

Building and Land Use Policy

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**CORRIDOR MANAGEMENT AND PROPERTY SECTION
PROVINCIAL HIGHWAYS MANAGEMENT DIVISION
MINISTRY OF TRANSPORTATION**



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1 INTRODUCTION

1.1 Preamble

1. A building and land use permit must be obtained to carry out any works within the controlled area.
2. Imperial to metric: 1ft. = 0.30 metre
3. In Central Region only:
 - Field Services Engineer also refers to the Section Head of Corridor Management Office;
 - Planning and Design Section refers to the Highway Engineering Office;
 - Corridor Management Officer refers to the Permits Officer;
 - Regional Corridor Control Office refers to the Corridor Management Office
4. All access requirements associated with this Chapter may be found in Chapter 4 (Access Policy).

1.2 Purpose

The placement of buildings, structures, fences and the development of lands adjacent to Provincial Highways are controlled under the authority of The Public Transportation and Highway Improvement Act.

This control is designed to reduce the likelihood that future changes in the right-of-way of a highway will make it necessary to relocate buildings or other structures. The elimination of expense and the inconvenience to the property owners and to the public are important considerations.

Applicants are encouraged to locate buildings in a manner that will reduce the possibility of creating highway maintenance problems. They are also advised of the advantages of locating buildings and structures away from the sources of noise and vibrations of traffic.

1.3 Legislation

The legal basis for building and land use control is established in Sections 34 (King's Highway) and 38 (Controlled Access Highway) of the Public Transportation and Highway Improvement Act.

- 34 (2) Despite any general or special Act, regulation, by-law or other authority, no person shall, except under a permit therefor from the Minister,
- (a) place, erect or alter any building, fence, gasoline pump or other structure or any road upon or within 45 metres of any limit of the King's Highway or upon or within 180 metres of the centre point of an intersection;
 - (b) place any tree, shrub or hedge within 45 metres of any limit of the King's Highway or within 180 metres of the centre point of an intersection;
 - (d) use any land, any part of which lies within 800 metres of any limit of the King's Highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers;
 - (e) sell, offer for sale or display produce, goods or merchandise upon the King's Highway.
- 38(2) Despite any general or special Act, regulation, by-law or other authority, no person shall, except under a permit therefor from the Minister,
- (a) place, erect or alter any building, fence, gasoline pump or other structure or any road upon or within 45 metre of any limit of the Controlled-Access Highway or upon or within 395 metres of the centre point of an intersection;
 - (b) place any tree, shrub or hedge within 45 metres of any limit of the Controlled -Access Highway or within 395 metres of the centre point of an intersection;

- (c) sell, offer or expose for sale any vegetable, fruit or other produce or any goods or merchandise upon or within 45 metres of any limit of a Controlled- Access Highway or within 395 metres of the centre point of an intersection;
- (d) place, erect or alter any power line, pole line or other transmission line within 400 metres of any limit of a Controlled-Access Highway;
- (f) use any land, any part of which lies within 800 metres of any limit of the Controlled-Access Highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers.

2 CLASSIFICATIONS

2.1 Classifications of Buildings, Land Use, Plantings, Structures, Fences

Each development proposal shall be classified as Commercial or Residential/Farm in accordance with the definitions set out in "Classifications Defined" below.

2.2 Classifications Defined

The classifications shall be defined as follows:

- a) Commercial - a building, structure, including one operated by and for the good and welfare of the public other than a building, structure used solely for a personal residence or for personal recreational use or for farming operations.
- b) Residential/ Farm - a building, structure used solely for a personal residence, for personal recreation or for farm operations.

2.3 Classification of Development

The various types of development in this chapter are listed according to type, classification and setback distance in table form. This table shall be used as a guide.

Each permit must state the classification of the development authorized by the permit. A proposed change in classification shall be subject to the approval of this Ministry.

3 SETBACK INFORMATION

3.1 Basic Setback Distances

The distances shown on the "Types, Classification and Setback Distance Table" (Appendix "A" page 30 to 33) shall be the basic setback distances at which buildings shall be placed from the highway property line.

In built up urban areas where the right-of-way is less than 30 m in width, the basic setback distance is the building line established by local by-law and/or the Field Services Engineer, based upon the location of the existing buildings. In the case of an unlisted type of building, the setback is 14m.

Certain minor types of developments such as private bus passenger shelters, temporary contractor buildings, parking lots and equipment storage yards that are readily movable may be located at less than the basic distance.

Development proposed along highways that are scheduled for construction on the Ministry's Multi-Year Capital Construction Program may warrant referral to the Regional Director.

In all instances, the Ministry may permit development to proceed with certain conditions being applied regarding setbacks.

The basic setback distances, which shall apply to buildings/structures, are outlined in Appendix "A". The controlled-access criteria for each highway, where applicable, must be consulted and may supercede the setbacks established in Appendix "A".

The minimum setback for all buildings and structures adjacent to a Class 1 or 2 highway or a 400 series highway is 14m.

Setbacks for Class 1 & 2 highways - "Development classified as minor land use or municipal/private road may be located at less than the basic setback of 14m for class 1 or 2 highways provided the developer can prove to the satisfaction of the ministry that the land use/ road is not essential to the overall viability of the development and can therefore be removed or relocated in the future."

