

# THE CORPORATION OF THE TOWNSHIP OF NIPISSING

## BY-LAW NUMBER 2021-57

### Being a by-law to establish policies for the use of unopened road allowances.

**WHEREAS** the Corporation of the Township of Nipissing is the owner of all road allowances within its jurisdiction;

**AND WHEREAS** the Township of Nipissing, from time to time receives requests from ratepayers to use parts of unopened road allowances for motor vehicle passage purposes and property access uses;

**AND WHEREAS** Township consent is required to improve and use unopened road allowances for a permanent access point to property;

**AND WHEREAS** the purpose of this By-Law is to establish policies with respect to the requirements of the Township of Nipissing if Council approves of an unopened road allowance being used for property access on a permanent basis;

**NOW THEREFORE** the Council of the Corporation of the Township of Nipissing ENACTS AS FOLLOWS:

1. General Policy

It is the general policy of the Township of Nipissing that unopened road allowances shall not be used for motor vehicle travel purposes and that any cutting down of trees or grading or removing of rocks or fill on unopened road allowances is prohibited without the express approval of Council. Any unauthorized work will be considered trespassing and will be prosecuted accordingly.

2. Applications

Council may decide that an Application to use an unopened road allowance merits consideration; the following are the conditions of approval;

2.1 Survey

Applicants are required to, at their expense, have an Ontario Licensed Surveyor survey the road allowance to be sure that the proposed use will not encroach on adjacent lands. A copy of the survey is to be provided to the Municipal Office prior to the commencement of work.

2.2 Applicant's Expense

All work shall be done at the Applicant's expense. In the event that an Applicant fails to pay the costs incurred within six (6) months of Council approval of an application, all outstanding costs will be added to the tax roll and collected in the same manner as taxes pursuant to Section 398 of the *Municipal Act*, c. 25, S.O. 2001, as amended.

2.3 Application Costs

An Administration Fee of \$500 will be submitted with the application package. Once approved, the Applicant will receive instruction to submit a \$1,500.00 refundable deposit to the Township. This deposit is intended to cover any legal, planning, advertising or consultant costs associated with the application that may be billed to the Township.

2.4 Outline of Proposed Work

The Applicant shall prepare, and submit with the application package to Council for approval, a summary of the proposed work program including width, scope of work and special attention for any environmentally sensitive areas in the subject area. The work shall be completed within one year from the date of the approved application, with a possible extension of one additional year.

2.5 No Assumption by the Township of Nipissing

Once the work is approved by Council and completed by the Applicant and access is possible, it is not a road which is "assumed" by the Township of Nipissing.

- 2.6 Inspection  
The Township of Nipissing will inspect the work only to the extent to make certain that the Applicant has followed Council's direction.
- 2.7 Posting of Sign  
The Applicant shall be required to post signs "ROAD NOT ASSUMED BY THE TOWNSHIP OF NIPISSING, USE AT OWN RISK". If these signs are removed, they shall immediately be replaced by the Applicant.
- 2.8 Insurance  
The Applicant shall obtain liability insurance (minimum \$5,000,000, five million dollars), with respect to the use of the unopened road allowance, and file a copy with the Township of Nipissing. The Township of Nipissing must be added as an additional insured on the policy. The insurance company must give an undertaking that the policy will not be cancelled or terminated without 30 days' notice to the Township of Nipissing. A copy will be provided to the Municipal Office on an annual basis.
- 2.9 Waiver of Liability  
The Applicant must enter into an Agreement with the Township of Nipissing waiving, releasing and discharging the Township of Nipissing of and from all claims, actions, causes of actions and damages for death, personal injury or damage to property arising out of the use of the unopened road allowance.
- 2.10 Removal of Timber  
Timber removal from the unopened road allowance is the property of the Township of Nipissing and must be purchased from the Township of Nipissing at the determination of the Township of Nipissing Municipal Administrator. All trees and brush must be removed and any ditching required must be completed by the Applicant.
- 2.11 Standards of Construction  
Should the proposed project affect the entrance/egress to a property, a road surface is to be a minimum of 12 feet in width; cleared width is to be minimum 20 feet and a turn-around is to be built sufficient to allow Emergency vehicles to maneuver.
- 2.12 Crown Land  
Where any part of an entrance is intended to cross an unopened township road allowance and also cross Crown land, the proponents must provide written confirmation that the Province of Ontario has no objection to the project being proposed and application being submitted.
- 2.13 Complete Application  
All application packages shall be submitted to the Township of Nipissing Office. Each package shall contain a completed Application Form, as attached to this By-Law and forming "Schedule A"; a rough sketch, may be hand-drawn, of the proposed area of use; and the Administration Fee of \$500.00 (non-refundable). The Municipal Administrator will review the package for completeness, advise the Applicant of any deficiencies if applicable, and place the item on the next available Council Agenda.
3. Further Conditions  
Council shall add such additional conditions as it deems necessary having regard to the circumstances and area in which the proposed work is located.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 7<sup>th</sup> DAY OF DECEMBER, 2021.**

  
\_\_\_\_\_  
Tom Piper, Mayor

  
\_\_\_\_\_  
Kris Croskery-Hodgins, Municipal Administrator

**TOWNSHIP OF NIPISSING**

**APPLICATION  
To Use an Unopened Municipal Road Allowance**

**PROCEDURES  
Effective January 1, 2022**

1. **The Application**

- a) Complete the following application form and return it to the Clerk with an Application Fee of \$500.00 (non-refundable), payable to the Township of Nipissing.
- b) Provide as much detail as possible, i.e. plans, sketches, etc.
- c) Include a legal description of the property – lot, concession and a copy of your Transfer.
- d) Include a survey of the Applicant’s lot if one is available. Hand-drawn project proposals are acceptable at this point of the process.

2. **Next Steps**

Staff will review the application package submitted. The Official Plan, Zoning By-Law and Provincial Policy Statement will be consulted for permitted use. Once the review is complete and staff recommendations are prepared, the item will be placed on the next available Council agenda.

3. **Council Determination**

- a) Council will consider the application. If they find favour, they will “approve it in principle” and forward the documentation to their solicitor for investigation and processing.
- b) If Council does not approve, the application will be denied.

4. **Deposits – A Summary**

- a) On Application \$500.00  
A Non-Refundable Application fee for preliminary investigation prior to the Application going on Council’s agenda.
- b) Legal and Planning Deposit (refundable) \$1,500.00

**NOTE 1:** File will be put on hold until the deposit for legal and planning expenses has been paid.

**NOTE 2:** This money to be paid within thirty (30) days of Council’s “approval in principle”.

6. **Survey Plan**

Applicants are to instruct their surveyor to prepare a draft survey plan. The Township’s solicitor will provide you with an instruction sheet for this purpose.

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7. **Municipal Solicitor**

Will prepare an agreement for the use of the Unopened Municipal Road Allowance.

8. **Next Steps**

Any outstanding expenses shall be paid prior to the completion of the Use Agreement. Upon completion of the agreement for use, the Applicant will arrange for Insurance documents to be completed and submitted to the Township of Nipissing Office. Signage will be put in place as per the policy of use.

9. **A Word of Caution**

When our lawyers and planners do their investigation, sometimes the most unusual issues turn up and these have to be resolved which adds to the cost of the process. The most common issues are easements required by Hydro One or Bell Canada, but it could be title problems, objections by neighbours, etc.

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**TOWNSHIP OF NIPISSING  
APPLICATION**

***Use of Unopened Municipal Road Allowance***

1. Property Description: \_\_\_\_\_
  2. PIN Number: \_\_\_\_\_
  3. ROLL Number of adjacent property: 4971-000- \_\_\_\_\_
  4. Name of Applicant: \_\_\_\_\_
  5. Address of Applicant: \_\_\_\_\_
  6. Telephone Number: \_\_\_\_\_
  7. Proposed Project and Use of Property:  
(You may attach a separate proposal)
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**INSTRUCTIONS**

1. Please fill out the above Application.
2. Forward your Application and cheque made payable to the Township of Nipissing, for the sum of \$500.00, to the Municipality. It will be applied towards any costs incurred by the Municipality, whether the transaction is finalized or not.
3. If there are no issues, our Solicitor will contact you with instructions regarding:
  - a) a survey
  - b) a further deposit of \$1,500.00

DATE: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant