

**THE CORPORATION OF THE CORPORATION OF THE TOWNSHIP OF LIMERICK
BY-LAW 2011-13
BEING A BY-LAW TO ESTABLISH A TOWNSHIP POLICY
ON THE USE OF UNOPENED ROAD ALLOWANCES**

WHEREAS, Section 44 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended imposes on local municipalities the obligation to manage and maintain the Public Road System lying within the boundaries of the Municipality;

AND WHEREAS, Section 35 of the Municipal Act, 2001 S.O. 2001, Chapter 25, as amended provides that a municipality may remove or restrict any common law rite of passage over any public highway within the boundaries of the Municipality;

AND WHEREAS the Municipality receives requests from time to time from Ratepayers and other interested parties for permission to use portions of unopened road allowances lying within the boundaries of the Municipality;

AND WHEREAS a significant portion of the municipal budget is expended on the maintenance of the road system and the only effective way to maintain control over current road expenditures and liability for future maintenance costs of the road system is to ensure that new roads are only added on a cost effective basis;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF LIMERICK TOWNSHIP ENACTS AS FOLLOWS:

1. SHORT FORM NAME

1.1 THAT this By-law may be cited as "The Limerick Township Policy on use of Unopened Road Allowances".

2. SCHEDULES

2.1 Schedules attached to and forming part of this By-law
Schedule "A" - Policy on the use of Unopened Road Allowances
Schedule "B"- Acknowledgement Form
Schedule "C" - Minimum Standard for Construction
Schedule "D" – Sample of Consent Letter

2.2 THAT Schedules "A" "B" "C" & "D" may be amended from time to time by a resolution passed by Council for Limerick Township without an amendment to this by-law.


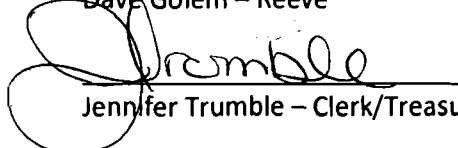
3. EFFECTIVE DATE

3.1 THAT this By-law shall take effect upon its adoption.

4. SEVERABILITY

4.1 In the event that section or sections of this by-law thereof are found by a Court of competent jurisdiction to be invalid or ultra vires, such section, sections or parts thereof shall be deemed to be severable, with all other sections or parts of this by-law remaining in the full force and effect.

READ A FIRST AND SECOND TIME AND FINALLY PASSED THIS 6th DAY OF SEPTEMBER, 2011.


Dave Golem – Reeve

Jennifer Trumble – Clerk/Treasurer

SCHEDULE "A" TO BY-LAW NO. 2011-13

"The Limerick Township Policy on use of Unopened Road Allowances".

POLICY RATIONALE

WHEREAS, the County of Hastings Official Plan states that road allowances or existing right-of-ways that provide access to water will be kept open and retained in municipal ownership.

THEREFORE, the following provisions shall apply;

1. The Municipality will consider allowing the opening of an unopened road allowance where any potential users are prepared to pay the cost of construction and ongoing maintenance of the road allowance in accordance with Schedule "B" attached.
2. Applications for permission to use an unopened road allowance shall be submitted in writing to the CAO and/or Clerk. The application must state the intended use, the applicant's interest in the allowance, and be accompanied by an accurate location and description plan.
3. As part of the supporting documentation it will be necessary for you to obtain the signed, dated consents of the adjoining property owners with respect to the use of the unopened road allowance and in particular it must be indicated that such owners have no objections to the proposed use of said road allowance.
4. If permission is granted by Council to use the unopened road allowance, the following policies shall apply, as determined by the Municipality:
 - a. Any Municipal, Provincial or Federal requirements dealing with Environmental Protection and all other issues are met at the expense of the Applicant.
 - b. The actual location of the allowance is the responsibility of the applicant and shall be required to be identified by a registered plan of survey, at the expense of the applicant.
 - c. If a new entrance way is required, the applicant shall apply for an entrance permit with the Roads Superintendent of the Municipality and/or the Ministry of Transportation. Where entry is upon a roadway not under the jurisdiction of the Municipality, the standards and specifications of the County of Hastings and/or the Ministry of Transportation shall apply.
 - d. If brushing and clearing of the road allowance is undertaken, all costs and works shall be completed through an agreement with the Municipality.
 - e. All work to be performed shall comply with Schedule "C" of this By-law.
 - f. The applicant shall acknowledge in writing that any and all improvements to the road allowance are at the sole expense of the applicant and all such improvements must be approved by the Municipality. The applicant must also acknowledge in writing that any member of the general public has the right to use the subject road allowance.
 - g. The applicant must post the road allowance with a notice, in a form acceptable to the Municipality, advising all users of the road allowance that the roadway is an unassumed Municipal roadway and is used at his/her own risk.
 - h. The applicant must acknowledge in writing that the Municipality assumes no liability, responsibility or obligation whatsoever to construct and/or maintain and/or repair the road allowance.
 - i. The applicant must agree to indemnify and save harmless the Municipal Corporation from any and all manner of actions, causes of actions, claims or demands whatsoever for or by reason of any personal injury and/or property damage of or in any way arising out of any accident whatsoever occurring on the road allowance.
 - j. Once permission is granted to the applicant to make improvements to a road allowance, copies of liability insurance showing sufficient coverage including coverage of workers are to be given to the Municipality prior to commencement of work. The Applicant shall file a Letter of Credit (or cash) with the Township of Limerick for 10% of the value of the estimated cost of the work. This is to protect the Township of Limerick against construction liens.
 - k. The applicant shall not erect any gates or barriers on the road allowance.
 - l. The Municipality will affect public notice by posting of intent to open the subject road allowance on the Municipal website and at the Municipal office, at least ten days prior to the passage of the By-law. A public meeting will then be held after which the By-Law will come before Council.
5. No person shall store any vehicle, boat, trailer, etc. on an unopened road allowance owned by the Township of Limerick.

