

**TOWN OF NEEPAWA
BY-LAW NO. 3127**

BEING A BY-LAW TO REGULATE PRIVATE DRIVEWAY APPROACHES

DEFINITIONS

1. In this by-law,

"**access impact study**" means a study undertaken by a professional engineer that assesses, to the satisfaction of the Engineering Supervisor, the effect a proposed access or accesses will have on the transportation network and on public safety. Elements of the study will include, but need not be limited to, an analysis of generated traffic volumes, the additional number of pedestrian and vehicular movements, queue lengths and times, variations on the above based on the size of the access, and the impact of road characteristics;

"**boulevard**" means and includes all portions of the highway save and except the sidewalks, shoulder, and the roadway;

"**culvert**" means a sub-surface pipe with a circular, elliptical or rectangular cross-section of corrugated steel, or any other such material approved by the Engineering Supervisor, which acts as a conduit for storm water within a highway;

"**Engineering Supervisor**" means the Engineering Supervisor of the Town of Neepawa, Utilities and Public Works, or authorized representative(s);

"**farm**" means a parcel of land used for agricultural purposes including the growing of crops and raising of animals;

"**farm entrance**" means an opening on to a highway from a farm for access to barns, out-buildings or the farm residence;

"**field entrance**" means an opening on to a highway from a farm field for the passage of vehicles and animals, for cartage, and for any other agricultural purposes;

"**frontage**" means the length of the common boundary between privately-owned land and the highway or highways;

"**grade**" means the percentage (%) rate of the rise or fall of the private approach with respect to the horizontal;

"**headwall**" means a vertical wall at the end of a culvert used to prevent earth from spilling into the ditch;

"**highway**" includes a common and public highway and includes any bridge, trestle, viaduct, or other structure, forming part of the highway, and except as otherwise provided, includes a portion of the highway and the area between the lateral property lines thereof. The term highway can be used interchangeably with the word "street";

"**highway line**" means the line forming a common boundary between private property and the highway;

"**intersection**" means the area within the projection or connection of the lateral boundary lines of two or more highways that meet one another at an angle whether or not one highway crosses the other;

"**multiple residential dwelling**" means a building containing multiple dwelling units where access to the parking area or areas is provided by one or more common private approaches;

"**owner**" means the owner in fee simple of land abutting a highway;

"**parking space**" means that part of private or public property legally designated for the purpose of vehicle parking;

"**private approach**" means an improved surface and where required a culvert within a highway and used by the owner or occupant of private property adjacent to the highway for vehicular access;

"**private property**" means all land other than Town land;

"**property line**" means the common boundary line between adjacent private properties;

"**public garage**" includes a retail gasoline outlet, a parking station, a parking lot, a building or place where motor vehicles are hired or kept or used for hire, a building or place where vehicles, gasoline or oils are kept for sale, a building or place used as a motor vehicle repair shop, and a building or place used for washing or cleaning motor vehicles;

"retail gasoline outlet" means a building or place where gasoline, oil and automobile parts and accessories are stored or kept for sale, and where only minor repairs of a motor vehicle are performed;

"roadway" means that part of a highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a highway includes two or more separated roadways, the term "roadway" refers to any one roadway separately and not to all of the roadways collectively;

"shoulder" means that part of a highway immediately adjacent to the roadway and having a surface of asphalt, concrete or gravel, for the use of vehicles;

"sidewalk" means that part of a highway set aside by the Town for the use of pedestrians;

"single dwelling unit" means a building containing one or more dwelling units each with its own private approach;

"temporary private approach" means a private approach granted by the Engineering Supervisor for a temporary period during construction, repair or improvement on private property or for any other purpose approved by the Engineering Supervisor;

"town" means the municipal corporation of the Town of Neepawa or the geographic area as the context requires; and

"vehicle" includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine, bicycle and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or a street car.

INTERPRETATION

2. (1) Headings are for reference purposes and shall not affect in any way the meaning or interpretation of the provisions of this by-law.
- (2) This by-law includes the Schedule annexed hereto and the Schedule is hereby declared to form part of this by-law.
- (3) In this by-law, a word interpreted in the singular number has a corresponding meaning when used in the plural.

