

CORPORATION OF THE MUNICIPALITY OF CALVIN

BY-LAW NO. 2017-015

BEING A BY-LAW TO ESTABLISH GUIDELINES FOR PROPERTY OWNERS REQUESTING YEAR ROUND MUNICIPAL ROAD SERVICES ON EXISTING GRAVEL SEASONAL ROADS, UNASSUMED ROAD ALLOWANCES OR PRIVATE ROADS

WHEREAS Section 8 (1) of the *Municipal Act, S.O. 2001, c.25* as amended provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 27 (1) of the *Municipal Act, S.O. 2001, c. 25* as amended, authorizes that a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway;

AND WHEREAS Sections 28 (1) & (2) of the *Municipal Act, S.O. 2001, c. 25* as amended, provides for the highways over which a municipality has jurisdiction;

AND WHEREAS the Municipality of Calvin deems it appropriate to adopt a policy to establish guidelines to address requests from property owners for municipal road services on existing gravel seasonal roads, unassumed road allowances or private roads and hereby enacts as follows:

1. That the "Policy to Establish Guidelines for Property Owners Requesting Year Round Municipal Road Services on Existing Gravel Seasonal Roads, Unassumed Road Allowances or Private Roads" shall become part and parcel of this by-law as Schedule "A" hereto attached; and
2. That this By-law shall come into full force and effect upon the date it receives 3<sup>rd</sup> and Final Reading.

READ A 1<sup>ST</sup> AND 2<sup>ND</sup> TIME THIS 31<sup>ST</sup> DAY OF OCTOBER, 2017.

READ A 3<sup>RD</sup> THIRD TIME AND FINALLY PASSED BEFORE AN OPEN COUNCIL THIS 14<sup>th</sup> DAY OF NOVEMBER, 2017.

Wayne B...  
Mayor

[Signature]  
Clerk-Treasurer

## Schedule "A"

### To By-law No. 2017-015

#### Policy to establish guidelines for property owners requesting year round municipal road services on existing gravel seasonal roads, unassumed road allowances or private roads

##### 1. Rationale

It is in the public's interest that all gravel roadways to be considered for assumption by the municipality for year round maintenance meet a minimum municipal standard. The municipality will consider, upon written request only, evaluated on its own merits, and as budget allows; assuming seasonal roads for year round maintenance, private roads for year round maintenance as well as assuming and maintaining an unassumed municipal road allowance for year round maintenance, which meet the municipality's minimum road construction standards as specified in Schedule "B" hereto attached.

It is the intent of the Council of the Municipality of Calvin to protect the municipality and its residents from incurring tax increases to finance road construction and upgrades that are the responsibility of developers, and in some cases residents whose properties are abutting and/or accessed by seasonal roads, unassumed road allowance, and/or private roads.

Unless it is clearly in the public's interest and for the general benefit of the Municipality as determined solely by Council, it is not intended that seasonal roads, unassumed municipal road allowances or private roads will be assumed for year round maintenance by the Municipality and no responsibility for access, snow clearance, maintenance, repair, liability or other obligation is acknowledged for such unassumed road.

The Municipality will consider assuming seasonal roads, unassumed municipal road allowances or private roads for year round maintenance where the number of potential users warrants the expense of maintaining it and where such potential users are prepared to pay all associated costs of initially bringing the existing road up to the minimum municipal standards as herein set out.

Council shall review each written proposal on an individual basis to determine if the assumption of that road would best serve the Municipality and the residents therein.

##### 2. Scope

This policy shall apply only to the assumption of existing gravel seasonal roads, private roads and roads constructed on municipal road allowances prior to the adoption of this policy. This policy does not apply to the construction of any new roads or roads as part of a development proposal or plan of subdivision.

