**THE CORPORATION OF THE TOWNSHIP OF BURPEE AND MILLS**

**Bylaw No. 02-2021**

**Being a bylaw to establish a Policy on the use of Unopened Road Allowances**

WHEREAS, Section 44 of the Municipal Act, 2001, S.O.2001, Chapter 25, as amended imposes on local municipalities the obligation to manage and maintain the Public Road System lying within the boundaries of the Municipality;

AND WHEREAS, Section 35 of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended provides that a municipality may remove or restrict any common law rite of passage over any public highway with the boundaries of the Municipality;

AND WHEREAS the Municipality receives requests from time to time from Ratepayers and other interested parties for permission to use portions of or upgrade unopened road allowances lying within the boundaries of the Municipality;

AND WHEREAS a significant portion of the municipal budget is expended on the maintenance of the road system and the only effective way to maintain control over current road expenditures and liability for future maintenance costs of the road system is to ensure that new roads are only added to the road system on a cost effective basis;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF BURPEE AND MILLS ENACTS AS FOLLOWS:

**1**. **SHORT FORM NAME**

1.1 THAT this By-law may be cited as “The Township of Burpee and Mills policy of Unopened Road Allowances”.

**2**. **SCHEDULES**

2.1Schedules attached to and forming part of this Bylaw

Schedule “A” – Policy on the use of Unopened Road Allowances

 Schedule “B” – Acknowledgement Form

 Schedule “C” – Sample of Consent Letter

2.2. THAT Schedules “A”, “B”, “C” and may be amended from time to time by a resolution passed by Council for the Township of Burpee and Mills without an amendment to this bylaw.

**3. EFFECTIVE DATE**

3.1 THAT this Bylaw take effect upon its adoption.

**4. SEVERABILITY**

4.1 In the event that section or sections of this bylaw thereof are found by a Court of competent jurisdiction to be invalid or ultra vires, such section, sections or parts thereof shall be deemed to be severable, with all other sections or parts of this bylaw remaining in the full force and effect.

**READ A FIRST AND SECOND TIME AND FINALLY PASSED THIS \_\_\_\_\_\_\_\_\_\_\_DAY OF**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2021.**

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Ken Noland, Reeve

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Lynn Jackes, Deputy Clerk-Treasurer

**SCHEDULE “A” TO BYLAW NO. 02-2021**

**“The Township of Burpee and Mills Policy on use of Unopened Road Allowances”**

The following provisions shall apply:

1. The Municipality will consider allowing the opening of an unopened road allowance where any potential users are prepared to pay the cost of construction and ongoing maintenance of the road allowance in accordance with Schedule “B” attached.
2. Applications for permission to use an unopened road allowance shall be submitted in writing to the Clerk-Treasurer. The application must state the intended use, the applicant’s interest in the allowance, and be accompanied by an accurate location and description plan.
3. As part of the supporting documentation it will be necessary for the applicant(s) to obtain the signed, dated consents of the adjoining property owners with respect to the use of the unopened road allowance and in particular it must be indicated that such owners have no objections to the proposed use of said road allowance.
4. If permission is granted by Council to use the unopened road allowance, the following policies shall apply, as determined by the Municipality;
	1. Any Municipal, Provincial or Federal requirements dealing with Environmental Protection and all other issues shall be met at the expense of the Applicant.
	2. The actual location of the allowance is the responsibility of the applicant and shall be required to be identified by a registered plan of survey, at the expense of the applicant

and shall be presented to the Road Superintendent prior to any work beginning.

* 1. If a new entrance way is required, the applicant shall apply for an entrance permit with the Roads Superintendent of the Municipality (this includes a $100.00 refundable deposit upon approval of the completed entrance) and/or the Ministry of Transportation. When entry is upon a roadway not under the jurisdiction of the Municipality, the standards and specifications of the Ministry of Transportation shall apply.
	2. The applicant shall acknowledge in writing that any and all improvements to the road allowance are at the sole expense of the applicant and all such improvements must be approved by the Municipality of Burpee and Mills. The applicant must also acknowledge in writing that any member of the general public has the right to use the subject road allowance.
	3. The applicant must post the road allowance with a notice, in a form acceptable to the Municipality, advising all users of the road allowance that the roadway is an unassumed Municipal roadway and is used at his/her own risk.
	4. The applicant must acknowledge in writing that the Municipality assumes no liability, responsibility or obligation whatsoever to construct and/or maintain and/or repair the road allowance.
	5. The applicant must agree to indemnify and save harmless the Municipal Corporation from any and all manner of actions, cause of actions, claims or demands whatsoever for or by reason of any personal injury and/or property damage of or in any way arising out of any accident whatsoever occurring on the road allowance.
	6. Once permission is granted to the applicant to make improvements to a road allowance, copies of liability insurance showing sufficient coverage including coverage of workers are to be given to the Municipality prior to commencement of work. The Applicant shall file a Letter of Credit (or cash) with the Township of Burpee and Mills for 10% of the value of the estimated cost of the work. This is to protect the Township of Burpee and Mills against construction liens.

Before the work begins, the contractor must provide proof of liability insurance of not less than $2,000,000.00 and proof of WSIB coverage. The Municipality must be listed as a named insured under the insurance policy and be protected against claims for all damage or injury including death to any person or persons and for damage to any property of the Municipality or any other public or private property during the execution of this project.

* 1. The applicant shall not erect any gates or barriers on the road allowance.
	2. The Municipality will affect public notice by posting of Intent to open the subject road allowance on the Municipal website and at the Municipal Office, at least ten days prior to the passage of the Bylaw. A public meeting will then be held after which the bylaw will come before Council.
	3. The Road Superintendent will inspect the unopened road allowance with the contractor prior to the work beginning. Inspection will take place while in progress and at the completion of the project.
	4. A refundable deposit of $500.00 will be provided to the Municipality of Burpee and Mills prior to work beginning. Any clean up costs will be billed back to the applicant(s). The refundable deposit is conditional on meeting the conditions for construction of the roadway as determined by a final inspection of the Road Superintendent.
	5. Neighbouring landowner’s accesses are to be preserved if established.
1. The work is to done in the centre of the road allowance.
2. No debris is to be left (free of all tree stumps, earth, stones, boulders, etc.) on the road allowance or adjacent properties.
3. No water drainage areas are to be blocked (installation of culverts may be necessary as determined by the Road Superintendent).
4. No person shall store any vehicle, boat, trailer, etc. on an unopened road allowance owned by the Township of Burpee and Mills. Such objects may be removed at the owner’s expense by the Municipality of Burpee and Mills. The Municipality of Burpee and Mills assumes no liability for the condition of the object either prior to or after it is removed.
5. No person shall perform any work, remove any trees, soil or other material or erect upon or use any unopened road allowance without the specific written approval of Council and under the direction of staff.
6. If the road is already established, permission will be needed from the Council for upgrading or alterations to the road design. However, permission is not required for general maintenance of the existing road.
7. Any person who performs work on an unopened road allowance in a manner contrary to any requirements of the Bylaw, or who violates any provision of the Bylaw or causes a violation, is guilty of an offence and upon conviction therefore, shall be liable to a fine not exceeding $1,000.00 per day, and for each day that the violation continues to occur, and land reinstated to original condition, exclusive of costs, which shall be recoverable under the Provincial Offences Act, R.S.O. 1990 as amended.

**SCHEDULE “B” TO BYLAW NO. 02-2021**

**A C K N O W L E D G E M E N T**

To: The Corporation of the Township of Burpee and Mills

 8 Bailey Line Road

 Evansville, Ontario

 POP 1EO

 ATTENTION: Clerk-Treasurer

 RE:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 I/We, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_the owner(s) of

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I hereby acknowledge that:

1. I have received and read Bylaw 02-2021 and agree to abide to all terms and conditions as listed herein.

2. Any and all improvements to the original allowance for road access as described above are at my/our sole expense.

3. Any member of the general public has the right to use the above-referred to road allowance.

4. If permission is granted, the above mentioned Road Allowance shall be posted, informing users of the road allowance that the roadway is unassumed and is used at the risk of the user.

5. I/we further acknowledge that the Township of Burpee and Mills assumes no liability, responsibility or obligation whatsoever to construct and/or maintain and/or repair the said road allowance.

6. I/we hereby indemnify and save harmless the Corporation of the Township of Burpee and Mills from any and all manner of actions, cause of actions, claims or demands whatsoever for or by reasons of any personal injury and/or property damage of or in any way arising out of any accident whatsoever occurring on the above-mentioned road allowance.

7. This acknowledgement shall be binding upon the parties hereto and their legal representative, successors, and assigns. I/we agree that with respect to any sale, lease, mortgage or other disposition of my/our lands as noted above, or any part thereof, I/we shall advise the new owner, lessee, charge/mortgagee or other party of the terms of this acknowledgement.

Dated at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_this \_\_\_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_

DECLARED before me at the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ) Signature of Owner(s)

In the District of \_\_\_\_\_\_\_\_\_\_\_\_ )

This \_\_\_\_\_date of \_\_\_\_\_\_\_\_\_\_\_)

20\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signature of Owner (s)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(A commissioner, etc.)

**SCHEDULE “C”**

**BYLAW NO. 02-2021**

**TO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**AND TO: The Township of Burpee and Mills**

**RE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **(Applicant’s Name)**

**Use of road allowance from the Township of Burpee and Mills, more particularly described as:**

**Concession\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Lot \_\_\_\_\_\_\_\_\_\_\_\_, designated as Part \_\_\_\_\_\_\_\_\_\_of**

**Registered Plan No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

**I/We \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_are the adjoining property owner(s) of the above mentioned property. I/We hereby acknowledge and consent to the use of that portion of road allowance as described as Part \_\_\_\_\_\_\_\_\_\_\_\_ on Plan \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **(Name of Applicant)**

**DATE at the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ this \_\_\_\_\_\_\_\_\_day of**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**WITNESS (Signature) ADJOINING LANDOWNER (Signature)**

**Please print name here: Please print name here:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**WITNESS (Signature) ADJOINING LANDOWNER (Signature)**

**Please print name here: Please print name here:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**OR**

**I/We \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_are the adjoining property owner(s) of the above mentioned property. I/We DO NOT hereby acknowledge and consent to the use of that portion of road allowance as described as Part \_\_\_\_\_\_\_\_\_\_\_\_ on Plan \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **(Name of Applicant)**

**WITNESS (Signature) ADJOINING LANDOWNER (Signature)**

**Please print name here: Please print name here:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**WITNESS (Signature) ADJOINING LANDOWNER (Signature)**

**Please print name here: Please print name here:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**