

THE CORPORATION OF THE TOWNSHIP OF MCKELLAR

BY-LAW NO. 2020-28

A By-law to regulate parking, the occupation of a highway and to establish a permit system and to repeal By-laws 94-9, 98-23, 99-16, 2008-27, 2009-13 and 2017-34

WHEREAS Section 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, hereinafter referred to as the "*Municipal Act*" provides that the powers of a municipality under the *Municipal Act* or any other Act shall be interpreted broadly so as to confer broad authority on a municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the *Municipal Act* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act* or any other Act;

WHEREAS Section 11(3) 1 and 11(3) 8 of the *Municipal Act* authorizes a municipality to pass By-laws regarding highways, including parking and traffic on highways;

And Whereas Section 8 (3) of the *Municipal Act* authorizes a municipality to provide for a system of licences and a licence includes a permit;

AND WHEREAS Section 391 (1) of the *Municipal Act* provides that a municipality may pass a by-law imposing fees or charges on any person for services or activities provided by the municipality or done on behalf of it;

AND WHEREAS Section 436 (1) of the *Municipal Act* provides that a municipality may pass a by-law providing for the entry onto land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law or a direction or order of the municipality made under the *Municipal Act* or made under a by-law of the municipality passed under the *Municipal Act*;

AND WHEREAS Sections 444 and 445 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;

AND WHEREAS Section 446 of the *Municipal Act* provides that a municipality may proceed to do a matter or thing at a person's expense which that person is otherwise required to do under a by-law, but has failed to do and the costs incurred by a municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as taxes;

AND WHEREAS Council of the Corporation of the Township of McKellar deems it expedient to regulate the use of its highways and Township property, and to establish a permit system to allow construction and occupation within and along such highways and on Township property;

NOW THEREFORE, the Council of the Corporation of the Township of McKellar hereby enacts as follows:

1. SHORT TITLE

1.1 This By-law may be cited as the "Traffic and Parking By-law".

2. INTERPRETATION

2.1 Where words and phrases used in this by-law are defined in the **Highway Traffic Act**, but not defined in this by-law, the definitions in the **Highway Traffic Act** shall apply to such words and phrases.

2.2 The schedules attached to this by-law shall be considered part of this by-law.

3 SEVERABILITY

3.1 If a court of competent jurisdiction declares any section or part of this By-law invalid, the remainder of this By-law shall continue in force unless the court makes an order to the contrary.

4. SINGULAR AND PLURAL USE

4.1 In this By-law, unless the context otherwise requires words importing the singular shall include the plural and use of the masculine shall include the feminine, where applicable.

5. DEFINITIONS

5.1 In this By-law:

“**Accessible Parking Permit**” means an accessible parking permit issued by the Province of Ontario or a numbered plate or other device issued by another jurisdiction and recognized as being equivalent to an accessible parking permit issued by the Province of Ontario.

“**Accessible Parking Space**” means a parking space designated by an **authorized sign** as an accessible parking space.

“**Authorized sign**” means any sign, pavement marking or other device which has been placed, installed or erected by the **Township**, by another party acting under the direction or authority of the **Township** or as required by this By-law, to designate, regulate and/or enforce the provisions of this by-law.

“**Costs**” means all monetary expenses including labour incurred by the **Township** including interest and may include an administrative surcharge amount as established by the **Township’s** Fees and Charges for Services and Activities By-law.

“**Director**” shall mean the Public Works Superintendent or his or her designate.

“**Emergency vehicle**” means a fire department **vehicle**, a police **vehicle** or an ambulance.

“**Entrance**” means an access from a **Township highway** to lands or **property** adjacent to the **highway** and includes a driveway, laneway, private road, structure or culvert.

“**Highway**” includes a common and public highway, street, road, avenue, parkway, driveway, square, place, bridge, viaduct, or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“**Highway Traffic Act**” means the *Highway Traffic Act, R.S.O. 1990, c. H. 8*, as amended, and its regulations.

“**Motor vehicle**” includes an automobile, a motorcycle, a motor-assisted bicycle unless otherwise indicated in the **Highway Traffic Act**, and any other **vehicle** propelled or driven otherwise than by muscular power, but does not include a street car or other motor vehicle running only upon rails, a power-assisted bicycle, a motorized snow vehicle, a traction engine, a farm tractor, a self-propelled implement of husbandry or a road-building machine.

“**Obstruct**” or “**Obstruction**” means to encumber, encroach, impede, damage, foul, close or block;

“**Officer**” means a police officer, municipal law enforcement officer, or any other **person** appointed by by-law to enforce the provisions of this By-law.

“**Occupant**” when used in relation to **property**, means:

- (a) the tenant of the **property** or part thereof whose consent shall extend only to the control of the land of which he is tenant and any parking spaces allotted to him under his lease or tenancy agreement;
- (b) the spouse of a tenant;
- (c) a **person** authorized by an occupant as defined in (a) or (b) above, to act on the occupant’s behalf for requesting enforcement under this By-law.

“**Owner**” when used in relation to **property**, means

- (a) the registered owner of the **property**;
- (b) the registered owner of a condominium unit, whose consent shall extend only to the control of the unit or which he is owner and any parking spaces allotted to him by the condominium corporation or reserved for his exclusive use in the declaration or description of the **property**;

- (c) the spouse of a **person** as defined in (a) or (b) above;
- (d) where the **property** is included in a description registered under the *Condominium Act*, the board of directors of the condominium corporation;
- (e) a **person** authorized by the **property** owner as defined in (a), (b), (c) or (d) above to act on the owner's behalf for requesting enforcement under this By-law;
- (f) an **occupant**.

“**Park**” or “**Parking**” means the standing of a **vehicle**, whether occupied or not except when standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

“**Permit**” means a current valid permit or approval issued by the **Township** pursuant to this By-law.

“**Permit Holder**” means a **Person** issued a **Permit**.

“**Person**” includes an individual, sole proprietorship, partnership, limited partnership, trust, corporation, and an individual in his or her capacity as a trustee, executor, administrator, or other legal representative.

“**Property**” means a parcel of land which is capable of being legally conveyed or portion thereof.

“**Road service vehicle**” means a **vehicle** operated by or on behalf of the **Township** or other authority having jurisdiction and control of a **highway**.

“**Roadway**” means the part of the **highway** that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a **highway** includes two (2) or more separate roadways, the term “roadway” refers to any one roadway separately and not to all the roadways collectively.

“**Township**” shall mean the Corporation of the Township of McKellar or the land within the geographic limit of the Corporation of the Township of McKellar as the context requires.

“**Traffic control signal**” means a device manually, electrically or mechanically operated for the regulation of traffic.

“**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.

6. AUTHORITY

6.1 The **Director** is authorized to place, erect and maintain such **authorized sign and traffic control signal** as may be necessary to give effect to the provisions of this by-law.

6.2. No **person** shall alter, deface, injure, knock down, damage or remove without permission an **authorized sign, traffic control signal** or property of the **Township** including any feature, item, equipment or device placed on a **highway** by the **Township**.

7. OBSTRUCTION OF A HIGHWAY AND TOWNSHIP PROPERTY

7.1 No **person** shall **obstruct** any **highway** or part of a **highway**, **Township property** including a **Township** road allowance by any means whatsoever.

7.2 Without limiting the generality of section 7.1, the **obstruction** of a **highway**, **Township property** including a **Township** road allowance also includes any one or more of the following:

- (a) placing or depositing of equipment or materials on a **highway**, **Township property** including a **Township** road allowance;
- (b) placing, depositing or spilling of oils, chemicals or substances including oils, chemicals or substances from a **vehicle** on a **highway**, **Township property** including a **Township** road allowance;
- (c) the depositing of snow or ice on the portion of a **highway** normally used for pedestrian or vehicular traffic;
- (d) the relocation of snow or ice from a **highway** or private **property** on the portion of a **highway** normally used for pedestrian or vehicular traffic;

- (e) **obstruction** of a drain, gutter, water course or culvert on a **highway**, **Township property** including a **Township** road allowance;
- (f) **throwing, fouling, placing** or depositing of dirt, leaves, glass, handbills, paper or other refuse and debris or the carcass or excrement of any animal on a **highway**, **Township property** including a **Township** road allowance;
- (g) any part of a tree, shrub, sapling, hedge or any other plant extending over or on a **highway** so as to interfere with pedestrian or vehicular traffic;
- (h) the **placing** or depositing of stonework, landscaping or ornamental features, plants or trees on a **highway**, **Township property** including a **Township** road allowance;
- (i) **infilling** of a ditch or culvert located on a **highway**;
- (j) **discharge** of sump pump outlets on a **highway**, **Township property** including a **Township** road allowance;
- (k) **planting** or installing any marker, post, rod or any other object on a **highway**, **Township property** including a **Township** road allowance; Except as authorized pursuant to **Township** sign by-law.
- (l) the **placing** or depositing of any kind of furniture on a **highway**, **Township property** including a **Township** road allowance;
- (m) the **building** or maintaining of a fence, structure or building on a **highway**, **Township property** including a **Township** road allowance;
- (n) the **depositing** of large refuse containers or bulk containers on a **highway**, **Township property** including a **Township** road allowance.

8 GENERAL

- 8.1 No person shall construct, install, widen or alter an **entrance** from a **Township highway** without a **permit**.
- 8.2 No person shall use a **highway** or portion of a **highway** except in accordance with the provisions of this By-law.
- 8.3 No person shall occupy a **highway** other than in accordance with a **permit**, the terms, conditions and standards of a **permit**, and this By-law.
- 8.4 No person shall construct or install works on a **highway** other than in accordance with a **permit**, the approved plans, the terms, conditions and standards of a **permit**, and this By-law.

9 SALE OF GOODS FROM A HIGHWAY

- 9.1 No person shall display, sell or offer for sale by retail any goods if the place of display, offering or sale is on a **highway** without a **permit**.

10 PERMITS - AUTHORITY

- 10.1 The **Director** is hereby delegated authority to issue **permits** in accordance with the provisions of this By-law.
- 10.2 A **permit** is subject to the terms and conditions as outlined in the **permit**, this By-law and any additional terms or conditions imposed by the **Director**.
- 10.3 A **permit** shall be issued where the **Director** is satisfied that the requirements of this By-law have been met.
- 10.4 For an **entrance permit**, the **Director** shall determine whether gravel, asphalt, cement or other hard surface will be permitted on the portion of the **entrance** that is on the **Township highway**.

11 PERMIT – APPLICATION

- 11.1 A **person** making an application for a **permit** under this by-law shall submit:
 - (a) a complete application in the form provided by the **Township**;
 - (b) where applicable, a security deposit as provided for in the **Township's Fees** and Charges for Services and Activities By-law;
 - (c) the required **permit** application fee, approval and inspection fees as provided for in the **Township's Fees** and Charges By-law;

- (d) where applicable, a sketch of the **property** showing all buildings and the location and dimensions of the proposed **entrance**;
- (e) any other documents as may be required by the **Director**;

11.2 The issuing of an **entrance permit** is subject to:

- (a) compliance with the **Township's** Zoning By-law;
 - (b) the **Director** being satisfied that:
 - (i) proper drainage onto the **Township highway** will be maintained;
 - (ii) the **permit holder** has good road building practices and safety measures in place to follow while the works are undertaken;
 - (iii) there is an unobstructed sight line for entry and exit to the **Township highway**;
 - (iv) where a culvert is to be installed, with the sizing of the culvert.
 - (c) the location of the proposed **entrance** at the **property** or lands being clearly marked.
- 11.3 An **entrance permit** expires one (1) year after the date the **entrance permit** is issued.