##### 3. Purpose

This policy establishes guidelines and minimum standards for the upgrading of existing gravel seasonal roads, private roads and unassumed municipal road allowances within the jurisdiction of the Municipality of Calvin. The goal of this policy is:

- a) to ensure consistency in the upgrading of existing gravel roads
- b) to ensure that proponents upgrading existing gravel seasonal roads, private roads and unassumed municipal road allowances abide by a minimum municipal standard
- c) to ensure adherence to the Official Plan of the Municipality
- d) to avoid passing costs for such road upgrades onto all ratepayers of the municipality
- e) to control the means by which the Municipality may assume seasonal roads, private roads or unassumed municipal road allowances in a fair and consistent manner
- f) to control the use and development of unopened road allowances

##### 4. Definitions

The following definitions are included solely for the understanding of this policy:

- a) "Council" shall mean the Municipal Council of the Corporation of the Municipality of Calvin
- b) "Manager" shall mean the Public Works Superintendent or his/her designates
- c) "Municipal Roads" shall mean roads and highways that have been assumed by the Municipality and are maintained year round by the Municipality

- d) "Municipality" shall mean the Corporation of the Municipality of Calvin
- e) "Private Roads" shall mean any roads and lanes 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 landowners or the registered owner of the road itself
- f) "Proponents" shall mean developers, residents, ratepayers or other associations who are requesting the Municipality to upgrade an existing gravel seasonal road, private road, or unassumed road allowance to a municipal road for assumption and maintenance
- g) "Seasonal Roads" shall mean roads that are owned by the Municipality but on which no winter maintenance is performed from October 1<sup>st</sup> through May 31<sup>st</sup> each year
- h) "Unassumed Road Allowance" shall mean a road laid out as per original crown survey of the Municipality that has not been assumed by the Municipality for year round maintenance

**5. Policy Intent**

It is the intent and the policy of the Municipality of Calvin:

- a) to provide minimum standards for all municipal gravel road upgrades within the Municipality
- b) to apply consistently the minimum standard to ensure the quality of road construction
- c) to ensure that all proponents are held to the same standard of quality
- d) to not assume responsibility for or maintenance of any private road except as outlined in this policy. Should Council deem it necessary to assume such a road, it must first be brought up to municipal standards as outlined in Schedule "B"
- e) to not assume on a year round basis any seasonal road or unassumed road allowance. Should Council deem it necessary to assume, on a year round basis, such a road, it must first be brought up to municipal standards as outlined in Schedule "B" (attached)
- f) to provide an equitable and fair process for undertaking any road improvements and collecting the cost of such improvements from the benefitting property owners

**6. Policy and Procedure - Requests for Year Round Maintenance of Seasonal Roads, Private Roads and Unassumed Road Allowance**

When submitting a written petition/application to the Municipality, all documentation and information must satisfy Council that the assumption of the non-assumed road is in the public interest, and that the proponent(s) acknowledges and accepts that any and all costs associated with such assumption are to be borne by the proponent(s), and the following procedures applied.

**CRITERIA FOR COUNCIL**

**1. Written Petition/Application Required**

- a) The proponent(s) requesting year round assumption of a seasonal road, private road or an unassumed road allowance for year round maintenance must be a registered property owner(s) and shall prepare and submit their request in writing by signed petition/application as per Schedule "D" (attached) to Council
- b) Council must be satisfied that 100% of all property owners who will receive direct benefit from the full assumption of the road agree to the undertaking (one owner signature per benefitting property). Requests not supported by 100% of property owners will not be considered
- c) Assumption of less than 500 metres will not be considered unless the roadway links existing municipal roads

**2. Council Considerations** – Without being necessarily limited to the following, Council should consider the following criteria in determining if it is in the public interest to fully assume the Seasonal Road, Private Road or Unassumed Road Allowance:

- a) Does the road serve, or will it serve five (5) or more separate and distinct parcels of land which are being used, or have the capability of being used for the purposes permitted within that zone?
- b) Does the road provide access to a municipally maintained boat launch, beach or other facility promoted by the Municipality for public use?

- 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 in Schedule "B", thus avoiding costly future repairs?
- 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) Council must be satisfied that the North Bay-Mattawa Conservation Authority has been consulted and that all regulations are followed where there could be any interference with wetlands or any alterations to shorelines or watercourses
- i) Has a reference plan been prepared by an Ontario Land Surveyor documenting the lands affected by the proposed assumption?
- j) Has the Municipality received a legal opinion on the ownership status of the subject road and a risk assessment of assuming or not assuming the road?
- k) Has the proponent provided original deeds and certification of title for the lands in question prepared by the proponents Solicitor?

