

CORPORATION OF THE TOWNSHIP OF RYERSON

BY-LAW # 60-14

BEING A BY-LAW TO ADOPT MINIMUM MAINTENANCE STANDARDS FOR  
MUNCIPAL HIGHWAYS

WHEREAS Section 44(1) of the Municipal Act, R.S.O. 2001, states that municipalities shall keep all highways and bridges in a state of repair that is reasonable in the circumstances including the character and location of the highway and bridge;

AND WHEREAS Section 44(4) provides that the Minister of Transportation may by regulation establish minimum standards for the repair of highways and bridges, or any class of them;

AND WHEREAS the Minister has done so in Ontario Regulation 239/02 by prescribing standards for Classes 1 through 5 of highways, the class of highway being determined by the average annual daily vehicle use on a given road;

AND WHEREAS the Minister did not prescribe maintenance standards for Class 6 highways where the average annual daily vehicle use is under 50 vehicles and the maximum posted speed limit is 80 km/hr; but it is necessary for the Township to do so;

AND WHEREAS Section 35 states that a municipality may pass By-laws restricting the common law right of passage by the public over a highway and the common law right of access to the highway by the owner of land abutting a highway;

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

1. CITATION AND SCHEDULES: This By-law shall be cited as the "Ryerson Road Status and Maintenance By-law". Schedule A, being Ontario Regulation 239/02 and any amendment thereto, is hereby incorporated by reference into this By-law. Schedule B showing Public Roads, average annual daily vehicle counts, and the Class of various roads is annexed to and forms part of this By-law. Schedule C being a plan depicting the location and extent of Public Roads of each Class within the Township is annexed to and forms part of this By-law.
2. DEFINITIONS: In this By-law the following words and phrases have the meanings defined herein:
  - a. "Public Road" means a "highway" within the meaning of the Municipal Act of Ontario, 2001, as amended, which is under the jurisdiction of the Township of Ryerson.
  - b. "Public Road Allowance" means an allowance for a road surveyed by the original Crown surveyors of the Township or subsequently conveyed and dedicated as a Public Road that is located within the Township of Ryerson and which is recorded in the records of the Land Registry Office as being owned by the Corporation of the Township of Ryerson or the municipality having jurisdiction over such road allowance.
  - c. "Trespass Road" is as defined in Section 5.

- d. "Legacy Road" is as defined in Section 8.
- e. "Private Road" means a road that is neither owned by the municipality nor is a trespass road.
- f. "Private Access Driveway" means a driveway opened in modern times on a Public Road Allowance with the permission of the municipality and used to access one or more private properties with the understanding that the municipality may never assume responsibility for its maintenance. See Section 9 for more detail.

## PART I --- GENERAL

3. ROAD CLASSIFICATION: Public Roads within the Township shall be classified as per Schedule A, based on the following two factors:
  - a. Maximum speed limit – as defined by the Township's Rate of Speed By-law 9-13, as amended.
  - b. Vehicle Use – as defined by the Average Annual Daily Traffic (AADT), counted once every three years by the Township. For roads with high seasonal vehicle use, AADT will be counted in both the summer months and in the off-season, and assigned the more restrictive class based on the higher of the two traffic counts
  
4. MAINTENANCE STANDARDS: Public Roads within the Township shall be maintained to the minimum standards prescribed in this By-law. For Public Roads identified as falling within Classes 1 through 5 on Schedules B and C to this By-law, the maintenance standards shall be those set out in Schedule A as prescribed by the Minister of Transportation in Regulation 239/02. For Public Roads falling within Classes 6A, 6B, 6C, and Legacy Roads, the maintenance standards shall be those prescribed in Part II of this By-law below.
  
5. SOUTH HORN LAKE ROAD: Ryerson Township shall maintain two sections of South Horn Lake Road, as identified in Schedule C, to the minimum standards prescribed by the Minister in O.Reg 239/02 from the end of the plowing/sanding season in the spring to first snowfall. Magnetawan Township shall be responsible for the maintenance of Ryerson's portions of South Horn Lake Road for the remainder of the season through a boundary road agreement.
  
6. POLICY PRINCIPLES: In carrying out its responsibilities to maintain Public Roads and bridges the Township will adhere to the following policies:
  - a. Operational activities of the Roads Department shall be directed to maintain the Township's Public Roads to the prescribed standards herein. Care shall be taken first to assure that the minimum standards are maintained and secondly that such services are efficiently and effectively rendered.
  - b. Neither this Township nor its officials make any promises or assurance that Public Roads or any Public Road in particular will be maintained in excess of the minimum standards herein defined now or in the future. The fact that the Township may, and indeed hopes, to exceed those standards, when the resources available permit it to do so, does not change the minimum standards prescribed herein.

- c. Notwithstanding the classification system established by the Province in Schedule A based upon the average annual daily vehicle use of the road, Council may re-classify a given portion of road to a higher class than the vehicle use would indicate. In such cases, the road or portion of road shall be shown as belonging to a higher Class in Schedules B and C and the minimum standards applying to that higher Class shall be the road's minimum maintenance standard.
  - d. The standards and road classifications shall be made publicly available to ratepayers and other users of the municipal road network. Council will review concerns about the standards and their implementation within a reasonable time when they are brought to its attention.
  - e. Budgets and Council priorities shall be set on the basis that the minimum maintenance standards prescribed herein must be met.
  - f. Where the Township is asked to upgrade the minimum maintenance standards of a particular Public Road, it will generally do so on the basis that the average annual daily usage of the road has significantly increased and places it in a higher Class as prescribed in Schedule A.
  - g. Where the Township is asked to accept a Private Road into the municipal road system, and agrees in principle to do so, it will generally require the proponents to first bring the road to specified standards as to design, roadbed, and surface, at the proponents' own expense.
7. TRESPASS ROADS: Where all or a portion of a Public Road is not located within a surveyed road allowance of which the Township is a registered owner, it is generally known as a "Trespass Road" which has the following special characteristics:
- a. The Law recognizes that a past owner or owners of the adjoining lands gave permission for the road to be placed in that location which is a dedication of land for road purposes; but the amount of land so dedicated, in particular its width, is not apparent. The surface rights to improvements made with public money or statute labour are owned by the Township. However, the underlying title to subsurface rights and lands adjoining such improvements remains with the adjoining landowner(s).
  - b. Trespass Roads pose a particular problem for the Township because its right to widen, straighten, ditch or otherwise improve such roads is legally constrained by complex issues of fact and law. Trespass Roads can generally not be maintained to the same standards as other roads.
  - c. It shall be the policy of the Township to acquire title to a standard 66-foot wide allowance normally centred on any existing travelled road where it can do so in a cost effective way as, for example, a condition of severance consent. The acquisition of such right-of-way is for prudent future planning and does not indicate any intention to improve the road at any specific time.
  - d. Where part of a Public Road is a Trespass Road and the remainder on Township-owned road allowance, safety may dictate that it be maintained consistently along its length so that inappropriate use is not encouraged.

PART II --- CLASS 6 ROADS, LEGACY ROADS  
AND PRIVATE ACCESS DRIVEWAYS

8. CLASS 6 ROADS: Public Roads where the average annual daily vehicle use is less than 50 vehicles and the maximum posted speed limit is 80 km/hr are Class 6 Roads. The Province has not prescribed minimum maintenance standards for such roads in Schedule A to this By-law; but there are many Class 6 Roads within the Township. The Township divides Class 6 Roads into three sub-categories, as identified on Schedules B and C:
- a. Class 6A Roads are those that are maintained on a year-round basis;
  - b. Class 6B Roads are those that are maintained on a year-round basis but with limited winter service, for reasons including low traffic volume and poor road geometry;
  - c. Class 6C Roads are those that are maintained only on a seasonal basis.
9. MINIMUM MAINTENANCE STANDARDS FOR CLASS 6A, 6B, and 6C ROADS:
- a. Where such roads are Class 6B or Class 6C Roads they shall remain so until Council decides otherwise.
  - b. Class 6B Roads shall have limited snow removal and limited minimum maintenance from the first snowfall until half-load restrictions on the Township Public Roads are removed the following spring, and shall be signed accordingly. The Maintenance Season for Class 6B Roads shall be the remainder of the year.
  - c. Class 6C Roads shall have no snow removal and no minimum maintenance from the first snowfall until half-load restrictions on the Township Public Roads are removed the following spring, and shall be signed accordingly. The Maintenance Season for Class 6C Roads shall be the remainder of the year.
  - d. The minimum standard for frequency of patrolling to check for conditions mentioned in Schedule A to this By-law is:
    - i. Class 6A and 6B Roads - once in every month
    - ii. Class 6C Roads - immediately before or as soon as practicable after the commencement of the Maintenance Season and thereafter once in every month during the Maintenance Season.
  - e. The minimum maintenance standard for correcting conditions mentioned in Schedule A to this By-law on Class 6 Roads during the Maintenance Season, shall be those prescribed in Schedule A for Class 5 Roads PROVIDED THAT the time periods prescribed in Schedule A shall be deemed to commence upon the completion of all corrections of similar conditions on Township Public Roads classified in Schedules B and C as:
    - i. for Class 6A Roads - Class 5 or higher;
    - ii. for Class 6B and 6C Roads - Class 6A or higher.
10. LEGACY ROADS: A number of roads were opened in the Township during its initial settlement period in the 19<sup>th</sup> and early 20<sup>th</sup> centuries to provide access to farms, homes, riverboat stops and other land uses which have long since been abandoned. Where the approximate location of such roads is known they have been shown on Schedule C and identified as "Legacy Roads" The Township's policy with respect to such roads is as follows:

- a. They were generally created for use by pedestrians, horses, other animals and animal drawn vehicles. Such roads have been used during the last century, if at all, on an intermittent basis by loggers, hunters and recreational off-road vehicles. They are generally unsuitable for use by ordinary vehicles engineered to be operated on modern roads.
- b. Many such roads are Trespass roads. There are few or no actual records of public money or statute labour having been expended on them in the past. Physical evidence of their exact location and width is minimal and has often been destroyed by the work of private parties such as loggers, the registered landowner(s) and users of recreational vehicles. In these circumstances, the legal right of the Township to maintain and improve such roads without the consent of the current adjoining landowner(s) is in significant doubt.
- c. The Township wishes to preserve the right of the public to use such roads for hiking, hunting, logging, snowmobiles and other off-road vehicles on the basis that such roads are not maintained by the Township and their use is at the sole risk of the user.
- d. It is possible that future development of the Township may make it reasonable to reopen or improve such roads, with co-operation of the adjoining landowner(s) where they are Trespass Roads.
- e. A section of a Legacy Road that has been deeded to the Township will be treated the same as any other Legacy Road in this By-law.
- f. The Township will not provide any ongoing maintenance of Legacy roads, though minor maintenance may be provided from time to time at the discretion of Council. If a decision is made to provide ongoing maintenance in the future, a Legacy Road will be upgraded to the appropriate Class.

11. PRIVATE ACCESS DRIVEWAYS: Council will occasionally grant permission for the construction of a Private Access Driveway on a Public Road Allowance. The Township's policy with respect to such driveways is as follows:

- a. The Township wishes to preserve the right of the public to use Public Road Allowances for hiking, hunting, logging, snowmobiles and other off-road vehicles, regardless of the presence of any Public Access Driveway.
- b. Permission for the construction of a Public Access Driveway will always be in writing and usually in the form of an agreement registered on title to the private lands to be accessed by the driveway. The agreement will make clear that the Township may never assume responsibility for the maintenance of anything constructed thereon and that the owners and their successors in title shall indemnify and save the Township harmless from any claims made by users of the driveway.
- c. It is possible that future development of the Township may make it reasonable to reopen or improve these Public Road Allowances. If a decision is made to do so in the future they will be upgraded to the appropriate Class.
- d. The Township may provide limited maintenance to a Private Access Driveway from time to time based on the specific use and needs of the Public Road Allowance.

PART III --- OFFENSES

12. WORK ON PUBLIC ROAD ALLOWANCES: Every person who performs work or makes any change or improvement on any part of a Public Road Allowance within the Township of Ryerson without a written permit from the Township authorizing such work is guilty of an offence.
13. WORK ON TRESPASS ROADS: Every person who performs any work or makes any change or improvement to a Trespass Road as described in paragraph 5 of this By-law without a permit issued by the Township and the written permission of all adjoining landowners is guilty of an offence. The requirement of written permission from adjoining landowners does not apply to the Township itself or its agents.
14. INTERFERENCE WITH LAWFUL USE: Every person who erects any barricade on a Public Road including a Legacy Road or prevents the lawful use thereof by actions or threats of actions is guilty of an offense unless such closure is made by or on the instructions of a peace officer or the Township of Ryerson for reasons of maintenance or public safety.
15. PUNISHMENT: Upon conviction of an offense created in this Part, under the Provincial Offences Act or any successor thereto, every person including a corporation shall be liable to pay a fine not less than \$500 and not more than \$100,000. Every occurrence of an action prohibited in this Part shall be a separate offence.
16. REPEAL: By-law 54-13 is repealed, effective upon the coming into force of this By-law.

Read a First, Second, and Third  
Time, Signed and the Seal of the  
Corporation affixed thereto and  
finally passed this 4<sup>th</sup> day of  
November, 2014

Original signed by Glenn Miller

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REEVE.

Original signed by Glenn Miller

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CLERK.