

**BY-LAW NUMBER 392-2023  
ESTABLISHING THE PROCEDURE FOR ACQUIRING PRIVATE ROADS**

**WHEREAS** the Municipality of West Bolton has jurisdiction over the road and transportation network on its territory;

**WHEREAS** this jurisdiction includes, in particular, public roads;

**WHEREAS** within the scope of its jurisdiction over public roads, it may be appropriate for the Municipality to acquire private roads;

**WHEREAS** a municipality may acquire property that falls under its jurisdiction;

**WHEREAS** Council would like to ensure, for the sound management of public funds by the municipal administration, that costs related to the maintenance of private roads that will become public, will be reasonable;

**WHEREAS** the Municipality has jurisdiction over security;

**WHEREAS** the Council of the Municipality of West Bolton wishes to ensure that users of private roads that will become public roads will be able to use them safely;

**WHEREAS** the Municipality of West Bolton wishes to establish minimum standards to be respected so that any application for the Municipalization of a private road is based on the same criteria;

**WHEREAS** notice of motion was duly given on August 14, 2023

**WHEREAS** the draft by-law was tabled at the sitting of August 14, 2023;

THEREFORE, THE MUNICIPAL COUNCIL DECREES AS FOLLOWS:

**ARTICLE 1: DECLARATORY AND INTERPRETATIVE PROVISIONS**

- 1.1 The title of this by-law is: *By-law Number 392-2023 Establishing the Procedure for Acquiring Private Roads*.
- 1.2 The preamble is an integral part of this *Procedure*.
- 1.3 The *Procedure* does not replace the laws and by-laws in force that govern the Municipality and, more generally, the municipal domain. Rather, it is suppletive and complements the various obligations and general duties applicable to elected municipal officials, that are provided for in applicable laws and other by-laws.

Thus, the *Procedure* should not be interpreted as allowing exemption from the provisions contained in the laws and by-laws in force that govern the Municipality, elected municipal officials and, more generally, the municipal domain.

**ARTICLE 2: INTERPRETATION**

2.1 In this *Procedure*, unless the context indicates otherwise, the terms in bold shall have the following meaning:

<b>Private Road:</b>	Any road that is built on private land, for the use of the owner of the land, the owners of riparian land or other persons, regardless of whether such use is governed by a written agreement, or it is otherwise agreed to with the owner or by tolerance of the owner, and which is intended to be converted into a public road.
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<b>Council:</b>	The Council of the Municipality of West Bolton.
<b>Municipalization:</b>	The process of transforming a Private Road into a public road.
<b>Municipality:</b>	The Municipality of West Bolton.
<b>Procedure:</b>	Procedure for acquiring Private Roads as established by this By-law.

### **ARTICLE 3: PURPOSE AND SCOPE**

- 3.1 The purpose of this By-law is to establish the Procedure for the acquisition of Private Roads by the Municipality.
- 3.2 The rules and conditions set out in this Procedure guide the Council in making its decision as to whether or not to accept the Municipalization of a Private Road.
- 3.3 This Procedure applies to any Private Road in respect of which an application for Municipalization is formally filed by the owner.

### **ARTICLE 4: CONDITIONS REQUIRED FOR THE MUNICIPALIZATION OF A PRIVATE ROAD**

- 4.1 Council may undertake the Municipalization of a Private Road if the following conditions are met:
  - 4.1.1 The owner shall submit an application to the Municipality requesting the Municipalization of the Private Road. The application shall contain the following information:
    - a) The name and address of all the owners of land bordering the Private Road or having to travel on that Private Road in order to access their property;
    - b) The name of the owner of the Private Road in question;
    - c) A description (lot number(s), length, particularities, etc.) of the Private Road in question;
    - d) The name, address, and telephone number of a contact person with whom the Municipality may exchange information relating to the application;
  - 4.1.2 The written application should be signed by the majority of the landowners and the owner of the Private Road;
  - 4.1.3 The application should be accompanied by the following documents:
    - a) A letter from a notary attesting that the name of the owner of the road that appears on the application is indeed that of the owner of the Private Road and that the land in question is free of any lien, hypothec, or other encumbrance;
    - b) An attestation from an engineering firm showing that the Private Road meets the requirements prescribed in sections 4.1.6 to 4.1.8;
    - c) A letter from a notary attesting that the land on which the road is found holds all easements and real rights as a dominant land, allowing the owner of the road to drain the surface water of the road and the riparian lands on a servient land;
  - 4.1.4 At least 50% of the properties on the Private Road are occupied by persons who have on their property a habitable building or place of business that is listed on the property assessment roll;
  - 4.1.5 The Private Road has been maintained in the summer and winter by its owner or users during the five (5) years preceding the date of application;

- 4.1.6 The Private Road communicates with a public road forming part of the territory of the Municipality;
- 4.1.7 The Private Road forms a separate lot in the land register;
- 4.1.8 The Private Road meets the construction standards of public roads in force in the Municipality, in particular those prescribed in the *By-law Governing Street and/or Road Standards* and the *Subdivision By-law* in force at the time of the application for Municipalization.

