



THE CORPORATION OF THE TOWN OF PENETANGUISHENE

BY-LAW 2013-65

Being a By-law to Provide for a Driveway Culvert Loan Program

WHEREAS pursuant to section 9 of the Municipal Act, 2001 S.O. 2001, chapter 25 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 pursuant to section 8. (1) of the Municipal Act, 2001 S.O. 2001, chapter 25 the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS section 107 of the *Municipal Act, 2001* provides that a municipality may make grants to any person, group or body, including a fund, for any purpose that council considers to be in the interests of the municipality, and this power to make a grant includes the power to guarantee a loan and to make a grant by way of a loan and to charge interest on the loan;

AND WHEREAS Council for the Town considers it to be in the interest of the municipality to provide loans to residential property owners in the Town of Penetanguishene for driveway culvert improvements;

NOW THEREFORE, the Council of The Corporation of the Town of Penetanguishene enacts as follows:

1. That a Driveway Culvert Loan Program ("Program") be established and implemented in accordance with the Driveway Culvert Loan Program Guidelines as outlined in Schedule "A" attached hereto and forming part of this By-law.
2. That the issuance of loans under the Program are subject to availability of funds as determined by Council.
3. That this By-law shall be in force and affect upon passing.

BY-LAW read a first, second and third time and finally passed by Council on the 25th day of September, 2013.

MAYOR Gerry [unclear]

CITY CLERK Holly Bryce

Signed

**Schedule “A” of By-law 2013-65
Being a By-law to Provide for a Driveway Culvert Loan Program**

Driveway Culvert Loan Program Guidelines

Purpose

To encourage residents to maintain or repair their existing driveway culvert, who may not have the financial resources to fund these repairs without a loan.

The maintenance and operation of the Town’s open ditch system relies heavily on the ability of driveway culverts to convey stormwater properly to a drainage outlet.

Definitions

“*Director of Public Works*” means the Director of Public Works, or designate;

“*Contractor*” means the person hired by the owner to conduct the work;

“*Owner*” means an owner in fee simple under the *Land Titles Act*, R.S.O. 1990, c. L.5;

“*Property*” means a separate parcel of land which has been assigned a property identifier under section 141 of the *Land Titles Act*, R.S.O. 1990, c. L.5;

“*Driveway culvert*” means a drainage pipe constructed within an existing drainage ditch to accommodate and maintain stormwater drainage underneath a driveway access.

Funding

The Program will offer loans up to a maximum of \$3,000 per residential property for a maximum term of 3 years, at an interest rate of Town Prime + 2% per annum, calculated monthly and repayable in 36 monthly payments of blended principal and interest . Loan commitments will be provided subject to funding availability as determined by Council.

Eligible Work

The only work that is eligible for this Program is the maintenance and/or replacement of driveway culverts and the restoration costs resulting from this work.

Eligibility for Loan

The applicant(s) for the loan must meet the following criteria in order to qualify for the Program:

- must be the owner(s) of the property;
- all owners of the property must apply for the loan;
- must have obtained a written quote for the work from a *bona fide* qualified Contractor;
- has not commenced driveway culvert improvements prior to loan approval;

- all property taxes must be paid in full at the time of application and throughout the term of the loan;
- there must be no other outstanding debts to the Town of Penetanguishene;
- the property must be residential;
- the owner(s) must not have defaulted on any Town-sponsored loan or grant program in the past;
- the owner(s) must sign loan documentation and adhere to the terms thereof;
- the owner(s) must meet all conditions of this Program.

The Director of Public Works retains the right and absolute discretion to reject any application which a quote which in his opinion is excessive.

Loan Details

Loans may be available to cover all or part of the estimated cost (as approved and determined by the Director of Public Works) of replacement and/or maintenance costs for the owner's driveway culvert. Loans will not be available to cover any other associated costs (e.g. it will not cover the costs of repaving of an entire driveway, restoration of landscaped yards, or any other such costs that are deemed by the Director of Public Works to be unnecessary for the replacement or maintenance of the owner's driveway culvert).

The loan, if approved, will be paid jointly to the property owner(s) and the Contractor upon inspection of the completed work by the Director of Public Works or his designate.

The loan amount plus interest of Prime + 2% per annum will be payable in 36 blended monthly payments of principal and interest.

Loans that are advanced and paid in full in the same calendar year will not be charged interest.

Loan approvals are subject to the availability of funding at any given time, as determined by Council. Loan applications will be processed in chronological order based on the date of receipt of applications.

Loan approvals will be valid for six months and will expire if the work is not completed within that time period (unless extended at the Director of Public Work's discretion).

Loan Security

The owner(s) will sign a Loan Agreement and meet the terms therein. The Loan Agreement is attached as Schedule "C". The Promissory Note is attached as Schedule "D" and Waiver of Independent Legal Advice is attached as Schedule "E".

Administrative Charges

At the time of application, the owner must pay the non-refundable application fee of \$50.00 to cover the costs of processing the application.

Repayment of the Loan

Repayments of the loan plus interest will be made by way of pre-authorized bank withdrawal or by way of post-dated cheques, as set out in the agreement signed by the owner(s).

Full repayment (including interest) can be made at any time with no penalty to the owner.

In the event of default in the loan repayment over 30 days, or in the event of sale of the property, the outstanding balance (including principal and accrued interest) will be immediately due and payable in full. If payment is not received, the Town will transfer the outstanding principal balance and any accrued interest to the property tax account and the applicable interest referred to in the Town's annual By-law that provides for penalty and interest charges, will apply until it is paid in full.

Loan Application Procedure

1. The applicant(s)/owner(s) will be required to complete a loan application form provided by the Director of Public Works (attached as Schedule "B"). Every person who is registered on title as an owner of the property is required to sign the application.

In addition to the completed application form the owner(s) must provide:

- the non-refundable application fee of \$50.00;
- a written quote for the work from a *bona fide* qualified Contractor . The quote must detail what work is to be done, and separate out costs for each portion of work (i.e. separate line item prices for driveway culvert repair/replacement, driveway restoration, front yard restoration, etc.). Only prices for driveway culvert improvements approved by the Director of Public Works are eligible for the loan.
- the owner(s) must sign the Loan documents;
- such other further information or documentation as may be required by the Director of Public Works;

Any work that is started or completed prior to the loan application approval will be ineligible under this Program.

1. The Director of Public Works reviews the application and supporting documentation and decides whether to approve the loan amount, and determines approximately how much the loan amount will be. The Director of Public Works advises the applicant(s) in writing of his decision.
2. Applicant or Contractor obtains any necessary permits, including a Road Occupancy Permit and Entrance Permit from the Town's Public Works Office (22 Centennial Drive, Penetanguishene, 705-549-7992) prior to work commencing. Failure to obtain

an entrance or road occupancy permit prior to work commencing will result in cancellation of any approved loan amounts.

3. The Contractor must co-ordinate work with the Town well in advance. The Contractor is responsible to obtain all utility locates for the work for both private property and Town property.
4. The Contractor or the applicant must arrange for an inspection by the Town with respect to the installation or repair of the Driveway Culvert. Entrance and Road Occupancy permits that have not had an inspection by the Town will result in cancellation of any approved loan amounts.
5. Within six months of receiving loan approval the owner(s) must submit to the Town the final invoice from the Contractor setting out the amount due for the work. Any owner submitting an invoice more than six months after the loan approval will be ineligible for payment of the loan. The Town will not provide a loan for an amount greater than the approximate loan amount as described in paragraph 2 above, where the final invoice is greater than the approximate loan amount based on the written quote, unless approved by the Director of Public Works. The maximum loan amount is \$3,000.00.
6. The Town will advance the final loan amount jointly to the applicant(s) and the Contractor, upon inspection of the completed works by the Director of Public Works.

Not Retroactive

The Driveway Culvert Loan Program will not be retroactive to apply to works started before the commencement of the Program.

Discontinuation of Program

The terms of the Program are subject to change. Council may periodically review the Program Guidelines to determine if the Program should continue, be modified, or cease to issue any new loans. The Town may discontinue the Program at any time.

Town Not Liable

In order to qualify for a loan, the owner agrees that the Town shall not be liable for any damages to the owner's property as a result of any driveway culvert improvements.



DRIVEWAY CULVERT LOAN PROGRAM

SCHEDULE "B"

Applicants are required to discuss their proposed improvements with the Town of Penetanguishene's Director of Public Works before the application is submitted. Please direct any questions or comments regarding the submission requirements for the application to the Director of Public Works at 705-549-7992.

Please ensure that the following items have been included in your submission. It is important to provide the necessary documentation to avoid delays in the processing of your application.

All required Municipal application fees and other approvals are the responsibility of the Applicant and must be addressed through the proper authorities.

Application Checklist:

- Description of Proposed Improvements**
- Copy of a written quote or cost estimate on the Contractor's letterhead**
- Signature of all property owners**
- Completed Loan Application Form**
- The proposed improvements adhere to the attached guidelines (where applicable)**



DRIVEWAY CULVERT LOAN PROGRAM

SCHEDULE "B"

Loan Application Form

Location:	Roll Number:	Municipal Address:
Applicant/Owner:	Name:	Phone:
	Address:	
Joint Owner:	Name:	Phone:
	Address:	
Description of the proposed driveway culvert improvement works:		
Proposed contractor:		
Estimated Start Date: _____		

This application is being made in accordance with the "Town of Penetanguishene's Driveway Culvert Loan Program." The undersigned hereby applies for the Driveway Culvert Loan Program in accordance with the application, specifications and quote herewith submitted and acknowledges that the proposed work must comply with the By-laws of The Corporation of the Town of Penetanguishene. **I also acknowledge that it is understood that work carried out prior to the approval of this application will not be eligible for funding.** I certify the truth of all statements or representations herein.