### 3. Responsibilities

- a) All costs associated with the works necessary to meet the minimum gravel road construction standards including but not limited to surveys, administration and legal costs associated with the assumption of the road shall be borne by the proponent(s). Cost estimates will not be provided by Municipal Staff
- b) Prior to proceeding with any work or expense a Council Resolution approving the work and acceptance by the Municipality to maintain once completed shall be required
- c) Upon approval by Council the proponent(s) will be required to submit plans prepared by a Civil Engineer for staff approval
- d) Upon approval by Council Resolution and prior to proceeding with any work, the proponent/s will be required to enter into an Agreement with the Municipality and prepared by the Municipal Solicitor
- e) Once approved the proponent(s) will be required to retain the services of a Civil Engineer or Civil Engineer Consulting firm to facilitate completion of the works in a manner consistent with the approved plans

f) Ongoing municipal inspections will be required during the upgrade process:

- Initial inspection will be completed before any work begins on the road to determine the work to be completed to the current standards
- Interim inspection will be completed when the work is in process to ensure standards are being met
- Final inspection will be undertaken after all said work is completed and any adjustment to the work shall be completed before this inspection takes place

This inspection schedule shall be deemed as the minimum and shall be carried out by the Manager and/or the Municipal Engineer. Spot inspections may be carried out at any time when work is in progress

- g) After final inspection of the road by the Manager and/or the Municipal Engineer the municipality will assume year round maintenance by By-law and the assessment office shall be notified of changes in assessment of property owners on said road
- h) The proponent(s) will be responsible for any defects (other than wear from normal use and as determined by the Manager and/or the Municipal Engineer) in the road that become apparent within the first two years after the assumption of the road by the Municipality
- i) Year round road service will not be provided 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 Schedule "B" to this policy at the expense of the benefitting property owners.

### 4. Costs

- a) All costs incurred by the Municipality, associated with the acquisition of land required, whether from the Crown or private sources, shall be borne by the proponent(s). This will include but is not limited to; all legal costs, survey costs, costs required for realignments, snow plough turnarounds, and the accommodation of service vehicles, etc.

b) Appraisal of Deficiencies – An appraisal of the current state of the road as it compares to the Minimum Municipal Standards/Road Assumption Standards (Schedule “B”) currently in place by the Municipality must be undertaken by the proponent(s) and by an engineer experienced in the field of municipal roadways, with the cost borne by the proponent(s). The appraisal will be reviewed by the Municipality to ensure that all essential deficiencies are identified. The appraisal will include an identification of the costs (at the current date) associated with all essential deficiencies.

#### 5. Agreement

Prior to the commencement of any construction or reconstruction the Municipality and the proponent/s shall enter into an Agreement prepared by the Municipal Solicitor which will be written to address all matters pertaining to the specific road assumption, financial and otherwise.

The Agreement in addition to addressing the technical and financial aspects of the road assumption shall require that:

- The proponent/s shall provide proof to the Municipality that the Contractor is qualified, experienced and has the equipment and personnel to successfully complete the work and provide WSIB Clearance Certificates and adequate liability insurance in accordance with the Municipality’s Procurement By-law, as amended.
- The proponent/s shall obtain all necessary permits and approvals as required. Construction or installation shall not take place until the proponent/s has obtained all necessary permits and approvals, and has complied with all requirements as outlined by the Manager and/or the Municipal Engineer.
- The proponent/s to survey and convey to the Municipality, if non-municipally owned property, free and clear of all encumbrances, title to the land on which the road to be assumed is located, and the said lands shall be not less than 20 metres (66 feet) in width, together with any easements necessary for drainage and utilities.
- In the event the proponent/s fails to proceed with the required construction or reconstruction as identified herein, there shall exist no obligation on the part of the Municipality: to continue with any construction or reconstruction as required, to reimburse the proponent/s for any costs that he/she has incurred with the proposal, or to assume the road or any part thereof into the municipal road system, until such time as all construction or reconstruction as required is completed to the standards as identified herein.
- In the event the existing road is a Private Road then the registered owner/s of the road, if applicable, may also be required to enter into a separate Agreement with the Municipality prepared by the Municipal Solicitor detailing that, once the road work is complete on the Private Road, the title will be transferred to the Municipality free and clear of all encumbrances, save and except for example any registered rights of way.
- Security for the completion of the work shall be a requirement of the Agreement.