3.2 Building Line in City, Town or Village Established by Municipal By-Law

Within the limits of a city, town, village, or within a built-up or urban area as defined in Chapter 1, the building line shall be the line established by municipal bylaw. Where no municipal by-law exists, the Field Services Engineer may establish the building line based on the location of existing buildings.

In areas within the limits of a city or town where the density of the buildings is less than the density of an urban area as defined in Chapter 1 and where no municipal by-law exists, the basic setback distances shall apply.

In those cases, where the existing buildings are closer to the highway property line than the basic setback distance and are less than 152 m apart, the building line may be established by the Field Services Engineer based on the location of the existing buildings.

3.3 Intersecting Street, Building Setback Distance for Unorganized Areas

Where a road or street intersects a provincial highway, the basic setback distance for a development adjacent to the road or street and within the controlled area shall be the same as the setback for a similar development adjacent to the highway. The Field Services Engineer, in those cases in which the building line is established at a lesser distance, can make exceptions.

3.4 Measuring Setback Distance from Nearest Extremity

The setback distance for buildings and fences shall be measured from the nearest extremity (wall of building including the wall or support, but not the eave, of any deck, veranda, porch, outside stairway, deck, canopy) to the property line. These setback distances must not be less than recommended in these instructions for the particular type of building/development being considered. Where an eave or overhang is greater than 1 m, the setback will be measured from that extremity.

3.5 Service Roads

In areas where a service road exists, the minimum setback for buildings/structures shall coincide with Ministry requirements. In unorganized areas, an 8 metre setback should be used. In areas where a service road is planned (route planning study, municipal), the setback distance for buildings/structures must be increased to reflect these future requirements.

In the case of existing, privately owned service roads, the basic building setback distance must be increased accordingly. A field review may be necessary to determine the appropriate setback distance.

3.6 Municipal Roads

The setback distance between a Ministry property limit and the edge of pavement of an abutting municipal street or private road shall not be less than 8m. This setback may be increased or decreased by the Field Services Engineer based on future requirements, grades and other site-specific considerations.

Setbacks on any highway - "On any provincial highway, if any part of a development is integral to the operation of the business (i.e. compliance with zoning by-laws standards, conditions of site plan approval including minimum parking requirement by-laws, fire lanes, drive-through lanes, delivery areas and loading dock areas) those parts of the development must be set back a minimum of 14m from our existing/future right-of-way."

It is in the best interest of the ministry to promote the normal sideroad spacing and/or the sideroad spacing set out in the highway CAH criteria when a new road access is proposed to the existing municipal road. This will ensure the new municipal road intersection and the highway will continue to operate safely and efficiently. While sideroad access requires the approval of the appropriate road authority, the ministry may exercise its control through the permit system when the location of a new road adversely impacts on the highway intersection.

4 BUILDING AND LAND USE POLICY

4.1 Additions and Alterations

When an addition or alteration that changes the footprint size to existing buildings, structures, fences is proposed, the owner shall submit an application for a building and land use permit to the Ministry for approval. The application must indicate the extent of the proposed changes. Work must not start until after the Ministry has issued a permit.

Restrictions

An application to add a building or make alterations to a building must not be approved when the:

- a) proposed alterations or additions contravene the current requirements of the Ministry,
- b) existing development contravened the requirements of the Ministry at the time it was placed or erected,
- c) proposed changes will reduce the parking area for the building below the minimum requirements as set out in Chapter 1 of these instructions, or
- d) proposed changes affect the entrance to the extent that it fails to meet the minimum requirements.

When an existing building is located closer than the basic setback distance, but is not likely to become a traffic hazard and future development of the highway is not affected by the proposed alteration, a permit to build an addition or to make alterations to the building may be issued by the Field Services Engineer.

The nearest extremity of the addition must not be nearer to the centre line of the highway than the nearest extremity of the existing building. Additions to a building not meeting current standards may be permitted provided consideration is given to future highway development plans.

4.2 Permit Required

A building and land use permit must be obtained from the Ministry to carry any work within the controlled area and including:

- 1) the construction or alteration of a building, structure or road/entrance,
- 2) changing the use of a property, building or structure, temporarily or permanently,
- 3) the construction and/or paving of a parking lot,
- 4) the installation of a well, septic system, retaining walls, landscaping (including a placement of tree, shrub and hedge), or illumination,
- 5) erection of a fence or wall except a standard farm fence,
- 6) placement, erection or alteration of any power line, pole line or other transmission line within 400m of controlled-access highway,
- 7) grading of a property,
- 8) moving a building or structure,
- 9) development of a golf course or cemetery,
- 10) construction of a fruit or produce stand,
- 11) placement of stockpiled materials,
- 12) installation of telecommunication towers or facilities,
- 13) seasonal / temporary structures including mobile chip trucks or similar vending stands,
- 14) construction of utilities.

A separate permit must be issued for each individual lot under development.

Permit not Required

A permit is not required for an addition to a legally existing residential building (5 units or less) or agricultural building where the addition is not closer to the highway than the existing building and where there are no changes to the grading access or parking associated with the construction.

Other Jurisdictions

A permit will not be issued for the erection of a building or any other development that is known to contravene a municipal by-law, local zoning regulation, the requirements of the Planning Act or any requirement of a local, regional or provincial agency.

A Ministry building and land use permit must be obtained before a municipal building permit can be issued.

