

The Corporation of The Municipality of Hastings Highlands

Bylaw 2023-015

A Bylaw to Establish a Policy on the Use of Unopened Municipal 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 right of passage over any public highway within the boundaries of the Municipality;

And Whereas the Municipality receives requests from time to time from landowners and other interested parties for permission to use portions of unopened municipal 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 the new roads are only added on a cost-effective basis;


And Whereas authority is granted under Sections 35 and 44 of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended;

Now Therefore, The Council of The Corporation of The Municipality of Hastings Highlands Enacts As Follows:

1. The "Policy on the Use of Unopened Municipal Road Allowances" is attached hereto as Schedule 'A' is hereby approved and adopted.
2. All Bylaws or parts of Bylaws of the Municipality heretofore passed inconsistent with the provisions of the attached Policy respecting the Use of Unopened Road Allowances are hereby repealed.
3. The Bylaw shall come into full force and effect on the day of passing.

Read a first time on the 19th of July, 2023.

Read a second time, **Enacted** and **Passed** in Council this 1st day of November, 2023.



Tony Fitzgerald, Mayor



Suzanne Huschilt, Municipal Clerk

Schedule 'A' to Bylaw 2023-015



Municipality of Hastings Highlands- Corporate Policies and Procedures			
DEPARTMENT: Planning			POLICY #:
POLICY: Use of Unopened Municipal Road Allowances			
DATE: Nov 1/23	REV. DATE:	COVERAGE: Public	PAGE #: 1-3

1.0 Policy Statement:

The Council of the Corporation of the Municipality of Hastings Highlands will generally refuse to permit any person to open any unopened road allowance within the Municipality by way of a trail, driveway, or road capable of being used by any motor vehicle whatsoever.

2.0 Purpose:

The purpose of this policy is to protect the Municipality from liability claims by persons using unimproved unopened road allowances and from demands that such unopened road allowances be improved and maintained at the expense of the general ratepayers of the Municipality.

3.0 Definitions:

“**Development**” shall mean the construction, erection, or placing of a building or structure of any kind or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes such related activities as site grading and the placing or dumping of fill and/or any other operations that disrupt the natural environment in, on, over or under land or water.

“**Site alteration**” shall mean activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of a site.

4.0 Prohibitions:

- 4.1** Development and site alteration is not permitted on an unopened road allowance.
- 4.2** No person shall erect a dock or any kind of structure on an unopened road allowance leading to water.

- 4.3** No person shall store, park or leave unattended any vehicle, boat, trailer, or other equipment on an unopened road allowance.
- 4.4** No person shall perform any work, including removing or placing any trees, soil or other material, on any unopened road allowance without requesting permission from Council of the Corporation of the Municipality of Hastings Highlands.

5.0 Exemption

- 5.1** The Council of the Corporation of the Municipality of Hastings Highlands may consider the improvement and maintenance of an unopened municipal road allowance, such as the construction or maintenance of a driveway, where each of the following criteria are met:
- a. The distance to be traveled along the road allowance is short.
 - b. The number of property owners who could access the section of road allowance to be used is very limited.
 - c. Each of the property owners who could access the section of road allowance to be used enters into an agreement with the Municipality to be registered on title and binding subsequent owners of their property to clarify the Municipality will not provide any maintenance or future improvement of the road allowance by the Municipality and protecting the Municipality from liability claims of users of the driveway. These property owners will pay the full legal costs of the Municipality associated with this agreement(s).
 - d. The boundaries of the portion of the road allowance to be used are marked by an Ontario Land Surveyor at the expense of the applicant, prior to the commencement of any work to avoid trespassing on neighbouring lands.
 - e. The driveway is on an unopened concession road allowance which is public property and will be available for public use, therefore no gates or barriers will be erected on the road allowance.
 - f. The proposal is completed in such a way as to prevent or discourage members of the general public from using the road allowance. Such measures may include signs posted "Unopened Road Allowance Not Assumed or Maintained by the Municipality, No Exit".
 - g. A turning circle will be constructed at the end of the driveway, by the owners at their expense, on the unopened municipal road allowance to the satisfaction of the Operations Manager or designate.
 - h. All felled trees remain on the property of the Municipality and shall be piled at a Municipal Road or taken to the closest municipal yard at the discretion of the Operation Manager or designate.

- i. Any development shall adhere to requirements from the Federal and Provincial Governments, maintain the general intent and purpose of the County of Hastings Official Plan and being restricted from development on environmentally protected lands.
- j. The property owners shall be required to abide by the policies of the Official Plan of the County of Hastings and any applicable bylaw with respect to development of private roads and the construction standards and guidelines for use and construction of private roads.