of the work zone or sales area prior to the Applicant undertaking its activity, all to the satisfaction of the County Engineer.

11.3 The following provisions apply to Entrance and Work Permits only:

- (a) Following permanent restoration of the Highway, the Applicant is responsible for the repairs necessary to correct any settlement or surface deterioration or to repair any other deficiency with the restoration work as identified by the County Engineer, for a Warranty Period of twelve (12) months following the date of the final repair of the Highway by the Applicant.
- (b) The County may draw upon the Applicant's security deposit at its discretion to repair or address any deficiency in the Applicant's repair and restoration of the Highway.

12.0 INSPECTIONS

- 12.1 The Applicant shall inform the County when all activity associated with an Entrance or Work Permit is complete and ready for inspection.
- 12.2 The Applicant shall repair or address any deficiency identified by the County upon inspection within such time as identified by the County.
- 12.3 Costs for repeated inspections may be deducted from the security provided by the Applicant.

13.0 AS-BUILT DRAWINGS

- 13.1 If required by the County Engineer, the Applicant for an Entrance or Work Permit shall provide as-built drawings of the entrance or Work no later than ninety (90) days after completion of any entrance or Work, prepared in accordance with such standards as may be required by the County Engineer, and sufficient, for planning purposes, to accurately establish the location of any entrance or Infrastructure constructed pursuant to a Permit.
- 13.2 The Applicant shall provide as-built drawings in an electronic format suitable to be incorporated into the County's GIS mapping.

14.0 INDEMNITY AND INSURANCE

- 14.1 Where deemed applicable by the County Engineer, every Applicant for a Permit shall provide a signed indemnity, in a form satisfactory to the County, releasing, indemnifying, saving harmless and agreeing to defend the County and any affected local municipality from any and all claims, demands, suits, actions and judgments made, brought or suffered by the County or any affected local municipality and from all loss, costs, damages, charges or expenses that may be incurred, sustained or paid by the County or any affected local municipality by reason of the granting of the Permit, any activity undertaken by the Applicant in reliance on the Permit, or, where applicable, the operation, use or maintenance of any Infrastructure or other equipment installed in connection with a Permit.

- 14.2 Where deemed applicable by the County Engineer, every Applicant for a Permit shall provide and maintain Comprehensive/Commercial General Liability insurance acceptable to the County and subject to limits of not less than five million dollars (\$5,000,000) inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof. Such Comprehensive/Commercial General Liability insurance policy shall be in the name of the Applicant and shall name the County as an additional insured. The insurance policy shall remain in place until all warranty requirements are fulfilled.

15.0 DEVELOPMENT GENERATED HIGHWAY IMPROVEMENTS

- 15.1 Highway Improvements necessitated by Development shall be the responsibility of the Developer. The County Engineer shall, in his or her sole and absolute discretion, determine the required Highway Improvements.
- 15.2 Where required by the County Engineer a Developer shall undertake, at the Developer's expense, any study necessary to assess the impact of a proposed development on the County road system, including but not limited to a Traffic Impact Study, a Stormwater Management Report, a Geotechnical Study and a Noise Study. Such studies shall be signed and stamped by a licensed professional engineer qualified to practice in the Province of Ontario.
- 15.3 Subject to the following, the Developer shall be responsible for the costs and construction of all Highway Improvements:
- (a) The County may, at the discretion of the County Engineer, undertake Highway Improvements on behalf of a Developer, at the Developer's cost.
 - (b) Costs may be apportioned between the Developer and third parties and/or the County, where such apportionment is appropriate in the opinion of the County Engineer.
- 15.4 No Person shall commence the construction of Highway Improvements without first obtaining the applicable Permit(s).

16.0 LEGAL AGREEMENT

- 16.1 Where required by the County Engineer, an Applicant shall, prior to the issuance of a Permit, enter into a legal agreement with the County addressing matters including but not limited to responsibility for the design, construction, installation and maintenance of Infrastructure.
- 16.2 The Applicant shall pay for the cost of involvement of the County's legal counsel in the review and preparation of any legal agreement on behalf of the County. The Applicant shall make payment to the County by cheque or by certified cheque if required by the County, in its discretion, within thirty (30) days of demand being provided in writing by the County.