Where a development permit is required from the Niagara Escarpment Commission, development permit must be issued by the Commission before a building and land permit will be issued.

4.3 Cemeteries

The Ministry's control over the location of cemeteries adjacent to provincial highways is limited to the control of buildings, graves, fences, plantings, and objects which inconvenience or endanger the safety of the travelling public or which may cause drifting or accumulation of snow.

Cemeteries Act is administered by Ministry of Consumer and Consumer Relations

Each applicant must be advised to contact the local municipality and the Ministry of Consumer and Commercial Relations to ensure that the proposed cemetery complies with the Regulations under the Cemeteries Act (Revised).

4.4 Change of Design and/or Classification

If it is proposed to change the design or use of a building in a manner that will change the classification after a permit has been issued, the owner must apply for a new permit. Any change of design, classification or location after a permit has been issued shall be subject to the current requirements of the Ministry. Applications for such changes shall be considered in the same manner as the original application and may be approved or refused by the Ministry.

Change of Design Application Approved - New Permit is Issued

When, after a permit has been issued, the applicant proposes to change the design, classification or location of a building, the original permit shall be cancelled and a new permit shall be issued.

Change of Design Application Refused - Permit Remains in Force

When the applicant proposes to change the design, classification or location of a building and is refused after a permit has been issued, the applicant may proceed according to the conditions of the original permit. In these cases, the original permit shall remain in force.

4.5 Chip Trucks

Chip truck stands or other similar vending stands must be located on commercially zoned property with sufficient off highway parking for customers. Such stands are approved by permit and signing is to be in accordance with the Commercial Signing Policy, Chapter 6. Setback distance is to be as set out in Appendix "A". In unorganized areas, these stands may be considered provided that there is compliance with the ministry's home occupation signing policy.

Sufficient on site parking must be available and a commercial entrance is required.

4.6 Daylighting Area

Obstructions or access across a daylighting triangle or parking within a daylighting area is not permitted.

4.7 Detention/Retention Ponds

A detention or retention pond is considered a structure for the purpose of these instructions and requires a building and land use permit. If the pond has an overflow outlet, the applicant will be required to submit a detailed drainage report for ministry review/approval. Further assistance may be obtained from the Regional Office of the MTO. The setback distance shall be measured from closest edge of the facility. Where a berm forms part of facility, the setback shall be taken from the toe of slope of the pond in fill areas or from the top of berm in cut areas.

4.8 Fences

Under the authority of The Public Transportation and Highway Improvement Act, the Ministry exercises general control over the placing and erection of fences, other than standard farm fences, within the controlled area.

The object of this control is to maintain clear vision on curves, at intersections and entrances to prevent maintenance problems and to minimize damage to the highway.

Security fencing is required at all residential and commercial uses adjacent to all series 400 highways. (Refer to ministry Property Directive B-3).

Restrictions

A fence must not be placed where it will:

- 1) reduce the clear vision or sight distance at an intersection or an entrance to a highway below the minimum clear vision requirements of the Ministry,
- 2) reduce the clear vision or sight distance on a sharp turn, hill or curve below the minimum clear vision requirements of the Ministry, or
- 3) cause drifting or accumulation of snow on a highway or cause damage to a highway.

A permit must not be issued for a fence that interferes with the view of a business establishment or of a sign located on an adjacent property. The Field Services Engineer shall make the decisions in these cases.

When a service road adjoins a highway, the Ministry shall enforce the restrictions regarding fences in the area between the highway and the road. These restrictions will not apply to those fences in the area behind the service road unless the Ministry maintains the service road.

When it becomes necessary to move, remove, rebuild or replace a fence because of a change in the right-of-way of a highway or any other reason which is the responsibility of the Ministry, the compensation to be paid, if any, shall be determined by the Regional Property Office.

4.9 Fruit and Produce/Vending Stands

The owner of a property, or the operator of a fruit, produce or vending stand, must obtain a building and land use permit before any fruit or produce is displayed or offered for sale. These fruit/produce stands are intended for fruit/produce grown only on the site. Seasonal operations up to a maximum of 4 months shall require a letter of approval only.

The applicant must provide and maintain sufficient parking area, entirely off the highway right-of-way, to accommodate vehicles stopping at the stand, as well as meeting clear vision requirements in accordance with Ministry standards.

Restrictions

A fruit or produce stand must not be placed:

- 1) where it may reduce the clear vision or sight distance at an intersection, and
- 2) prior to obtaining any permits/approval required by the Ministry or the municipality.

4.10 Greenbelt Areas

Niagara Escarpment Planning Area

Any development within lands designated as an area of development control under The Niagara Escarpment Planning Area requires a development permit from the Niagara Escarpment Commission.

Applicants should be referred to the Niagara Escarpment Commission and provide proof of compliance prior to Ministry approval.

Parkway Belt Planning Area

Any development within lands designated as a restricted area under The Parkway Belt Planning and Development Act must meet the principles governing the Parkway Belt prior to Ministry approval. See GREENBELT, Chapter 1,

4.11 Home Industries

Some municipalities permit small industrial or commercial uses to be established on residential or farm properties without rezoning. Examples of such activities include wood working shops, welding or fabricating shops, chip trucks, craft sales, etc. These uses usually employ only one or two people including the owner and are relatively modest in scale and impact. The potential exists however for these businesses to expand which increases the impact on the highway.