Signature of Owner Date Signature of Joint Owner Date

APPLICATION ELIGIBILITY & SUBMISSION GUIDELINES

The following is a checklist designed to assist the applicant and to accelerate the application process.

	REQUIRED FOR APPROVAL		Notes
	Yes	No	
Property Taxes paid in full	<input type="checkbox"/>	<input type="checkbox"/>	
No other debts owing to Town	<input type="checkbox"/>	<input type="checkbox"/>	
Has there been prior default on previous Town Grant/Loan Programs	<input type="checkbox"/>	<input type="checkbox"/>	
Is there a quote attached from a qualified Contractor on the Contractor's letterhead?	<input type="checkbox"/>	<input type="checkbox"/>	

**DRIVEWAY CULVERT LOAN PROGRAM
SCHEDULE "C"**

(date)

(addressee)

LOAN AGREEMENT ("Agreement")

Dear :

I am pleased to confirm that the Corporation of the Town of Penetanguishene has approved the advance of a loan through your recent application to the Driveway Culvert Loan Program, in the amount of **\$xxxx subject to the terms and conditions outlined in this Agreement.**

Borrower(s):

Loan Amount:

Term:

Loan Due Date:

Amortization:

Interest Rate: xx% per annum, calculated monthly, not in advance

Repayment: \$xxxx/month P+I

Purpose:(as per written quotes approved by the Director of Public Works)

xxxx

\$xxxx

xxxx

\$xxxx

TOTAL

\$xxxx

Repayment terms:

Interest on the principal balance of **\$xxxx** to be computed from the date of advance and due on **xxxx, 20xx**, followed by **xx** monthly payments of principal and interest of **\$xxxx**. The loan payments are due on the last day of each and every month commencing **xxxx, 20xx**, until and including **xxxx, 20xx**, at which time the balance of any principal and interest becomes due and payable in full.

A signed authorization form will be required to withdraw loan payments from your bank account, or a supply of post-dated cheques will be required, as instructed by our office. Returned cheques are subject to a fee as per the Town's Fees & Charges By-law.

This loan is completely open to payment and may be prepaid at any time without notice or bonus.

Security:

In consideration of advancing funds, **xxxx**, hereinafter referred to as the Borrower(s), agrees to provide the following:

- Borrower(s) to sign a promissory note; and
- Borrower(s) to provide evidence of Independent Legal Advice, provided by a solicitor at the Borrower(s) own expense, or a waiver thereof.

Terms and conditions:

- The Borrower(s) will provide the Town with access to the Borrower's property, municipally known as **xxxxxxxxxx**, for the purpose of inspecting the work as set out in the loan program application and the written quotes (as approved by the Director of Public Works).
- The Borrower(s) will provide the Town with a copy of **his/her/their** government issued identification as proof of legal name(s).
- No changes to the written quotes, as approved by the Director of Public Works, without the prior written consent of the Director of Public Works.
- The Borrower(s) shall comply with all federal, provincial, territorial, municipal and other applicable laws governing this project, including but not limited to statutes, regulations, by-laws, rules, ordinances and decrees. This includes legal requirements and regulations relating to environmental protection.

Special Conditions:

In the event:

(a) the Borrower(s) fails to pay on the due date any payment of principal or interest on this Promissory Note; or

(b) the Borrower(s) sells their property municipally known as **xxxxxxxxxx**;

the balance of principal and accrued interest, on this Promissory Note shall, at the option of the Town, immediately become due and payable in full. In the event the Borrower(s) fails to make any of the payments provided for above, the Town shall transfer the balance of principal and accrued interest on this Promissory Note to the property tax account identified as Roll # 4372 **xxx xxxxxxxx.xxxx**, and the applicable interest will apply, as referred to in the Town's By-law #2012-87, which provides for penalty and interest charges.

Withdrawal:

The Town reserves the right to demand the loan at any time should any of the aforementioned terms, conditions or covenants not be kept.

The Town's documentation covering the requirements mentioned herein, will be forwarded to you upon receipt of your written acceptance of this Agreement. **Please keep in mind this offer will remain valid for only 15 days from the date of this Agreement.**

Upon receipt of the signed documentation mentioned herein, the Town will disburse funds jointly to you and your Contractor, upon inspection of the completed works by the Director of Public Works.

Please acknowledge acceptance of this Agreement, by signing the duplicate copy and returning same to our office.

Sincerely,

Carrie Robillard, CGA
Deputy Treasurer/Financial Analyst

Witness

Borrower

Date

Witness

Borrower

Date

DRIVEWAY CULVERT LOAN PROGRAM – SCHEDULE “D”

PROMISSORY NOTE

TO: THE CORPORATION OF THE TOWN OF PENETANGUISHENE

AMOUNT: \$xxxxxx

For value received, the undersigned (hereinafter referred to as the "Borrower(s)") hereby promises (**jointly and severally**), to pay to the order of The Corporation of the Town of Penetanguishene (hereinafter referred to as the "Town"), the sum of **\$xxxxxx** (the "Principal Sum") in lawful money of Canada together with interest thereon at the rate of **xx%** per annum calculated monthly not in advance.

1. Interest on the principal balance of **\$xxxx** to be computed from the date of advance and due on **xxxx, 20xx**, followed by **xx** monthly payments of principal and interest of **\$xxxx**. The loan payments are due on the last day of each and every month commencing **xxxx, 20xx**, until and including **xxxx, 20xx**, at which time the balance of any principal and interest becomes due and payable in full.
2. The rate of interest of this Promissory Note of **xx%** per annum, calculated monthly, is the equivalent of **xx%** per annum calculated annually.
3. When not in default, the Borrower(s) shall have the right to prepay the whole or part of the principal sum without notice or bonus.
4. The principal sum will be paid by the Borrower(s) to the Town without regard to any equities between the Borrower(s) and the Town, without any right or set off, counterclaim or other similar right arising between the Town and the Borrower(s).
5. The Borrower(s) **does** hereby waive presentment for payment, notice of non-payment, protest and notice of protest and does hereby consent to all extensions and renewals hereof, without notice and does hereby agree to pay all costs and expenses (including all legal costs) paid or incurred in collecting all amounts owing pursuant to this Promissory Note.
6. This Promissory Note is issued pursuant to the advance of funds by the Town to the Borrower(s) in the amount of the face value of this Promissory Note.
7. All sums payable hereunder are payable in Canadian funds at the offices of the Town, in Penetanguishene, Ontario.
8. In the event:
 - (a) the Borrower(s) fails to pay on the due date any payment of principal or interest on this Promissory Note; or
 - (b) the Borrower(s) sells their property municipally known as **xxxxxxxxxxx**; the balance of principal and accrued interest, on this Promissory Note shall, at the option of the Town, immediately become due and payable in full. In the event the Borrower(s) fails to make any of the payments provided for above, the Town shall transfer the balance of principal and accrued interest on this Promissory Note to the property tax account identified as Roll # 4372 **xxx xxxxxxxx.xxxx**, and the applicable interest will apply until it is paid in full, as referred to in the Town's annual By-law that provides for penalty and interest charges.

DATED at Penetanguishene, Ontario, this _____ day of _____, 20**xx**

Witness: _____
Name and Address _____

Borrower(s): _____
Name(s) and Address _____

**DRIVEWAY CULVERT LOAN PROGRAM
SCHEDULE "E"**

ACKNOWLEDGEMENT AND WAIVER

TO: The Corporation of the Town of Penetanguishene (the "Town")

RE: Driveway Culvert Loan (the "Loan") to: (the "Borrower(s)")

AND RE: The following security documents to be signed and given by the undersigned to the Town:
Loan Agreement
Promissory Note
(the "Security Documents")

The undersigned acknowledges the following:

1. I have been advised by the Town to seek and obtain independent legal advice, accounting advice and/or tax advice in respect of the above Loan and, in particular, in respect of signing the Security Documents.
2. Notwithstanding the advice of the Town to obtain such independent legal, accounting and/or tax advice, I/**we** hereby waive my/**our** right to seek and obtain independent legal advice, accounting advice and/or tax advice with respect to the Loan.
3. I understand the Security Documents and all losses which could be incurred by me under the Security Documents and I do not want to have my own lawyer explain the Security Documents to me. I have not relied on the Town to explain the Security Documents to me. I have read the Security Documents thoroughly.
4. I understand the following:
 - (a) the nature and effect of the Security Documents;
 - (b) all of the obligations being undertaken by me in signing the Security Documents;
 - (c) the claims that the Town would have against me if I fail to meet the obligations to the Town in connection with the Loan;
 - (d) the way in which the terms of the loan could be enforced against me by the Town; and
5. I understand that I am in no way required to sign the Security Documents. I have executed the Security Documents voluntarily and free from any fear, threats, compulsion or inducement by the Town or by any other person.

DATED at _____, this day of _____, 20xx.

Witness

Borrower(s)

Witness

Borrower(s)