

# The Corporation of the City of Kawartha Lakes

## Council Report

Report Number PW2017-001

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**Date:** March 21, 2017

**Time:** 2:00 p.m.

**Place:** Council Chambers

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**Ward Community Identifier:** All

**Subject:** Policy Update - Assumption of Private and Unassumed Roads

**Author/Title:** Rodney Porter, East Area Maintenance Manager

**Signature:** 

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### Recommendations:

**RESOLVED THAT** Report PW2017-001, **Policy Update- Assumption of Private and Unassumed Roads**, be received; and

**THAT** the policy entitled **Policy Update - Assumption of Private and Unassumed Roads** appended to Report PW2017-001 be adopted and numbered for inclusion in the City's Policy Manual, replacing all predecessor versions.

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**Department Head:**



**Corporate Services Director / Other:**

**Chief Administrative Officer:**



## **Background:**

All public roadways should meet a minimum municipal standard in order to safely provide service to accommodate fire, ambulance, solid waste collection, and the travelling public. In most instances the roadways that remain unopened and/or unassumed throughout the City do not meet the minimum standards for roadway width, drainage and safety hence the reasoning behind them remaining unassumed. In the case of private roadways, these roads have been built for private access to properties, such as cottage access roads, and have not been deeded to the municipality. Again, in many cases these roads do not meet the minimum standards required for municipal servicing.

The Municipal Act, 2001 provides that land can only become a highway by the passing of an assumption bylaw by Council. Road allowances which were created by original surveys or plans of subdivision which have not been closed and have not been assumed by virtue of public access and municipal maintenance can now only be assumed by bylaw.

The proposed minimum design standards attached as Appendix “A” to the Policy incorporates provision for geometric design, surface width and type, structural adequacy and drainage consistent with the design speed and traffic volumes for low volume roads. These standards are generally in conformity with those established by the “Road Needs Study” which classifies all existing highways under the jurisdiction of the City and forms the basis for the capital construction and maintenance programs.

## **Rationale:**

The policy outlines the minimum requirements for the assumption of local low volume roads in both the urban and rural settings. It also provides Council with criteria to evaluate whether it is in the municipality’s best interest to assume a road.

Note that the policy only applies to the assumption of *existing* private roads and roads constructed on unopened road allowances. This policy does not apply to the construction of any new roads as part of an approved development proposal or a subdivision or condominium agreement.

Staff is recommending that the cost of work required to upgrade private roads or unassumed road allowances be borne by the proponents. This can be assessed on the benefiting properties pursuant to the provisions of O. Reg 586/06– Local Improvement Charges – Priority Lien Status if the requirements of the regulation are met.

## **Other Alternatives Considered:**

No other alternatives have been considered.

## **Financial Considerations:**

There are no financial implications to this report.

## **Relationship of Recommendation(s) To The 2016-2019 Strategic Plan:**

This policy aligns with the strategic enablers of “Efficient Infrastructure & Asset Management” and “Responsible Fiscal Resource Management”.

## **Review of Accessibility Implications of Any Development or Policy:**

N/A

## **Servicing Comments:**

N/A

## **Consultations:**

Christine Norris, Manager of Revenue & Taxation  
Richard Holy, Manager of Policy Planning  
Juan Rojas, Director of Engineering and Corporate Assets  
Christina Sisson, Supervisor of Development Engineering  
Robyn Carlson, Solicitor  
Brenda Stonehouse, Strategy and Performance Specialist

## **Attachments:**



Policy - Assumption  
of Private and Unassu

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**Department Head: Bryan Robinson**

**Department File:**



# Council Policy

Council Policy No.:	
Council Policy Name:	Assumption of Private and Unassumed Roads
Date Approved by Council:	
Date revision approved by Council:	
Related SOP, Management Directive, Council Policy, Forms	

## Policy Statement and Rationale:

This policy establishes guidelines and minimum standards for unmaintained municipal roads, seasonal roads and private lanes within the City of Kawartha Lakes required for assumption consideration. The goal of this policy is:

- To ensure consistency in the upgrading of existing and construction of new municipal roads;
- To ensure adherence to the relevant Official Plan policies;
- To ensure that proponents build new municipal roads to a minimum municipal standard;
- To avoid passing any new development costs to ratepayers of the municipality;
- To ensure that proponents upgrading existing seasonal or private roads to municipal roads abide by a minimum municipal standard;
- To control the means by which the City of Kawartha Lakes may assume private or seasonally maintained municipal roads to provide fairness and consistency; and
- To control the use and development of unopened road allowances.

## Scope:

The City shall only consider through this policy the assumption of existing unassumed roads, roads created through Planning Act easement, or existing private roads. The policy may also consider roads within an existing plan of subdivision that were not previously assumed by the City. The policy shall not be used to consider the assumption of new roads where assumption is governed by the Subdivision Agreement and By-law 2016-059. If the Subdivision Agreement has been frustrated so that assumption can no longer be effected through that agreement, this policy applies. The policy shall not be used to consider the assumption of roadways subject to a Plan of Condominium.

## Definitions

- a) "City" shall mean the Corporation of the City of Kawartha Lakes.
- b) "Council" shall mean the municipal Council of The Corporation of the City of Kawartha Lakes
- c) "Director" shall mean either the Director of Public Works or Director or Engineering and Corporate Assets or his/her designates.
- d) "Municipal Roads" shall mean roads and highways in municipal ownership and that have been assumed by the municipality for year-round maintenance by the municipality.
- e) "Private Roads" shall mean roads and lanes in private ownership that have not been assumed by the municipality, which provide access by means of a registered right-of-way to private property; the use and maintenance of which is the responsibility of the abutting land owners.
- f) "Proponents" shall mean developers, residents, or ratepayers or other associations who are requesting the municipality assume for maintenance purposes an existing seasonal or private road so that it becomes a municipal road or seasonal road.
- g) "Seasonal Roads" shall mean roads that are owned by the City, but on which no winter maintenance is performed during the period from November 15 through to April 15.
- h) "Unassumed Road" shall mean roads that are owned by the municipality that are not maintained on a year round basis. This shall include unopened road allowances.

## Policy:

When submitting a proposal to the City, all documentation and information must satisfy Council that the assumption of the assumed road is in the public interest, and that the proponent acknowledges and accepts that any and all costs associated with such assumption are to be borne by the proponent, and the following procedures applied.

### Criteria for Assumption

Without being necessarily limited to the following, the following criteria should be considered in determining if it is in the public interest to assume the unopened and unassumed, or private road:

- a) Does the road serve, or will it serve, five (5) or more separate and distinct private parcels of land which are being used, or are capable of being used for the purposes permitted within that zone, on a year-round basis?
- b) Does the road provide access to a City-maintained boat launch, beach or other facility or attraction promoted by the City for public use and tourism?
- c) Would the assumption of the road over-extend existing municipal roads maintenance programs, operations and resources?
- d) Was the road constructed to the standards as stated herein, thus avoiding costly future upgrades and/or repair costs to the City?
- e) Will the assumption of the road promote further desired development?
- f) Would further development require the road to be extended?
- g) Would further development on this road over-extend existing municipal services?
- h) Would the road facilitate the safe and efficient movement of goods and people?
- i) At least two-thirds of all property owners representing at least one-half (50%) of the value of the lots who will receive direct benefit from the assumption of the road agree to the undertaking of the study and the assumption of the unassumed road by the City. For private roads, 100% of all property owners must agree to the undertaking of the study and the assumption of the private road by the City.
- j) All property owners required to give up ownership of legal title to the road itself, required road widenings or necessary turnarounds have consented to the City's acquisition of their lands.
- k) Have the Conservation Authorities or the Ministry of Natural Resources and Forestry, whichever has jurisdiction, been notified and are regulations followed where there could be any interference with wetlands or any alterations to shorelines and watercourses?
- l) The Ministry of Transportation supports the proposed assumption by the City.
- m) The proposal conforms to the land use policies of the relevant Official Plan and Zoning By-law if lot creation would occur as a result of the assumption process.
- n) There is a reference plan prepared by an Ontario Land Surveyor documenting the lands affected by the proposed assumption.
- o) The Proponent has provided original deeds and certification of title for the lands in question, prepared by the proponent's Solicitor.
- p) The City has received a legal opinion on the ownership status of the subject road and a risk assessment of assuming or not assuming the road.