Municipalities should be discouraged from permitting home industries on properties that front onto a Class 3 controlled-access highway and the Ministry will not support any rezoning where the criteria specify that no commercial rezoning is permitted nor will permits be issued. Home industries should clearly be a secondary use on the property and should not change the character of the property.

A location sign identifying the business may be permitted in accordance with the commercial sign policies. The use must meet the setback requirements.

A home industrial use must have a safe entrance and sufficient parking on site to accommodate the use. Where necessary, modification to the residential / farm entrance may be required to ensure safety. The owner may be required to submit a traffic study identifying the modifications required to ensure that access safety is maintained. The entrance improvements should be removed if the business ceases.

As the establishment of home type industrial uses may not require municipal approval, the Ministry may not be notified when a home industry commences on a property. When staff become aware that a home industry has been established without a building and land use or entrance permit from the Ministry, staff should approach the owner of the property to discuss the matter in order to determine how best to bring the situation into conformity and ensure that no safety concerns remain.

4.12 Illumination Facilities

Flood lights, spot lights, search lights or illumination facilities of any kind that cause a direct or indirect glare on the highway or that may interfere with traffic safety or create a hazard are not permitted in the controlled area.

When the Field Services Engineer considers that a light(s) or illumination of any kind whether within or outside the controlled area is creating a hazard, the property owner shall be contacted to resolve the matter. Assistance may be obtained from the Regional Traffic Office, the municipality or the local police authority.

Red or Green Illumination

Red or green illumination is not permitted when located within 100 m of a signalized highway intersection unless approved by the Field Services Engineer.

4.13 Large Traffic Generators

The Ministry has authority under The Public Transportation and Highway Improvement Act to control the development of land within 800 metres of any limit of a Provincial Highway, for the purpose of a (i.e. shopping centre, stadium, fair ground, race track, drive-in theatre, commercial development) or any other purpose that causes persons to congregate in large numbers.

When an application for building and land use permit is submitted for this type of development, the Field Services Engineer must refer each application to the Regional Director.

Amusement Parks/Recreational Attraction Sites

Any event or development, including but not limited to those listed below, that may cause persons to congregate in large numbers, cause traffic congestion, or create a traffic hazard and located within 800 m of a provincial highway, shall be subject to the control of the Ministry. Example: - circus, carnival, ride(s), trampoline.

Temporary Attractions

The conditions for permanent sites generally apply to temporary installations.

The owner / operator of the attraction shall be responsible for all costs associated with any conditions of approval, eg. traffic control, parking facilities.

Large traffic generators frequently require improvements to the highway. Refer to Ministry Directive B-55.

Buildings may not be moved along or across a highway without approval from the appropriate agencies, ministries.

4.14 Parking Area to be Provided and Maintained

It shall be a condition of the building and land use permit that a parking area shall be provided and maintained sufficient to accommodate the maximum number of vehicles per peak hour that visit the premises. The parking area must be entirely off the highway right-of-way. For detail of space requirements for parking see PARKING AND STOPPING REQUIREMENTS, Chapter 1.

Each building and land use permit shall require that all parking, stopping, waiting, loading and unloading of vehicles shall be off the highway right-of-way. Clear vision must not be restricted at the entrance to the property or an adjacent property.

4.15 Permit Applications for Building at Intersections

When future plans for an intersection are not known, the Field Services Engineer may forward the application for building and land use permit to the Regional Director. Any impact from the development proposal will be identified and returned to the Field Services Engineer.

4.16 Pits and Quarries

The control of clay, sand and gravel pits, quarries and mining operations is vested in the Minister of Natural Resources under authority of the Aggregate Resources Act, R.S.O. 1990. To stake a mining claim for exploration, the control is vested in the Minister of Northern Development and Mines under authority of the Mining Act R.S.O. 1990.

Applicants must be referred to the appropriate authority and must provide proof of compliance prior to Ministry approval. Each application together with a copy of the site plan and proof of compliance shall be referred to the Regional Director. If direct access to the highway is required, such application for an entrance permit shall be considered simultaneously. The location of the entrance shall meet Ministry commercial standards.

The Aggregates Resources Act requires that normally no excavation of aggregates may occur within a 30m setback bordering a road or road right-of-way.

Where a mining claim adjoins or is adjacent to a highway or road maintained by the Ministry of Transportation, no surface mining operations shall be carried on within 45m of the limits of the highway or road except with the consent in writing of the Minister. R.S.O. 1990, Chapter, M.14, Section 34.

4.17 Plantings

The Ministry exercises control over the planting of hedges, shrubs, and trees or landscaping.

A hedge, shrub, tree, landscaping or other planting must not be placed where it may:

- 1) reduce the clear vision or sight distance at an intersection, or
- 2) cause the drifting or accumulation of snow on a highway or cause damage to a highway.

A permit must not be issued for a hedge, shrub, tree or other planting that interferes with the view of a business establishment or of a sign located on an adjacent highway. The Field Services Engineer shall make the decision in these cases.

When a service road adjoins a highway, these restrictions regarding hedges, shrubs and trees in the area between the highway and the service road shall be applied by the Ministry. Restrictions shall not apply to those plantings in the area behind the service road unless the service road is maintained by the Ministry.

When it becomes necessary to move or remove a hedge, shrub, tree or other planting because of a change in the right-of-way of a highway or any other reason which is the responsibility of the Ministry, the compensation to be paid, if any, shall be determined by the Regional Property Office.

4.18 Pole and Transmission Lines

An applicant proposing to place, erect or alter a power line must apply for a building and land use permit. Each application will be considered with due regard to the future plans for the development of the highway.

Chapter 3, Encroachments, sets out the requirements of the Ministry respecting the placement and maintenance of public utilities within the limits of the right-of-way of a highway and within 400 metres of a controlled-access highway.

4.19 Recreational Facilities/Golf Courses/Driving Ranges/Ball Diamonds

The Ministry controls the layouts associated with the construction of recreational facilities (ie. tees, greens, and baselines).

The Ministry will require that the following items be explicitly addressed to the satisfaction of the Field Services Engineer:

- 1) errant balls reaching the right-of-way
- 2) height of baseball backstop
- 3) illumination (ie. prevention of glare, distraction)
- 4) access
- 5) drainage
- 6) parking

4.20 Retaining Walls

All retaining walls along Provincial Highways are subject to approval of the Ministry.

The Ministry may require the submission of detailed construction drawings. In some instances, this Ministry may require the drawings to be stamped by professional engineer licences to practice in Ontario.

Where the Field Services Engineer deems it necessary, the drawings may be referred to the Regional Director.

4.21 Service Stations

An applicant proposing to construct or remodel a service station within the controlled area adjacent to a provincial highway requires a building and land use permit.

Pump Island/Attendant Booth

An attendant booth located within the pump island limits is permitted.

Pump Area Weather Shelter/Canopy

If the applicant wishes to construct new pumps with a weather shelter/canopy, a setback distance for the weather shelter of 3m behind of property line shall be maintained. If an applicant wishes to erect a weather shelter/canopy over existing pumps this 3m setback shall also apply.

4.22 Site Plan Requirements

Each building and land use application must be accompanied by a site plan in triplicate and must include the following detail:

- 1) the plan title,
- 2) the name of the applicant,
- 3) the scale,
- 4) the north point,

- 5) highway number,
- 6) the lot and concession numbers and the limits of the property,
- 7) the location of existing and proposed buildings, structures
- 8) the proposed parking area layout with the maximum number of vehicles to be accommodated at one time,
- 9) the elevation of the area adjoining the highway and the proposed drainage system for the development,
- 10) the location of existing and proposed entrances,
- 11) the location and names of adjacent roads, and

Other information that may be useful in arriving at a decision on the application may include:

Traffic

- 1) the expected peak hour number of vehicles entering and leaving the property,
- 2) the estimated percentage of vehicles expected to enter or leave the property from each direction,
- 3) the time(s) of the peak hour(s),
- 4) the number of days per week and the specific days of the week the development is expected to be open to the public,
- 5) the number of weeks per year and the specific weeks of the year the development is expected to be open to the public,
- 6) development is expected to be open to the public,
- 7) a complete Traffic Impact Study may be requested if deemed necessary by the Ministry.

Drainage

- 1) a preliminary stormwater drainage report / plan shall be submitted,
- 2) a complete stormwater management plan may be required if deemed necessary by the Ministry.

Note: The applicant shall be fully responsible for all costs associated with the preparation of the necessary reports / studies.

For additional information regarding the requirements for drainage reports, see the Ministry's web site (www.mto.gov.on.ca/english/engineering/drainage/index.html).

4.23 Stockpiling of Earth, Slag, Ore, Stone or Lumber

The Ministry exercises certain controls over the stockpiling of material adjacent to a provincial highway. The owner of any stockpile may be required to remove or relocate if it adversely affects the provincial highway corridor.

Permit Requirements for Stockpiles

An applicant proposing to establish a stockpile storage area must apply for a building and land use permit. Approval of all other affected agencies must be obtained prior to the issuance of the Ministry permit, and a copy of such approval should be retained on file.

4.24 Storage Tanks

The Ministry exercises control over the location of storage tanks on sites adjacent to provincial highways. Tanks, whether above or below ground, are classified as "structures" for the purposes of these instructions.

4.25 Subdivisions

All lands in Ontario are now under "subdivision control". All subdivision proposals must be submitted to the appropriate municipal authority for approval. The development of land, which may interfere with the future construction plans of a highway, is also controlled under this process.

MTO submits its requirements in the form of conditions of draft approval to the appropriate approval authority. When these conditions have been met to the satisfaction of the Ministry, the plan may be registered.

Before any construction or grading commences, the applicant(s) must obtain all necessary permits from this Ministry. Municipal permits and approvals must also be obtained.

Access to plans of subdivision must be carefully considered (refer to Access to Provincial Highways Policy).

When a plan of subdivision is submitted to an approval authority, they will forward copies of the draft plan to the Regional Corridor Control Office. The Corridor Control Office will forward copies of the proposal to the appropriate Area and Ministry offices for comments.

The Regional and Area Office shall review the plan giving consideration to:

- 1) the location and design of the entrance(s) from the subdivision to the highway and the location and design of any pipes, culverts and drainage ditches related thereto,
- 2) the location of building lots, roadways, drainage systems adjacent to the right-of-way of the highway,
- 3) future highway plans and highway widening requirements,
- 4) traffic/drainage impacts.

