The Corporation of the Town of South Bruce Peninsula

By-Law Number 52-2016

Being a By-Law to Amend By-Law Number 44-2009 Being a By-Law to Adopt the Manual Governing the Policies and Procedures for the Corporation of the Town of South Bruce Peninsula (Frontage on a Municipal Street-Class 1 – Requirement to Obtain Building Permit)

Whereas Section 8 of the Municipal Act, 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And whereas Section 11 of the Municipal Act, 2001, c.25, as amended, authorizes municipalities to pass by-laws regarding the accountability and transparency of the municipality and its operations;

And whereas Section 270 (1) 5 of the Municipal Act, 2011, c.25, as amended authorizes the municipality to adopt and maintain policies with respect to the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public;

And whereas the Council of the Corporation of the Town of South Bruce Peninsula adopted a Municipal Policy Manual and desires to amend said by-law by revising the policy with regard to Frontage on a Municipal Street-Class 1 – Requirement to Obtain Building Permit.

Now therefore the Council of the Corporation of the Town of South Bruce Peninsula enacts as follows:

1) That policy BU.3.1 Frontage on a Municipal Street-Class 1 – Requirement to Obtain Building Permit be revised as attached hereto and shall hereby be included in the Municipal Policy Manual.

2) That all by-laws and polices inconsistent with this by-law are hereby repealed.

3) That this by-law shall come into full force and effect upon the final passing thereof.

Read a first and second time this 21st day of June, 2016.

Mayor

Clerk
Read a third time and finally passed this 21st day of June, 2016.

[Signatures] Mayor

[Signature] Clerk
Frontage on a Municipal Street-Class 1 – Requirement to Obtain Building Permit

Purpose

To explain the process which will be followed when the Town is approached to permit the issuance of a building permit on a property that does not front upon and have direct access to a Municipal Street-Class 1.

Policy

1. Definitions

Municipal Street-Class 1: improved streets under the jurisdiction of the Town, County or Province and are maintained on a year round basis.

This is the definition and provision contained in the Town Comprehensive Zoning By-Law however this definition will apply to all property regardless of its zoning designations and includes property located in the Niagara Escarpment Area or any other regulated area.

Site Plan Agreement (Limited Services): an agreement adopted by Council by-law and registered on the title of a property. The agreement provides that there will be no demand for services or limited services available due to the class of street.

2. General Provisions

2.1 Building permits can only be issued in accordance with all applicable law. The Zoning By-Law for the Corporation includes a provision regarding the requirement for frontage upon and direct access to a Municipal Street-Class 1.

Properties within other regulated areas are also subject to the provision to develop on Municipal Streets-Class 1.
2.2 Unless otherwise explicitly permitted by the Zoning By-Law or other applicable law, these provisions restrict any person from erecting any building or structure unless the property upon which such building or structure is to be erected fronts upon and has direct access to an improved street opened and maintained on a year round basis.

2.3 Notwithstanding anything contained herein, the Town reserves the right to require the owner to enter into an agreement with the Town for use of or work upon a road allowance.

3. **Options for Construction**

3.1 Should the property not have frontage upon and direct access to a Municipal Street-Class 1, the owner may choose to proceed with either of the following procedures:

- Discuss the possibility of constructing the road (at expense of the property owner) to the standards set out by the Public Works Department in order for the Town to assume the road and provide year round maintenance; or

- Apply for and obtain a minor variance for relief from the frontage and direct access to a Municipal Street-Class 1 requirement in the Zoning By-Law. A Site Plan Agreement (limited services) shall be a condition of the minor variance; or

- Ensure that a condition of development under any other regulated permit gives relief from the requirement to construct on a Municipal Street-Class 1. A Site Plan Agreement (limited services) shall be a condition of the development.

4. **Use Already Established**

4.1 If the lot is already developed (the main use is already established on the lot), the building/use may be considered legal non-complying and the frontage and direct access to a Municipal Street-Class 1 requirement shall not prevent such use, building or structure from being enlarged, reconstructed, repaired, etc. provided that the such construction does not further reduce the compliance with any provision of the Zoning By-Law.

Further development in other regulated areas will be subject to the governing law in the regulated area.
4.2 Where a main use is already established and there is no Site Plan Agreement (limited services), prior to further development the property owner shall be requested to begin the process to obtain a Site Plan Agreement (limited services). Please refer to Items 5.2 to 7.1 below.

5. **Use Not Established-Minor Variance and Site Plan Agreement (limited services) Required**

5.1 Where a minor variance is required, Town staff will require the affirmative decision from the Committee of Adjustment.

Where a development or other permit is required, Town staff will require the affirmative decision from the governing body.

5.2 The property owner will apply to the Town for a Site Plan Agreement (limited services) and pay any applicable fee as outlined in the Town Fee By-Law.

5.3 Four original agreements must be signed by the property owner(s) prior to presentation to Council.

5.4 Town staff will report to Council and include the Site Plan Agreement (limited services) and a Signatory By-Law for Council consideration.

6. **By-Law and Agreement Approved by Council**

6.1 The Town will cause the by-law and agreement to be registered on the title of the property.

6.2 Notification to the owner(s) will be made which will include an original agreement, a copy of the Signatory By-Law and notice of the registration of the agreement on title.

7. **By-Law and Agreement Not Approved by Council**

7.1 Notification to the owner(s) will be made which will include Council’s reasoning in not approving the by-law and agreement.