## Schedule "B"

### To By-law No. 2017-015

#### Minimum Municipal Standards/Year Round Road Assumption Standards

*Specifications may vary depending on the road area at the discretion of the Manager and/or Municipal Engineer*

Gravel Road Standard (based on Ontario Provincial Standards for Roads and Municipal Services)

Right-of-Way	20 m (66')
Minimum Clearance Width	12 m (40')
Length	500 m (minimum)
Surface Width - including shoulder	8.0 m (1 + 3 + 3 + 1)
Surface Material	100 mm (4") Gravel – Granular "A"
Base Material	150mm (6") Gravel – Granular "B" (depending on sub-grade material)
Culvert	400 mm (16")
Grade	8% Maximum
Cross Fall - Crown to Edge	4%
Turnarounds	13 m (43') radius
Drainage	.5 m depth below granular "B" base elevation outletting to an adequate receiving watercourse or Municipal Drain

#### Notes

1. Each road must be investigated individually by the Manager and/or Municipal Engineer to determine its minimum requirement.
2. Petition/Application must indicate how many residents on the road, how many seasonal, how many year round. Each road must be discussed with individual residents as to needs.
3. Deviations from the minimum standard may be approved by the Manager and/or Municipal Engineer where the deviation will not result in any significant loss of safety or increased maintenance costs to the Municipality. The permitted deviations do not represent the minimum standard.
4. The standards detailed above apply only to year round assumption of existing seasonal roads, private roads or unassumed municipal road allowances and are not the standards applicable to new construction after the date of the adoption of this standard by Council.
5. Where drainage structure greater than or equal to 3m in span cross the seasonal, unassumed or private road, the Municipality will require proof by a qualified engineer that the Bridge Condition Index (BCI) meets or exceeds a minimum rating of 80.
6. Each application for year round maintenance shall be reviewed on an individual basis, and will be subject to a detailed road inspection, in order to identify and address specific requirements not covered in the above standard. Agreements shall be prepared and signed, based on the individual application.

#### Agreement

To be determined based on individual (case by case) application.

## Schedule "C"

### To By-law No. 2017-015



THE CORPORATION OF THE MUNICIPALITY OF CALVIN

Schedule "D"

To By-law No. 2017 - 015

Petition/Application for Year Round Road Maintenance

<b>Road Name:</b>	
<b>Seasonal:</b> Yes <input type="checkbox"/> No <input type="checkbox"/> <b>Unassumed Road Allowance:</b> Yes <input type="checkbox"/> No <input type="checkbox"/> <b>Private:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>Road Length:</b>	
<b>ASSOCIATION NAME:</b> <small>(if applicable)</small>	
<b>PROPERTY OWNERS REPRESENTATIVE:</b> <small>(if applicable)</small>	
<b>NAME OF CONTACT PERSON:</b>	
<b>ADDRESS:</b>	<b>POSTAL CODE:</b>
<b>PHONE:</b>	<b>CELL:</b>
<b>E-MAIL:</b>	<b>FAX:</b>

**Criteria for Requesting Year Round Maintenance:**

*Each road to be discussed with all registered benefitting property owners as to their needs*  
*Each road will be investigated individually to determine condition and requirements*

- Request must be submitted to the Municipality in writing by Petition/Application to Council
- When submitting a written Petition/Application to the Municipality all documentation and information must satisfy Council that the assumption is in the public interest and that the Proponent/s accept that any and all costs associated with such assumption shall be borne by the Proponent/s
- Proponent/s requesting year round maintenance must be the registered property owner/s
- 100% of all property owners receiving direct benefit from the assumption must agree to the undertaking
- One registered owner signature per benefitting property, along with their property identification and contact information is required to be submitted along with the Petition/Application information (Please attach list of names with signatures, property identifiers and contact information to this application)
- Road must be over 500 metres in length
- Road must meet Minimum Municipal Standards for Year Round Gravel Roads prior to assumption

Signature of Contact Person/Representative:

Date: