

BY-LAW NO. 5604

OF

THE CORPORATION OF THE COUNTY OF SIMCOE

A By-law to regulate the location of buildings and other structures on lands adjacent to County roads.

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A By-law to regulate the location of buildings and other structures on lands adjacent to County roads.

Section 9 of the *Municipal Act, 2001*, S.O., 2001, c. 25 ("*Municipal Act, 2001*"), 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.

Section 11 of the *Municipal Act, 2001*, provides that Council of the Corporation of the County of Simcoe ("County") may regulate matters for purposes related to health, safety and well-being of persons.

Authority is granted under section 58 of the *Municipal Act, 2001*, to the County, of all the powers conferred on local municipalities in section 34 of *The Planning Act*, R.S.O., 1990, c P. 13 ("*The Planning Act*"), in respect of land lying within 45 metres from any limit of a County highway to prohibit the erecting or locating of buildings and other structures within that area.

Section 227 of the *Municipal Act, 2001*, provides that it is the role of the officers and employees of the County to implement County Council's decisions and establish administrative practices and procedure to carry out Council's decisions.

Section 227 of the *Municipal Act, 2001*, provides that it is the role of officers and employees of the municipality to carry out duties required under the *Municipal Act, 2001* or any other Act and other duties assigned by the municipality.

Section 23 authorizes a municipality to delegate legislative and quasi-judicial powers under the listed Acts to one or more members of its council or a council committee or to an individual officer, employee or agent of the municipality.

County Council has approved a policy setting out in detail the purpose for this by-law, the exception application process and provided guidance to the delegates who will administer this by-law when using the quasi-judicial powers in the exception process.

Pursuant to section 425 of the *Municipal Act, 2001*, the County may pass by-laws providing that a person who contravenes a by-law of the municipality is guilty of an offence.

The *Provincial Offences Act*, R.S.O. 1990, c. P. 33 (the "*Provincial Offences Act*"), provides that persons who contravene this by-law are guilty of an offence and upon conviction are liable to a fine.

Pursuant to section 15(1) of the *Police Services Act*, R.S.O. 1990, c.P.15 (the "*Police Services Act*") County Council may appoint persons to enforce the by-laws of the County.

Section 447 of the *Municipal Act, 2001*, provides that the County may enter into agreements with a person or a body in relation to matters of mutual interest for the purpose of coordinating the enforcement of by-laws, statutes and regulations.

Section 391 of the *Municipal Act, 2001*, authorizes the municipality to impose fees and charges on persons for services or activities provided or done by or on behalf of it; for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and for the use of its property including property under its control.

Sections 398 and 446 of the *Municipal Act, 2001*, authorizes the County to request that the lower-tier municipalities add the costs of completing any matter or thing it has authority to direct to be done in this By-law if the person directed to do so is in default, to the tax roll and collect the amount due in the same manner as property taxes.

By adoption of Corporate Services Committee Report No. CS 07-072, County Council deems it necessary to repeal By-law No. 2840 and to enact a new setback by-law to regulate the location of buildings and structures on lands adjacent to County roads.

NOW THEREFORE the Council of the Corporation of the County of Simcoe enacts as follows:

SECTION 1 -INTERPRETATION

1.1 SHORT TITLE

This by-law will be known and may be cited as the Road Setback By-law.

1.2 HEADING

The headings inserted in this by-law are inserted for convenience only and will not be used as a means of interpretation.

1.3 SINGULAR, ETC

The necessary grammatical changes required to make the provisions hereof apply to corporations, partnerships, trusts and individuals, male or female, and to include singular or plural meaning where the context so requires, will in all cases be assumed as though fully expressed.

