



THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BYLAW 1010

BEING A BYLAW TO ESTABLISH CRITERIA AS A BASIS
FOR THE CONSIDERATION OF THE ASSUMPTION OF
PRIVATE ROADS AND TO FORMALIZE THE PROCESS FOR
APPLICATION TO HAVE A PRIVATE ROAD CONSIDERED
FOR ASSUMPTION.

WHEREAS section 50(2) of the Cities, Towns and Villages Act, 2004, as amended, authorizes a municipality to exercise its rights and powers in accordance with this Act by By-Law.

AND WHEREAS section 53(1) of the Cities, Towns and Villages Act, 2004, as amended, provides a municipality the ability to acquire real property;

AND WHEREAS the Corporation of the Town of Fort Smith deems it necessary to establish standards for private roads that the municipality may consider assuming;

AND WHEREAS the Corporation of the Town of Fort Smith deems it necessary to establish a procedure for the **Assumption of "Private Roads" Into The Municipal Roads Systems;**

AND WHEREAS the Corporation of the Town of Fort Smith must maintain standards of quality on the Town roads;

NOW THEREFORE the Council of The Corporation of the Town of Fort Smith enacts as follows:

1. The procedures for the Assumption of Private Roads into the municipal roads system (attached as Schedule "A" to this by-law) be adopted; the Road Assumption Application attached as Schedule "B" and the agreement for the Private Road Assumption attached as Schedule "C";
2. The Road Assumption Standards (attached as schedule "D" to this by-law) be adopted;
3. No private road will be assumed that is not applied for in accordance with Schedule "A" or that does not meet the standards established in Schedule "D" unless approved by Council at their discretion; and
4. That the Road Take Over Policy 10.3 and Bylaw 878 be hereby repealed.

READ A FIRST TIME THIS 15th DAY OF December, 2020 A.D.

READ A SECOND TIME THIS 15th DAY OF December, 2020 A.D.



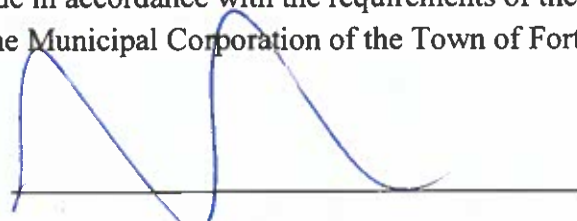
**THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
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READ A THIRD TIME THIS 19th DAY OF January, 2021 A.D.


MAYOR


SENIOR ADMINISTRATION OFFICER

I hereby certify that this bylaw has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the bylaws of the Municipal Corporation of the Town of Fort Smith.


SENIOR ADMINISTRATIVE OFFICER



**THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
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Schedule "A"

Procedure for the Assumption of "Private Roads" into the Municipal Roads System

1. Definitions

"Administration Fees means the charges billed by the municipality to the owner of the private road representing the employee related costs of proceeding with the application.

"Committee" means the committee of Council responsible for public works.

"Municipality" means The Corporation of the Town of Fort Smith.

"Private Road" means a road used by the public, the soil of which is not owned by the municipality.

2. Road Assumption Costs

i) Road Allowances

All costs incurred by the municipality, associated with the acquisition of the land required for the road. This would include areas for realignments, parking lots, snowplough turnarounds and the accommodation of service vehicles, etc.

ii) Survey

All survey costs shall be borne by the property owner. All direction to the surveyor shall be issued by the municipality.

iii) Municipal Satisfaction

The terms of the acquisition of private or public land for the road allowance shall be to the satisfaction of the municipality. This includes private property issues that are not evident upon initial application, but are discovered during the survey process. Private land resolutions will be administered by the municipality, but all associated costs will be borne by the property owner.

iv) Appraisal of Deficiencies

An appraisal of the current state of the road (Appraisal of Deficiencies) as it compares to the Road Assumption Standard (Schedule "D") currently in place with the municipality must be undertaken by the property owner and by an engineering firm experienced in the field of roadways, with the cost borne by the property owner. The appraisal will be reviewed by the Town to ensure that all essential deficiencies are identified. The appraisal will include an identification of the costs (at current date) associated with all essential deficiencies.

3. Cost Estimates by Municipality

The municipality shall provide the property owner with an estimated costing including the legal survey, legal fees, costs for the establishment of the road allowance and any additional directly related costs.

4. Commencement of the Assumption Process

The municipality will proceed with the assumption process at its sole discretion after completion of all steps listed in Section 8.3 below and the passing of a By-Law.



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5. Maintenance Before Assumption

The maintenance of the road which is the subject of an application shall remain the sole responsibility of the property owner until all requirements for assumption by the municipality have been satisfied and Council has finally passed a By-Law for the assumption of the road into the municipality's road system.

6. Method of Payment

Each property owner to have an option of:

- a) A lump sum payment within one hundred and twenty days of commencement of the assumption process as outlined in Section 3; OR
- b) Payment of one half (1/2) the total assumption costs and payment of the remaining costs, as estimated by the Town and based on the engineering reports, spread over five years as a local improvement charge within the property tax system.

7. Procedure for the Assumption of a Private Road

a. Municipal Application

The property owner shall make application to the Director of Municipal Services together with an application fee in the amount specified in the Fees By-Law.

The appraisal of deficiencies as set out in Section 2 should also be included with the application, along with a detailed map of the area showing the road in question.

b. Municipal Consideration

The Director of Municipal Services together with the SAO shall assess whether the request for assumption substantiates further review. If it is determined that the request does not substantiate further review, the property owner will be advised accordingly. An appeal of denial of the request may be submitted in writing to the Municipal Services Standing Committee.

c. Application Substantiating Further Review

If it is determined that the application warrants further review, the Town will undertake an assessment of the application taking into consideration, but shall not be limited to the following:

- i) The total dollar assessment and tax revenue for the area serviced by the road and the estimated additional tax revenue as a result of property upgrades resulting from the municipal road;
- ii) A review of the Appraisal of Deficiencies as compiled by the association and supported by a private civil engineering company and reviewed by the Town, will be undertaken to identify deficient sections and prorate them over the entire length of the road to arrive at a ratio of the proportion of deficiencies;
- iii) A schedule for the elimination of deficiencies will be compiled by the municipality. The schedule will identify the deficiencies to be eliminated by the property owner prior to assumption, in the five year period following the assumption, and any deficiencies that are permitted to remain;
- iv) A Lands Department review of economic impact with respect to future development of vacant lots and redevelopment of existing lots;



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- v) A determination of maintenance costs;
- vi) Potential for use by school buses and emergency vehicles;
- vii) Traffic volume.

d. Council Committee Report

The information collected above will be compiled and submitted in a report, with a recommendation from the Director to the Municipal Services Standing Committee. If the committee denies the application, the property owner will be advised. If the committee and Council approve the application, the events outlined below will be followed.

e. Road Assumption Process

A checklist of events required to be met to accomplish the transfer shall be forwarded to the property owner and shall include, but shall not be limited to the following:

- i. The determination of realignment/right of way requirements;
- ii. Provision of estimates required by the municipality;
- iii. Surveying and land transfer process commences;
- iv. The acceptance by the property owner of the content of the Schedule for the Elimination of Deficiencies, including written confirmation that any failure to comply prior to the assumption will cease the process and any failure after assumption will result in the municipality undertaking the work and applying the costs to applicable tax accounts;
- v. A copy of the survey submitted to the municipality;
- vi. A By-Law to authorize the assumption for use by public will be passed;
- vii. The scheduling of any post assumption works must first be approved by the municipality;
- viii. The Schedule of Elimination of Deficiencies will be reviewed annually to verify compliance with the deficiencies identified therein;
- ix. All prior and post assumption works undertaken must be completed to the satisfaction of the municipality.

f. Annual Review

The Town staff will undertake an annual review of the checklist of events required to accomplish the transfer.

- i. If the schedule is adhered to and the work performed meets the requirements of the municipality, the process will continue accordingly.
- ii. If compliance with the checklist does not occur, the municipality will undertake the required works and apply the costs the applicable tax accounts.



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Schedule "B"

Road Assumption Application

Explanation

Upon receipt of this and any other information specific to your situation, this application shall be submitted to the Director of Municipal Services for a high level review. Should the Director see merit in the application, an assessment will begin.

Please provide the following:

Applicant _____

Road Name: _____ Road Length: _____

Location: _____

Number of Direct Benefactors: _____

Current Annual Road Maintenance Costs: _____

Please attach a brief description of the nature of annual maintenance and improvement undertaken on your road.

Please attach written comment by a Civil Engineering Company experienced in the field of Roadways on the merits of this application.

Date Application Fee Submitted: _____



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Schedule "C"

Property Owner's Agreement for Private Road Assumption

Cost of Road Assumption

- a) A cost estimate prepared by the Town including the costs of engineering, surveying, land purchase and administration has been provided to you.
- b) Cost of Assumption under
- a. Option 1 Total Cost Per Lot \$_____
- b. Option 2 Lump Sum Payment of \$_____ and
- Annual 5 Year Payment of \$_____.

Approval:

Applicant Name: _____

Address: _____

Assessment Roll Number: _____

Approve Option _____ Signature: _____



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Schedule “D”

Road Assumption Standards