In cases where a problem arises in regard to an access location, the Area Office should determine a suitable location. The recommended location should be forwarded to the Regional Corridor Control Office.

4.26 Wells

The required setback of a well may be reduced provided that the property owner acknowledges in writing that they have accepted the conditions as noted on the Permit and that the ministry will not be responsible for any reduction in the quality or quantity of the water supply. A condition to this effect will be included on the permit as outlined:-

Purpose:- To construct or install a well within 30m setback from the property line which defines the highway.

- 1) The property owner acknowledges that under Ministry policy the normal setback required for wells is 30 metres.

- 2) The property owner acknowledges that there may be a risk that wells located less than 30m from the highway property line may be affected by road salt which is applied to the highway for de-icing purposes or by other highway related substances that may impact water quality.
- 3) The property owner acknowledges that there may be a risk that wells located less than 30m from the highway property line may also be affected by highway construction or re-construction activities such as blasting or movement of heavy equipment and such activities may affect either water quality or quantity or both.
- 4) The property owner acknowledges that his/her request is exceptional and the property owner agrees that the Ministry has granted this exception on the basis that locating a well within the 30m setback shall be at the property owner's own risk.
- 5) In the event that the property owner sells his/her property or otherwise transfers an interest in the property to a third party, the property owner agrees to ensure that the existence of this permit and the nature of the permit conditions shall be made known to the third party.

Copies of the permit and acknowledge letter from the property owner should be forwarded to the Regional Property Office and Claims Office for their information and possible registration on title.

A sample of the acknowledge letter will be:-

I _____, acknowledge receipt of Building and Land Use Permit # _____. I have read the permit and I accept and agree to the conditions set out therein.

Dated _____ Signed _____

4.27 Wireless Telecommunication Facilities

Approval from the ministry for all types of installations adjacent to the provincial highway right-of-way is required. An application for building and land use permit shall be accompanied by a relevant site plan showing the location and dimensions of the proposed installation.

The typical Micro-Cell site, consisting of a concrete pad approximately 3.0 metres X 3.0 metres, may be permitted at a minimum setback of 3.0 metres from property line.

The typical cell site, consisting of a self-support tower, facilities shed, and compound area of approximately 12 metres X 20 metres, may be permitted at a minimum setback of 8.0 metres from property line to the limit of the compound area.

The same relocation requirements in the Telecommunications Industry Master Agreement must apply to any of these installations proposed to be placed at the reduced setbacks noted above.

All other types, including both guyed and self-supporting towers, shall be set back a minimum of 14.0 metres. This setback shall be to the nearest part of the installation, whether above or below ground (i.e. guy wire concrete anchors). Where there is any concern for the safety and operational integrity of the provincial highway due to the size or height of the installation proposed, the Ministry may request a report prepared by a Professional Engineer certified by the Province of Ontario.

All telecommunication towers must be designed to collapse within themselves so it will not fall onto the highway right-of-way.

4.28 Wrecking Yards

Under the authority of The Public Transportation and Highway Improvement Act and The Highway Traffic Act, the Ministry exercises control over wrecking yards located within the controlled area adjacent to Provincial Highways.

Building and land use, entrance and sign permits are required and the applicant must comply with all requirements of the Ministry's Vehicle Licensing Office.

Applicant Subject to Conditions

The Ministry will require the following:

- 1) the wrecking operations and equipment shall be screened from the highway by natural means or by a fence at least 2m in height and shall be maintained in a manner satisfactory to the Ministry. Wrecking yards must not be located in low spots, valleys or adjacent to a fill where they are not screened from view,
- 2) the location and operation of the wrecking yard shall be carried out in accordance with all municipal by-laws and restrictions,

- 3) no drains from the wrecking yard or buildings shall be directed to a highway drainage system.

5 ADMINISTRATION

5.1 Applications and Permits

The Public Transportation and Highway Improvement Act places the onus on the individual to secure a permit from the Minister. This must be done before any of the activities described in the "Permit Required" Section.

5.2 Applications Adjacent to Controlled Access Highways

The Field Services Engineer may refer all applications adjacent to controlled-access highways to the Regional Director. The Field Services Engineer may also refer complex/controversial applications to the Regional Director for consideration.

5.3 Applicant to be Advised of Restrictions

Applicants must be fully advised of the restrictions regarding buildings and land use at sites adjacent to a provincial highway. Work must not start before a permit is obtained.

5.4 Change of Ownership

When a permit is issued and the building or property to which it applies changes ownership before the works authorized by the permit commences, the permit shall be void. The new owner or other person concerned must apply for a new permit before work commences. If work has started, the permit remains in force.

The Field Services Engineer will consider each application as recommended by the Corridor Management Officer.

When an application for building and land permit has been recommended for approval, the Corridor Management Officer shall forward the application to the Field Services Engineer for signature.

5.5 Field Inspection

When the works under a permit commence, it is the responsibility of the Corridor Management Officer to ensure that the construction of any buildings/structures is in the location approved by the Ministry. It is essential that MTO Staff including Maintenance Co-ordinators and Superintendents report to the Corridor Management Officer any variation from the conditions of the permit. When a variation has been identified, the Field Services Engineer shall refer to Procedure Regarding Infractions, Chapter 1.

5.6 Application For Building And Land Use Permit

Number: PH-A-20 95-01

Name: Application for Building and Land Use Permit/Entrance Permit

Number of Copies: Three

5.7 Building and Land Use Permit

Number: PH-A-41 95-04

Number of Copies: Three

Destination of Copies:

- 1) Original – Applicant
- 2) Photo copy – Maintenance staff or Co-ordinator
- 3) Photo copy – Area Office copy

5.8 Permit Fee

Refer to Ministry Directive B-7.

APPENDICES

TABLE OF TYPE, CLASSIFICATION AND SETBACK DISTANCE

Note: - * to be referred to the Regional Director.

<u>TYPE OF USE</u>	<u>CLASSIFICATION</u>	<u>SETBACK</u>	<u>Class 1 and 2</u>
		<u>P/L</u>	<u>P/L</u>
*Amusement Park	Land Use - Commercial	14m	14m
Arena	Building - Commercial	14m	14m
Ball Park	Land Use - Commercial	14m	14m
Band Stand	Building - Commercial	14m	14m
Barn - Private	Building - Residential	14m	14m
Barn - Public Sale	Building - Commercial	14m	14m
Booster Station			
- telephone, gas, oil, etc	Structure - Commercial	14m	14m
Bleachers	Building - Commercial	14m	14m
Bowling Alley	Building - Commercial	14m	14m
Bowling Green	Land Use - Commercial	14m	14m
Bus Passenger Shelter	Structure - Commercial/ Residential	1m	1m
Bus Terminal	Building - Commercial	20m	14m
Car Sales	Building - Commercial	14m	14m
Cemetery (including pets)	Building - Commercial	14m	14m
(Graves)	Land Use - Commercial	27m	27m
Church	Building - Commercial	14m	14m
Chip Truck Stand	Building - Commercial	14m	14m
Community Building	Building - Commercial	14m	14m
Dog Kennel	Building - Commercial	14m	14m
*Drive-In Theatre	Structure - Commercial	14m	14m

<u>TYPE OF USE</u>	<u>CLASSIFICATION</u>	<u>SETBACK</u>	<u>Class 1 and 2</u>
		P/L	P/L
Driving Range Tee	Structure - Commercial	14m	14m
Earth Berm (toe of slope)	Land Use - Commercial/ Residential	0.3m	0.3m
Explosive, storage	Building – Commercial	As required by Legislation	
Factory	Building - Commercial	14m	14m
*Fair Ground - Building, rides	Land Use - Commercial	14m	14m
Fence	Structure	0.3m	0.3m
Fire Hall	Building - Commercial	14m	14m
Foundation	Building - Residential	8m	14m
	Building - Commercial	14m	14m
Fruit/Produce Stand	Building - Commercial	14m	14m
Funeral Home	Building - Commercial	14m	14m
Garage	Building - Residential	8m	14m
	Building- Commercial	14m	14m
Gasoline Pump Island and Attendant Booth	Structure - Commercial	6m	14m
Gasoline Canopy / Shelter	Structure - Commercial	3m	14m
Gates	Structure	0.3m	14m
Golf Course Green	Land Use - Commercial	20m	14m
Golf Course Tee	Land Use - Commercial	8m	14m
Grand Stand	Building - Commercial	14m	14m
Greenhouse	Building - Commercial	14m	14m
Hedge/Planting	Land Use	0.3m	0.3m
Heliport	Land Use - Commercial	14m	14m
Hospital	Building - Commercial	14m	14m
Hotel	Building - Commercial	14m	14m
Hydro Sub Station	Structure - Commercial	14m	14m

<u>TYPE OF USE</u>	<u>CLASSIFICATION</u>	<u>SETBACK</u>	<u>Class 1 and 2</u>
		P/L	P/L
Illumination-Light Standard	Structure - Commercial	0.3m	0.3m
Implement Sales / Service	Building - Commercial	14m	14m
Junk Yard	Land Use - Commercial	45m	45m
Landfill Site	Land Use - Commercial	45m	45m
Library	Building - Commercial	14m	14m
Lumber Yard	Building - Commercial	14m	14m
Mail Box (Super / Group)	Structure	0.3m	0.3m
Manure Pit	Land Use	14m	14m
Marquee	Structure - Commercial	14m	14m
Mausoleum	Structure - Commercial	14m	14m
Meter Station			
- pipe line, gas, oil	Structure - Commercial	14m	14m
Monument	Structure - Commercial/	14m	14m
Motel	Building - Commercial	14m	14m
Newspaper Dispenser	Structure - Commercial	0.3m	0.3m
Noise Attenuation Structure	Structure	0.3m	0.3m
Parking Lot	Land Use - Commercial	3m	3m
Pipe Line	Structure - Commercial	3m	14m
*Pit and Quarries	Land Use	30m	30m
Pond			
-Detention/Retention	Land Use	14m	14m
-Other	Land Use - Residential	8m	14m
	Land Use - Commercial	14m	14m
Power / Transmission Line	Structure - Commercial	0.3m	14m
Pumping Station	Building - Commercial	14m	14m
*Race Track	Land Use - Commercial	14m	14m
Radio/Television Station/ Tower	Structure - Commercial	14m	14m