1.4 DEFINITIONS

For the purpose of this by-law, the following words shall have the meaning ascribed herein:

- 1.4.1 "**Building**" means any structure whether temporary or permanent, used or built for shelter, accommodation or enclosure of persons, animals or chattels, including, but not limited to, any barn, factory, garage, residence, store, warehouse, workshop or any part thereof.
- 1.4.2 "**County**" means The Corporation of the County of Simcoe.
- 1.4.3 "**Heavy Industrial Uses**" consists of uses such as used auto parts salvage yards, quarry and gravel pits, asphalt plants, large-scale industry, incinerators, and other similar operations which so create or are likely to create nuisances and hazardous effects beyond their premises.
- 1.4.4 "**Highway**" means a road over which The Corporation of the County of Simcoe has jurisdiction.
- 1.4.5 "**Illumination Facilities**" includes flood lights, spot lights, search lights or lighting facilities of any kind.
- 1.4.6 "**Limit**" means the lateral property line running along the outer edge of a Highway used to designate the extent of the land dedicated to a Highway and acquired for Highway purposes.
- 1.4.7 "**Municipal Law Enforcement Officer**" includes a person appointed pursuant to section 15(1) of the *Police Services Act* by County Council for the purpose of carrying out the enforcement of this by-law.
- 1.4.8 "**Person**" includes an individual and a corporation and the successors, assigns, heirs, executors, administrators, or other legal representatives of a person to whom the context may apply according to law.

- 1.4.9 "**Recreational Facilities**" includes public and privately owned facilities for use by the public for leisure activities including but not limited to golf courses, driving ranges, ball diamonds, paint ball operations, etc, where the use may but not necessarily have off-site impacts.
- 1.4.10 "**Service Road**" or "**Window Street**" means a road carrying traffic parallel to but not necessarily adjoining a Highway.
- 1.4.11 "**Settlement Area**" means the territory contiguous to a Highway in a settlement area as designated within the local official plan of a Town or Township and the County's Official Plan, where applicable.
- 1.4.12 "**Structure**" means anything that is erected, built or constructed of parts joined together or requiring a foundation to hold it erect, including any above or below ground installation or location not defined as a building, including, but not limited to, dams, decks, earth berms, fences made of stone, illumination fixtures, parking garages, ponds, satellite dishes, septic systems, storage tanks, stormwater facilities (and everything incidental thereto), swimming pools, wells whether the installation or location is temporary or permanent, but shall not govern any signs separately regulated by By-law 4630, amended by By-law 4660.

SECTION 2 – PURPOSE

- 2.1 The placement of Buildings and Structures adjacent to a Highway under the jurisdiction of the County are controlled under the authority of the *Municipal Act, 2001*.
- 2.2 This authority granted in the *Municipal Act, 2001* is designed to reduce the likelihood that future changes to the right-of-way of Highways will make it necessary to remove and/or relocate Buildings or other Structures. The elimination of the expense of removal and the inconvenience to the property owners and to the public are important considerations.
- 2.3 Persons are encouraged to locate Buildings and Structures in a manner that will reduce the possibility of creating unnecessary highway maintenance problems. The proper location of Buildings and Structures will help to mitigate noise and vibration caused by traffic.
- 2.4 While the above are important considerations in determining the various setback distances for specific uses in this by-law, the main concerns were long range transportation and road needs, safety, land use planning and viewscape.

SECTION 3 -PARAMETERS

3.1 APPLICATION

This by-law shall apply to lands fronting on or within 45 metres of the Limit of a Highway, under the jurisdiction of the County.

3.2 BASIC SETBACK DISTANCE

No Person shall locate, install, or rebuild any Building or Structure within 15 metres from the Limit of the Highway, unless a specific setback distance has been set out in this by-law in which case that distance applies. See schedule "A" and sections 3.4 and 3.6.

3.3 SPECIFIC REQUIREMENTS FOR USES

Specific setback distances have been provided for the location or installation of the specific Buildings and Structures related to certain uses as set out in the chart attached as schedule "A".

3.4 DEVELOPMENT IN SETTLEMENT AREAS

New Buildings or Structures

Except for new plans of subdivision, and notwithstanding any other provision of this by-law, if the 15 metre setback distance cannot be met, the setback distance for new Buildings or Structures within Settlement Areas will be calculated by determining the setback distance for the Building or Structure located or installed on the property on each side of the property in question and determining the average of the two. If there is no Building or Structure located on either of the two abutting properties, and the 15 metre setback cannot be met, the applicant will be required to apply for an exception.

Alterations and Extension of Buildings and Structures

Section 3.10 herein does not apply to alteration or extension of a Building or Structure in a Settlement Area in which such alteration or extension does not further intrude upon the existing setback distance.