17.0 OVERSIZED LOAD PERMITS

- 17.1 No Person shall cause a vehicle or combination of vehicles in excess of the dimensional or weight limits set out in the *Highway Traffic Act*, to travel on any Highway without first having obtained the approval of the County Engineer as evidenced by the issuance of an Oversized Load Permit.
- 17.2 The County Engineer may issue an Oversized Load Permit, with or without conditions, in accordance with the standards and policies set out in *Schedule "B"* of this By-law.

- 17.3 Overweight Permits will not be issued during March and April, or any other period deemed ineligible by the County Engineer
- 17.4 The Applicant shall pay the requisite fee identified in County of Middlesex By-law #6410, A By-law to Establish User Fees and Service Charges for Transportation Services, as amended or replaced.
- 17.5 An Oversized Load Permit shall be in the form specified by the County Engineer and, where necessary, include the terms and conditions required by the County Engineer.
- 17.6 An Oversized Load Permit is not transferrable without the written consent of the County Engineer.
- 17.7 An Oversize Load Permit is valid for the period of time identified on the Permit.
- 17.8 The County Engineer may refuse or revoke, at any time, an Oversized Load Permit for any reason the County Engineer may deem proper which reason shall be delivered in writing to the Applicant, if so requested.
- 17.9 Every Applicant for an Oversized Load Permit shall provide a security deposit in an amount to be determined by the County Engineer. Such security may be drawn upon by the County for any costs incurred by the County in relation to the Applicant's activities under the permit, including but not limited to costs incurred as a result of the Applicant's failure to observe or perform any term or condition of the Oversized Load Permit.
- 17.10 Where deemed applicable by the County Engineer, every Applicant for an Oversized Load Permit shall provide and maintain Comprehensive/Commercial General Liability insurance acceptable to the County and subject to limits of not less than five million dollars (\$5,000,000) inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof. Such Comprehensive/Commercial General Liability insurance policy shall be in the name of the Applicant and shall name the County as an additional insured. The insurance policy shall remain in place until all warranty requirements are fulfilled.

18.0 OBSTRUCTIONS AND PROJECTIONS

- 18.1 Any fence, structure or other thing which projects onto or obstructs a Highway or which interferes with public travel on a Highway shall be removed by the person who owns the fence, structure or other thing or the person who has built, maintained, placed or deposited such fence, structure or other thing, unless the otherwise authorized by law.
- 18.2 Any fence, structure or other thing which projected onto or obstructed a Highway prior to January 14, 2003 shall not contravene section 18.1.

19.0 ORDERS

- 19.1 Without limiting any other right or remedy available to the County under this By-law, where a Person has failed to comply with a provision of this By-law, the County Engineer may issue an order requiring the Person to comply and where such order is not complied with within the time specified therein, the County may take such steps as it considers necessary to remedy the non-compliance, and any expense incurred by the County in doing so shall become a debt owed to the County by the Person subject to the order.
- 19.2 Debts owed to the County pursuant to section 17.1 may be added to the tax roll of the associated lands and collected in a like manner as municipal taxes.

- 19.3 Every Person who fails to comply with an order under section 17.1 is guilty of an offence.

20.0 GENERAL PROHIBITIONS

- 20.1 No Person shall:

- (a) (i) construct or alter or cause to be constructed or altered; or (ii) make or permit any change of use of; any private road, gate or other structure or facility that permits access to any Highway, without an Entrance Permit;
- (b) fail to comply with a term or condition of an Entrance Permit;
- (c) fail to comply with an order by the County Engineer to improve or remove an entrance from a Highway;
- (d) undertake Work in, on, over, under, across or along any Highway without first having obtained a Work Permit;
- (e) fail to comply with a term or condition of a Work Permit;
- (f) fail to comply with an order by the County Engineer to repair, remove or relocate Infrastructure;
- (g) fail to comply with a term or condition of a Sales Permit;
- (h) fail to comply with an order by the County Engineer made in relation to the activity permitted by the Sales Permit;
- (i) close a Highway to traffic or one direction of traffic without complying with the requirements of section 10.2 of this By-law;
- (j) use a Highway which has been closed to traffic;
- (k) remove or deface any barricade, device, detour sign or notice;
- (l) cause a vehicle or combination of vehicles in excess of the dimensional or weight limits set out in the Highway Traffic Act to travel on any Highway without an Oversized Load Permit;
- (m) fail to comply with a term or condition of an Oversized Load Permit;
- (n) erects or fails to remove any fence, structure or other thing which projects onto or obstructs a Highway or which interferes with public travel on a Highway; or
- (o) fail to comply with an order issued under section 19.1 of this By-law.

21.0 OFFENCE

- 21.1 Every Person who contravenes a provision of this By-law is guilty of an offence and, upon conviction under proceedings initiated under Part I of the *Provincial Offences Act*, is liable to a fine as set out in *Schedule "C"* of this By-law, Set Fines.
- 21.2 Any Person, other than a corporation, who contravenes any provision of this by-law is guilty of an offence and upon conviction under proceedings initiated under Part III of the *Provincial Offences Act*, as amended or replaced, is liable to the Municipality for a fine of not more than \$10,000.00 for a first offence and not more than \$25,000.00 for any subsequent offence under this by-law.
- 21.3 Any corporation who contravenes any provision of this by-law is guilty of an offence and upon conviction under proceedings initiated under Part III of the *Provincial Offences Act*, as amended or replaced, is liable to the Municipality for a fine of not more than \$50,000.00 for a first offence and not more than \$100,000.00 for any subsequent offence under this by-law.
- 21.4 If a condition of a Permit issued under this By-law has not been complied with, the contravention shall be deemed a continuing offence for each day or part of day that the condition is not complied with.

22.0 ADMINISTRATION AND ENFORCEMENT

- 22.1 Any administrative forms required under this By-law may be prescribed from time to time by the County Engineer.
- 22.2 This By-law may be enforced by a Municipal Law Enforcement Officer, as defined herein. Such Municipal Law Enforcement Officer is a provincial offences officer, as defined in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended or replaced.
- 22.3 In enforcing this By-law, the County may at its discretion, use any of the remedies set out in the *Municipal Act, 2001* or any other remedy otherwise available to the County at law.
- 22.4 Without limiting any other remedy otherwise available to the County at law, the County at its discretion may:
- (a) claim on any bond;
 - (b) draw upon or use any other security;
 - (c) make an order to an offender to discontinue or cease the contravention of this By-law, as set out in subsection 444(1) of the *Municipal Act, 2001*;
 - (d) make a work order for an offender to correct the contravention of this By-law, as set out in subsection 445(1) of the *Municipal Act, 2001*;
 - (e) cause itself and/or its agents to perform any actions or complete any repairs to remedy the commission of an offence committed of this By-law, as set out in subsection 446(1) of the *Municipal Act, 2001*;
 - (f) cause any expense incurred by itself and its authorized agents incurred to address the commission of the offence be added to the tax roll of property by the local municipality where the land is situate (which is a debt that must be paid prior to any transactions being completed by the Ontario Land Registry Office) and be collected in like manner as municipal taxes, as set out in subsections 446(1-8) of the *Municipal Act, 2001*;
 - (g) cause any unpaid administrative penalty to be added to the tax roll of property by the local municipality where the land is situate (which must be paid prior to any transactions being completed by the Ontario Land Registry Office) and be collected in like manner as municipal taxes, as set out in subsection 432.2(2) and 446(1-8) of the *Municipal Act, 2001*; and
 - (h) seek redress by legal action.

23.0 SEVERABILITY

- 23.1 Should any section, subsection, clause, paragraph or provision of this By-law, including any part of Schedules be declared by a court of competent jurisdiction to be ultra vires, invalid or illegal for any reason, the same shall not affect the validity of the rest of the By-law.

