

**THE CORPORATION OF THE MUNICIPALITY OF FRENCH RIVER**

**BY-LAW 2008-25**

BEING A BY-LAW TO AMEND BY-LAW 2006-24 PROHIBITING THE OBSTRUCTION OF ANY DRAIN OR WATERCOURSE; AND FOR PERMITTING AND REGULATING THE SIZE AND MODE OF CONSTRUCTION OF CULVERTS AND BRIDGES

**WHEREAS** Section 96 of the Municipal Act, 2001, S.O. 2001 c.25, as amended, provides that by-law(s) may be passed by Municipal Council for the purpose of preventing damage to property in the municipality as a result of flooding; and

**AND WHEREAS** Section 44 of the Municipal Act, 2001, S.O. 2001 c.25, as amended, provides that by-laws may be passed by Municipal Council for permitting and regulating the size and mode of construction of culverts and bridges that cross any drain or watercourse situated on a highway under the jurisdiction of the Municipality;

**AND WHEREAS** Section 446 of the Municipal Act, 2001, S.O. 2001 c.25, as amended, provides where Council has authority to direct or require by a by-law or otherwise that any matter or thing be done, the Council may by the same or by another by-law direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at the person's expense and the corporation may recover the expense incurred in doing it by action, or the same may be recovered in like manner as municipal taxes;

**NOW THEREFORE, THE COUNCIL FOR THE MUNICIPALITY OF FRENCH RIVER ENACTS AS FOLLOWS:**

**1. DEFINITIONS: In this by-law:**

- 1.1 "Council" means the Council of the Corporation of the Municipality of French River;
- 1.2 "Culvert" means a driveway entrance culvert, ditch enclosure or structure;
- 1.3 "Designated Official" a person acting on behalf of the Municipality for the purpose of this by-law;
- 1.4 "Municipality" means the Corporation of the Municipality of French River;
- 1.5 "Obstructions" includes beaver dams, trees, bush wood, timber or other materials;
- 1.6 "Permit" includes a driveway entrance permit to authorize the construction of an access from a municipal road to a private property and if applicable to replace the existing driveway surface with any

material other than Granular “A” and to authorize the construction of a ditch enclosure;

- 1.7 “Person” includes an owner or occupant of land, a firm, a partnership, a co-partnership, an association, a corporation, and the heirs, executors, administrators, or other legal representatives of a person to whom the context can apply according to law;
- 1.8 “Watercourse” includes streams, creeks, ditches, natural drains and culverts on municipal and private properties;

## **2. OBSTRUCTIONS**

- 2.1 No person shall in any manner obstruct a water course;
- 2.2 In the event that an obstruction to any watercourse is occasioned and may cause potential flooding to a public highway, the Municipality shall give notice to the person, and the person shall forthwith and without delay remove it, and re-instate the area to its original condition;
- 2.3 In the event that the obstruction is as a result of beaver dams, located on private property that may cause flooding to a public highway, the Municipality shall give notice to the person, and the person shall forthwith and without delay, remove nuisance beaver(s) or shall contact the licensed trapper appointed to the area by the Ministry of Natural Resources. Beaver dams shall then be removed in a manner to prevent flooding of downstream properties;
- 2.4 In the event that the person is unable to rectify the situation in subsection 2.2 and 2.3 within a reasonable amount of time, the Municipality may, upon twenty-four (24) hours written notice to the said person, perform the required work at the person’s expense and recover the expense incurred in like manner as municipal taxes to be levied against such person or by an action;
- 2.5 In the event that any obstructions referred to in subsection 2.2 and 2.3 on any watercourse located on private property, that causes flooding to a public highway and causes the obstruction of free flow of traffic, the municipality may enter upon private property at any time to remove the obstruction and recover the expense incurred including repairs to the public highway in like manner as municipal taxes to be levied against such person or by an action.