PRIVATE APPROACH PERMIT

3. (1) No person shall construct, relocate, alter or close a private approach without first obtaining a private approach permit and/or road cut permit from the Engineering Supervisor in accordance with the provisions of this by-law.
- (2) Despite subsection 3(1), a private approach permit is not required for a private approach approved through the Town's Site Plan or Subdivision approval process.
- (3) Where no pipe storm sewer system is available, the construction of a private approach may require a culvert. This construction shall be carried out by the applicant's contractor at the applicant's expense.
- (4) The applicant shall pay an inspection fee for culvert installation as described in Schedule "A" in addition to the private approach permit fee. In such case, the applicant will not require a road cut permit.
4. An application for a permit under this by-law shall be made by the owner.
5. No permit shall be issued for a private approach the purpose of which is to provide access to a parking space which is contrary to any Town by-law.
6. (1) When applying for a private approach permit, the applicant shall:
 - (a) provide the required information including with the application a plan showing the dimensions of the private property for which the application is being made and any adjoining property of the owner and if required by the Engineering Supervisor, the applicant shall include an up to date legal survey plan of the private property;
 - (b) state the size, type of construction and grade of each existing and proposed private approach, including,
 - (i) the dimensions of any existing private approach and culverts;
 - (ii) the location of any controlled access designation which has been applied to the frontage; and
 - (ii) any 0.3 metre reserves which may exist between the private property for which the application is being made and the adjacent highway; and
 - (c) pay a non refundable private approach permit fee as outlined in Schedule "A".
- (2) Where an application is made under this by-law and it is determined that an affidavit in support of a claim to non-conforming rights under the applicable Zoning By-law of the old municipality or any successor by-law thereto is required to approve the application, a non-refundable fee for the circulation process of the application described in Schedule "A", shall be payable to the Town, in addition to any other fees payable under this by-law.
7. If the Engineering Supervisor is satisfied that an application for a private approach complies with the provisions of this by-law, approval shall be granted in writing in the form of a permit by the Engineering Supervisor.

8. (1) Where the Town undertakes any construction or reconstruction work on a highway that affects a private approach which conforms to this by-law, the Town shall undertake any reconstruction of the private approach made necessary by the construction or reconstruction of the highway at no cost to the owner; and
- (2) Where the Town undertakes any construction or reconstruction on a highway that affects a private approach which does not conform to this by-law, the Town shall:
 - (a) replace the non-conforming private approach with a new conforming private approach; or
 - (b) despite paragraph (a), where a private approach does not conform and can not be replaced by a new private approach conforming to the by-law, the non-conforming private approach may be replaced in a location and with a design approved by the Engineering Supervisor, provided no operational or safety concerns result.
9. All private approaches shall be constructed to Town standards and a private approach permit shall expire if the private approach is not constructed within twelve (12) months of the date of issue of the permit or within such other longer or shorter period of time as may be specified by the Engineering Supervisor.