24.0 SHORT TITLE

- 24.1 This by-law shall be cited as the "County Highway By-law".

25.0 REPEAL

- 25.1 The Corporation of the County of Middlesex By-law #5783, The Corporation of the County of Middlesex By-law #5648 and all other by-laws or provisions of by-laws inconsistent with this by-law, are hereby repealed.

26.0 EFFECTIVE DATE

26.1 This by-law shall come into force and take effect on the day of the final passing thereof.

PASSED IN COUNCIL this 11th day of October, 2022

Alison Warwick, Warden

Marci Ivanic, County Clerk

SCHEDULE “A”

COUNTY OF MIDDLESEX ENTRANCE POLICIES

The County of Middlesex shall consider the following guidelines when reviewing all applications for new entrances or alterations to entrances:

- (a) protection of the public through the orderly control of traffic movements onto and from County roads;
- (b) maintenance of the traffic carrying capacity of the County road network;
- (c) protection of the public investment in County road facilities;
- (d) minimizing County expenditures on maintenance of private entrances;
- (e) providing legal access onto County roads from adjacent private property, and
- (f) ensure uniform practices in the design and construction of accesses.

DEFINITIONS

1. Field Entrance: provides access to agricultural fields.
2. Farm Entrance: provides access to farm buildings and agricultural lands.
3. Residential Entrance: provides access to residential facilities of four units or less.
4. Commercial/Industrial/ Institutional Entrance: provides access to a development where goods and/or services are manufactured or sold to the public, institutional uses, and includes residential facilities of five or more units.
5. Temporary Entrance: provides access to properties for a limited period not to exceed one year for the purpose of construction, repairs or improvement on that property or to facilitate a staged development.
6. Auxiliary: provides additional access to a residential facility or farm building.
7. Urban: roads constructed with concrete curb and gutter with an underground storm water collection system.
8. Rural: roads constructed with roadside ditches for surface collection of storm water.

LOCATION OF ACCESSES

The County may restrict the placement of an access onto the County road in the interest of public safety. New accesses must be located so as to provide:

- (a) no undue interference with the safe movement of public traffic, pedestrians, or other users of the highway.
- (b) favourable vision, grade, and alignment conditions for all traffic using the proposed access to the County road.

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

- (a) along a lane which is identified for the purpose of an exclusive vehicular turning movement.
- (b) in close proximity to intersections.
- (c) within daylight triangles at intersections.
- (d) where the following minimum sight distance requirements are not met.

<u>Speed Limit</u>	<u>Minimum Sight Distance</u>
50 km/hr	135 meters
60 km/hr	165 meters
70 km/hr	180 meters
80 km/hr	200 meters
90 km/hr	210 meters

Note: *Sight distance shall be measured from an eye height of 1.05 metres measured 3.0 metres from outer edge of the traffic lane to passenger car lights designated as 0.60 metres above the roadway surface.*

- (e) within 20 metres centre to centre of another same side entrance in Rural areas.
- (f) in Urban areas, entrances must be spaced away from adjacent entrances sufficient distance to provide a minimum of 2 metres clear space between the ends of adjacent entrance pipes, or, at locations of curb and gutter, to provide a minimum length of 1 metre of raised curb between adjacent entrances.
- (g) where safe property access can be gained from a secondary/municipal lower classification roadway.
- (h) restricted movement entrances (for example right in/right out configurations) will not be permitted.

DESIGN STANDARDS

Entrance Grade: The finished surface of the access must drop away from the edge of the highway driving surface at a slope of not less than 2% to at least the edge of shoulder rounding.

Field Entrance: Shall be surfaced with at least 150 mm (6") crushed gravel (Granular "A"), and where a culvert is required its length must be sufficient to provide a 1:1 slope up from the ditch invert to a minimum entrance width of 6.0 metres and a maximum entrance width of 9.0 metres.

Farm or Residential: Shall be surfaced with at least 150 mm (6") crushed entrance gravel (Granular "A"), and where a culvert is required its length must be sufficient to provide a 1:1 slope up from the ditch invert to a maximum entrance width of 6.0 metres. Where new direct fronting residential lots are created along rural arterial roads shared/joint driveways will be required wherever possible and facilitated through the dedication of 0.3 m (1 foot) reserves and joint easements registered on title in favour of each neighbouring property owner.

Commercial / Industrial / Institutional Entrance: Shall be surfaced with hot-mix asphalt to County standards. Where a culvert is required, its length will be dictated by the entrance design which will be site specific having regard for number and type of vehicles expected to utilize the entrance.

Curb and /or Headwalls: No curb or head wall can extend above the surface of the roadway shoulder within a distance of 4 metres from the edge of the travelled roadway. All curbs and head walls are constructed at the sole expense and risk of the applicant.

Maintenance of Entrances: Property owners having access to a County road are fully responsible for the maintenance of the access including the removal of snow and ice and keeping the portion of the access within the highway in a safe condition for vehicular traffic.

A culvert pipe installed under the terms of the access permit shall become the property of the County upon acceptance of the work and all subsequent maintenance, repairs, alterations, etc., shall be the responsibility of the County, except where the culvert crosses a municipal drain in which case the maintenance will be the responsibility of the Township with costs shared in accordance with the By-law.

Curb and Gutter: Where curb and gutter exists at the location of the proposed entrance, the applicant will be required to construct a curb cut at the entrance location if required. The existing curb shall be removed and replaced using material acceptable to the County or altered in accordance with the County's requirements. The area between the curb and sidewalk is to be paved with hot-mix asphalt, concrete or paving stones, in accordance with the standards of the local Municipality. If there is no sidewalk, the entrance is to be paved a distance of 2 metres behind the curb.

Number of Width of Accesses:

It will be the policy of the County of Middlesex to:

- (a) Limit the width of accesses to discourage the construction of entrances wider than that required for the safe and reasonable use of the entrance.
- (b) Limit the number of accesses to a property to the number required for the safe and reasonable access to the County road and in general conformity with the following guidelines:

ROAD CLASSIFICATION: "COLLECTOR"

<u>ENTRANCE TYPE</u>	<u>URBAN LOCATIONS</u>	<u>RURAL LOCATIONS</u>
Type 1 – Residential / Farm	An entrance will be granted to each residence or vacant lot. (Maximum one residential entrance per property).	An entrance will be granted to each residence, farm or vacant lot. (Maximum one residential entrance per property).
Type 2 – Commercial / Industrial / Institutional	A maximum of 2 entrances will be granted to each property. Entrances must conform to County Standards and M.T.O. Commercial Site Access Standards. Turning lanes may be required.	A maximum of 2 entrances will be granted to each property. Entrances must conform to County Standards and M.T.O. Commercial Site Access Standards. Turning lanes may be required.
Type 3 – Public Roads	Minimum spacing from another adjacent intersecting road shall be 125 metres centre to centre. Intersecting roads shall be opposite and lined up with intersecting roads where possible.	Minimum spacing from another adjacent intersecting road shall be 200 metres centre to centre. Intersecting roads shall be opposite and lined up with existing intersecting roads where possible.
Type 4 – Auxiliary / Field	A second entrance will be granted to residential lots where the second entrance can be spaced a minimum distance of 15 metres from the present Type 1 entrance.	A second entrance will be granted to residential lots/farms where the second entrance can be spaced a minimum of 30 metres from the present Type 1 entrance. Field entrances will be permitted with a minimum spacing of 100 metres from any same side entrance.