<u>TYPE OF USE</u>	<u>CLASSIFICATION</u>	<u>SETBACK</u>	<u>Class 1 and 2</u>	
		P/L	P/L	P/L
Residential Dwelling	Building - Residential	8m		14m
- more than 5 units	Building - Commercial	14m		14m
- Class 1 and 2 highways	Building - Commercial	14m		14m
Restaurant	Building - Commercial	14m		14m
Retaining wall	Structure – Residential/ Commercial	0.3m		14m
Roads	Private	8m		14m
- not essential to future viability of development				
Road	Private	8m		14m
- essential to future viability of development				
Road	Municipal	8m		8m
- ROW wide enough to permit relocation road outside 14 m setback in future				
Road	Municipal	8m		14m
- ROW not wide enough to permit relocation road outside 14m setback in future				
Satellite Dish	Structure - Residential/ Commercial	8m 14m		8m 14m
School	Building - Commercial	14m		14m
Septic Tank	Structure - Residential/ Commercial	8m		14m
Septic Bed	Structure - Residential/ Commercial	3m		14m
Service Station	Building - Commercial	14m		14m
Sewage Plant	Structure - Commercial	14m		14m

<u>TYPE OF USE</u>	<u>CLASSIFICATION</u>	<u>SETBACK</u>	<u>Class 1 and 2</u>	
		P/L	P/L	P/L
*Shopping Centre	Building - Commercial	14m	14m	14m
*Stadium	Building - Commercial	14m	14m	14m
Stockpile	Land Use - Commercial	8m	8m	8m
Stockyard	Building - Commercial	14m	14m	14m
Storage Tank (Bulk)	Structure - Commercial	27m	27m	27m
Storage Tank Above or Below Ground	Structure - Commercial	14m	14m	14m
Store	Building - Commercial	14m	14m	14m
Swimming Pool	Structure - Residential	8m	14m	14m
	Commercial	14m	14m	14m
Telephone Booth	Structure - Commercial	0.3m	0.3m	0.3m
Tennis Court	Land Use - Residential	0.3m	0.3m	0.3m
	Commercial	3m	14m	14m
Theatre	Building - Commercial	14m	14m	14m
Trees	Land Use	0.3m	0.3m	0.3m
Wall, Masonry	Structure - Residential	0.3m	0.3m	0.3m
Warehouse	Building - Commercial	14m	14m	14m
Water Tower	Structure - Commercial	14m	14m	14m
Well	Structure - Residential/ Commercial	30m	30m	30m
Wireless Telecommunication Facility	Structure - Commercial	14m	14m	14m
Winery	Building - Commercial	14m	14m	14m
Wrecking Yard	Land Use - Commercial	45m	45m	45m

Definitions

Agency: Refers to other ministries, municipalities or other approving authorities.

Applicant: Includes the registered property owner or his authorized agent and may include developers and proponents.

Building: Shall include any barn, factory, residence, store, warehouse or any part thereof.

Centre Line of Highway: For the purposes of these instructions, the centre line of a highway shall normally be the centre line of construction as shown on the plan of the highway. However, in some cases such as "staged" construction of a four-lane highway or when extra widening is purchased on one side of a highway only, the plan of the highway must be consulted to determine the "centre line".

Controlled-Access Highway (CAH): Refers to that part of the King's Highway which has been designated as a controlled-access highway under The Public Transportation and Highway Improvement Act and to which direct access is limited. The restrictions that the Ministry applies to controlled-access highways are more numerous and stringent than the restrictions the Act applies to other highways.

Controlled Area: For the purposes of these instructions, "controlled area," means all of the area upon or within,

- a) 45 metres of any limit of a controlled-access highway or upon or within 395 metres of the centre point of an intersection.
- b) 45 metres of any limit of the King's Highway or upon or within 180 metres of the centre point of an intersection.
- c) 800 metres of any limit of a King's Highway and controlled-access highway, for the purpose of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that cause persons to congregate in large numbers.
- d) 400 metres of any limit of controlled-access highway for the purpose of placing, erecting, or altering a power line, pole line or other transmission line.

Daylighting Area: The area owned by the Ministry and maintained free of obstruction or means of access to permit a clear view at an intersection, railway crossing, curve or sharp turn.

Fence: Shall include any board, masonry, ornamental, or wire fence, excluding wire farm fence.

King's Highway: The system of highways designated by the Lieutenant-Governor in Council as the King's Highway under Section 7 of The Public Transportation and Highway Improvement Act.

Land Use: Means the purpose for which the property is used and also refers to the development or change in use of land for any purpose other than a use defined by an existing building or structure. Roads, pipelines, public utilities, earth berms, stormwater management facilities adjacent to a provincial highway are subject to land use restrictions.

Large Traffic Generators: Any activity/land use causing persons to congregate in large numbers.

Ministry: Refers to the Ministry of Transportation.

Planting: Shall include any hedge, shrub, tree or landscaping.

Provincial Highway: Any highway under the jurisdiction of the Ministry of Transportation includes King's Highway and any part of these designated as controlled-access highway and includes any roadway under the jurisdiction of the Ministry.

Service Road: A road parallel to but not necessarily adjoining a highway, which carries local traffic.

Structure: Includes any above or below ground installation not defined as a building.

Examples: - parking garages, detention ponds, swimming pools, illumination fixtures, wells, septic systems, satellite dishes, storage tanks.