

THE CORPORATION OF THE TOWNSHIP OF MACHAR

BY-LAW NO. 17-12

Being a by-law to control the use of open and unopened road allowances for any commercial use, including logging and log hauling purposes in the Township of Machar.

WHEREAS the Corporation of the Township of Machar deems it necessary to control the use of open and unopened road allowances within the boundaries of the said Corporation for the purpose of commercial use, including logging and log hauling;

NOW THEREFORE the Council of the Corporation of the Township of Machar enacts as follows:

1. Definitions

In this By-law:

1.1 "**Contractor(s)**" means any person, company or firm engaged in providing labour, equipment, materials or any other work or materials as necessary to complete the work described;

1.2 "**Letter of Credit**" means a written commitment issued by a certified financial institution;

1.3 "**Liability Insurance**" means a certified copy of a policy of insurance or a certificate of insurance issued by a company authorized to carry on the business of insurance in the Province of Ontario in accordance with the Insurance Act, R.S.O. 1990, c.I.8 as amended, that shows the proof of liability coverage as required;

1.4 "**Obstruction**" means to hinder, interfere with or otherwise obstruct, either directly or indirectly, an officer, employee of the Township and/or agent in the lawful exercise or power or duty under this By-law;

1.5 "**Officer**" means a person or persons appointed or designated as such by the Council of the Corporation of the Township of Machar;

1.6 "**Owner**" includes:

(a) The person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the person's own account or as agent or trustee of any other person, or who would so receive the rent if such land and premises were let, and;

(b) A lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property.

1.7 "**Remedial Action**" means repaired or upgraded to "**Township of Machar Standards**" means the standards that are set by the Municipality and the Ontario Provincial Standards Specifications; Township of Machar Standards shall take precedence over the Ontario Provincial Standards Specifications;

1.8 "**Road Allowance(s)**" means all road allowances made by the Crown surveyors that are located in municipalities and all road allowances, highways, streets and lanes shown on a registered plan of subdivision;

1.9 "**Superintendent**" means the Superintendent of Public Works, their designate or other authorized representative;

2.0 Unauthorized Use

2.1 Unauthorized use of minimum and non-maintained roads or road allowances for any commercial use, including hauling and or storage of logs is prohibited.

3.0 Temporary Use

3.1 The Municipality may grant authority for the temporary use of minimum, non-maintained roads or road allowances. No person shall access minimum, non-maintained roads or road allowances without meeting the following requirements:

a) written request or application submitted to the Superintendent of Public Works;

b) an acceptable "Letter of Credit" provided in the amount of \$3,000.00;

c) liability insurance in favour of the Corporation in the amount of Five-Million Dollars (\$5,000,000.00);

3.2 Contractor/Owner shall ensure the removal of all brush and debris and repair any damages to the 66 foot road allowance and leave same in a neat and tidy condition.

4.0 Remediation

4.1 Where the owner is in default of doing any matter or thing directed or required to be done under this By-law, an officer may direct the completion of such at the owner's expense.

4.2 Where any matters or things are removed in accordance with subsection 4.1, such matters or things may be immediately disposed of by the Officer.

4.3 The Township may recover the remedial action cost incurred under subsection 4.01 by action, or by adding them to the tax roll and collecting them in the same manner as taxes in accordance with Section 446 of the Municipal Act.

4.4 The Township may, prior to recovering costs incurred in subsection 4.01 pursuant to Section 446 (3) of the Municipal Act by adding costs to the Municipal taxes, invoice owners requesting voluntary payment of said remedial action costs.

5.0 Offences

5.1 Every person who is convicted of an offence under this by-law shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) for each offence. Such fines shall be recoverable under the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

6.0 Penalties

6.1 The provisions of this By-law may be enforced pursuant to the provisions of the Provincial Offences Act, R.S.O. 1990, P.33 as amended, and where any provision of this By-law is contravened and a conviction entered, in addition to any other remedy and to any other penalty may also be prohibited from continuing or repeating the offence in accordance with the provisions of s 444 of the Municipal Act S.O. 2001, c.25, as amended.

6.2 Every person who is guilty of an offence under this By-law may, if permitted under the Provincial Offences Act RSO 1990, c. P.33, as amended, pay a set fine, and the Chief Judge of the Ontario Court, Provincial Division, shall be requested to establish set fines as set out in Schedule 'A' to this By-Law.

7.0 Obstruction

7.1 In accordance with the provisions of the Municipal Act S.O. 2001, c.25, as amended, Section 426(1), no person shall hinder, interfere with or otherwise obstruct, either directly or indirectly, an officer, employee of the Township and/or agent in the lawful exercise or power or duty under this By-law.

8.0 Township Not Liable

8.1 The Township assumes no liability for property damage or personal injury resulting from remedial action or remedial work undertaken with respect to any person or property that is subject of this By-law.

Contractors and or Owners agree to indemnify and save the Municipality harmless from and against all claims, demands, damages, costs, losses, charges and expenses which the Corporation may incur or be liable for in consequence of any claim or demands arising from the use of the passage over, along and upon the said roadway.

9.0 Validity and Severability

9.1 Should any section, subsection, clause, paragraph or provision of this By-law be declared by a Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of the enforceability of any other provision of this By-law, or of the By-law as a whole.

10.0 Separate Offence

10.1 For the purpose of this By-law, each day of a continued offence shall be deemed to be a separate offence.

11.0 Short Title

11.1 This By-law may be cited as the “Logging By-law” of the Corporation of the Township of Machar.

READ a FIRST & SECOND time, this **23rd** day of **April 2012**.

.....
Mayor Doug Maeck

.....
Clerk-Administrator Brenda Paul

READ a THIRD time, PASSED and ENACTED this ____ day of _____.

.....
Mayor Doug Maeck

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Clerk-Administrator Brenda Paul