3.5 CHANGES- POWER OF EXPROPRIATION

Notwithstanding any other provisions of this by-law, where the setback distance of a Building or Structure is changed so as not to conform with the minimum setback distances required, as a result of the acquisition of land by an authority possessing the power of expropriation whether the land is expropriated or obtained by agreement, such Building or Structure shall be deemed to conform to the minimum setback distances for the purposes of this by-law.

3.6 **SUBDIVISION APPROVAL**

New Buildings or Structures

Notwithstanding any other provision of this by-law, the setback distance for new Buildings or Structures within new plans of subdivision or condominium will be 10 metres. The 10 metre setback will be applied to the limit of any road widening requested as a condition of approval by the County.

Service Roads or Window Streets

Notwithstanding any other provision of this by-law, if draft plan approval has been provided prior to the day this by-law is passed which approval includes Service Roads or Window Streets, that subdivision plan will be exempt from the setback distances included in this by-law provided that no extension to the draft plan approval will be granted unless the plan is revised such that the Service Roads or Window Streets comply with this by-law.

3.7 **NON-CONFORMING**

No provision of this by-law shall apply:

- 3.7.1 to require the relocation of any Building or Structure if such Building or Structure was located or installed lawfully on the day of the passing of this by-law;
- 3.7.2 to prevent the installation or erection of a Building or Structure in a place prohibited by this by-law for which it has, prior to the day of the passing of the by-law, been approved by the Building Department with jurisdiction so long as construction of the Building or Structure is commenced within six months after the day of the passing of this by-law and such Building or Structure is completed within two years.

3.8 **RESTORATION OF NON-CONFORMING BUILDINGS AND STRUCTURES**

Any non-conforming Building or Structure which has been destroyed, whether intentional or not, to the extent of thirty percent of the Building or Structure (exclusive of walls below grade) at the date of destruction, shall not be restored except in conformity with the standards of this by-law.

3.9 **RESTORATION TO SAFE CONDITION**

Subject to the provisions of this section, nothing in this by-law shall prevent the strengthening or restoration to a safe condition of all or part of any Building or Structure provided that such alteration or repair will not

further intrude upon the applicable setback distance as set out in this by-law.

3.10 ALTERATIONS AND MODIFICATIONS

This by-law shall not prohibit the renovation, alteration or the modifying of any Structure or Building that legally pre-existed this by-law or By-law 2840 provided that the alteration or modification of the Building or Structure does not itself intrude upon the applicable setback distance set out in this by-law.

SECTION 4- EXCEPTIONS

- 4.1 Exceptions may be requested from the setback distances set out herein where the requirements cannot or are impractical to be met.
- 4.2 The applicant is required to submit a written request with the applicable fee, as set out in Schedule B and/or the Fees and Charges By-law, to the County Clerk.
- 4.3 The application form can be obtained at the County Administration Building or from the County's website at www.county.simcoe.on.ca.
- 4.4 The application must clearly set out the reason the exception is requested along with any supporting evidence the applicant wants to be considered.
- 4.5 The application will be considered by the General Manager of Corporate Services or Acting General Manager of Corporate Services including the review and recommendation of the Transportation Construction Manager or the Transportation Maintenance Manager and in compliance with the Setback Policy.
- 4.6 The General Manager of Corporate Services will provide his/her decision in writing.
- 4.7 If an exception is granted, it may be granted with conditions and the applicant may be required to enter into a Development Agreement with the County to be prepared and registered on title to the property in question at the applicant's expense.
- 4.8 The applicant is entitled to an appeal of the General Manager of Corporate Services' decision which appeal will be to the Corporate Services Committee.

- 4.9** An appeal must be submitted in writing within 20 days of the date of the notice of decision to the County Clerk, with the applicable filing fee, as set out in Schedule B and/or the Fees and Charges By-law.
- 4.10** The Corporate Services Committee will hold a hearing and provide an opportunity for the applicant to be heard. No new evidence can be submitted to this Committee.
- 4.11** The decision of the Corporate Services Committee will be provided in writing to the applicant within 30 days of the hearing. The Corporate Services Committee can attach such conditions as are reasonable to its decision including the entering into a Development Agreement with the County to be prepared and registered on title to the property in question at the applicant's expense. This decision is final and binding.

