

Council Policy No.:	CP2017-010
Council Policy Name:	Assumption of Private and Unassumed Roads
Date Approved by Council:	March 21, 2017
Date revision approved by Council:	November 16, 2021 CW2021-287/CR2021-532
Related SOP, Management Directive, Council Policy, Forms	

Policy Statement and Rationale:

This policy establishes guidelines for unassumed roads and private roads in existence prior to January 1, 2017, within the City of Kawartha Lakes proposed for assumption consideration. This Policy does not include road(s) that are included within active subdivision agreements being administered by Development Engineering. The goal of this policy is:

- a) To ensure consistency in the upgrading of existing private and unassumed roads considered for assumption;
- b) To ensure adherence to the relevant Official Plan policies;
- c) To ensure that the City is assuming existing roads that meet minimum requirements;
- d) To prevent passing any road construction or improvement related costs to general ratepayers of the municipality;
- e) To ensure that proponents upgrading existing unassumed or private roads abide by defined minimum requirements; and
- f) To control the means by which the City of Kawartha Lakes may assume private and/or unassumed roads to provide fairness and consistency.

Scope:

The City shall only consider through this policy the assumption of unassumed roads, roads created through Planning Act easement, or existing private roads where the road existed prior to January 1, 2017. The policy shall not be used to consider the assumption of roads constructed after January 1, 2017 or where assumption is governed by the Subdivision Agreement and By-Law 2016-059, as amended. The policy shall not be used to consider the assumption of any road subject to a Plan of Condominium or where roads were intended to remain private as part of a development agreement.

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 of Engineering and Corporate Assets or his/her designates.
- d) "Assumed Roads" shall mean roads and highways in municipal ownership and that have been assumed by the municipality for year-round maintenance and capital improvement by the municipality.
- e) "Petition" shall mean an official petition meeting the requirements outlined in the City of Kawartha Lakes Procedural By-law, as amended.
- f) "Private Roads" shall mean roads in existence prior to January 1, 2017 on property held 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.
- g) "Proponents" shall mean residents, or ratepayers or other associations who are requesting the municipality assume for maintenance and capital improvement purposes an existing unassumed road and/or private road so that it becomes an assumed road. Specifically, proponents include property owners that have frontage on the road and/or receive direct benefit from assumption of the road.
- h) "Unassumed Road" for the purpose of this By-law shall mean a road(s) in existence prior to January 1, 2017 that are on property owned by the City that are not maintained or are not maintained on a year round basis. Seasonally maintained Roads are also Unassumed Roads.

Policy:

When submitting a proposal to the City, all documentation and information must satisfy Council that assumption of the road is in the public interest. The proponent must acknowledge and accept that any and all costs associated with such assumption are to be borne by the proponent(s) and the following criteria must be satisfied.

Assumption: Criteria for Consideration

Without being limited to the following, the following criteria should be considered in determining if it is in the public interest to assume the 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 assumed roads maintenance programs, operations and resources?
- d) Was the road constructed to the criteria as stated herein, thus avoiding costly future upgrades and/or repair costs to the City?
- e) Would further development on this road over-extend existing municipal services?
- f) Would the road facilitate the safe and efficient movement of vehicles?
- g) At least two-thirds (66.6%) 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 who will receive direct benefit must agree to the undertaking of the study and the assumption of the private road by the City.
- h) All property owners required to give up ownership of legal title to the road itself, required road widening or necessary turnarounds have consented to the City's acquisition of their lands.
- i) 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?
- j) The Ministry of Transportation, as applicable, supports the proposed assumption by the City.

- k) 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.
- l) There is a reference plan prepared by an Ontario Land Surveyor documenting the lands affected by the proposed assumption.
- m) The Proponent has provided original deeds and certification of title for the lands in question, prepared by the proponent's Solicitor.
- n) 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) Initiate and obtain required signatures on a petition requesting assumption of the road and submit the complete petition to the City Clerk's office.
- b) The cost and associated process of bringing the road up to meet minimum requirements 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.
- c) 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.
- d) 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.
- e) Prior to the commencement of an independent third party engineering review, performed by a qualified professional, the proponent shall submit to the City a refundable deposit of one thousand dollars (\$1,000.00). Receipt of the deposit will trigger Staff to initiate a third party engineering review of the road. The deposit will be used to cover the third party engineering review costs. Once the estimated full costs for the review are established, the Director of Public Works and/or Director of Engineering and Corporate Assets or their designates will provide the proponent with the estimate and the Proponent will be required to provide additional funds prior to the commencement of the review. Any amount of the deposit not needed to cover the third party engineering review will be returned to the Proponent.
- f) 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. The Proponent(s) must make application to Realty Services for consideration by the Land Management Team for acquisition of the property and acknowledge that such acquisition will be at full cost recovery to the City.

Staff Responsibilities

- a) Upon receipt of a petition requesting assumption of a roadway, City staff will verify the sufficiency of the petition (i.e. Criteria Part g above, 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) Upon confirming the petition is complete, City shall administrate an independent third party engineering analysis of the subject road performed by a qualified professional. All costs for the analysis will be borne by the Proponents. 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 road proposed for assumption to the standards as stated herein, including road widening required. Commencement of the review will be contingent on receipt of the total funds required to complete the review.
- c) Upon receipt of the engineering report obtained in Part b, City staff will prepare a Council Report and if Council agrees "in principle" with the possible assumption of the road then the works can proceed following confirmation of financing methodology.
- d) Full municipal services will not be provided on unassumed roads or private roads until the subject road is upgraded to the road requirements as detailed in Appendix "A" to this policy, at the expense of the benefitting property owners and until Council passes a By-law to formally assume the road.
- e) 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 acquisition of title and assumption is supported by the Land Management Team, the team will recommend via Realty Services Staff Report to Council for resolution to acquire title to the road at full cost recovery to the City.
- g) 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 Team 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.
- h) Any formal requests and petitions for road assumption received after August 31st will not be considered until the following year to avoid unreasonable demands on the City's winter control operations.
- i) 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.

Road Requirements Under this Policy

Appendix "A" to this policy provide specifics for the Minimum Road Construction requirements that must be met prior to the assumption of any unassumed road or private road. These road requirements shall only apply to this Policy and shall not be read in relation to other road construction standards.

Road improvement and work necessary to bring a road up to the requirements 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	Council

Revision	Date	Description of changes	Requested By
2.0	November 16, 2021	Update for clarity and process	Council

Appendix 'A'

Road Construction Requirements for Consideration of Road Assumption

Design Criteria	Minimum Standard
Right of Way Width	20 m
Design Speed	50 kph
Horizontal Radius	80.0 m
Maximum Grade	6.00%
Kcrest	8
Ksag	12
Min Stopping Sight Distance	65.0 m
Min Number of Lanes	2
Lane Width	3.25 m
Shoulder Width	1.0 m each side
Curbs (Urban only)	Desirable, Concrete, Barrier Type
Sidewalks (Urban only)	Desirable, One side concrete, 1.5 m
Horizontal Clearance	3.0 m
Vertical Clearance	5.25 m
Turn Around	OPSD 500.01 or equivalent
Pavement Structure (GBE)	550 mm (Hot Mix Asphalt Surface) 450 mm (Gravel Road)
Surface Type Rural (ADT < 400 vpd)	Gravel
Surface Type Rural (ADT > 400 vpd)	Double Surface Treatment
Surface Type Urban (ADT > 400 vpd)	Hot Mix (per CKL design criteria)
Street lighting	HydroOne and CKL criteria
Signage	As specified in the Ontario Traffic Manual
Drainage	Ditching or storm sewers must outlet to a Municipal Drain, municipal property, approved easement

registered on title in favour of the City or approved watercourse.

Notes

- 1 Deviations from the requirements 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 costs to the municipality.
- 2 The requirements detailed above apply only to the assumption of private or unassumed roads and are not the standards applicable to new construction .
- 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 for asphalt roads and is equivalent to 150 mm granular A over 300 mm of granular B for gravel roads.

Definitions

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

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

ADT – Average Daily Traffic

Vpd – vehicles per day