ROAD CLASSIFICATION: "2-LANE ARTERIAL"

<u>ENTRANCE TYPE</u>	<u>URBAN LOCATIONS</u>	<u>RURAL LOCATIONS</u>
Type 1 – Residential / Farm	An entrance will be granted to each residence or vacant lot. (Maximum one residential entrance per property).	A single entrance will be granted to each residence farm or vacant lot where an alternative of access to a local road or lower classification County / Suburban Road is not available. (Maximum one residential entrance per property). Where more than one new direct fronting residential lots are created a shared entrance along common property lines will be required where possible at the discretion of the County Engineer.
Type 2 – Commercial / Industrial / Institutional	A maximum of 2 entrances will be granted to each property. Entrances must conform to County Standards and M.T.O. Commercial Site Access Standards. Turning lanes may be required.	A single entrance will be granted to each lot. A second entrance will be granted where the frontage exceeds 80 metres. Entrances must conform to County Standards and MTO Commercial Site Access Standards. Turning lanes may be required.
Type 3 – Public Roads	Minimum spacing from another adjacent intersecting road shall be 150 metres centre to centre. Intersecting roads shall be opposite and lined up with intersecting roads where possible. Turning lanes may be required.	Minimum spacing from another adjacent intersecting road shall be 250 metres centre to centre. Intersecting roads shall be opposite and lined up with existing intersecting roads where possible. Turning lanes may be required.
Type 4 – Auxiliary / Field	A second entrance will be granted to residential lots where the second entrance can be spaced a minimum distance of 30 metres from the present Type 1 entrance.	A second entrance will be granted to a residential lot where the second entrance can be spaced a minimum of 75 metres from the present Type 1 entrance. Field entrances will be permitted with a minimum spacing of 150 metres from any same side entrance. A field entrance location 30 metres from a present Type 1 entrance will be granted where it will reduce farm vehicle use of the highway.

ROAD CLASSIFICATION: "4-LANE ARTERIAL"

<u>ENTRANCE TYPE</u>	<u>URBAN LOCATIONS</u>	<u>RURAL LOCATIONS</u>
Type 1 – Residential / Farm	A single entrance will be granted to each residence or vacant lot. (Maximum one residential entrance per property).	A single entrance will be granted to each residence farm or vacant lot where an alternative of access to a local road or lower classification County/Sub-urban Road is not available. (Maximum one residential entrance per property). Where more than one new direct fronting residential lots are created a shared entrance along common property lines will be required where possible at the discretion of the County Engineer.
Type 2 – Commercial / Industrial / Institutional	A maximum of 2 entrances will be granted to each property. Entrances must conform to County Standards and M.T.O. Commercial Site Access Standards. Turning lanes may be required.	A single entrance will be granted. A second entrance will be considered where the frontage exceeds 200 metres. Entrances must conform to County Standards and M.T.O. Commercial Site Access Standards. Turning lanes may be required.
Type 3 – Public Roads	Minimum spacing from another adjacent intersecting road shall be 150 metres centre to centre. Intersecting roads shall be opposite and lined up with intersecting roads where possible. Turning lanes may be required.	Minimum spacing from another adjacent intersecting road shall be 350 metres centre to centre. Intersecting roads shall be opposite and lined up with existing intersecting roads where possible. Turning lanes may be required.
Type 4 – Auxiliary / Field	Second access points will not be granted to residences or vacant lots.	Second access will not be granted to residential, farm or vacant lots. A second entrance for field access will be considered when it can be spaced 200 metres from any present same side access.

NOTE: The ROAD CLASSIFICATION shall be in accordance with the classification established by the Middlesex County Official Plan as amended. The definition of urban or rural areas shall be established by the construction of the road as defined in this bylaw.

REFUNDABLE DEPOSIT

A refundable deposit for the estimate cost of the construction of the entrance and no less than \$500.00 shall be collected prior to the issuance of the permit.

PERMIT FEE

Permit fees are as established in the user fee bylaws.

CANCELLATION OF PERMIT

Where the entrance has not been constructed and accepted by the County within one year of the date of the permit, then the permit shall be null and void.

SCHEDULE “B”

COUNTY OF MIDDLESEX OVERSIZE LOAD/WEIGHT VEHICLE POLICIES AND FEES

The Highway Traffic Act, R.S.O. 1990, Chapter H.8, limits the size and weight of loaded vehicles travelling on Highways including County roads. Under certain conditions and circumstances permits may be issued permitting the moving of loaded vehicles which exceed the legal size and/or weight.

The following information is to assist persons wishing to make application to the County of Middlesex for permission to travel Middlesex County Roads with an oversize load/weight vehicle. The information below applies only to Middlesex County Roads and it is the responsibility of the Owner and/or Mover to obtain approval from the Ministry of Transportation Ontario and/or Local Road Authorities where moves require travel on Provincial Highways and/or local roads.

The fees prescribed in this schedule may be amended from time to time and will be subject to the rates as prescribed in the bylaw to Establish User Fees and Service Charges for Transportation Services.

Note that overweight permits will not be issued from **MARCH – APRIL** or other periods when road bases are potentially soft.

A. SINGLE TRIP OVERSIZE LOAD/WEIGHT PERMIT:

*For loads and vehicles **NOT** greater than 3.75 metres (12.3 ft.) in width or 70,000 kg G.V.W.*

1. Wide load signs and escort vehicles should be used, but are not required.
2. Permit Fee
 - a. \$50.00 for over-dimensional loads. A deposit is not required. No charge for moving date changes.
 - b. \$100.00 for overweight loads up to 70,000 kg. G.V.W. (and not more than 10% in excess of HTA legal loading per axle). A refundable deposit will also be required. This deposit is refundable upon application seven days after the date of the move providing there has been no damage to County property. Where County property has been damaged and not made good to the County's satisfaction, the County will make the necessary repairs using whatever portion of the deposit necessary to recover our costs.
3. Moving Times – Daylight hours only, Monday to Friday

4. Where heights exceed 4.15 metres (13.6 ft.) approval is required from utility companies. Complete Application Form, Page 2 of 2.
5. Complete Application Form (Page 1 of 2) and if height exceeds 4.15 metres complete Page 2 of 2 and submit the forms to the County of Middlesex, County Engineer at 1988 Gainsborough Road, London. Blank forms are available on the County website: www.middlesex.ca

B. SINGLE TRIP OVERSIZE MOVING PERMIT

*For Loads and Vehicles in **EXCESS** of 3.75 metres (12.3 ft) in width or 70,000 kg G.V.W.*

1. Wide loads signs must be used and escort requirements are as follows:

	NO ESCORT REQUIRED	PRIVATE ESCORT REQUIRED	CERTIFIED SUPERLOAD ESCORT REQUIRED
WIDTH	To 3.75 m	3.76 m to 4.99 m	5.0 m and greater

It is the applicant's responsibility to arrange for private escort or certified superload escort and provide confirmation. (Use Application Form, Page 2 of 2). No permit will be issued unless this requirement is met.

2. Permit Fee

- a. **\$200.00 for over-dimensional loads.** A refundable deposit will also be required. This deposit is refundable upon application seven days after the date of the move providing there has been no damage to County property. Where County property has been damaged and not made good to the County's satisfaction, the County will make the necessary repairs using whatever portion of the deposit necessary to recover our costs.
- b. **\$500.00 for overweight loads over 70,000 kg.** G.V.W. (and more than 10% in excess of HTA legal loading per axle). A refundable deposit will also be required. This deposit is refundable upon application seven days after the date of the move providing there has been no damage to County property. Where County property has been damaged and not made good to the County's satisfaction, the County will make the necessary repairs using whatever portion of the deposit necessary to recover our costs. In addition to the above fees, the County will recover its special costs related to moves. This can include the cost of moving traffic signal equipment, pavement/bridge repair and hiring a Consulting Engineer to determine whether the overweight loading will be safe over a structure or roadway pavement.

3. Moving times – **Monday to Thursday only.** No moves on Fridays and holidays. Moves must be started after 9 a.m. and completed by 4 p.m. on the same day. Very short distance moves may be permitted at other times. Moves must not be carried out in periods of limited visibility.

4. Where heights exceed 4.15 metres (13.6 ft), approval is required from utility companies. Use Application Form (Page 2 of 2).
5. Mover must provide written proof of liability insurance in the amount of \$5,000,000.00.
6. Changes in moving dates will require a new date approval from the police and utility companies if they are involved. There will be a \$20 fee for changing dates on a permit.
7. It is the mover's responsibility to ensure the route selected is suitable.
8. Where wide and/or high loads cross railway lines, the County may request proof that the applicant has advised the appropriate railway company.
9. Where certified superload escort is required, the applicant must supply copies of certificate documents to the County prior to the permit being issued.

C. ANNUAL OVERSIZE LOAD PERMIT

*For Loads and Vehicles **NOT** greater than 3.75 meters (12.3 ft.) in width.*

1. Wide load signs must be used and escort vehicles should be used, but not required.
2. Permit Fee - \$300.00 for the initial vehicle in a fleet, with a \$30.00 fee for each additional vehicle permit issued under the Applicant's name for the same 1-year period as the initial permit. A deposit is not required.
3. Moving Times - Daylight Hours Only
4. Height must not exceed 4.15 metres (13.6 ft)
5. Complete Application Form and submit the form to: The County of Middlesex, County Engineer's Office, 1988 Gainsborough Road, London, Ontario. Blank forms are available on the County website: www.middlesex.ca.

D. ANNUAL OVERSIVE LOAD PERMIT

*For Loads and Vehicles **NOT** greater than 4.27 metres (14.0 ft.) in width.*

1. Only allowed on certain pre-selected County Roads.
2. Wide load signs and escort vehicle requirements are as follows:

	NO ESCORT REQUIRED	PRIVATE ESCORT REQUIRED
WIDTH	To 3.75 m	3.76 m to 4.27 m

3. Permit Fee - **\$300.00** for the initial vehicle in a fleet, with a **\$30.00** fee for each additional vehicle permit issued under the applicant's name for the same 1-year period as the initial permit. A deposit is not required.
4. Moving Times - Daylight hours only.
5. Height must not exceed 4.15 metres (13.6 ft).
6. Complete Application Form and submit the form by mail or fax: (519) 434-0638 to:

The County of Middlesex
County Engineer's Office
1988 Gainsborough Road
London, Ontario N6H 5L2

Blank forms are available from the County website: www.middlesex.ca/permits

For clarification regarding fee payment and permit processing, contact:

COUNTY ENGINEER'S OFFICE
Tel.: (519) 434-7321 Ext. 2233 or Ext. 2229

SCHEDULE “C”
THE CORPORATION OF THE COUNTY OF MIDDLESEX
BY-LAW NUMBER _____

Part I *Provincial Offences Act*
Set Fines

ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
1.	Failure to obtain Entrance Permit	Section 20.1(a)	\$500.00
2.	Failure to comply with term of Entrance Permit	Section 20.1(b)	\$500.00
3.	Failure to comply with Entrance order	Section 20.1(c)	\$500.00
4.	Failure to obtain Work Permit	Section 20.1(d)	\$500.00
5.	Failure to comply with term of Work Permit	Section 20.1(e)	\$500.00
6.	Failure to comply with Work order	Section 20.1(f)	\$500.00
6.	Failure to obtain Sales Permit	Section 20.1(g)	\$500.00
7.	Failure to comply with term of Sales Permit	Section 20.1(h)	\$500.00
8.	Failure to comply with a Sales order	Section 20.1(i)	\$500.00
9.	Unauthorized Highway closure	Section 20.1(j)	\$500.00
10	Remove or deface any barricade, device, detour sign or notice	Section 20.1(k)	\$500.00
11.	Failure to obtain Oversized Load Permit	Section 20.1(l)	\$500.00
12.	Failure to comply with term of Oversized Load Permit	Section 20.1(m)	\$500.00
13.	Erect or Fail to remove Obstruction or Projection	Section 20.1(n)	\$500.00

ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
14.	Failure to comply with order	Section 20.1(o)	\$500.00

THE PENALTY PROVISION FOR THE OFFENCES CITED ABOVE IS SECTION 20.1 OF BY-LAW NUMBER _____, A CERTIFIED COPY OF WHICH HAS BEEN FILED.