SECTION 5 - ADMINISTRATION AND ENFORCEMENT

- 5.1** This by-law will be administered by the General Manager of Corporate Services except the provisions regarding recovery of costs which will be administered by the County's Treasurer.
- 5.2** This by-law shall be enforced by the persons appointed pursuant to section 15 of the *Police Services Act* and referred to in this by-law as Municipal Law Enforcement Officers.
- 5.3** Any Person who contravenes any of the provisions of this by-law is guilty of an offence. This offence is designated as a continuing offence. Upon conviction, a Person is liable to a minimum fine of \$500.00 for each day that the offence occurs and a maximum fine as provided for as follows:
- 5.3.1 for an individual, a maximum fine of \$5,000.00 for the first day on which the offence occurs and a maximum fine of \$10,000.00 for each subsequent day on which the offence occurs;
- 5.3.2 for a corporation, a maximum fine of \$10,000.00 for each day that the offence occurs.
- 5.4** If default of any matter or thing directed or required to be done by the by-law, such matter or thing shall be done by the County at the expense of the Person or Persons so in default, and any expenses incurred with regard thereto, shall be recovered by action or by requesting the appropriate local municipality to collect them in like manner as municipal taxes pursuant to sections 398 and 446 of the *Municipal Act, 2001*
- 5.5** If a Person has been convicted of an offence under this by-law, pursuant to section 431 of the *Municipal Act, 2001*, the court in which the conviction has been entered may, in addition to any other penalty or other remedy

imposed, make an order prohibiting the continuation or repetition of the offence.

SECTION 6 – GENERAL

6.1 SEVERABILITY

If any provision of this by-law is declared invalid for any reason by a court of competent jurisdiction the remainder of this by-law shall still continue in force.

6.2 REPEAL

By-law No. 2840 is hereby repealed.

6.3 EFFECTIVE DATE

This By-law will come into force and take effect on the date it is passed by the County Council.

By-law read a first, second and third time and finally enacted this 28th day of February, A.D., 2008.




Clerk, County of Simcoe

SCHEDULE "A"**Schedule A to County Setback By-law 5604****Required Setback Distance**

Buildings/ Structures	Setback from Limit of the Highway
Buildings and Structures related to Recreational Facilities	45 metres
Buildings and Structures related to Heavy Industrial Uses	45 metres
Sheds maximum 3 metres square, without foundations	3 metres
Parking Lots- Curbing	1.5 metres
Illumination Facilities	1.5 metres
Service Roads and Window Streets	7.5 metres*

* setback distance for Service Roads and Window Streets is to the edge of the travelled surface of the Window Street or Service Road from the Limit of the Highway.

SCHEDULE "B"**ROAD SETBACK BY-LAW 5604
EXCEPTION APPLICATION FEE SCHEDULE**

THE CORPORATION OF THE COUNTY OF SIMCOE
 COUNTY CLERK'S OFFICE
 1110 HIGHWAY 26, COUNTY ADMINISTRATION CENTRE
 MIDHURST, ONTARIO L0L 1X0
 PH: 705-726-9300 FAX: 705-726-3991

