

**MUNICIPAL CORPORATION OF THE TOWNSHIP OF KILLALOE, HAGARTY  
AND RICHARDS**

**BY-LAW NO. 57-2026**

**Being a by-law to establish a policy respecting the use, improvement, and administration of unopened road allowances, including shoreline road allowances, within the Township of Killaloe, Hagarty and Richards.**

**WHEREAS** Section 28 of the *Municipal Act, 2001, S.O. 2001, C.25, as amended*, provides that a local municipality has jurisdiction over road allowances located within the municipality that were made by Crown surveyors;

**AND WHEREAS** Section 30 of the *Municipal Act, 2001* provides that a highway is owned by the municipality having jurisdiction over it, subject to any rights reserved by a person who dedicated the highway or any interest held by another person;

**AND WHEREAS** Section 31 of the *Municipal Act, 2001* provides that a municipality may assume an unopened road allowance for public use and that the maintenance provisions of the Act do not apply to certain unopened highways until they have been assumed for public use;

**AND WHEREAS** Section 35 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws restricting or removing the common law right of passage by the public over a highway and the common law right of access to a highway by an owner of land abutting a highway;

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

**AND WHEREAS** a significant portion of the Township 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 permission to use unopened road allowances is only provided on a cost-effective basis;

**AND WHEREAS** Council wishes to establish a consistent framework for the use and management of unopened road allowances while protecting public access, municipal interests, neighbouring property owners, the environment and Township resource;

**AND WHEREAS** Council wishes to permit reasonable use of unopened road allowances while ensuring that such use does not create an obligation upon the Township to construct, improve, repair, inspect, maintain or assume the road allowance;

**NOW THEREFORE** the Council of the Corporation of the Township of Killaloe, Hagarty and Richards enacts as follows:

1. The use, improvement and administration of Unopened Township Road Allowances, including Shoreline Road Allowances, shall conform with the policy attached hereto as Schedule "A" and forming part of this By-Law.
2. Any provisions of all other By-Laws, inconsistent with this By-Law, are hereby repealed, including, but not limited to, By-Law No.19-2025.
3. **ENFORCEMENT**
  - a. This By-Law may be enforced by any officer, employee or agent authorized by the Township.
  - b. Where authorized by law, the Township may:
    - i. Issue an order or notice;
    - ii. Require an unauthorized activity to cease;

- iii. Require removal of an obstruction;
- iv. Require restoration;
- v. Undertake remedial work;
- vi. Recover costs;
- vii. Terminate an agreement;
- viii. Commence legal proceedings; or
- ix. Pursue any other remedy available at law.

4. **RIGHT OF ENTRY**

- a. The By-Law Enforcement Officer may enter upon property at any reasonable time for the purpose of determining whether the provisions of this By-Law have been complied with.
- b. The By-Law Enforcement Officer may not enter a dwelling except with the consent of the occupant or person in charge of the dwelling-place or under the authority of a warrant.

5. **COSTS AND RECOVERY**

- a. All costs incurred by the Township arising from unauthorized work, enforcement, restoration or non-compliance may be recovered from the responsible person where authorized by law.
- b. Where permitted by the *Municipal Act, 2001*, amounts owing may be added to the tax roll of the benefiting property and collected in the same manner as property taxes.

6. **PENALTY**

- a. Every person who contravenes any provision of this By-Law is guilty of an offence and, upon conviction, is liable to a fine as provided for under the *Provincial Offences Act, R.S.O. 1990, Chapter P.33*, as amended.
- b. Where any part of this By-Law conflicts with any other Municipal By-Law, any Federal, Provincial Legislation or article, the Legislation that carries the stricter provision shall prevail.

7. This By-Law shall take effect upon its adoption.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 20th DAY OF OCTOBER 2026.

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Mayor – Dave Mayville

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CAO/Clerk – Tammy Gorgerat

## Schedule "A" of By-Law NO. 57 - 2026

| Policy                                                                                          |                     |                                               |                               |
|-------------------------------------------------------------------------------------------------|---------------------|-----------------------------------------------|-------------------------------|
| <b>Department:</b><br>Roads                                                                     |                     | <b>Coverage:</b><br>All Municipal Departments |                               |
| <b>Policy:</b><br>Use, Improvement and Administration of Unopened and Shoreline Road Allowances |                     | <b>Policy Number:</b><br>RD-2026-01           |                               |
| <b>Effective Date:</b><br>October 20, 2026                                                      | <b>Review Date:</b> | <b>Revision Date:</b>                         | <b>Pages:</b><br>Page 1 of 26 |

### PART 1

### DEFINITIONS AND INTERPRETATION

#### 1.0 **SHORT TITLE:**

- 1.1 This By-Law may be cited as the "Use, Improvement and Administration of Unopened and Shoreline Road Allowances."

#### 2.0 **DEFINITIONS:**

- 2.1 **"Abutting Owner"** shall mean an owner of land that directly abuts the portion of an unopened road allowance that is the subject of an application;
- 2.2 **"Applicant"** shall mean a person, corporation, organization, utility, agency or other entity making an application to use, improve, occupy or otherwise undertake work upon an unopened road allowance;
- 2.3 **"Approved Works"** shall mean only those works specifically authorized by the Township pursuant to this By-Law and any associated License Agreement, including all approved plans, drawings, specifications, requirements and amendments issued by the Township;
- 2.4 **"Assumed"** shall mean an unopened road allowance or highway that has been assumed by the Township for public use by by-law or otherwise in accordance with applicable legislation;
- 2.5 **"Closed"** shall mean a highway or road allowance that has been permanently stopped up and closed in accordance with the applicable provisions of the *Municipal Act, 2001* or other applicable legislation;
- For greater certainty, an unopened road allowance shall not be considered 'closed' merely because it is unopened, unmaintained, obstructed, overgrown or not actively used;
- 2.6 **"Council"** shall mean the Council for the Corporation of the Township of Killaloe, Hagarty and Richards;
- 2.7 **"Driveway"** shall mean a private travelled way constructed or used for vehicular access between a property and a public highway or other access route;
- 2.8 **"Highway"** shall have the meaning as assigned to it under the *Municipal Act, 2001*, as amended;