### **3. NEW DRIVEWAY AND/OR CULVERT INSTALLATION**

- 3.1 A person desiring a driveway and/or culvert shall make application to the Municipality who will issue the necessary permit, if so approved by the designated Official. The fee and deposit for such permit shall, in accordance with the Fees and Services By-law as amended from time to time, be submitted at the time of application;
- 3.2 A person having obtained an approved permit for a driveway culvert, shall at his/her own expense supply and install or have installed the required culvert and necessary materials in accordance with the Municipality's specifications and regulations;
- 3.3 In the event that, after an initial site inspection by the designated Official, the application for permit be denied the deposit amount shall, as identified by the Fees and Services By-law as amended from time to time, be returned with a letter of explanation as to the reasons for the denial;
- 3.4 Should a final approval be granted at the first inspection of the work by the designated Official, the deposit amount, as identified by the Fees and Services By-law as amended from time to time, shall be returned to the applicant;
- 3.5 Should a final approval not be granted on the first inspection of the work, the deposit amount, as identified by the Fees and Services By-law as amended from time to time, shall be retained to defer the costs of further inspections;
- 3.6 Should an applicant fail to correct the deficiencies, as identified at the time of inspection, within a twenty-four (24) hour period or such time frame as identified by the designated Official, the Municipality may perform the required work at the persons expense incurred in like manner as municipal taxes to be levied against such person or by an action;
- 3.7 A person desiring the installation of a temporary culvert, if so approved, shall be subject to all conditions as stipulated in sections 3.1 through 3.6 in this by-law. The applicant shall remove the temporary culvert and rehabilitate the disturbed area to its original condition including all ditching side slopes, shoulders, road surface and vegetation no later than six month(s) from the date of issue of an approved permit. Should a change from a temporary to a permanent installation be requested a new application for permit including associated fees shall be applied for;
- 3.8 Should a person choose to install a culvert during the winter months, (i.e., when the frost has penetrated the ground), the installation shall be deemed as a temporary installation and as such clause 3.7 shall apply.

The culvert must be re-installed and re-graded, at the person's expense, immediately at the start of the next construction season after which a final inspection may be requested.

#### **4. EXISTING CULVERTS**

- 4.1 Any person desiring to have their existing culvert relocated shall make application for a permit, and clauses 3.1 to 3.8 shall apply;
- 4.2 The Municipality shall not be responsible to install, replace or maintain head or retaining walls installed by a person on Municipal right of ways. Should a person choose to add to the existing length of culvert in lieu of replacing an existing head wall or to widen an existing driveway entrance the additional length will be considered as a new culvert and clauses 3.1 to 3.8 shall apply;

#### **5. REGULATIONS AD SPECIFICATIONS**

- 5.1 All culverts to be installed in roadside ditches shall be new corrugated galvanized or aluminized steel, or double walled high-density polyethylene ("Boss 2000" or equivalent rated for 320 Kpa – corrugated exterior with smooth wall interior);
- 5.2 Minimum Wall Thickness
  - 400 mm to 600 mm diameter            1.3 mm wall thickness
  - 700 mm to 1000 mm diameter        1.6 mm wall thickness
  - Greater than 1000 mm diameter      Engineering Report required
- 5.3 The minimum driveway culvert diameter required shall be stipulated by the designated Municipal Official. Should a culvert larger than 1000 mm in diameter be required the person shall submit an Engineering Report identifying the minimum size and the granular requirements;
- 5.4 The minimum driveway culvert length shall be six (6) metres.
- 5.5 No culvert shall be installed closer than one (1) metre from the lot line, nor any closer than two (2) metres from any adjacent driveway culvert or cross-culvert, or as otherwise approved by the designated Municipal Official;
- 5.6 All permits fees associated with this by-law shall be paid to the Municipality prior to the commencement of any work;
- 5.7 Construction and installation of wooden bridges or walkways across roadside ditches are prohibited.

## 6. GENERAL CONDITIONS

- 6.1 In the event that a culvert is damaged through misuse by a person, the person shall at their own expense pay for all associated costs to repair or replace the culvert and grounds to the pre-existing condition as approved by the Inspector, also if spring frost lifts the culvert or undermines the culvert causing it to go down the owner shall pay for all costs to level off the culvert or driveway;
- 6.2 Where the Municipality initiates a construction project, ditching improvements or other special project as may be required to alleviate or eliminate drainage problems, the Municipality shall bear the costs associated with the resetting of the driveway culvert, granular base material and a top dressing consisting of Granular "A" only. Repairs to all other surface treatments including but not limited to asphalt, lock-stone, concrete, slag and quartz stone shall be the responsibility of the property owner requiring access to a municipal roadway;
- 6.3 Where the Municipality carries out repair work as outlined in section 6.2 of the by-law, the Municipality shall undertake to guarantee its work for a period of two years from the date of repair;
- 6.4 If the Municipality or its agents damage a culvert while performing its regular road maintenance duties the Municipality shall carry out the necessary repairs at no cost to the owners;
- 6.5 In the case of default of compliance with any orders issued to persons relating to culverts, the Municipality may authorize the removal or repair of the culvert. All costs associated with the repair or replacement shall become due and payable to the Municipality by the person and if not paid may be recovered in like manner as municipal taxes, notwithstanding any provision or section to the contrary contained in this by-law;
- 6.6 Any person desiring to carry out work on a road right of way portion of their driveway, being either the driving surface or shoulders shall make application to the Municipality describing such work and upon payment of application fees and receiving written approval from the designated Municipal Official, may then only then proceed with the said work;
- 6.7 The Municipality shall designate from time to time by resolution, a person who shall be the Municipality's Designated Official for the purpose of this by-law;
- 6.8 The Permission to Enter form required under this by-law shall be as set out on "Schedule A" attached hereto and forming part of this by-law;

- 6.9 The Driveway Entrance and/or Ditch Enclosure Permit required under this by-law shall be as set out on “Schedule B” attached hereto and forming part of this by-law;

## **7. PENALTY**

- 7.1 Any person who contravenes any of the provisions of this by-law is guilty of an offence and upon conviction is subject to a fine of not more than five thousand dollars (\$5,000.00) as provided for by the Provincial Offences Act of Ontario.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS  
18<sup>th</sup> DAY OF JUNE 2008.**

# SCHEDULE "A" By-law 2008-25



Municipalité de la Rivière des Français  
Municipality of French River

Box 156, 17 Dollard St.

Noëlville, ON P0M 2N0

Tel.# (705) 898-2294 – Fax# (705)898-2181

## PERMISSION TO ENTER

Owner's Name & Mailing Address	Legal Description of Property
	Twp:
	Conc. Lot:
	Parcel
	Roll#

I, \_\_\_\_\_, give permission to the Municipality of French River Officials or its agents to go on my property, for the purpose of \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

and further hereby indemnify them from any liability arising from said work.

\_\_\_\_\_  
PRINT NAME OF OWNER

\_\_\_\_\_  
SIGNATURE OF OWNER

\_\_\_\_\_  
PRINT NAME OF OWNER

\_\_\_\_\_  
SIGNATURE OF OWNER

\_\_\_\_\_  
PRINT NAME OF MUNICIPAL OFFICIAL OR AGENT

\_\_\_\_\_  
SIGNATURE OF MUNICIPAL OFFICIAL OR AGENT

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_.

# SCHEDULE "B" By-law 2008-25



## THE MUNICIPALITY OF FRENCH RIVER

### DRIVEWAY ENTRANCE AND/OR DITCH ENCLOSURE PERMIT

Owner's Name & Mailing Address	Legal Description of Property
	Twp.
	Con.: <span style="float: right;">Lot:</span>
	Parcel
	Roll#

This permit is issued by the Designated Municipal Official for the Corporation of the Municipality of French River under the authority of By-law number 2006-24.

The location of the new culvert and/or ditch enclosure, size and mode of construction and resurfacing must be as specified in this permit.

In the event of a contravention of this permit or the by-law, the Designated Municipal Official is authorized to enforce compliance by repairing or replacing the culvert to meet the specifications of this permit, at the cost of the landowner.

#### Initial Inspection

1. Is the proposed location of the driveway suitable? \_\_\_ Yes \_\_\_ No
2. Is a culvert required? \_\_\_ Yes \_\_\_ No  
     Diameter \_\_\_\_\_ Length \_\_\_\_\_ Gauge \_\_\_\_\_
3. Is the proposed ditch enclosure suitable? \_\_\_ Yes \_\_\_ No
4. State type of resurfacing material to be used over culvert(s):

\_\_\_\_\_

5. Comments:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Date Inspected

\_\_\_\_\_  
 Designated Municipal Official

#### Final Inspection

1. Is the location of the driveway as approved during initial inspection? \_\_\_ Yes \_\_\_ No
2. Is size of culvert as specified in this permit? \_\_\_ Yes \_\_\_ No
3. Is resurfacing material as specified in this permit? \_\_\_ Yes \_\_\_ No
4. Is ditch enclosure as specified in this permit? \_\_\_ Yes \_\_\_ No
5. State deficiencies or comments:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Final Approval \_\_\_ Yes \_\_\_ No

\_\_\_\_\_  
 Date Inspected

\_\_\_\_\_  
 Designated Municipal Official