GENERAL REGULATIONS

10. Every person who constructs, alters or extends any building or structure or who increases the area of the land holdings and intends to relocate, alter or add to the private approach or private approaches serving the land, shall apply for a permit for all private approaches serving the land holdings and any private approach or private approaches so applied for shall be constructed in accordance with the provisions of this by-law.
11. A private approach shall have a minimum width of 2.4 metres and a maximum width of 9.0 metres and in no case shall the width exceed 50% of the frontage on which the approach or approaches are located.
12. The applicant for a private approach permit shall, along all frontages of the property for which an application has been approved, remove any private approach, culvert, curb, sidewalk or ancillary installation which becomes redundant and shall also remove any private approach which contravenes this by-law by reason of the construction, relocation or alteration of any or all private approaches as proposed in the application.
13. The removal as prescribed in Section 12 hereof shall be carried out by the owner at the same time as the construction of the private approaches as set out in the application for which an application has been approved.
14. Every person who closes a private approach shall reinstate, at his or her expense, the sidewalk, shoulder, curb and boulevard to Town standards.
15. The maintenance and upkeep of a private approach, including any curbs and headwalls, shall be the responsibility of the abutting owner.
16. (1) Where the condition of a private approach does not comply with the provisions of this by-law, the Engineering Supervisor shall give written notice to the owner specifying the remedial work that must be carried out.
- (2) If the owner has not completed the remedial work to the satisfaction of the Engineering Supervisor within 30 days of delivery of the written notice or if, in the opinion of the Engineering Supervisor there is a transportation or safety conflict, within the shorter period specified in the written notice, the Engineering Supervisor may order the remedial work to be done at the owner's expense, and all costs incurred by the Town in completing the remedial work shall be paid by the owner.
17. The centerline of a private approach shall intersect the centreline of the roadway as nearly as practicable at a right angle, but in no case shall the acute angle between the centre line of the private approach and the centreline of the roadway be less than 70 degrees.
18. Where a private approach to a property with 50 or more parking spaces carries traffic which, in the opinion of the Engineering Supervisor might impact adversely the quality of traffic service on the adjacent highway, the owner shall,
 - (a) provide an access impact study;
 - (b) pay for additional road works required to maintain the quality of traffic service on the adjacent highway, including channelization, deceleration lanes, weaving lanes and traffic control signal installations, which shall be constructed to the satisfaction of the Engineering Supervisor; and
 - (c) convey at no cost to the Town any land required for the purposes set out in paragraph (b).
19. No person shall construct on a private approach any curbing, headwalls, decorative stonework or landscaping or place any object on a roadway or sidewalk, the height of which extends above the level of the shoulder or the private approach.
20. Where a private approach has been approved for the exclusive use for vehicles of the Neepawa Fire Department, such private approach shall be constructed according to Town standards for access to fire routes.
21. Every subsurface melting device installed under a private approach shall be maintained at the expense of the owner of the property adjoining or connected with the private approach.

DESIGN, CONSTRUCTION AND LOCATION OF PRIVATE APPROACHES

22. Every subsurface melting device installed under a private approach shall be maintained at the expense of the owner of the property adjoining or connected with the private approach.
23. Where the owner employs a contractor, the owner shall be liable for the costs and expenses of all work done by the contractor on his or her behalf.
24. (1) Despite any other provisions of this by-law, no person shall construct a private approach that, in the opinion

of the Engineering Supervisor, will create hazardous conditions due to inadequate sight distance, horizontal or vertical alignments or other considerations.

- (2) The Engineering Supervisor may specify a location and design for a private approach that, in the Engineering Supervisor's opinion, will eliminate or minimize such hazardous condition.
- (3) Despite any other provisions of this by-law, the Engineering Supervisor may alter the direction of the grade and horizontal distances on which the direction of the grade applies, provided such alterations do not create any drainage issues or hazardous conditions.

PRIVATE APPROACHES FOR PUBLIC AND INSTITUTIONAL PURPOSES, COMMERCIAL AND INDUSTRIAL PROPERTIES AND MULTIPLE RESIDENTIAL DWELLINGS

25. The design, construction and location of private approaches for properties used for public purposes, institutional purposes, commercial purposes, industrial purposes or multiple residential dwellings shall be in accordance with the following:
- (a) The maximum number of private approaches permitted shall be as follows:
 - (i) less than 20 metres of frontage, one (1) two-way private approach;
 - (ii) 20 metres to 34 metres of frontage, one (1) two-way private approach or two (2) one-way private approaches;
 - (iii) 35 metres to 45 metres of frontage, two (2) two-way private approaches or two (2) one-way private approaches;
 - (iv) 46 metres to 150 metres of frontage, one two-way private approach and two one-way private approaches or two two-way private approaches; and
 - (v) for each additional 90 metres of frontage in excess of 150 metres, one two-way private approach or two one-way private approaches.
 - (b) On a corner lot or a lot abutting on more than one highway, the provisions of paragraph (a) hereof shall apply to each frontage separately.
 - (c) No private approach intended for two-way vehicular traffic shall exceed 9 metres in width at the street line, and at the curb line or roadway edge.
 - (d) No private approach intended for one-way vehicular traffic shall exceed 7.5 metres in width at the highway line, and at the curb line or roadway edge.
 - (e) Despite the provisions of paragraphs (c) and (d) hereof, private approaches in excess of 9 metres in width at the street line, and at the curb line or edge of roadway, may be permitted for off-street bus loading areas, transport loading areas and stations operated by the Neepawa Fire Department.
 - (f) The distance between the nearest limits of a private approach intended for two-way vehicular traffic and any other private approach to the same property shall be a minimum of 9 metres measured at the street line, and at the curb line or roadway edge.
 - (g) The minimum distance between the nearest limits of any two private approaches intended for one-way vehicular traffic to or from the same property must not be less than 2 metres, measured at the street line, and at the curb line or roadway edge.
 - (h) Where, in the opinion of the Engineering Supervisor, it is desirable to provide a median between two private approaches intended for one-way operation, such median shall have a minimum width of 2 metres.
 - (i) Where a median is provided pursuant to paragraph (h), the length of the median on private property shall be determined by the Engineering Supervisor.
 - (j) All one-way private approaches shall be designated with suitable signs erected in a conspicuous location adjacent to the highway to indicate the direction of traffic for which the private approach is intended, and all signs shall be erected and maintained by the owner to the satisfaction of the Engineering Supervisor.
 - (k) Despite the provisions of paragraphs (g) and (h) hereof, there shall be no more than two one-way private approaches on any given 35 metres of frontage.
 - (l) Despite the provisions of paragraphs (a) and (f), where a property abuts on or is within 46 metres of an arterial or major collector highway as designated on the Town of Neepawa Official Plan:
 - (i) in the case of a shopping centre, a public parking lot, a parking lot for the use of customers of a retail or wholesale business, a public garage, a personal service establishment or an eating establishment, any of which has a parking area which can accommodate the number of parking spaces set out in Column 1 of the following Table, the distances are calculated in accordance with Columns 1,3 and 4 of the following Table; and
 - (ii) in the case of a hotel, an office building, an apartment building, a property used for public purposes, or an industrial development, any one of which has a parking area which can accommodate the number of parking spaces set out in Column 2 of the following table, the distances are calculated in accordance with Columns 2, 3 and 4 of the following Table;

no private approach shall be constructed so that the distance between the nearest limit of a private approach and the nearest intersecting street line or its extension is less than the distance set out in Column 3 of the said table, or so that the distance between the nearest limit of a private approach intended for two-way vehicular traffic and any other private approach to the same property is less than the distance set out in Column 4 of the said table and all distances so referred to shall be measured at the street line:

COLUMN 1 NUMBER OF PARKING SPACES	COLUMN 2 NUMBER OF PARKING SPACES	COLUMN 3 DISTANCE BETWEEN THE PRIVATE APPROACH AND NEAREST INTERSECTING STREET LINE	COLUMN 4 DISTANCE BETWEEN A TWO-WAY PRIVATE APPROACH AND ANY OTHER PRIVATE APPROACH
Up to 49	20 to 99	18 metres	15 metres
50 to 99	100 to 199	30 metres	30 metres
100 to 199	200 to 299	45 metres	45 metres
200 to 299	300 or more	60 metres	60 metres
300 or more		75 metres	75 metres

- (m) Where an owner whose property abuts two or more highways is unable to comply with the provisions of paragraph (l) of this section, a private approach shall be permitted only on the highway carrying the lesser volume of vehicular traffic and the private approach shall be located as far from the nearest intersections as possible, provided that in cases where the vehicular traffic volumes on the abutting highway are essentially equal, a private approach shall be permitted only on the highway which allows the private approach to be located as far from the nearest intersection as possible.
- (n) No person shall construct a private approach within an intersection or on the corner radius of an intersection or within 1.5 metres of the point of tangency of such radius or so that the distance between the nearest limit of a private approach and the intersecting street line or its extension is less than 6 metres.
- (o) No person shall construct a private approach within 3 metres of any property line measured at the highway line and at the curb or the edge of the roadway unless the property abuts only one public highway and the width of the frontage does not allow a private approach width as required by this by-law in addition to the 3 metres offset from the adjoining property lines in which case the Engineering Supervisor may reduce the off-set to a minimum of 0.3 metres provided that the proposed access is located,
- (i) a safe distance from the access serving the adjacent property,
 - (ii) in such a manner that there are adequate sight lines for vehicles exiting from the property, and
 - (iii) in such a manner that it does not create a traffic hazard.
- (p) Subject to paragraph (o), in the case of a private approach including a culvert, the 3 metre setback from the adjacent property line shall be from the end of the culvert, headwall or closest part of the private approach to the adjacent property line.
- (q) Despite paragraph (o), a private approach may be constructed in such a manner that it is less than 3 metres from an adjoining property measured at the highway line and at the curb line or edge of the roadway if it is approved through the Neepawa and District Planning Office and Town of Neepawa applicable by-laws. Site Plan Control in accordance with the provision of the Planning Act and the Town's Site Plan Control By-law.
- (r) No person shall construct a private approach serving any parking area with a grade exceeding 2% and the grade on the private approach shall descend in the direction of the roadway.
- (s) No person shall construct a private approach serving a parking area with less than 50 parking spaces, with a grade exceeding 2% within the private property for a distance of 6 metres from the highway line or future highway line;
- (t) No person shall construct a private approach serving a parking area with more than 50 parking spaces, with a grade exceeding 2% within the private property for a distance of 9 metres from the highway line or future highway line.
- (u) Despite paragraphs (s) and (t), the Engineering Supervisor may issue a permit for a private approach subject to such conditions and restrictions as the Engineering Supervisor may deem necessary provided that the proposed access is located;
- (i) safe distance from the access serving the adjacent property;
 - (ii) in such a manner that there are adequate sight lines for vehicles exiting the property; and
 - (iii) in such a manner that it does not create a traffic hazard

PRIVATE APPROACHES FOR SINGLE DWELLING UNITS

26. The design, construction and location of a private approach to a single dwelling unit shall comply with the following provisions:
- (a) no private approach shall be in excess of 9 metres in width measured at the street line, and at the curb line or roadway edge.
 - (b) the distance between the nearest limits of two private approaches to the same property shall be a minimum of 9 metres measured at the street line, and at the curb line or roadway edge.
 - (c) on a corner lot or a lot abutting on more than one road allowance, the minimum distance between the nearest limit of a private approach and an intersecting street line or its extension shall not be less than 6 metres.
 - (d) no private approach shall be constructed within 0.3 metres of any adjacent property measured at the highway line, and at the curb line or roadway edge except,
 - (i) where the written consent of the owner of the adjacent private property is obtained and filed with the Engineering Supervisor; or
 - (ii) in the case of a combined private approach serving two adjacent private properties.
 - (e) in the case of a private approach including a culvert, no private approach shall be constructed unless the setback of 0.3 metres is calculated from the edge of the culvert, headwall or closest part of the private approach adjacent to the property line except,

- (i) where the written consent of the owner of the adjacent property is obtained and filed with the Engineering Supervisor; or
- (ii) in the case of a combined approach serving two adjacent properties.
- (f) no private approach shall be constructed within an intersection except where the entire property frontage is situated within an intersection or within 3 metres of the limits of an intersection in which case a private approach may be permitted provided that the private approach is not located within the area used or intended to be used as a pedestrian crossing.
- (g) the grade on any part of a private approach, excluding the public sidewalk, shall:
 - (i) not be less than 2%;
 - (ii) not exceed 6%; and
 - (iii) descend in the direction of the roadway.
- (h) despite paragraph (g) hereof, the grade of any part of a private approach to a building that is being renovated may be greater than 6% but shall not exceed 12% provided that a subsurface melting device sufficient to keep the private approach free of ice at all times is installed and properly maintained by the owner.

RURAL – PRIVATE APPROACHES TO FARMS AND FIELDS

- 27. A private approach for a farm entrance or a field entrance shall be subject to any conditions which the Engineering Supervisor may, from time to time, deem necessary for the safe and efficient movement of vehicles on a highway.
- 28. When imposing conditions on the granting of a permit for a private approach for a farm entrance or a field entrance, the Engineering Supervisor shall consider the effect of the proposed private approach on the movement and safety of vehicles and pedestrians, possible future uses of the adjacent highway, and any other factors deemed relevant in the circumstances.
- 29. (1) The grade on a private approach for a farm entrance shall not exceed 6%.
 (2) The grade on a private approach for a field entrance shall not exceed 10%.

TEMPORARY PRIVATE APPROACH

- 30. Despite any other provision of this by-law, the Engineering Supervisor may issue a permit for a temporary private approach, subject to such conditions and restrictions as the Engineering Supervisor may, from time to time, deem necessary for the safe and efficient movement of pedestrians and vehicles, including the removal and reinstatement of traffic signs and traffic signals.
- 31. When a temporary private approach requires the erection, removal or relocation of any traffic control device including, but not limited to, traffic signals and traffic signs, the permit holder shall be responsible for the cost of all work involved to the Town's satisfaction.

REMOVAL OF UNAUTHORIZED PRIVATE APPROACHES

- 32. The Engineering Supervisor may give written notice to the owner of a property to which an unauthorized private approach has been constructed to remove forthwith the unauthorized private approach and to reinstate the highway to the condition it was in before the unauthorized private approach was constructed.
- 33. If the notice referred to in Section 33 is not complied with within 10 days from the date that notice is sent, the Engineering Supervisor may remove the private approach and reinstate the highway at the owner's cost and the Town may add the costs to the tax roll and collect them in the same manner as taxes.
- 34. When an unauthorized private approach is being constructed on a highway, the Engineering Supervisor take whatever action is deemed necessary to stop the work.
- 35. A private approach that has been installed in a manner that does not comply with the provisions of this by-law and of the Town's standards may be considered by the Engineering Supervisor as an unauthorized private approach.

OFFENCE & PROHIBITION ORDER

- 36. Any person who violates, contravenes, or fails to observe and carry out any provisions of the By-law is guilty of an offence and liable on summary conviction to a fine not exceeding \$500.00. If a Person served with a by the Town of Neepawa under this By-Law fails to pay the fine within a thirty (30) day period, the Chief Administrative Officer of the Town of Neepawa shall lay an Information with respect to the contravention and a Summons will be issued for the Person to attend before a Provincial Court Judge, Magistrate or Justice of the Peace. Any Person found guilty for contravention of this By-Law before a Provincial Court Judge, Magistrate or Justice of the Peace is subject to a minimum fine of Five Hundred Dollars (\$500.00) for a first offence and to a minimum fine of One Thousand (\$1,000.00) for the second offence and for each subsequent offence plus all applicable court costs.

A fine levied and costs charged under this By-Law may be collected in any manner in which a tax may be collected or enforce under The Municipal Act.

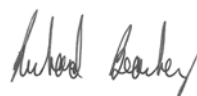
SHORT TITLE

- 37. This by-law may be cited as the "Private Approach By-law".

Read a first time this 3rd day of June, 2014.
 Read a second time this 17th day of June, 2014.
 Read a third time and passed this 17th day of June, 2014.



Ken Waddell – Mayor



Richard Beachey – CAO

SCHEDULE "A"

FEES

1. Permit fees		
(a) Single detached dwellings		\$25.00
(b) Commercial, industrial and multi-residential		
- up to 49 parking spaces		\$50.00
- 50-99 parking spaces		\$75.00
- more than 100 parking spaces		\$100.00
2. Inspection fee for culvert installation		\$ 50.00
3. Affidavit in support of a claim to non-conforming rights under the Zoning By-law		\$100.00