

THE CORPORATION OF THE TOWN OF RICHMOND HILL

BY-LAW NO. 117-08

A By-law to regulate and establish the location, width and configuration of driveway aprons permitted upon a highway for a residential property

WHEREAS the Council of the Corporation of the Town of Richmond Hill deems it expedient to make certain rules and regulations respecting the location, width and configuration of driveway aprons to be permitted on highways, for the purposes of protecting ditches, curbs, sidewalks, boulevards, and Town infrastructure.

NOW THE COUNCIL OF THE CORPORATION OF THE TOWN OF RICHMOND HILL ENACTS AS FOLLOWS:

Article 1 INTERPRETATION

1.1 **Boulevard**

“boulevard” means that area of a highway situated between the edge of the traveled portion of the highway and the lateral lot or property line on the same side of the highway.

1.2 **By-law Enforcement Officer**

“by-law enforcement officer” means any person appointed by Council as a By-law Enforcement Officer for the Town.

1.3 **Commissioner**

“commissioner” means the Commissioner of Engineering and Public Works for the Town of Richmond Hill or his designate.

1.4 **Corner Lot**

“corner lot” means a lot situated at the intersection of, and abutting upon two or more highways provided that the interior angle of the intersection is not more than 135° (degrees).

1.5 **Culvert**

“culvert” means a transverse corrugated steel pipe or other approved conduit functioning as a component of the Town’s storm water drainage system for conveyance of surface drainage under a driveway apron.

1.6 **Curb Depression**

“curb depression” means that portion of fully depressed curb that separates the driveway apron from the edge of the traveled portion of the highway.

1.7 **Driveway**

“driveway” means a defined area providing access for motor vehicles from a highway to facilities such as a parking area, loading area, dwelling, parking lot, building, or structure.

1.8 **Driveway Apron**

“driveway apron” means that portion of a driveway located upon a boulevard.

1.9 **Dwelling**

“dwelling” means a building used or capable of being used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities and it may contain one or more dwelling units.

1.10 **Dwelling Unit**

“dwelling unit” means a room or series of rooms operated as a housekeeping unit and used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.

- 1.11 **Frontage**
“frontage” means the horizontal distance between the side lot lines measured along the front lot line.
- 1.12 **Front Lot Line**
“front lot line” means the lot line that divides the lot from a highway provided that, in the case of a corner lot in any residential zone the shorter lot line that abuts a highway shall be deemed to be the front lot line. If both lot lines abutting the highway are equal, the front lot line shall be established by the location of the major access point to the dwelling.
- 1.13 **Headwall**
“headwall, also known as wing wall means a rigid wall (of any material) used at the ends of a culvert to retain the soil behind.
- 1.14 **Highway**
“highway” means a road, street, avenue, parkway, and the untravelled portion or unpaved portion of the aforesaid.
- 1.15 **Lot**
“lot” means a parcel of land with frontage on a highway whether or not occupied by building or structures.
- 1.16 **Municipal Act**
“Municipal Act” means the *Municipal Act, 2001*, S.O. 2001, S.O. c. 25, as amended.
- 1.17 **Mutual Driveway**
“mutual driveway” means the driveways from two adjoining residential properties that are located side by side with no obstruction, separation, or other feature to distinguish one from the other.
- 1.18 **Owner - defined**
“owner” means
- (a) the registered owner(s) of a property as shown in the records of the Land Registry Office; or
 - (b) where a property is included in a description registered under the *Condominium Act, 1998* S.O. 1998, c.19, as amended, the board of directors of the condominium corporation.
- 1.19 **Parking Area**
“parking area” means an open area, other than a highway, used for the temporary parking of two or more motor vehicles available for public use whether free, for compensation, or as an accommodation for residents.
- 1.20 **Permit**
“permit” means a permit issued by the Town for the purpose of granting owners the consent to widen the driveway apron.
- 1.21 **Property**
“property” means the lands on which a driveway will be constructed or which abut Town owned lands on which a driveway apron will be constructed.
- 1.22 **Rear Lot Line**
“rear lot line” means the lot line opposite the front line.
- 1.23 **Regional Road**
“regional road” means a highway forming part of the Regional road system under Part III of the *Regional Municipalities Act*.

- 1.24 **Residential Property**
 “residential property” means land, containing one or more buildings or structures or part of a building or structure, that is used or designed for use as a dwelling and includes any lands and premises appurtenant thereto and all outbuildings, fences and erections thereon, whether heretofore or hereafter erected and includes all vacant property which is permitted by the applicable zoning by-law to be used as a residential property.
- 1.25 **Road Occupancy Permit**
 “road occupancy permit” means a written authorization by the Town for the purpose of undertaking work within a Town highway pursuant to Chapter 801 of the Town of Richmond Hill Municipal Code, as amended.
- 1.26 **Side Lot Line**
 “side lot line” means any lot line other than the front lot line or the rear lot line.
- 1.27 **Sight Triangle**
 “sight triangle” also known as a “day lighting” means a triangular area of land free of buildings or structures located within a corner lot, defined by measuring a setback distance from the point of intersection of two lateral highway property lines and by joining a straight line between the two points thereby established.
- 1.28 **Site**
 “site” means lands on which a driveway apron will be constructed.
- 1.29 **Tariff of Fees By-law** – means Chapter 684 of the Town of Richmond Hill Municipal Code, as amended.
- 1.30 **Town**
 “town” means the Corporation of the Town of Richmond Hill.
- 1.31 **Town Infrastructure**
 “infrastructure” includes but is not limited to the highway, sewer and water distribution network, bridges, curbs, sidewalks, ditches, culverts, boulevard, and trees.
- 1.32 **Work**
 “work” means all labour, materials, equipment, fixtures, services, supplies and acts required to be done, furnished or performed in respect of the widening of a driveway apron and/or curb depression and any alteration and/or installation of any curbs, sidewalks, culverts and/or Town infrastructure.

Article 2 GENERAL PROVISIONS

- 2.1 This By-Law applies only to residential properties.
- 2.2 No person shall alter Town infrastructure.
- 2.3 The Commissioner shall have sole authority to permit the widening of a driveway apron and/or curb depression and any alteration and/or installation of any curbs, sidewalks, culverts and/or Town infrastructure.
- 2.4 Only one driveway apron shall be permitted to a lot with a frontage of less than 18 metres.
- 2.5 Notwithstanding Section 2.4 where this chapter expressly permits it, more than one driveway apron may be permitted.
- 2.6 For a lot with a frontage of less than 9.0 metres the maximum the driveway apron width at the lot line shall match the driveway width permitted in the applicable zoning by-law and By-law 84-03. The maximum curb depression width shall be 4.25 metres.

- 2.7 For a lot with a frontage equal to or greater than 9.0 metres but less than 18 metres the maximum driveway apron width at the lot line shall match the driveway width permitted in the applicable zoning by-law and By-law 84-03 and in addition no portion of the driveway apron width shall be greater than 6.0 metres in width. The maximum curb depression width shall be 6.0 metres.
- 2.8 For a lot with a frontage greater than or equal to 18 metres but less than 30 metres the maximum driveway apron width at the lot line shall match the driveway width permitted in the applicable zoning by-law and By-law 84-03 and in addition no portion of the driveway apron width shall be greater than 9.0 metres in width. The maximum curb depression width shall be 9.0 metres. A second driveway apron may be permitted from a highway to a lot with a frontage greater than or equal to 18 metres providing:
- (a) The two driveway aprons are along a single lot line adjacent to the same highway.
 - (b) The two driveway aprons are interconnected within the lot in accordance with applicable zoning by-laws and By-law 84-03.
 - (c) The minimum horizontal distance between the inside edges of the driveway aprons measured along the lot line is 7.2 metres.
 - (d) The maximum width of the second driveway apron and the maximum width of the second curb depression are 4.25 metres each.
 - (e) The combined width of the driveway aprons and combined width of the curb depressions each do not exceed 10.25 metres.
- 2.9 For a lot with a frontage greater than or equal to 30 metres the maximum driveway apron width at the lot line shall match the driveway width permitted in the applicable zoning by-law and By-law 84-03 and in addition no portion of the driveway apron width shall be greater than 9.0 metres in width. The maximum curb depression width shall be 9.0 metres. A second driveway apron may be permitted from a highway to a lot with a frontage greater than or equal to 30 metres providing:
- (a) The two driveway aprons are along a single lot line adjacent to the same highway.
 - (b) The two driveway aprons are interconnected within the lot in accordance with applicable zoning by-laws and By-law 84-03.
 - (c) The minimum horizontal distance between the inside edges of the driveway aprons measured along the lot line is 7.2 metres.
 - (d) The maximum width of the second driveway apron and the maximum width of the second curb depression are 6.0 metres each.
 - (e) The combined width of the driveway aprons and combined width of the curb depressions each do not exceed 15.0 metres.
- 2.10 Where a driveway apron crosses the Town's storm water ditch drainage system, the provisions of this By-Law shall apply. Culvert headwalls or wingwalls shall not be permitted.
- 2.11 The minimum distance between the nearest edge of a driveway apron or culvert to a side lot line on the same lot shall be 0.9 metres except for driveways that in the opinion of the Commissioner have been deemed to be mutual or common.
- 2.12 A mutual driveway may receive a continuous curb depression. The maximum width of a non mutual driveway curb depression established by this By-law shall apply to each lot. The apportionment of the curb depression width shall be determined from the point of intersection of the projection of the common lot line with that point of intersection acting as a dividing point.

- 2.13 Where an existing driveway apron is deemed in the opinion of the Commissioner to be part of a mutual driveway and as a result encroaches upon the projection of the common side lot line at any point within the limits of the highway; application for widening of the driveway apron, the curb depression or both will be considered on an individual basis at the sole discretion of the Commissioner and may not be permitted.
- 2.14 In the case of a corner lot, no portion of a driveway apron shall be located within a sight triangle, or situated in such a way that a vehicle parked on any portion of a driveway impedes the line of sight across a sight triangle.
- 2.15 The horizontal distance to be used in determining the points of set back from an intersection that define the limits of a sight triangle shall be determined in accordance with the *Town of Richmond Hill's Engineering and Public Works Department - Standards and Specifications Manual* such manual read as at the date when an application for the widening of a driveway apron and/or curb depression is made.
- 2.16 The linear projection of the centreline of any driveway shall meet the centerline of the traveled portion of any highway at an angle between 60° (degrees) and 90° (degrees) or in any event at no more than 30° (degrees) from the perpendicular.
- 2.17 A minimum clear distance of 1.2 metres shall be maintained between the edge of a driveway apron and any above ground Town infrastructure or physical object such as but not limited to utility boxes, hydro poles, light standards, fire hydrants, water service boxes, catch basins, transformers, boulevard and trees.
- 2.18 No person shall cause, permit or perform any alteration to Town infrastructure on land within the highway other than in conformity with the terms and conditions of any permit or approved application issued under this By-law and the requirements set out in this By-law.
- 2.19 A driveway apron located within a Regional road serving a lot having a front lot line or side lot line abutting a Regional road falls under the jurisdiction of the Regional Municipality of York. Notwithstanding; a Regional road may contain Town infrastructure and no alteration to said Town infrastructure shall be undertaken without the approval of the Commissioner.
- 2.20 Notwithstanding the provisions of section 2.19, if the Regional roads described in section 2.19 of this By-law contain Town owned infrastructure no alteration of said Town infrastructure shall be undertaken without the approval of the Commissioner.