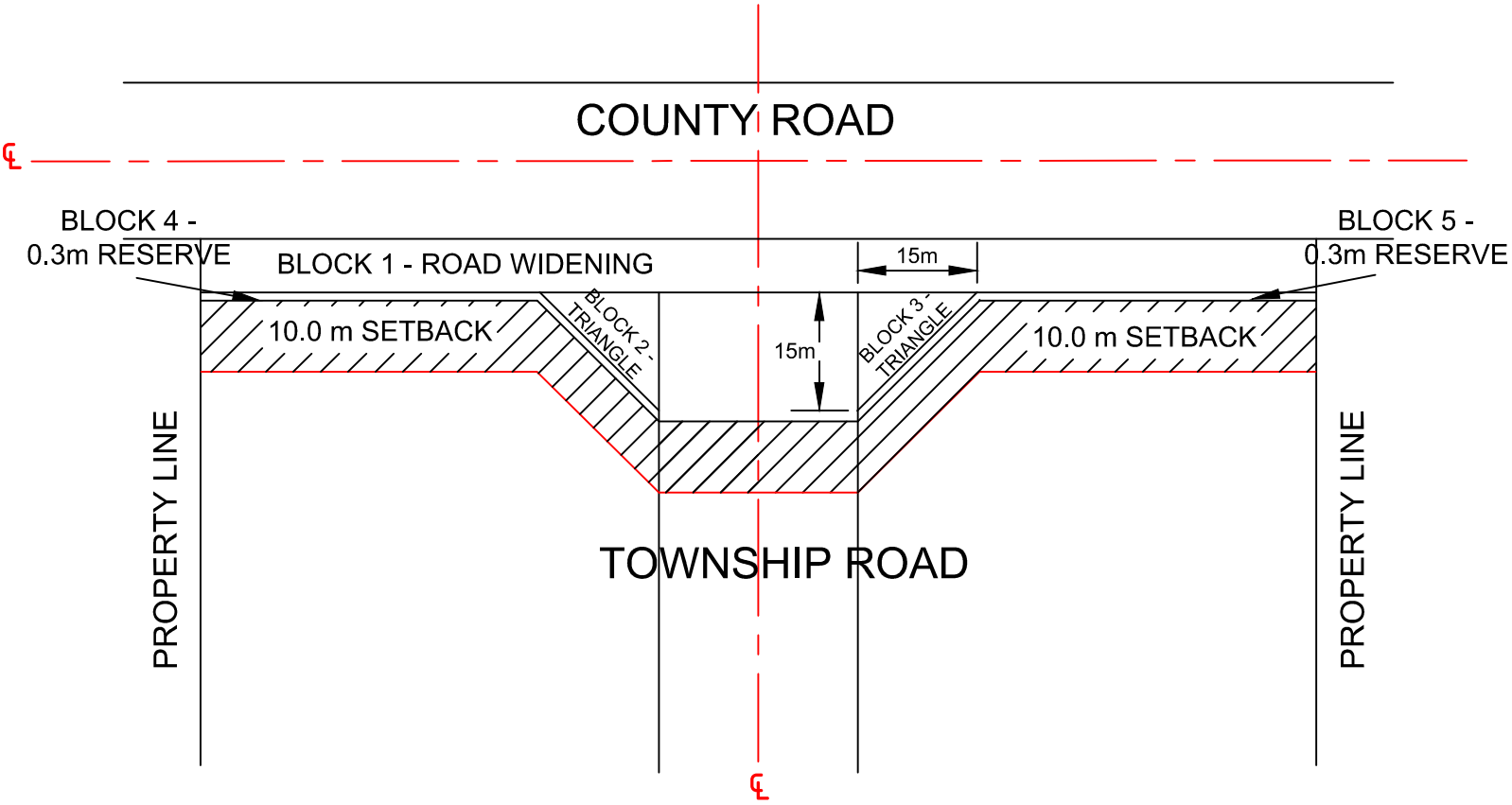
Exception Requests	Fees
Requests to Corporate Services Division for an Exception to the By-law's Minimum Road Setback Requirements * A Development Agreement may be required. The Agreement is to be prepared and registered on title at the applicant's expense.	\$100 (*plus actual costs)

Appeals	Fees
Appeal of the General Manager of Corporate Services' decision to the Corporate Services Committee	\$125.00

Notes:

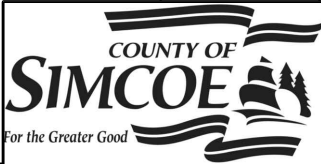
- Completed applications are to be returned to the address noted above.
- Applications submitted by member municipalities for municipally owned properties are exempt from the above-noted fees.
- Application fees are payable by cash, cheque or money order payable to: **The Corporation of the County of Simcoe**

ROAD WIDENING - DRAFT PLAN EXAMPLE



NOTES:

- 1. ALL DAYLIGHT TRIANGLES ARE TO MEASURE 15m x 15m.



COUNTY OF SIMCOE STANDARD
ROAD WIDENING - DRAFT PLAN EXAMPLE

SCALE: N.T.S.	DATE: MARCH 24, 2016	DRAWING No.:
DIRECTOR, TRANSPORTATION & MAINTENANCE: CHRISTIAN MEILE		DRAWN: J.P.M.
		ST -19