## **Proponent Responsibilities**

- a) The cost and associated process of bringing the road up to municipal standard will be the responsibility of the proponents. Options will be provided to the proponents for immediate payment or the option to pay over a period of time as permitted under O. Reg 586/06 Local Improvement Charges – Priority Lien Status.
- b) Where the proposed right-of-way has a deficient width, all benefitting owners will be required to provide the necessary road widening to the City free and clear of all encumbrances and at no cost to the City.
- c) Where the proposed right-of-way dead-ends and a turnaround is thus required, title to the land required for the turnaround must be transferred to the City at no cost to the City.
- d) Prior to the commencement of an engineering study the proponent shall submit to the City a refundable deposit of one thousand dollars (\$1,000.00). Director of Public Works and Director of Engineering and Corporate Assets or their designates will provide proponent with estimate and additional deposit may be required prior to proceeding. This deposit will be used to cover the engineering review costs and the amount may be increased as needed if the review is more complex. Any amount of the deposit not needed to cover the independent review will be returned to the Proponent.

## **Staff Responsibilities**

- a. Upon receipt of a petition requesting assumption of a roadway, City staff will verify the sufficiency of the petition, ie, petitions not supported by two-thirds of the property owners adjacent to the roadway will not be considered, petitions not supported by all owners giving up title rights will not be considered, and assumption of portions of a road less than 500 meters will not be considered unless the road links existing maintained City roads.
- b. City staff will prepare a Council Report and if Council agrees “in principle” with the possible assumption of the road then the works will proceed following confirmation of financing methodology.
- c. Prior to assuming the road section, the City shall request an independent review of the subject road, at the Proponent’s expense. This review will include a report on the as-built condition of the existing road by a professional engineer and a cost-benefit analysis to determine the operational costs of maintaining the road and the impact on City resources. In addition, the consultant will prepare, as part of the engineering report, an estimate of all costs relating to the construction or reconstruction of the unassumed road to the standards as stated herein. The



## Council Policy

- cost of the independent engineering review and cost-benefit analysis will be borne by the Proponents.
- d. Year round road service will not be provided on seasonal roads or private roads until Council passes a by-law to formally assume the road and until the subject road is upgraded to the road standards as detailed in Appendix "A" to this policy, at the expense of the benefitting property owners.
  - e. If assumption of a privately-owned road is requested, compliance with By-law to Regulate the Acquisition and Disposition of Municipal Real Property in and for the Corporation of the City of Kawartha Lakes 2010-118 (as amended or replaced) is required. Application must be made to Realty Services for consideration by the Land Management Committee and, if acquisition of title and assumption is supported by the Committee, the Committee will recommend by Realty Services Staff Report to Council for resolution to acquire title to the road at full cost recovery to the City. Following the transfer of land to the municipality, the Director of Engineering and Corporate Assets and/or the Director of Public Works will advance a by-law for assumption of the road, pursuant to the provisions of By-law to Delegate to Staff Authority to Approve the Release of City Property Interests in Certain Circumstances 2016-059, as amended.
  - f. If assumption of a privately-owned road is requested, and where acquisition by the City will result in severance(s), the Planning Department will be invited to comment to the Land Management Committee that convenes to consider the acquisition and assumption. The Planning Department will consider the implications of the road assumption to ensure that any natural severances conform to the Official Plan policies and Zoning By-law regulations.
  - g. Any formal requests and petitions for road assumption received after August 31<sup>st</sup> will not be considered until the following year to avoid unreasonable demands on the City's winter control operations.
  - h. The assumption of roads may be implemented through a Development Agreement to the satisfaction of the Directors of Development Services, Engineering and Corporate Assets, and Public Works. The Agreement will include the approved drawings, cost estimates, and securities for the proposed road works.

### **City Road Standards**

Appendix "A" to this policy provide specifics for the Minimum Road Construction Standards that must be met prior to the assumption of any unmaintained municipal road, unopened road allowance or private road.





Road improvement and work necessary to bring a road up to the standards listed in Appendix "A" may include: property acquisition for road allowance widening and/or turnarounds, tree removal, road base and/or surface improvement, drainage improvement, horizontal and vertical alignment improvements, removal of encroachments and signage installation.

## Revision History:

Proposed Date of Review:

Revision	Date	Description of changes	Requested By
1.0	March 21, 2017	Initial Release	
		Replaces 143 EPW 014	



## APPENDIX 'A'

### Road Standards for Adoption of Urban Roads

<u>Design Criteria</u>	<u>Minimum Standard</u>
Right of Way Width	18.5
Design Speed	50 kph
Horizontal Radius	80.0 m
Maximum Grade	6.00%
Kcrest	8
Ksag	12
Min Stopping Sight Dist	65.0 m
Min Number of Lanes	2
Lane Width	4.25 m
Curbs	Desirable, Concrete, Barrier Type
Sidewalks	Desirable, One side concrete, 1.5 m
Horizontal Clearance	3.0 m
Vertical Clearance	5.25 m
Turn Arounds	OPSD 500.01 or equivalent
Pavement Structure (GBE)	550 mm
Surface Type	Double Surface Treatment
(ADT < 400 vpd)	Hot Mix (per CKL design criteria)
Streetlighting	HydroOne and CKL criteria
Signage	As specified in the Ontario Traffic Manual
Drainage	Ditching or storm sewers outletting to Municipal Drain or watercourse

### Notes

- 1 Deviations from the standard may be approved by the Director of Public Works and the Director of Engineering and Corporate Assets where the minimum standards cannot be achieved. The deviation must not result in any significant loss of safety or increased maintenance costs to the municipality.
- 2 The standards detailed above apply on to the assumption of private roads and are not the standards applicable to new construction after the date of the adoption of the standard by City Council.
- 3 GBE means granular base equivalent. GBE standard specified is equivalent to 50 mm hot mix over 150 mm granular A over 300 mm of Granular B.



## Road Standards for Adoption of Rural Roads

<u>Design Criteria</u>	<u>Minimum Standard</u>
Right of Way Width	20.0
Design Speed	50 kph
Horizontal Radius	80.0 m
Maximum Grade	6.00%
Kcrest	8
Ksag	12
Min Stopping Sight Dist	65.0 m
Min Number of Lanes	2
Lane Width	4.25 m
Shoulder Width	1.0 m
Horizontal Clearance	3.0 m
Vertical Clearance	5.25 m
Turn Arounds	OPSD 500.01 or equivalent
Pavement Structure (GBE)	450 mm
Surface Type (ADT < 400 vpd)	Gravel
Surface Type (ADT > 400 vpd)	Double Surface Treatment
Signage	As specified in the Ontario Traffic Manual
Drainage	Ditches outletting to and adequate receiving watercourse or Municipal Drain

### Notes

- 1 Deviations from the minimum standard may be approved by the Director of Public Works and Director of Engineering and Corporate Assets where the minimum standards cannot be achieved. The deviation must not result in any significant loss of safety or increased maintenance costs to the municipality.
- 2 The standards detailed above apply only to the assumption of private roads or roads constructed on unopened road allowances and are not the standards applicable to new construction after the date of the adoption of the standard by City Council.
- 3 GBE means granular base equivalent. GBE standard specified is equivalent to 150 mm granular A over 300 mm of granular B.

### Definitions

Kcrest – Road design factor for a vertical curve which when viewed from the side is \_\_\_\_\_ convex upwards. ie. A hill

Ksag – Road design factor for a vertical curve which when viewed from the side is \_\_\_\_\_ concave upwards. ie. A valley

ADT – Average Daily Traffic

Vpd – vehicles per day