Article 3 CONSTRUCTION

- 3.1 The following provisions apply to the construction of any driveway aprons within the Town of Richmond Hill:
- (a) Property owners who wish to widen a driveway apron shall apply to the Town for the widening of a driveway apron and/or curb depression.
 - (b) Based on the general provisions of this By-Law, the Commissioner shall either approve or turn down the request for application to widen a driveway apron.
 - (c) The Town shall undertake the widening of the driveway apron and/or curb depression and all alteration of all curb, sidewalk culvert installation and Town infrastructure within the boulevard.
 - (d) For approved applications only, the owner of the property shall be responsible for payment of the costs of performing the driveway apron work in advance of the driveway apron work taking place. The applicable costs shall be in accordance with the Town's Tariff of Fees By-law at the time of application.
 - (e) The property owner shall bear the costs and be responsible for completing all topsoil, sod, asphalt, poured concrete or interlock restoration associated with the approved widening of the driveway apron and/or curb depression.

- 3.2 Prior to any widening of the driveway apron and/or curb depression, the owner of the property shall be responsible for contacting the appropriate utility owner in order to have any utility infrastructure relocated and shall be responsible for all costs associated with the required relocation. The Commissioner shall have the sole authority to approve or deny a request to relocate Town owned infrastructure.
- 3.3 Each driveway apron shall be maintained with a hard surface constructed of asphalt, poured concrete, interlock pavers or other material approved by the Commissioner. Driveway aprons consisting of material other than asphalt, poured concrete, interlock pavers or the material approved by the Commissioner shall not be permitted.
- 3.4 Where it is deemed necessary in the opinion of the Commissioner, for existing Town infrastructure to be reconstructed in order to complete the apron work requested by the owner the Town shall undertake all reconstruction and restoration required within the highway including but not necessarily limited to asphalt, curb, sidewalk, grading and drainage, landscaping. All costs associated with this construction and restoration work shall be borne by the property owner. Any failure by the owner to pay these costs within thirty (30) days of the Town's request to do so is a violation of this By-law.

Article 4 DRIVEWAY APRON WIDENING

- 4.1 **Permit - required**
No person shall widen, cause to widen or permit a widening of a driveway apron and/or curb depression unless authorized in writing by the Commissioner.
- 4.2 **Permit – Conformity with Terms and Conditions**
No person shall alter Town infrastructure without first obtaining:
(a) the written permission of the Commissioner; and
(b) a road occupancy permit.
- 4.3 Any alteration to Town infrastructure carried out in contravention of the terms of a road occupancy permit or without a permit shall be a violation of this By-law. All costs associated with any alteration to Town infrastructure permitted by the Commissioner shall be borne by the property owner.
- 4.4 **Widening Application**
Any owner of land wishing to have a driveway apron and/or curb depression widened shall submit to the Commissioner the following:
(a) a completed application in the form approved by the Commissioner;
(b) the fee for the widening of the driveway apron and/or curb depression calculated in accordance with the Tariff of Fees By-law.
- 4.5 **Permit Application – Information**
All applications for the widening of a driveway apron and/or curb depression will be reviewed by the Commissioner who may make any further inquiries deemed necessary and relevant and may require the provision of any additional information that shall be provided at the expense of the applicant, including, but not limited to:
(a) requests for further details or documentation from applicant;
(b) a copy of a legal survey of the property.
- 4.6 **Criteria for Widening**
Upon review of the documentation required or requested pursuant to sections 4.4 and 4.5 the Commissioner may decide that the Town will undertake the widening of the driveway apron and/or curb depression if:

- (a) the applicant is the owner of the property; and
- (b) the application meets the provisions of this By-Law

4.7 Conditions

The Commissioner in his/her sole discretion may impose any conditions to his/her decision under section 4.6.

4.8 Widening-Time

The Town shall undertake the widening of the driveway apron and/or curb depression within six months of the Commissioner granting approval.

4.9 Authorization - False Information

Where it is revealed or discovered that the Commissioner's authorization to widen a driveway apron and/or curb depression was based on false or misleading information provided in the application made pursuant to sections 3.1 and 4.4 of this By-law, the Commissioner may revoke the authorization granted.

4.10 Authorization – Transfer of Title

- (a) If title to the property to which a driveway apron provides access, transfers prior to the Town commencing any authorized widening of the driveway apron and/or curb depression, the Commissioner's authorization to widen the driveway apron and/or curb depression is void, and the Town shall not undertake any widening of the driveway apron and/or curb depression unless the new property owner of the aforesaid property makes an application pursuant to sections 3.1 and 4.4 of this By-law.
- (b) If title to the property to which a driveway apron provides access, transfers prior to the Town completing any authorized widening of the driveway apron and/or curb depression, the Commissioner's authorization to widen the driveway apron and/or curb depression is void, unless the new property owner provides a written request that the widening of the driveway apron and/or curb depression be completed by the Town. If the new property owner does not make such a request, the Town shall restore the driveway apron and/or curb depression to the width that existed prior to the Town performing the driveway apron widening and/or curb depression. The costs of such restoration shall be paid by the new property owner of the land to which the driveway apron in question provides access. If the new property owner makes a written request that the widening of the driveway apron and/or curb depression be completed by the Town, then the provisions of this By-law continue to apply to the new property owner as if the owner had made the original application pursuant to sections 3.1 and 4.4 of this By-law.
- (c) If the Commissioner's authorization is revoked the Town will restore the driveway apron and curb depression to the width that existed prior to the Town performing the widening of the driveway apron and/or curb depression and the costs of such restoration shall be paid by the property owner.

**Article 5
ADMINISTRATION**

5.1 Administration of Authority – Delegated to Commissioner

The Commissioner is responsible for the administration of this By-law and is hereby delegated the authority to receive applications and application fees pursuant to sections 3.1 and 4.4 of this By-law and to authorize or refuse to authorize the widening of driveway aprons and/or curb depressions, including conditions thereto in accordance with this By-law.

5.2 **Delegation of Commissioner's Powers & Duties**

The Commissioner may delegate any of the Commissioner's powers and duties under this By-law to employees of the Town, including, without limitation, the power to enforce this By-law and to administer, review and refuse or issue permits, including conditions thereto, in accordance with this By-law.

Article 6 ORDERS

6.1 No person shall fail to obey an order issued under **Article 6** of this By-law.

6.2 **Order to Discontinue Activity**

If the Commissioner or a by-law enforcement officer is satisfied that a contravention of this By-law has occurred, the Commissioner or by-law enforcement officer may make an order requiring the person who contravened this By-law or the person who caused or allowed the contravention of this to discontinue the activity and the order shall set out:

- (a) the municipal address or the legal description of the site;
- (b) reasonable particulars of the contravention adequate to identify the contravention; and
- (c) the date by which there must be compliance with the order.

6.3 **Order for Work**

If the Commissioner or an inspector is satisfied that a contravention of this By-law has occurred, the Commissioner or inspector may make an order requiring work to be done to correct the contravention by the person who has contravened this By-law or by the person that has caused or permitted the contravention of this By-law and the order shall set out:

- (a) the municipal address or the legal description of the site;
- (b) reasonable particulars of the contravention adequate to identify the contravention;
- (c) the work to be done and the date by which the work must be done;
- (d) the date by which there must be compliance with the order; and
- (e) if the work is not done in compliance with the order by the date it specifies, the Town may have the work done at the expense of the owner

6.4 **Order Issued**

The Commissioner or an inspector may issue an order under section 6.3 requiring that the damage or alteration of the highway be restored by the owner. The order may require the Owner to obtain a road occupancy permit. If the order requires a road occupancy permit to be obtained, all the conditions mentioned therein must be complied with.

6.5 **Service of Orders**

Orders issued by the Commissioner or an inspector under sections 6.2 or 6.3 shall be served personally or by prepaid registered mail to the last known address of the person to whom the order is issued

6.6 **Unable to Effect Service of Order**

If the Town is unable to effect service on any person under section 6.5, a placard containing the terms of the order may be placed in a conspicuous place on the site and the placing of the placard shall be deemed to be sufficient service of the order.

Article 7
WORK DONE BY MUNICIPALITY

7.1 Work Done by Municipality

If the work required by an order under section 6.3 of this By-law is not done by the date set out in the order, the Town, in addition to all other remedies it may have, may do the work at the expense of the property owner and may enter upon the site, at any reasonable time, for this purpose in accordance with the provisions of the Municipal Act.

Article 8
PENALTY AND OFFENCE

8.1 Contravention

Any person who contravenes any provision of this By-law or an order issued pursuant to section 6.2 or 6.3 of this By-law is guilty of an offence.

8.2 Continuing and Multiple Offences

All contraventions of this By-law or orders issued under sections 6.2 and 6.3 of this By-law are designated as multiple offences and continuing offences. A multiple offence is an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law. For the purposes of this By-law, an offence is a second or subsequent offence, if the act giving rise to the offence occurred after a conviction had been entered at an earlier date for the same offence.

8.3 Fines

On conviction of an offence under this By-law, a person is liable to a fine in accordance with section 429 of the Municipal Act and the following rules made pursuant to section 429 of the Municipal Act:

- (a) a minimum fine of \$500.00 and a maximum fine which shall not exceed \$100,000.00 for a contravention of this By-law;
- (b) in the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine of \$500.00 and a maximum fine of \$10,000.00, the total of which, notwithstanding section 8.3 (a), may exceed \$100,000.00; and
- (c) in the case of a multiple offence, for each offence included in the multiple offence, a minimum fine of \$500.00 and a maximum fine of \$10,000.00, the total of which, notwithstanding section 8.3 (a), may exceed \$100,000.00.

8.4 Special Fines

On conviction of an offence under this By-law a person is, in addition to the fine provided for in section 8.3 of this By-law, liable to a special fine in accordance with subsection 429(2)(d) of the Municipal Act. The amount of the special fine will be the minimum fine as provided for in section 8.3 of this By-law to which may be added the amount of economic advantage or gain that person has obtained or can obtain from the contravention of this By-law and/or order issued pursuant to section 6.2 or 6.3 of this By-law. Pursuant to subsection 429(3) (1) of the Municipal Act a special fine may exceed \$100,000.00.

8.5 Additional Remedy

If this By-law is contravened and a conviction is entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order:

- (a) prohibiting the continuation or repetition of the offence by the person convicted; and
- (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

8.6 Presumption

If a contravention of this By-law or an order issued pursuant to section 6.2 or 6.3 of this By-law occurs, the contravention is presumed to have been committed by the owner of the property which obtains access by the driveway apron on which the contravention has occurred unless otherwise proven by the owner.

**Article 9
SEVERABILITY**

9.1 Severability

In the event that any particular provision or part of a provision of this By-law is found to be invalid or unenforceable for any reason whatsoever, then the particular provision or provisions or part of the provision shall be deemed to be severed from the remainder of this By-law and all other provisions shall remain in full force and shall be valid and enforceable to the fullest extent permitted by law.

**Article 10
APPLICATION OF OTHER LAWS**

10.1 Application of Other Laws

The issuance of a permit does not relieve the applicant of the responsibility of obtaining all other approvals that may be required by the Town or any other level of government and agencies thereof or compliance with any other by-law, legislation or obligation.

**Article 11
REPEAL**

11.1 Repeal

By-law Nos. 242-88, 365-88, 72-97 are hereby repealed on July 24th, 2008.

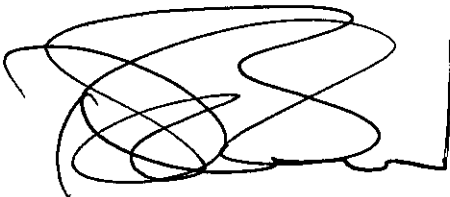
**Article 12
EFFECTIVE DATE**

12.1 Effective Date

This by-law shall come into force and take effect on June 24th, 2008.

READ A FIRST AND SECOND TIME THIS 24th DAY OF JUNE, 2008.

READ A THIRD TIME AND PASSED THIS 24th DAY OF JUNE, 2008.



Mayor

Dave Barrow
Mayor



Clerk