- 2.9 **"Improvements"** shall mean any alteration, construction, installation, clearing, grading, excavation, filling, drainage work, culvert, driveway, trail, structure, fence, gate, utility, landscaping or other work that changes or improves the physical condition or use of an unopened road allowance;
- 2.10 **"Improvement to Unopened Road Allowance Agreement" or "License Agreement"** shall mean a written agreement between the Township and an Applicant authorizing a specific use or improvement of an unopened road allowance subject to specified terms and conditions;
- 2.11 **"Maintained"** shall include the meaning as maintained by the Township as part of its municipal road system, in accordance with the level of service established by the Township from time to time;
- 2.12 **"Natural Erosion"** shall mean the gradual or sudden loss, movement, slumping, washing away or destabilization of soil, rock, vegetation or other material caused by natural processes, including water movement, wave action, flooding, precipitation, freeze-thaw cycles, groundwater, ice movement or other natural forces, and includes erosion or instability of a shoreline or embankment;
- 2.13 **"Open Municipal Road"** shall mean a highway that has been assumed by the Township for public use and is maintained by the Township in accordance with its applicable level of service;
- 2.14 **"Opening" or "Opened"** shall mean the establishment, construction or assumption of a highway for public use in accordance with applicable legislation and Township By-Laws;
- 2.15 **"Public Recreational Organization"** shall mean a non-profit organization, recreational association, trail association, snowmobile club, ATV club, or similar organization that provides recreational opportunities for the general public;
- 2.16 **"Road Allowance"** shall mean a highway or road allowance under the jurisdiction of the Township, including a road allowance established by Crown Survey or otherwise vested in or under the jurisdiction of the Township;
- 2.17 **"Shoreline Road Allowance"** shall mean a road allowance or portion thereof located along or adjacent to the shoreline of a lake, river or other waterbody, including a road allowance which may provide public access to the water;
- 2.18 **"Township"** shall mean the Corporation of the Township of Killaloe, Hagarty and Richards;
- 2.19 **"Unassumed Road"** shall mean a travelled or constructed road, driveway, trail or other route located on an unopened road allowance that has not been assumed by the Township for public use and is not maintained by the Township;
- 2.20 **"Unmaintained"** shall mean that the Township does not provide routine monitoring, maintenance or municipal level of service on the applicable road allowance.

For greater certainty, "unmaintained" is an operational description and does not, by itself, mean that the road allowance is closed, private, abandoned or no longer owned by the Township.

- 2.21 **“Unopened Road Allowance”** shall mean a road allowance under the jurisdiction or ownership of the Township that has not been opened and assumed for public use and municipal maintenance in accordance with applicable legislation.

### 3.0 **INTERPRETATION**

- 3.1 The headings contained in this By-Law are for convenience only and do not form part of the substantive provisions.
- 3.2 References to legislation include amendments, revisions, consolidations and successor legislation.
- 3.3 Where a provision of this By-Law conflicts with a requirement imposed by Provincial or Federal legislation, the legislation shall prevail.

## **PART 2**

### **UNOPENED ROAD ALLOWANCES**

#### 4.0 **GENERAL**

- 4.1 Unopened road allowances are lands under the jurisdiction or ownership of the Township unless lawfully closed and transferred or otherwise disposed of in accordance with applicable legislation.
- 4.2 The Township may regulate the use of unopened road allowances in accordance with applicable legislation and this By-Law.
- 4.3 The physical condition or historic use of a road allowance does not, by itself, determine its legal status. An unopened road allowance does not become an open municipal road merely because:
- 4.3.1 It has been travelled;
  - 4.3.2 It has been cleared;
  - 4.3.3 A person has maintained it;
  - 4.3.4 A person has placed aggregate upon it;
  - 4.3.5 The Township has undertaken incidental work;
  - 4.3.6 It has been used for many years; or
  - 4.3.7 Public funds have previously been spent in relation to it.
- 4.4 Subject to this By-Law and other applicable laws and Municipal By-Laws, the public may make reasonable use of unopened road allowances as determined by the Township.
- 4.5 Notwithstanding anything in this policy, the Township may restrict use of any part of an unopened road allowance at any time subject to applicable legal obligations.

#### 5.0 **TOWNSHIP MAINTENANCE**

- 5.1 Unless Council expressly determines otherwise, the Township shall have no obligation to construct, open, widen, remove trees, improve, grade, gravel, drain, inspect, repair, snowplow or otherwise maintain Unopened Road Allowances.

- 5.2 The Township shall not be responsible for providing a particular level of service, standard of access or condition of an Unopened Road Allowance.
- 5.3 Any person using an Unopened Road Allowance does so at their own risk and shall be responsible for determining whether the condition of the route is suitable for the intended use.
- 5.4 The Township does not represent or guarantee that an unopened road allowance is:
  - 5.4.1 Safe;
  - 5.4.2 Suitable for vehicular travel;
  - 5.4.3 Suitable for emergency access;
  - 5.4.4 Suitable for developmental purposes;
  - 5.4.5 Capable of supporting vehicles or equipment; or
  - 5.4.6 Suitable for any particular use.
- 5.5 Nothing in this By-Law shall limit any obligation imposed upon the Township by statute, regulation, court order or other applicable law.

#### **6.0 OBSTRUCTIONS AND PRIVATE OCCUPATION**

- 6.1 No person shall purposely place or maintain an obstruction on an Unopened Road Allowance that prevents or materially interferes with lawful public passage unless authorized by the Township.
- 6.2 No person shall establish an exclusive private occupation of an unopened road allowance without authorization by the Township.
- 6.3 Without limiting the generality of subsection 6.2., unauthorized private occupation may include:
  - 6.3.1 Fencing;
  - 6.3.2 Gates;
  - 6.3.3 Barriers;
  - 6.3.4 Landscaping;
  - 6.3.5 Private parking areas;
  - 6.3.6 Storage;
  - 6.3.7 Structures;
  - 6.3.8 Other improvements.

### **Part 3**

#### **IMPROVEMENTS TO UNOPENED ROAD ALLOWANCES**

##### **7.0 GENERAL**

- 7.1 Council is generally not supportive of Improvements to Unopened Road Allowances, but may consider such requests that provide access to landlocked properties, commercial initiatives such as logging operations, or which form part of programs offered by Public Recreational Organizations.

- 7.2 Any Improvement to an unopened road allowance shall require prior written authorization from the Township and, where required, execution of a Licence Agreement in accordance with this By-Law.
- 7.3 Notwithstanding any other provision of this By-Law, Council may exempt a Public Recreational Organization from the requirement to enter into a License Agreement where the proposed work has been specifically authorized by Council and is being completed for a public recreational purpose. Council may impose such conditions as it considers appropriate, including insurance, indemnification, restoration requirements, reporting requirements or limitations on the scope of work.
- 7.4 Improvements to an Unopened Road Allowance may include:
  - 7.4.1 Construction of a new road;
  - 7.4.2 Construction of a new driveway;
  - 7.4.3 Widening of an existing travelled route;
  - 7.4.4 Significant grading or regrading;
  - 7.4.5 Installing of gravel or aggregate;
  - 7.4.6 Excavation or filling;
  - 7.4.7 Construction of ditches;
  - 7.4.8 Installation or alteration of culverts;
  - 7.4.9 Significant tree clearing;
  - 7.4.10 Drainage alterations;
  - 7.4.11 Construction of structures;
  - 7.4.12 Installation of utilities;
  - 7.4.13 Creation of a new motorized access route; or
  - 7.4.14 Other works that materially changes the road allowance in the opinion of the Township.
- 7.5 An application shall be required before undertaking any Improvement to an Unopened Road Allowance.
- 7.6 The Township may consider a request for Improvement of an Unopened Road Allowance following the submission of an application and approval by Council for the Improvement to Unopened Road Allowance.
- 7.7 The fact that a property does not have access to an open and maintained public road does not create an automatic right to improve an Unopened Road Allowance or establish access over an Unopened Road Allowance.
- 7.8 Each application shall be considered on its own merits and having regard to criteria established in this By-Law. For clarity, notwithstanding anything in this By-Law, Council may reject any application at its completion discretion.
- 7.9 Approval to improve an Unopened Road Allowance, or access to a property via an Unopened Road Allowance does not constitute approval of the applicant's property for development, building,

severance, site alteration, servicing, legal access to a public road pursuant to the Township's Zoning By-Law, or any other planning or construction purpose.

## 8.0 **APPLICATION PROCESS**

- 8.1 Requests for Improvements to an Unopened Road Allowance shall follow a 2-Phase Approval Process:

### **Phase 1:**

- 8.2 Applications for Improvements to Unopened Road Allowance shall be submitted to the Clerk, or their designate, in the form prescribed in Appendix "A".

- 8.3 At the time of submission of an application under Phase 1, the Applicant shall pay the application fee prescribed in the Township's 'User Fees and Charges' By-Law, as amended from time to time.

If an application does not proceed to Phase 2, whether as a result of refusal by Council, withdrawal by the Applicant, or otherwise, the Township shall refund fifty per cent (50%) of the application fee.

Where an application proceeds to Phase 2, one hundred per cent (100%) of the application fee shall be retained by the Township regardless of whether the application is approved, refused, withdrawn, expires, or otherwise does not result in completion of the proposed works.

- 8.4 The Application shall contain the prescribed information required in Appendix "A" and shall also include, but not limited to, the following attached documentation:

- 8.4.1 A Site Plan indicating the following:

8.4.1.1 Location of proposed work on Unopened Road Allowance;

8.4.1.2 Location of any streams, creeks, or waterways;

8.4.1.3 Location of any wetlands;

8.4.1.4 Location of proposed access to Applicant's property;  
and

8.4.1.5 Any other information as required by Municipal Staff.

- 8.4.2 Consent for an entrance way from the unopened road allowance onto a public road from the appropriate road authority, if applicable; and

- 8.4.3 A detailed description of all proposed Improvements including any relevant photos, sketches, drawings, etc.

- 8.5 The Applicant shall be responsible for all costs associated with the preparation of the application. The Township may require these costs be paid as a condition of approval of the application.

- 8.6 The Application shall be reviewed by all applicable Township staff, including, but not limited to, the Roads Superintendent or their designate for comment.

- 8.7 An incomplete Application may be returned to the Applicant for additional information.

- 8.8 Once the Application is deemed complete by the Clerk, notice of intention to Improve an Unopened Road Allowance, see Appendix "C", shall be mailed by Regular Mail to the mailing address held on the tax roll, to all abutting owners whose properties directly abut the portion of the Unopened Road Allowance that is the subject of the Application, for comment.
- 8.9 The Notice referenced in Section 8.8 shall also include the Applicant's Site Plan, and description of proposed work.
- 8.10 Abutting owners shall have (20) twenty days, including weekends and holidays, to provide comments to the Municipality on the proposal.
- 8.11 Following the (20) twenty-day notification period, the Application and all supporting documentation shall be submitted to Council and shall be reviewed at a Regular Meeting of Council.
- 8.12 Following consideration of the application and any comments received, Council may approve the application, approve the application subject to conditions or modifications, request additional information, defer the application, or refuse the application.

## **Phase 2:**

- 8.13 Should Council accept the proposal, the Applicant shall then complete and submit the following to the satisfaction of the Township before the applicable activity is permitted:
  - 8.13.1 The Applicant shall pay any additional licensing, legal, surveying, administration, review, inspection or agreement preparation fees required by the Township.
  - 8.13.2 A copy of a reference plan from an Ontario Land Surveyor for the portion of the Unopened Road Allowance to be Improved. The reference plan shall indicate the actual location of the road allowance and the location of the improvements. Markers shall be placed identifying the limits of the road allowance and/or Township owned lands, and the proposed location of the improvements to avoid trespass onto adjacent properties.
  - 8.13.3 Proof of liability insurance in the amount of not less than \$5,000,000 naming the Township as an additional insured shall be provided prior to commencement of any work and maintained until one (1) year following completion of the approved works, or such longer period as may be required by the Township acting reasonably.
  - 8.13.4 Where applicable, proof of current WSIB coverage shall be provided prior to commencement of any work.
  - 8.13.5 Any other permissions, approvals, designs, reports that were identified as being required as a condition for approval. Including but not limited to Ministry of Natural Resources, Ministry of Environment, Ministry of Transportation, County of Renfrew, Utility Providers, Surveyors, Professional Engineers, etc.
  - 8.13.6 The applicant shall then enter in a written agreement with the Township, including a signed Indemnity document in

which the Applicant shall agree to indemnify and save harmless the Township and its employees from 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 related to the Improvements of the Unopened Road Allowance as attached in Appendix "D".

- 8.14 The terms to be included in any agreement are at the discretion of the Township and no permanent rights of any kind whatsoever are conferred by the Agreement.
- 8.15 Only once the Agreement is signed by both parties, and the applicant meets all criteria established by the Township, the proposed improvements may begin. All work shall be completed within six (6) months of signing the agreement. If the work is not completed in this time the file will be closed and the Township may restrict the proposed activity at its discretion.
- 8.16 If the Township is not notified of completion within six (6) months of signing the agreement, the file will be closed.
- 8.17 An Improvement to Unopened Road Allowance Agreement Application will be considered expired if it has been inactive for a period of six (6) months. Once expired, the applicant must reapply if they wish to continue, and a new application fee will be required.
- 8.18 Once the work is completed the applicant must notify the Township immediately for the final inspection by the Roads Superintendent or designate.
- 8.19 All corrective work as directed by Township Staff must be completed within two weeks.
- 8.20 Should the Township be required to perform any required remedial action in relation to this agreement, any subsequent costs as a result of non-compliance with the agreement shall be added to the tax roll for the Applicant's property tax account pursuant to Section 446 of the *Municipal Act, c.25, S.O. 2001*, as amended.
- 8.21 The Applicant shall pay all reasonable costs as may be incurred by the Township, its solicitor and its staff for any work to be performed in connection with the administration of this agreement or any subsequent costs as a result of non-compliance with the agreement. The Township may require these costs be paid as a condition of approval of the application.
- 8.22 No part of this agreement constitutes an assumption by the Township of any obligation to repair or maintain the improvement. In the event the Township passes a by-law to establish the Unopened Road Allowance as an open municipal highway, after the improvement is completed, the applicant shall not receive any compensation.

## **9.0 ENVIRONMENTAL AND REGULATORY REQUIREMENTS**

- 9.1 The applicant is responsible for obtaining all required approvals from applicable authorities.
- 9.2 Depending upon the proposed work, approvals may be required from Provincial, Federal, Conservation or other authorities.

- 9.3 Township approval shall not be interpreted as approval of environmental impacts or as authorization to undertake work that requires another permit or approval.
- 9.4 The Township may refuse an application where the proposed improvement is inconsistent with applicable environmental requirements, municipal policy, public access objectives or the public interest.

## **Part 4**

### **SHORELINE ROAD ALLOWANCES**

#### **10.0 GENERAL**

- 10.1 The Township recognizes that Shoreline Road Allowances may provide important public access to lakes, rivers and other waterbodies and may be used for lawful recreational, access, and other purposes.
- 10.2 Subject to this By-Law and any other applicable legislation, persons may make reasonable lawful use of a Shoreline Road Allowance for activities that do not interfere with Public Access or materially alter the Shoreline Road Allowance, unless provided for in accordance with this By-Law.
- 10.3 The use of a Shoreline Road Allowance by an abutting property owner or other person shall not create any ownership interest, exclusive right of use, easement, licence or other interest in the Shoreline Road Allowance.
- 10.4 Improvements to Shoreline Road Allowances are not permissible, unless authorized in accordance with this By-Law.

#### **11.0 TOWNSHIP MAINTENANCE**

- 11.1 The Township does not generally maintain Shoreline Road Allowances, and unless Council expressly determines otherwise, has no obligation to construct, improve, grade, gravel, drain, repair, inspect, or otherwise maintain a Shoreline Road Allowance.
- 11.2 The Township shall not be responsible for maintaining or repairing private improvements located on a Shoreline Road Allowance, including docks, ramps, stairs, retaining walls, shoreline structures, landscaping or other Improvements.
- 11.3 The Township may, at its discretion, undertake work on a Shoreline Road Allowance where Council or Township staff determine that the work is necessary or desirable for a municipal purpose.
- 11.4 The Township's occasional removal of an obstruction, response to an emergency, inspection, vegetation management or other incidental work on or adjacent to a Shoreline Road Allowance shall not constitute an assumption of the Road Allowance as a Municipal Road or create an ongoing obligation to perform similar work.

#### **12.0 NATURAL EROSION AND SHORELINE CONDITIONS**

- 12.1 The Township recognizes that Shoreline Road Allowances and adjacent lands may be subject to natural processes, including erosion, flooding, wave action, ice movement, changing water levels, precipitation, freeze-thaw cycles, slumping, decaying/falling trees, washouts and other natural causes.

- 12.2 The Township does not undertake to prevent, control, stabilize, repair or otherwise address Natural Erosion or the natural deterioration of shoreline embankments, banks or slopes located within or adjacent to a Shoreline Road Allowance.
- 12.3 Subject to any responsibility imposed upon the Township by applicable law, the Township shall not be responsible for damage or loss to abutting neighboring or adjacent properties to the extent caused by Natural Erosion or other naturally occurring shoreline processes.
- 12.4 The existence of a Shoreline Road Allowance between a private property and a waterbody shall not create an obligation upon the Township to stabilize, reinforce, repair or maintain the shoreline or embankment for the benefit or protection of an adjacent property.
- 12.5 Where a person proposes to undertake work intended to address erosion, shoreline instability or deterioration, the person shall be responsible for obtaining all approvals required under this By-law and any other applicable legislation.
- 12.6 No person shall place fill, stone, retaining structures, erosion-control materials or other materials on a Shoreline Road Allowance for the purpose of addressing erosion or shoreline instability without prior approval from the Township and any other approval required by law.

### **13.0 PUBLIC ACCESS**

- 13.1 No person shall obstruct, restrict or materially interfere with lawful public access over a Shoreline Road Allowance without authorization from the Township.
- 13.2 An approved Improvement shall not be located, constructed or maintained in a manner that unnecessarily prevents or materially interferes with reasonable public passage.
- 13.3 The Township may require an Applicant to modify the location, design or configuration of a proposed Improvement where necessary to preserve reasonable public access.
- 13.4 Where an existing Improvement interferes with public access, the Township may require the Improvement to be relocated, modified or removed in accordance with the terms of any applicable agreement and applicable law.

## **Part 5**

### **SHORELINE ROAD ALLOWANCE IMPROVEMENTS**

#### **14.0 GENERAL**

- 14.1 Any person proposing to undertake Improvement to Shoreline Road Allowances shall obtain prior written approval from the Township in accordance with this By-Law. Approval for improvements to Shoreline Road Allowances are delegated to the Clerk.
- 14.2 Improvements may include, but are not limited to, any work that materially alters the Shoreline Road Allowance or its natural condition, character, drainage, grade, vegetation, shoreline, public access or existing use, including:

- 14.2.1 Substantial clearing, removal or disturbance of trees, shrubs or other vegetation;
  - 14.2.2 Construction, creation, widening, relocation or substantial alteration of a pathway, driveway, access route, stairway, walkway, recreational area or similar improvement;
  - 14.2.3 Significant grading, regrading, excavation, filling or placement of soil, gravel, aggregate, rock or other material;
  - 14.2.4 Construction, installation, replacement or substantial alteration of drainage works, culverts, swales or similar infrastructure;
  - 14.2.5 Construction, placement, replacement or substantial alteration of structures or improvements, including decks, platforms, shelters, retaining walls and shoreline access structures;
  - 14.2.6 Shoreline alteration, shoreline protection, erosion-control, stabilization or other works affecting the bank, slope, shoreline or natural grade; and
  - 14.2.7 any other work that, in the opinion of the Township, materially alters the Shoreline Road Allowance, affects public access, or changes its natural or existing condition.
- 14.3 Approval of an Application for Improvements shall be subject to any conditions that the Township considers appropriate, including requirements respecting location, design, construction, drainage, erosion control, environmental protection, public access, restoration, insurance and maintenance.
  - 14.4 Where an application for Shoreland Improvement is approved for the benefit of an abutting property, the approval does not create an exclusive right to occupy or use the Shoreline Road Allowance.
  - 14.5 Any works completed by a property owner on Shoreline Road Allowances shall be at their own expense.

## **15.0 SHORELINE IMPROVEMENT APPLICATION**

- 15.1 An application for an Improvement to a shoreline road allowance shall be submitted to the Clerk, or their designate, using the form attached as Appendix "B".
- 15.2 The Application shall be accompanied by the Shoreline Road Allowance Application Fee, as prescribed in the Township's 'User fees and Charges' By-Law.
- 15.3 The Application shall include the following information:
  - 15.3.1 Name of the applicant(s);
  - 15.3.2 The benefiting property;
  - 15.3.3 The location of the shoreline road allowance;
  - 15.3.4 The existing condition;
  - 15.3.5 The proposed improvement;
  - 15.3.6 The proposed dimensions;
  - 15.3.7 The intended use;

- 15.3.8 Any proposed vegetation removal;
- 15.3.9 Any proposed excavation or filling;
- 15.3.10 Any proposed impact to the shoreline or the water;
- 15.3.11 Other required approvals; and
- 15.3.12 Any other information reasonably requested by the Township.
- 15.3.13 Proof of liability insurance in the amount of not less than \$5,000,000 naming the Township as an additional insured shall be provided prior to commencement of any work and shall be maintained for the duration of the work.
- 15.3.14 Where applicable, proof of current WSIB coverage shall be provided prior to commencement of any work.
- 15.3.15 Any other permissions, approvals or reports as requested by the Township. Including but not limited to Ministry of Natural Resources, Ministry of Environment, Ministry of Transportation, County of Renfrew, Utility Providers, Surveyors, Engineers, etc.

## **16.0 ENVIRONMENTAL AND REGULATORY REQUIREMENTS**

- 16.1 The applicant is responsible for obtaining all required approvals from other authorities.
- 16.2 Depending upon the proposed work, approvals may be required from Provincial, Federal, Conservation or other authorities.
- 16.3 Township approval shall not be interpreted as approval of environmental impacts or as authorization to undertake work that requires another permit or approval.
- 16.4 The Township may refuse an application where the proposed improvement is inconsistent with applicable environmental requirements, municipal policy, public access objectives or the public interest.

## **17.0 SHORELINE ROAD ALLOWANCES AND EXCLUSIVE USE**

- 17.1 The Township shall generally not authorize improvements that result in an exclusive private use of a shoreline road allowance where the use would materially interfere with public access.
- 17.2 Approval of shoreline road allowance improvement does not transfer ownership of the shoreline road allowance.
- 17.3 Owners of land directly abutting a shoreline road allowance may apply to purchase the road allowance through a separate process.

### **Part 6**

## **ADMINISTRATION, ENFORCEMENT AND GENERAL PROVISIONS**

### **18.0 ADMINISTRATION AND ENFORCEMENT**

- 18.1 The Clerk shall generally administer this Policy.
- 18.2 The Clerk, Chief Building Official, By-Law Enforcement Officer, Public Works Superintendent, their designates, or any other person

so designated may administer portions of this By-Law within their respective authority.

## **19.0 DELEGATION**

- 19.1 Council may delegate approval authority for specified applications through resolution or a separate delegation by-law.
- 19.2 Where approval authority has not been delegated, applications shall be referred to Council.

## **20.0 UNAUTHORIZED IMPROVEMENTS**

- 20.1 Where an improvement has been undertaken without the required approval, or an Obstruction has been unlawfully installed, the Township may require the person responsible to:
  - 20.1.1 Cease the work;
  - 20.1.2 Submit an application;
  - 20.1.3 Remove the improvement;
  - 20.1.4 Restore the road allowance;
  - 20.1.5 Enter into an agreement; or
  - 20.1.6 Undertake other corrective action permitted by law.
- 20.2 Approval granted under this By-Law authorizes only those works specifically identified in the approved application and agreement. Any additional works, modifications, expansions, alterations, replacement works, or subsequent improvements proposed after completion of the approved works shall require a new application and any approvals required by this By-Law. Approval of previous works shall not constitute ongoing authorization for future works.
- 20.3 The Township may take enforcement action where a person fails to comply.

## **21.0 REMOVAL AND RESTORATION**

- 21.1 The Township may require an Applicant to remove an Improvement and restore an Unopened Road Allowance or Shoreline Road Allowance where:
  - 21.1.1 The improvement is unauthorized;
  - 21.1.2 The improvement creates a safety concern;
  - 21.1.3 The improvement materially interferes with public access;
  - 21.1.4 The improvement causes environmental harm; or
  - 21.1.5 The removal is otherwise required in accordance with the applicable agreement or law.

## **22.0 MARKETABLE TIMBER**

- 22.1 Any timber, logs or forest products having commercial value that are removed from an Unopened or Shoreline Road Allowance as part of approved works shall remain the property of the Township unless otherwise authorized by Council or their designate in writing.
- 22.2 The Township may require that such timber be:

22.2.1 Delivered to a location designated by the Township;

22.2.2 Made available for Municipal use;

22.2.3 Sold for the benefit of the Township; or

22.2.4 Otherwise disposed of in a manner approved by the Township.

22.3 No Applicant shall sell, remove for personal use, dispose of, or otherwise benefit from marketable timber from an Unopened or Shoreline Road Allowance unless expressly authorized by the Township.

## **23.0 ENFORCEMENT**

23.1 This By-Law may be enforced by any officer, employee or agent authorized by the Township.

23.2 Where authorized by law, the Township may:

23.2.1 Issue an order or notice;

23.2.2 Require an unauthorized activity to cease;

23.2.3 Require removal of an obstruction;

23.2.4 Require restoration;

23.2.5 Undertake remedial work;

23.2.6 Recover costs;

23.2.7 Terminate an agreement;

23.2.8 Commence legal proceedings; or

23.2.9 Pursue any other remedy available at law.

## **24.0 RIGHT OF ENTRY**

24.1 The By-Law Enforcement Officer may enter upon property at any reasonable time for the purpose of determining whether the provisions of this By-Law have been complied with.

24.2 The By-Law Enforcement Officer may not enter a dwelling except with the consent of the occupant or person in charge of the dwelling-place or under the authority of a warrant.

## **25.0 COSTS AND RECOVERY**

25.1 All costs incurred by the Township arising from unauthorized work, enforcement, restoration or non-compliance may be recovered from the responsible person where authorized by law.

25.2 Where permitted by the *Municipal Act, 2001*, amounts owing may be added to the tax roll of the benefiting property and collected in the same manner as property taxes.

## **26.0 PENALTY**

26.1 Every person who contravenes any provision of this By-Law is guilty of an offence and, upon conviction, is liable to a fine as provided for under the *Provincial Offences Act, R.S.O. 1990, Chapter P.33*, as amended.

- 26.2 Where any part of this By-Law conflicts with any other Municipal By-Law, any Federal, Provincial Legislation or article, the Legislation that carries the stricter provision shall prevail.

## **27.0 ASSUMPTION OF ROAD ALLOWANCES**

- 27.1 Nothing in this By-Law requires the Township to assume an Unopened or Shoreline Road Allowance.
- 27.2 Any request for assumption or stopping up, closing and conveyance of an Unopened or Shoreline Road Allowance shall be considered separately by Council.
- 27.3 The Township shall not be responsible for bringing an Unopened or Shoreline Road allowance to municipal standards unless Council expressly determines otherwise.
- 27.4 No person shall represent that an Unopened or Shoreline Road Allowance has been or will be assumed by the Township unless Council has formally approved the assumption.
- 27.5 Any remedial work on an Unopened or Shoreline Road allowance undertaken by the Township due to unauthorized improvements shall not be construed to mean the Township is assuming maintenance of the road.

## **28.0 EXISTING AGREEMENTS AND USES**

- 28.1 Existing written agreements relating to road allowances shall remain in force according to their terms unless amended or terminated.
- 28.2 An existing unauthorized use shall not become authorized solely because it existed prior to the passing of this By-Law.
- 28.3 The Township may require existing unauthorized improvements to comply with this By-Law.

## **29.0 SEVERABILITY**

- 29.1 Should any schedule, section, subsection or part of parts thereof be declared by any Court to be bad, illegal or ultra vires, such schedule, section, subsection or part of parts shall be deemed to be severable, and all parts hereof are declared to be separate and independent and enacted as such.

**APPENDIX “A”**

**APPLICATION FOR IMPROVEMENT TO UNOPENED ROAD ALLOWANCE**

*For Internal Use Only:*

Date Received: \_\_\_\_\_ File Number: \_\_\_\_\_

PART A – APPLICANT INFORMATION

|                  |  |
|------------------|--|
| Applicant Name:  |  |
| Mailing Address: |  |
| Telephone:       |  |
| Email:           |  |

PART B – REASON FOR REQUEST TO IMPROVE UNOPENED ROAD ALLOWANCE

PART C – ROAD ALLOWANCE INFORMATION

|                                                        |  |
|--------------------------------------------------------|--|
| Location of Road Allowance:                            |  |
| Legal Description/Concession/Lot:                      |  |
| Approximate Length or Portion proposed to be Improved: |  |
| Road Authority of Abutting Maintained Road             |  |

PART D – TYPE OF REQUEST

Please identify the proposed improvements to be completed on the road allowance:

- ☐ New driveway/access
- ☐ Vegetation clearing

- ☐ Grading/regrading
- ☐ Culvert/drainage
- ☐ Gravel/aggregate
- ☐ Trail
- ☐ Temporary access
- ☐ Utility installation

Other: \_\_\_\_\_

#### PART E – DESCRIPTION OF PROPOSED WORK

Provide a detailed description of the proposed use or Improvement, including the existing condition and what is proposed.

#### PART F – SUPPORTING INFORMATION

Please provide where applicable:

- ☐ Site plan/sketch
- ☐ Photographs
- ☐ Survey/reference plan
- ☐ Proposed access location
- ☐ Proposed dimensions
- ☐ Drainage information
- ☐ Engineering information
- ☐ Environmental approvals
- ☐ Road authority approval
- ☐ Other permits/approvals

☐ Other information requested by the Township

#### PART G – ABUTTING PROPERTY OWNERS

The Applicant acknowledges that the Township will notify and provide a copy of this application to Abutting Owners of the proposed Improvements, and will provide them with an opportunity to submit comments for Council's consideration.

Personal Information such as mailing addresses will not be disclosed.

#### PART H – APPLICANT DECLARATION

I/we certify that the information contained in this application is true and complete to the best of my/our knowledge.

I/we acknowledge that:

Submission of this application does not constitute approval;

No Improvement shall commence until all required approvals and agreements have been obtained;

If Improvements occur before approval, the Township may deny the request and require the lands to be restored. Any costs incurred by the Township related to the same may be added to the tax roll of the Applicant's property at the Township's discretion and shall be collected in the same like manner as municipal taxes;

Approval does not constitute assumption of the road allowance by the Township;

The Township does not assume responsibility for maintenance of an Improvement unless expressly agreed in writing;

I/we may be required to provide insurance and indemnification; and

I/we are responsible for all costs associated with the application and approved Improvement.

Applicant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX “B”**  
**SHORELINE ROAD ALLOWANCE IMPROVEMENT APPLICATION AND INDEMNITY**

*For Internal Use Only:*

*Date Received:* \_\_\_\_\_ *File Number:* \_\_\_\_\_

PART A – APPLICANT INFORMATION

|                                      |  |
|--------------------------------------|--|
| Owner of Abutting Property:          |  |
| Mailing Address:                     |  |
| Telephone:                           |  |
| Email:                               |  |
|                                      |  |
| Applicant (If Different than owner): |  |
| Mailing Address:                     |  |
| Telephone:                           |  |
| Email:                               |  |

PART B – LOCATION OF SHORELANDS

|                                          |  |
|------------------------------------------|--|
| Abutting Municipal Address to Shoreland: |  |
| Legal Description:                       |  |
| Roll Number                              |  |

PART C – PROPOSED IMPROVEMENT

|                                      |                   |
|--------------------------------------|-------------------|
| Description of Proposed Improvements |                   |
| Dimensions of Shorelands             | Length:<br>Width: |

## PART D – SHORELINE AND ENVIRONMENTAL INFORMATION

Will the proposed work be wholly located on those portions of shoreline road allowance directly in front of the abutting property?

- ☐ Yes  
☐ No

Will the proposed work negatively impact neighboring properties?

- ☐ Yes  
☐ No

Will the proposed work be located on Shorelands as defined by the Ministry of Natural Resources?

- ☐ Yes  
☐ No

Have all applicable agencies having jurisdiction including, but not limited to, The Ministry of Natural Resources and Department of fisheries and Oceans been contacted and provided approval for the proposed work?

- ☐ Yes  
☐ No

Will the proposed work limit public access to the site?

- ☐ Yes  
☐ No

Will the proposed work include structures as defined in the *Ontario Building Code*?

- ☐ Yes  
☐ No

## PART E – SUPPORTING DOCUMENTS

Please provide, where applicable:

- Site plan
- Survey/reference plan
- Photographs
- Drawings
- Environmental approvals
- Engineering information
- Copies of other permits/approvals
- Proof of insurance in the amount of \$5,000,000 and naming the township as an additional insured
- Certificate of WSIB coverage
- Any additional information as requested by the Township

## PART F - ACKNOWLEDGEMENT AND INDEMNITY FORM

From:

---

"The Applicant"

To:

---

"(The Township)"

WHEREAS the Applicant has requested to commence and undertake works on the shoreline road allowance;

AND WHEREAS the Applicant requires approval from the Township to undertake works on the shoreline that either abut, or are contained within, the real property of the Applicant as a requirement from the Ministry of Natural Resources to commence or undertake works on the shoreline;

AND WHEREAS the Township has indicated it will not object to the said works being undertaken on the shoreline provided the "Property Owner" agrees to, and abides by, the terms set out in this agreement.

The Applicant, now therefore, agrees as follows:

1. The Applicant agrees to regularly consult and comply with all directions and requirements from the Ministry of Natural Resources and Forestry, or successor Ministry related in any way, to any works, whatsoever, the property owner undertakes on the said shoreline. The Applicant acknowledges that he or she has reviewed the contemplated works with the said Ministry, and has provided the Ministry with all requested, and all pertinent information related.
2. The Applicant agrees to comply with all relevant municipal by-laws, provincial and federal statutes and regulations relating to the construction of any works on the said shoreline and relating in any way to the Property Owner's real property.
3. The Applicant agrees it shall indemnify and save harmless the Township from all actions, causes of action, suits, claims or demands whatsoever, which arise directly or by any reason related to the shoreline; any works the Applicant, its contractors, subcontractors, employees, or agents undertakes on the shoreline; any costs whatsoever related directly, or indirectly due to a breach of this acknowledgement and indemnity; or any costs incurred by the Township whatsoever related to the Township's enforcement of this Acknowledgement and indemnity.
4. At the direction of the Township, the Ministry of Natural Resources and Forestry, or successor Ministry, the Applicant agrees to cease any and all works on the said shoreline and to restore the shoreline to its original state.
5. Any and all works undertaken on the shoreline, or any alteration or removal of works will be at no cost to the Township and shall be at the full cost of the Applicant. The Applicant, now, and forever, agrees it will not seek any contribution, financial or otherwise, in any way from the Township, related to the shoreline.

6. The Applicant agrees that no legal rights, whatsoever, will accrue against the Township, including, but not limited to any lands owned by the Township, by reason of any works being undertaken on the shoreline.
7. This acknowledgement and indemnity shall be binding upon the Applicant heirs, executors, successors, and assigns.

Executed this \_\_\_\_ day of \_\_\_\_\_ 20\_\_

Name of Applicant(s): \_\_\_\_\_

Signature of Applicant(s): \_\_\_\_\_

Name of Municipal Official: \_\_\_\_\_

Signature of Municipal Official: \_\_\_\_\_



## APPENDIX "D"

### IMPROVEMENT TO UNOPENED ROAD ALLOWANCE AGREEMENT AND INDEMNITY FORM

#### Part 1 –Agreement

Applicant:

---

Road Allowance Location:

---

File Number:

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- 1.0 The Applicant shall acknowledge that the Township, will, in no circumstances be obligated to maintain or do any works on the unopened road allowance.
- 2.0 The Applicant acknowledges and agrees that the application submitted to the Township for the Improvement to Unopened Road Allowance, including the description of the proposed work contained in Appendix "A" to the By-Laws, as amended, modified, restricted or otherwise approved in writing by the Township (the 'Approved Work'), forms an integral part of this Agreement and is incorporated into and forms part of this agreement.

The Applicant shall undertake only the Approved Work and shall not construct, install, remove, alter, expand, or otherwise undertake any work on the Unopened Road Allowance that is not expressly included within the Approved Work without prior written approval of the Township.

For greater certainty, the Applicant's original application shall not authorize work that has been modified, restricted, removed or otherwise not approved by the Township. In the event of any inconsistency between the Applicant's original proposal and the Approved Work, the Approved Work as approved or amended by the Township shall govern.

- 3.0 The Applicant shall pay and be responsible for all costs associated with the construction of the Improvements, use of the unopened road allowance, and the Agreement, including, but not limited to, any legal costs incurred by the Township and any costs associated with enforcement. Any costs incurred by the Township not paid by the Applicant may be added to the tax roll of the Applicant's property and be collected in a like manner as municipal taxes.
- 4.0 The Applicant acknowledges that approval of the Improvements to Unopened Road Allowance does not constitute approval of any development, building, severance, site alteration or other use of the benefiting property and does not guarantee that a building permit or any other approval will be issued. The Applicant is responsible for confirming that any benefiting property complies with all applicable planning, zoning, building, environmental, access, servicing and other requirements.
- 5.0 The right of Improvements shall be a "licence agreement" which can be terminated by the Township at any time and shall not be assignable

without the permission of the Township. Accordingly, access through the unopened road allowance, shall not be construed as “permanent access” or “acceptable access” pursuant to the Township’s Zoning By-law.

- 6.0 The Applicant shall agree that there will be no storage of items, or the erection of barriers or structures on the unopened road allowance, unless agreed to by the Township.
- 7.0 The Applicant shall acknowledge that the Unopened Road Allowance is Township property and only the Township may restrict access and use of the unopened road allowance.
- 8.0 The Applicant shall comply with all other provincial and/or federal regulations related to the construction of the driveway and/or entranceway, including, but not limited to, any environmental requirements.
- 9.0 The location of any proposed driveway and/or entranceway shall be approved by the Township Public Works Supervisor, or designate, and shall be located as close as reasonably possible to the middle of the unopened road allowance. The location must meet sightline requirements to be approved and the driveway and/or entranceway may not be possible if sightline requirements are unable to be met.
- 10.0 Any vegetation or material removed by the Applicant related to the Improvement of the Unopened Road Allowance shall be disposed of by the Applicant. The Applicant acknowledges that any marketable timber removed from the Unopened or Shoreline Road Allowance in the course of the Approved Works remains the property of the Township and shall be handled in accordance with the direction of the Township.
- 11.0 The Applicant shall post notice on the Unopened Road Allowance in a form acceptable to the Township, advising all users of the Unopened Road allowance that it is not a maintained municipal road and is used at his/her own risk.
- 12.0 The Applicant shall acknowledge that the Township may, in the future, impose an annual licencing fee related to the use of unopened road allowances. The purpose of the said fee would be, in part, to recover administration costs to the Township in relation to the said licences.
- 13.0 The Applicant shall agree to obtain, maintain and provide the Township with a Certificate of Insurance, satisfactory to the Township and no less than \$5,000,000.00 covering the course of the Approved Works on the unopened road allowance which shall name the Township as an additional insured. The Township may elect to have the Applicant increase this coverage, acting reasonably, from time to time. The Certificate of Insurance shall confirm that any insurance requirements from the Agreement are in affect prior to the commencement of any works on the unopened road allowance. The Applicant shall also agree to provide a Certificate of Insurance, as reasonably requested by the Township, from time to time thereafter to confirm that insurance requirements continue to be in place.
- 14.0 The Applicant, at any point, may be required to restore the lands to a condition satisfactory to the Township, acting reasonably.
- 15.0 If permitted by the Land Registry Office, and at the Township’s option, the

Agreement shall be registered on title to the Applicant's lands. This shall be at the cost of the Applicant.

## Part 2 – Indemnity

In consideration of the issuance by the Corporation of the Township of Killaloe, Hagarty and Richards (the "Township") of a Use of Unopened Road Allowances for Access Purposes Agreement (the "Agreement") to \_\_\_\_\_ ("the Indemnifier"). The Indemnifier hereby agrees to indemnify and hold the Township, its officials, agents and employees and assigns (each an "Indemnified Party") harmless from and against any and all losses, costs, damages, expenses, liabilities, claims, demands and causes of action of whatever kind (collectively the "Claims") which the Indemnified Party may sustain or incur as a result of the Township issuing the Agreement or as a result of any act, matter or thing permitted, made, done or not made, done or permitted by the Indemnified Party relating in anyway, directly or indirectly, to the issuance of the Agreement for the "Use of Unopened Road Allowances for Access Purposes".

An Indemnified Party shall give written notice to the Indemnifier at the address of the Indemnifier set out in the application for the Use of Unopened Road Allowances

for Access Purposes Agreement as soon as practicable of any claims asserted against an Indemnified Party for which the Indemnifier may be liable pursuant to this Indemnity. No compromise or settlement shall be agreed to or made by the Indemnified Party without giving the Indemnifier a reasonable opportunity, in the sole opinion of an Indemnified Party, to defend such Claim and to settle such Claim at the sole cost of the Indemnifier. The Indemnifier agrees that any costs that may be incurred an Indemnified Party related to a breach of this Indemnity by the Indemnifier may be added to the Tax Roll of any real property owned by the Indemnifier within the Township and may be collected in a like manner as municipal taxes.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Per: \_\_\_\_\_  
Signature of Indemnifier