12 TERMS, CONDITIONS AND STANDARDS – ENTRANCE PERMIT

12.1 An **entrance** for a driveway shall:

- (a) be a minimum width of eight (8) metres where the **entrance** joins the shoulder of the **highway**;
- (b) have a minimum 2% crossfall from the centerline of the **entrance**.

12.2 Where the **Director** requires the installation of a culvert to ensure proper drainage, the culvert shall:

- (a) have a minimum diameter of 400mm;
- (b) have a minimum length of seven (7) metres;
- (c) be installed with a 150mm cover of gravel, crushed stone or crushed rock placed over the culvert in such a manner so as not raise the elevation of the **entrance** above the travelled portion of the **highway**.

13 TERMS AND CONDITIONS

13.1 A **permit holder** is subject to the following terms and conditions:

- (a) responsible for all costs associated with the installation, construction, works or occupancy of a **highway**;
- (b) responsible for all costs associated with any damage to the **Township highway**;
- (c) on behalf of himself, its heirs, executors, administrators and assigns to defend, indemnify and save harmless the **Township**, and their elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of the **Permit Holder**, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the issued **permit**. This indemnity shall be in addition to and not in lieu of any insurance provided by the **Permit Holder**;
- (d) responsible for all damages arising out of the work undertaken by the **permit holder** or on behalf of the **permit holder**;
- (e) responsible to pay for any costs to repair or restore the **Township highway** that exceed the amount of the security deposit.

14 SECURITY DEPOSIT

14.1 A security deposit collected under the provisions of this By-law:

- (a) will be held without interest by the **Township** until the **Director** has completed an inspection and advised:
 - (i) that the works have been completed in accordance with the **permit**, the approved plans, terms, conditions and standards of the **permit**, this by-law and to his satisfaction;
 - (ii) that any damage done to the **Township highway** has been repaired to his satisfaction.

15 ORDERS AND REMEDIAL ACTION

15.1 If an **Officer** determines that an **obstruction** of a **highway**, **Township property** including a **Township** road allowance exists, the **Officer** may issue an Order requiring the **Owner** of the **property** from which the **obstruction** comes from, relates to, or was created for, to discontinue causing the **obstruction** and to remove the **obstruction** and repair, as necessary, at the expense of the **Owner**, the **highway**, **Township property** including a **Township** road allowance so that the **highway**, **Township property** including a **Township** road allowance is brought back to its former condition prior to the **obstruction**.

15.2 Where the order is not complied with in the time period stipulated, the **Township** may remove the **obstruction** and repair, as necessary, the **highway**, **Township property** including a **Township** road allowance and all the **costs** incurred by the **Township** in undertaking this work shall be **costs** owed to the **Township** by the **Owner** of the **property** from which the **obstruction** comes from, relates to, or was created for.

16 HAZARDOUS CONDITION – REMOVAL

16.1 Notwithstanding Section 15.1, if an **Officer** determines that an **obstruction** of a **highway**, **Township property** including a **Township** road allowance is, or may create, a hazardous condition to the safety of any **person** using the **highway**, **Township property** including a **Township** road allowance, the **Officer** may take any action necessary to have the **obstruction** immediately removed and the **highway**, **Township property** including a **Township** road allowance repaired, if necessary, and all the **costs** incurred by the **Township** in undertaking the work shall be **costs** owed to the **Township** by the **Owner** of the **property** from which the **obstruction** comes from, relates to, or was created for.

17 REMOVAL, STORAGE AND DISPOSAL OF ITEMS

17.1 Any items, equipment or motorized equipment, containers, trailers, or any landscape or construction material removed by the **Township** from a **highway**, **Township property** including a **Township** road allowance under this By-law may at the discretion of the **Director**, be deposited at the **property** from which the **obstruction** comes from, relates to, or was created for, or be stored at a **Township** facility for 60 days at the **Owner's** expense.

17.2 An item removed under this By-law shall only be released to its **Owner** after the **Owner** has shown proof of ownership and paid the **Township** any **costs** regarding the removal and storage of the item.

17.3 An item removed under this By-law that is stored at a **Township** facility for more than 60 days and for which an **Owner** has not been identified may be disposed of by the **Township** in any manner that it deems appropriate.

17.4 An item removed under this By-law that is stored at a **Township** facility for more than 60 days and for which the **Owner**, having been identified, has failed to pay the applicable **Costs** and claim the item, may be disposed of pursuant to the provisions of the *Repair and Storage Liens Act, R.S.O. 1990, c. R. 25*, as amended.

17.5 The **Township** shall not be responsible for any damage to any item removed and stored.

18 USE OF CONTRACTOR AND RECOVERY OF EXPENSES

18.1 The **Township** may retain the services of a contractor to carry out any of the work that the **Township** may carry out under this By-law.

18.2 The **Township** shall draw on the security deposit or other financial security provided by a **Permit Holder** to cover any **Costs**.

18.3 All **costs** incurred by the **Township** in connection with the enforcement of this By-law shall be paid to the **Township** by the **Person** owing those **costs** and may be collected:
(a) by drawing on the letter of credit or other financial security provided;
(b) in the same manner as property taxes by adding the **costs** to the tax roll of the **property** from which the **obstruction** of the **highway** relates;
(c) through court action.

18.4 All **costs** owed to the **Township** are due and payable within thirty (30) days of the billing date set out on the invoice and, in the event of failure to pay the entire amount due within the said thirty (30) days, interest may be applied at the rate of 2% per month (24% annually).

19 SERVICE OF DOCUMENTS

19.1 Service of any document other than an invoice but including an order, under this By-law may be given in writing in any of the following ways and is effective:

- (a) when a copy is delivered to the **Person** to whom it is addressed;
- (b) on the 5th day after a copy is sent by registered mail to the **Person's** last known address;
- (c) where service is unable to be done under subsections 19.1 (a) or 19.1 (b), notice may be given by placing a placard containing the terms of the document or order in a conspicuous place on the **property** to which the document or order relate and shall be deemed to be sufficient service on the **Owner**;
- (d) posting on the item or obstruction.

20 PARKING REGULATIONS AND RESTRICTIONS

Parking Prohibited – Authorized Signs Not Required

20.1 No **Person** shall **park a vehicle** on a **highway**:

- (a) within 1 metre of an entrance to a driveway or entranceway or so as to prevent ingress or egress to or from such driveway or entranceway;
- (b) in a manner as to obstruct a **roadway**;
- (c) on or within 20 metres of a bridge, over, under or across which the **highway** passes;
- (d) from the 15th day of November of any year to the 15th day of April in the following year;

Parking Prohibited – Where Authorized Signs are on Display

20.2 Where **authorized signs** are on display, no **Person** shall **park a vehicle** on a **highway** in the following places:

- (a) within 20 metres of a public boat launching ramp;
- (b) named or described in Schedule A of this By-law from and to the locations identified in the said Schedule.

20.3 Where **authorized signs** are on display, no **Person** shall **park a vehicle** on **Township** property that is within 20 metres of a public boat launching ramp.

Parking Prohibited - Interfering with Snow Removal

20.4 Notwithstanding any other provision of this By-law which permits the **parking of vehicles** on a **highway**, no **person** shall **park, a vehicle** on a **highway** in such a manner as to obstruct or interfere with the clearing of snow from the **highway**.

21 Accessible Parking Regulations

21.1 No **person** shall **park** in an **accessible parking space** without a valid **accessible parking permit**.

21.2 No **person** shall **park** in an **accessible parking space** using an invalid, fictitious, altered or fraudulently obtained **accessible parking permit**.

21.3 An **Officer** may seize an **accessible parking permit** if the **Officer** has reasonable grounds to believe the **accessible parking permit**:

- (a) was not issued under the provisions of the **Highway Traffic Act**;
- (b) was obtained under false pretences;
- (c) has been defaced or altered;
- (d) has expired or been cancelled;
- (e) is being or has been used in contravention of the **Highway Traffic Act**.

21.4 No **person** shall fail or refuse to surrender an **accessible parking permit** to an **Officer** in accordance with this By-law.

22 TOWING

22.1 If a **vehicle** is **parked** on a **highway**:

- (a) interfering with the movement of traffic;
- (b) interfering with snow removal or winter maintenance activities;
- (c) in contravention of the **Highway Traffic Act**;
- (d) contravening any provision of this By-law

an **Officer** may cause it to be moved or taken and placed in a suitable place and all **costs** for the removing, care and storage are a lien on the **vehicle** and enforceable in the manner provided for by the *Repair and Storage Liens Act, R.S.O. 1990, c. R. 25*, as amended.

23 ENFORCEMENT AND PENALTY PROVISIONS

23.1 The enforcement of this By-law shall be conducted by an **Officer** or other **persons** appointed by the **Township**.

23.2 No **person** shall hinder or obstruct an **officer** in the enforcement of this By-law.

23.3 Every **person** who contravenes any provision of this By-law is guilty of an offence and upon conviction shall be subject to a penalty in accordance with the *Provincial Offences Act, R.S.O. 1990, c. P. 23*, as amended.

23.4 Notwithstanding Section 23.3, every **person** who contravenes Section 21 is guilty of an offence and shall be subject to a minimum penalty of \$300.00 in accordance with Section 427 of the *Municipal Act*, as amended.

23.5 If compliance therewith would be impractical, the provisions of this By-law shall not apply to **emergency vehicles, road service vehicles** and any **vehicles** while actually engaged in works undertaken for or on behalf of the **Township**, the District of Parry Sound, the federal or provincial government, or any utility.


23.6 An **officer** upon discovery of any **vehicle parked** in contravention of the provisions of this By-law, may cause it to be moved or taken to and placed or stored in a suitable place, at the owner's expense, and all **costs** and charges for removal, care and storage thereof, if any, are a lien upon the vehicle, which may be enforced in the manner provided by the *Repair and Storage Liens Act, R.S.O. 1990, c. R. 25*, as amended.

23.7 Where a Certificate of Parking Infraction has been issued alleging that the provisions of this By-law have been contravened, the **person** alleged to have committed an infraction may voluntarily pay a penalty to the **Township** within seven (7) days from the date of the alleged contravention, and such payment shall be accepted in full satisfaction of the fine, and no further proceedings shall be taken.

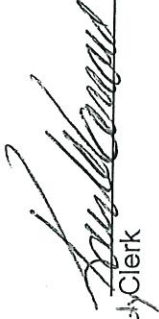
24 REPEAL

24.1 That By-laws 94-9, 98-23, 99-16, 2008-27, 2009-13 and 2017-34 are hereby repealed.

READ a FIRST and SECOND time this 15th day of June, 2020.



Mayor

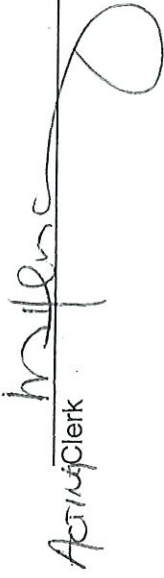


Deputy Clerk

READ a THIRD time and PASSED in OPEN COUNCIL this 13 day of July, 2020.



Mayor



Deputy Clerk

SCHEDULE "A"

DESIGNATED "NO PARKING" AREAS

1. Catherine Street from the intersection of Henry Street southerly for 100 metres
2. Lakeshore Road between Henry Street and Fire Route 155.