

Township of Brock Corporate Policy



Policy Name: Assumption of Private and Unassumed Roads

Policy Type: Public Works

Policy Number: PW5

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Date Revised:

Approval By: Council

Point of Contact: Director of Public Works

Description

This policy establishes guidelines and minimum standards for unmaintained municipal roads and private lanes within the Township of Brock required for assumption consideration. This policy does not apply to roads in a Registered Plan of Subdivision where a subdivision agreement has been entered into and the road(s) will be assumed by the Township as specified in that agreement. The goal of this policy is:

- a) To control the means by which the Township may assume private roads to provide fairness and consistency;
- b) To control the use and development of unopened road allowances;
- c) To ensure adherence to the relevant Official Plan policies;
- d) To ensure that all roads proposed for municipal assumption are built to a minimum municipal standard;
- e) To avoid passing any associated development costs to the ratepayers of the Township;

Definitions

- a) "Township" shall mean the Corporation of the Township of Brock;
- b) "Council" shall mean the municipal Council of the Corporation of the Township of Brock

- c) "Director" shall mean the Director of Public Works or his/her designate;
- 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 private road so that it becomes a municipal road.
- g) "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, but shall not include roads in a Registered Plan of Subdivision that are subject to a subdivision agreement but have not been assumed by the Township yet.

Procedure

When submitting a proposal to the Township, all documentation and information must satisfy Council that the assumption of the 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 Township maintained boat launch, beach or other facility or attraction promoted by the Township 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 Township's standards, thus avoiding costly future upgrades and/or repair costs to the Township?

- e) Will the assumption of the road promote further desired development?
- f) Would further development require the road to be extended?
- g) Would the road facilitate the safe and efficient movement of goods and people?
- h) 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 Township. 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 Township.
- i) 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 Township's acquisition of their lands.
- j) Has the respective Conservation Authority or Ministry of Environment, Conservation and Parks (MECP) been notified and are regulations followed where there could be any interference with wetlands or any alterations to shorelines and watercourses? If so, should an Environmental Assessment be a requirement of the aforementioned authority's, all costs involved in this process will be the responsibility of the proponent.
- k) The Ministry of Transportation supports the proposed assumption by the Township.
- l) The Region of Durham supports the proposed assumption by the Township.
- m) The proposal conforms to the land use policies of the Township's 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 Township 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 Improvements 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 Township free and clear of all encumbrances and at no cost to the Township.
- c) Where the proposed right-of-way dead-ends and a temporary turnaround is thus required, title to the land required for the turnaround must be transferred to the Township at no cost to the Township. Should additional properties be located past the required dead end, a temporary turnaround will be acceptable. Should the subject property be the last property to require access from this road allowance / right-of-way, the proponent shall be required to implement a full turn around bulb. Final approval of this requirement will be at the sole discretion of the Township.
- d) A pre-consultation meeting will be required with required agencies. If the proposed right-of-way abuts a Regional Road, pre-consultation with both the Township of Brock and Region of Durham will be required. In addition, the applicable Conservation Authority will be consulted to determine any requirements they may have. All outside agency requirements will be met by the proponent prior to commencing with any road work on the right-of-way.
- e) Prior to the commencement of an engineering study the proponent shall submit to the Township a deposit of twenty thousand dollars (\$20,000.00). The Director of Public Works or his/her designate will provide the proponent with an estimate and an 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. Note: 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 road, Township staff will verify the sufficiency of the petition, i.e. Petitions not supported by two-thirds of the property owners adjacent to the road 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 Township roads.
- b) Township 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 Township 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 the Township 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 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 private roads until Council passes a by-law to formally assume the road and until the subject road is upgraded to the Township's municipal road standards, at the expense of the benefitting property owners.
- e) Following the transfer of land to the Township, the Director of Public Works or his/her designate will advance a by-law for assumption of the road. The proponent will be responsible for all legal costs including amending surveys.
- f) If assumption of a privately owned road is requested, and where acquisition by the Township will result in severance(s), the Planner will be invited to comment. The Planner 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 31st will not be considered until the following year to avoid unreasonable demands on the Township's winter control operations.
- h) The assumption of roads may be implemented through a Development Agreement to the satisfaction of the Director of Public Works, Chief Building Officer and Planner. The Agreement will include the approved drawings, cost estimates, and securities for the proposed road works.

Township Road Standards

The Township's Engineering Design Criteria 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 improvement and work necessary to bring a road up to the standards 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.