6. No person shall perform any work, remove any trees, soil or other material or erect upon or use any unopened road allowance without the specific written approval of Council.

SCHEDULE "B" to By-law No. 2011-13

ACKNOWLEDGEMENT

To: The Corporation of the Township of Limerick
89 Limerick Lake Road
RR#2
Gilmour, Ontario
K0L 1W0
Attention: Clerk/Treasurer

Re:

I/We, _____ the owner(s)
of _____

I hereby, acknowledge that:

1. I have received and read By-law 2011-13 and agree to abide to all terms and conditions as listed therein.
2. Any and all improvements to the original allowance for road as described above are at my/our sole expense.
3. Any member of the general public has the right to use the above-referred to road allowance.
4. If permission is granted, the above mentioned Road Allowance shall be posted, informing users of the road allowance that the roadway is unassumed and is used at the risk of the user.
5. I/we further acknowledge that the Township of Limerick assumes no liability, responsibility or obligation whatsoever to construct and/or maintain and/or repair the said road allowance.
6. I/we hereby indemnify and save harmless the Municipal Corporation of the Township of Limerick from any and all manner of actions, causes of actions, claims or demands whatsoever for or by reasons of any personal injury and/or property damage of or in any way arising out of any accident whatsoever occurring on the above-mentioned road allowance.
7. This acknowledgement shall be binding upon the parties hereto and their legal representatives, successors, and assigns. I/we agree that with respect to any sale, lease, mortgage or other disposition of my/our lands as noted above, or any part thereof, I/we shall advise the new owner, lessee, chargee/mortgagee or other party of the terms of this acknowledgement.

DATED at _____ this _____ day of _____, 200__

DECLARED before me at the

_____ of _____)
in the County of _____)
this _____ day of _____)
20____)

Signature of Owner(s)

Signature of Owner(s)

_____)
(A Commissioner, etc.)

THE CORPORATION OF THE TOWNSHIP OF LIMERICK
SCHEDULE "C" TO BY-LAW NO. 2011-05

The following represents the minimum standard for road construction. Acceptance of modified standards to the following shall be at the sole discretion of Council and shall be so reflected in the development agreement as described herein.

Minimum cleared width – 20 meters (66 feet)

Road surface minimum width: 6.0 meters (20.0 feet) plus a minimum shoulder width of 1.0 meters (3.3 feet) on each side resulting in an overall width of 8.0 meters (26.0 feet).

Unless otherwise advised by Council, all topsoil, tree stumps and other vegetation shall be removed from that area directly beneath the proposed road and shoulder surface.

Granular subbase: minimum of 150 mm. (6.0 inches) in depth, more as required.

Granular "A" or "M" grade crushed gravel surface course: minimum of 150 mm. (6.0 inches) in depth.

Ditch depth below profile grade (crown) of road: 0.6 meters (24.0 inches) minimum, or deeper to drain subgrade, and all ditches to be constructed to permit drainage to an outlet sufficient to handle water runoff.

Culverts – minimum 450 mm. (18 inches) in diameter at all entrances, larger as required at drainage courses. If a regulatory body specifies a specific culvert size then the regulatory body shall supersede this schedule.

Turn around required at all dead end roads. Minimum radius required: 9 meter (30.0 feet) road surface, plus 1.0 meter (3.3 feet) shoulder. Right-of-way to be not less than 30 meters (100.0 feet) at turn around.

Geometries – 12% maximum grade where possible. Horizontal curves to be flat as possible.

Road to be located as near as possible to centre of right-of-way.

All road materials to be compacted prior to next stage of construction.

In the event the proponent fails to proceed with the required construction or reconstruction as identified herein, there shall exist no obligation on the part of the Corporation: to continue with any construction or reconstruction as required, to reimburse the proponent for any costs that he or she has incurred.

All Imperial Measurements as stated herein are submitted for the ease of conversion for the reader. In all cases, Metric measurements shall be considered true measurements to prescribe the applicable standard.

SAMPLE OF CONSENT LETTER

To: _____
(Name of Applicant)

And To: The Township of Limerick

RE: _____
(Applicant's Name)

use of road allowance from the Township of Limerick, more particularly described as

Concession _____, Lot _____, designated as Part _____ of

Registered Plan No. _____.

I/We _____ are the adjoining property owner(s) of the above-mentioned property. I/We hereby acknowledge and consent to the use of that portion of road allowance as described as Part _____ on Plan _____ to _____.
(Name of Applicant)

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

WITNESS (Signature)
Please Print Name Here:

Adjoining Landowner (Signature)
Please Print Name Here:

WITNESS (Signature)
Please Print Name Here:

Adjoining Landowner (Signature)
Please Print Name Here:
