

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

By-law No. 2011- 15

A BY-LAW TO ESTABLISH POLICIES

for the minimal use of unopened road allowances for motor vehicle travel

WHEREAS this Municipality is the owner of all road allowances within its jurisdiction;

AND WHEREAS this Municipality from time to time receives applications from ratepayers to use parts of original road allowances for motor vehicle passage purposes;

AND WHEREAS the purpose of this By-law is to establish policies with respect to the requirements of the Municipality, if Council approves of an unopened road allowance being used for vehicle purposes.

BE IT ENACTED AS A BY-LAW OF this Municipality as follows:

1 **General Policy**

It is the general policy of this Municipality that unopened road allowances shall not be used for motor vehicle travel purposes, and that any cutting down of trees or grading or removing of rocks or fill on unopened road allowances is prohibited without the express approval of Council.

2 **Applications**

If Council decides that an Application to use an unopened road allowance merits consideration, and approves of such use, the following are the conditions of approval:

2.1 **Survey**

Applicants may be required to survey the road allowance to be sure that the proposed use will not encroach on adjacent lands.

2.2 **Applicant's Expense**

All work shall be done at the Applicant's expense. The Applicant shall file a cost estimate prior to the work taking place and may be required to file security for the value of the work.

2.3 **Outline of Proposed Work**

The Applicant shall prepare, and submit to Council for approval, a summary of the proposed work program including width, and care to be taken with respect to any environmentally sensitive areas. .

2.4 **No Assumption by the Municipality**

Once the work is completed and limited access is possible, as per Schedule "A", it is not a road which is "assumed" by the Municipality for public travel purposes.

2.5 **Letter of Credit**

The Applicant may be required to file a Letter of Credit (or cash) with the

Municipality for 10% of the value of the estimated cost of the work. This is to protect the Municipality against construction liens.

2.6 **Inspection**

The Municipality will inspect the work only to the extent to make certain that the Applicant has followed Council's directions.

2.7 **Posting of Sign**

The Applicant shall be required to post signs "ROAD NOT ASSUMED BY THE MUNICIPALITY, USE AT YOUR OWN RISK". If these signs are removed they shall immediately be replaced by the Applicant.

2.8 **Group Application**

If the Application is by a group of people who wish to make a trail along an unopened road allowance, consideration should be given to the forming of a Corporation that would be responsible for the maintenance of the road.

2.9 **Insurance**

The Applicant may be required to obtain liability insurance, with respect to the use of the road, and file a copy with the Municipality. The Municipality must be added as an insured on the policy. The insurance company must give an undertaking that the policy will not be canceled or terminated without 30 days notice to the Municipality.

2.10 **Waiver of Liability**

The Applicant must enter into an Agreement with the Municipality waiving, releasing and discharging the Municipality of and from all claims, actions, causes of actions and damages for death, personal injury or damage to property arising out of the use of, the unopened road allowance.

2.11 **Removal of Timber**

Timber removed from the road allowance is the property of the Municipality of Magnetawan and may be purchased from the Municipality. Tree tops must be removed from site.

3. **Further Conditions**

Council shall add such additional conditions as it deems necessary having regard to the circumstances and area in which the proposed work is located.

Passed in open Council as read a First, Second and Third Time, this 27th day of April, 2011.

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**

Per: 

Sam Dunnett, Mayor

Per: 

James Mahoney, Deputy Clerk