#### **ARTICLE 5: FEES RELATED TO THE APPLICATION**

- 5.1 If the applicants are unable to provide the documents referred to in Article 4.1.3 with their application, the application may be admissible if the applicants submit a written and formal undertaking to assume all the costs of feasibility studies that the Municipality will initiate for this Municipalization project. The purpose of the feasibility studies is to have an engineer, surveyor, notary, advocate or any other relevant professional verify compliance with the requirements prescribed in sections 4.1.4 to 4.1.8 or any other section of this by-law.
- 5.2 The application for Municipalization must be accompanied by one of the following payments, as a deposit related to the expenses that the Municipality will have to incur to have the feasibility studies carried out:
- If the documents in section 4.1.3 are provided: \$1,000
  - If the documents in section 4.1.3 are not provided: \$5,000

Once this amount has been paid, the Municipality shall request cost assessments to have the feasibility studies carried out. Once the assessments are received, applicants will be informed and will have to pay the Municipality the difference between the necessary amounts and the deposit paid (\$1,000 or \$5,000). A management fee of 15% of the cost of these feasibility studies is also applicable by the Municipality for the coordination work carried out.

If the actual cost of the feasibility studies and management fees of the Municipality are greater than estimated, the applicants must pay the difference between the final costs and the amounts already paid, within thirty (30) days after an account is sent by the Municipality to the owner of the road.

- 5.3 In the event that feasibility studies demonstrate that legal work, transactions, or operations are necessary to comply with the requirements of this by-law, the owner of the road or the applicants must then take the necessary actions, at their own expense, to comply with the requirements. Attestations from the professional(s) concerned will then be required in order to validate compliance with the requirements of this Procedure.

If the applicants are unable to carry out the work, transactions, or legal operations themselves, following a written and formal agreement with the Municipality, the latter may have the work carried out itself, at the expense of the applicants and add 15% in management fees.

At the request of the applicants, the Municipality may undertake by municipal resolution to municipalize the Private Road before commencing said work, all subject to compliance with the requirements. This commitment may be valid for a maximum period of five (5) years and confirms the requirements to be met. That said, an amendment to this by-law or the By-law Respecting the Construction of Public Roads subsequent to this commitment or resolution of the Municipality would not influence or modify the requirements for the Municipalization of the road concerned.

- 5.4 In any event, as a prerequisite to the Municipalization of a Private Road, the road immovable must be transferred free of charge to the Municipality with all the active easements necessary for the full enjoyment of the road in question. All costs related to real estate transactions necessary to validly transfer ownership of the Private Road to the Municipality, free from all debts and with all necessary active easements, must

be borne by the applicant(s) as well as costs related to feasibility studies, certificates of compliance and other works.

#### **ARTICLE 6: INTEREST ON OUTSTANDING AMOUNTS**

- 6.1 Any amount not paid within the time prescribed in this by-law or agreement shall bear interest at the same rate as the interest rate applicable in the Municipality for late property taxes.

#### **ARTICLE 7: EXAMINATION OF THE APPLICATION BY COUNCIL**

- 7.1 Once all attestations of compliance have been received, and all sums owed to the Municipality by the owner or applicants have been collected, or after a reimbursement agreement has been formally established, Council shall examine the application.

After studying and analyzing the application, taking into consideration, in particular, the physical, legal, and financial conditions to be met, as well as any possible commitment before work, Council shall decide whether or not to municipalize the Private Road.

#### **ARTICLE 8: CHOICE OF NOTARY AND OTHER PROFESSIONALS**

- 8.1 Choice of the executing notary shall be made by the Municipality.
- 8.2 Engineers, surveyors, and other professionals shall be chosen by the Municipality if it is responsible for managing these contracts.
- 8.3 The selection of contractors for excavation work, for example, shall be the responsibility of the Municipality if it is responsible for managing these contracts. Note that the choice of contractors shall then be made in accordance with the Municipality's Contract Management Policy in force.

#### **ARTICLE 9: FORMALIZATION OF MUNICIPALIZATION**

- 9.1 Council shall authorize the Director General and the mayor to sign the transaction at the notary's office by municipal resolution. Once the owner of the land of the Private Road has transferred ownership and the transaction has been formalized by the notary, Council shall proceed to open it as a public road by municipal resolution.

#### **ARTICLE 10: DISCRETIONARY POWER**

- 10.1 In any event, Council retains its sole discretion as to whether or not to municipalize a Private Road.

#### **ARTICLE 11: CONSULTING QUALIFIED VOTERS**

- 11.1 In accordance with the *Act respecting elections and referendums in municipalities*, the Municipality may, at its discretion, submit a Private Road Municipalization project for consultation by qualified voters of the Municipality.

#### **ARTICLE 12: ENTRY INTO FORCE**

- 12.1 These by-laws enter into force in accordance with the law.

#### **ARTICLE 13: REPEAL**

- 13.1 This by-law replaces and repeals any regulatory provision and any part of a by-law previously adopted by the Municipality of West Bolton concerning the establishment of a Private Road acquisition policy mentioned herein.

**Adopted in West Bolton, on September 11, 2023.**

**LEGAL STEPS**

We, the undersigned, respectively Mayor and Director General of the Municipality of West Bolton, hereby certify that By-law 392-2023 has passed the following legal steps:

Notice of Motion	<b>August 14, 2023</b>
Tabling of Draft	<b>August 14, 2023</b>
Adopted by Council	<b>September 11, 2023</b>
Notice of Promulgation	<b>September 14, 2023</b>

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**Denis Vaillancourt**  
Mayor

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**Maike Storks**  
Director General and Clerk-Treasurer