

The Corporation of the Township of Elizabethtown-Kitley

By-law Number 23-23

Being a By-law to Authorize the Execution of an Agreement Between the Township of Elizabethtown-Kitley and the Rideau Lakes ATV Club

Whereas Section 9 of the *Municipal Act* S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And Whereas the Council of the Corporation of the Township of Elizabethtown-Kitley deems it advisable to enter into an agreement with the Rideau Lakes ATV Club;


And Whereas Council has reviewed the attached agreement and is in agreement with contents of same;

Now Therefore the Council of the Corporation of the Township of Elizabethtown-Kitley enacts as follows:

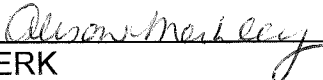
1. **That** the Corporation of the Township of Elizabethtown-Kitley enter into a road allowance use agreement with the Rideau Lakes ATV Club;
2. **That** the Mayor and Clerk are hereby authorized to execute the Agreement Attached hereto and forming part of this By-law;
3. **That** the terms of the Agreement attached hereto may be amended as deemed necessary and upon mutual agreement of both parties by resolution of Council.

Read a **First** and **Second** time this 27th day of March, 2023.

Read a **Third** time and finally **Passed** this 27 day of March, 2023.



MAYOR



CLERK

Schedule A

Road Allowance Use Agreement for the RLATVC ORV Recreation Trail

Dated this 28 day of March, 2023

Between:

Rideau Lakes ATV Club
The "RLATVC"

And

The Corporation of the Township of Elizabethtown-Kitley
The "Municipality"

Whereas the Corporation of the Township of Elizabethtown-Kitley ("Municipality") owns lands commonly referred to as road allowances:

And Whereas the Rideau Lakes ATV Club ("RLATVC") wishes to use, develop and maintain certain road allowances for the purpose of a designed off-road vehicle recreational trail, for the express use by their membership;

And Whereas it has been determined by the Municipality that the request by RLATVC to use, develop and maintain certain road allowances for the purpose of a designed off-road vehicle recreational trail by their membership is appropriate subject to certain conditions and requirements being met and maintained;

Now Therefore the Parties hereby agree as follows:

Application:

1. That the agreement applies to the road allowances under the jurisdiction of the Municipality as outlined in Schedule A to this agreement.
2. That it is acknowledged that the use of any maintained highway is subject to the provisions of By-law 22-69. Should a maintained highway be a boundary highway under joint jurisdiction, the RLATVC must submit written evidence from the adjacent municipality that lawful access has been granted.
3. Road Allowances to be used are set out in By-law 22-69 as Schedule A and are attached hereto, also as Schedule A.

Term:

4. That this agreement shall be valid commencing at the passing of the associated By-law until:
 - a. Terminated by either party as outlined under item 31 of this agreement;
 - b. The Township determines a revised agreement is required due to notable amendments.
 - c. By-law 22-69 is rescinded.

Costs:

5. That the full cost of implementing and maintaining any of the conditions of this agreement shall be borne by the RLATVC.

General Practices:

6. That the use, development and maintenance of the road allowances shall be in accordance with the provisions, guidelines and requirements of the Ontario Federation of All Terrain Vehicle Clubs, as may be amended from time to time, where they do not conflict with a provision of this agreement or applicable law.

Occupiers' Liability Act:

7. That the RLATVC, by way of the agreement, shall become the 'occupier' of the road allowances used, developed and maintained under this agreement as a recreational trail ('premises') for the purposes of the *Occupiers' Liability Act*.

Other Users:

8. That before a road allowance is used, developed or maintained, the RLATVC shall give thirty (30) days' written notice to the local snowmobile clubs to address any overlapping use and/or coordinate efforts where appropriate.
9. That it is acknowledged that this agreement does not preclude the lawful rights of any other party to the use of the road allowance.

Signage and Inspection:

10. That the RLATVC appropriately sign the recreational trail as per sector best practices in addition to any direction of the Municipality. This shall include all necessary signage where the recreational trail intersects with a maintained highway. This may also include indication that the trail is a "recreational trail" to satisfy the *Occupiers' Liability Act*.
11. That the recreational trail and all signage is to be regularly inspected no less than once per six (6) month period by competent persons with the RLATVC.

Inspection logs are to be maintained and necessary maintenance carried out without delay.

Previously Unopened Road Allowances:

12. That, for the purposes of this section, 'unopened road allowance' shall mean any segment of a road allowance which does not clearly exhibit indications of current linear clearing and/or use along the allowance. This may be indicated by, but is not limited to tree or brush growth, cross fencing, natural obstruction, or unaltered water crossing.
13. That a condition of the development of any previously unopened road allowance shall be subject to RLATVC giving thirty (30) days written notice to all adjacent property owners. The form used to provide notice shall be submitted to, and approved by, the Municipality before release.
14. That a condition of the development of any previously unopened road allowance shall be the RLATVC addressing the concerns of adjacent property owners, including, but not limited to, gaining concurrence as to the location of the road allowance where boundaries are not set out, resolving disputes by way of surveying the road allowance if requires, and/or addressing fencing, drainage, livestock or other agricultural concerns.
15. That a condition of the development of any unopened road allowance shall be gaining the necessary entrance permit where a transition is made from a maintained highway to a road allowance to avoid damage to the roadbed and ensure roadside drainage is not impeded. Municipal entrance permit application forms, fees and policy will apply.

Trail Maintenance:

16. That a condition of the use, development and maintenance of the road allowances shall be that the RLATVC apply for, and obtain, any and all necessary approvals related to water crossing or alterations in accordance with applicable law. This may include, but is not limited to, approvals from the applicable conservation authority or the Ministry of Natural Resources and Forestry.
17. That a condition of use, development and maintenance of the road allowances shall be that the recreational trail width be limited to the minimum required width for operational and insurance purposes. This is to limit unnecessary tree removal and to seek to limit unauthorized use by full-sized vehicles.
18. That a condition of the use, development and maintenance of road allowances shall be that, on the request of the Municipality, the RLATVC be responsible for the installation of ORV only pass-through gate or other barrier where a road allowance intersects with a maintained highway to limit unauthorized use by

full-sized vehicles. The design and installation shall be to the satisfaction of the Municipality.

19. That a condition of the use, development and maintenance of the road allowances shall be the RLATVC responsible for cleaning up and disposing of all litter and dumping on the road allowances or adjacent properties, if accessed by the road allowance, be it from their membership or otherwise. Disposal at the municipal waste site shall be subject to the normal waste disposal fees as per the Municipality's fee by-law.
20. That a condition of the use, development and maintenance of the road allowances shall be that all wood cut is to be maintained on the site adjacent to the recreational trail, and under no circumstances all clearing and tree cutting result in individual or club gain, be it financial or otherwise.

Trail Decommissioning:

21. That a condition of use, development and maintenance of the road allowances shall be the RLATVC developing a decommissioning plan should a portion or the entire recreational trail be abandoned for future use. This plan shall be submitted and approved by the Municipality within 180 days of this agreement being executed. This plan shall be to the satisfaction of the Municipality and may include requirements related to permanent gates or other fixed barriers at intersections with maintained highways, reforestation plans, and/or the removal of improvement, including entrances, signs or culverts. A decommissioning fund may be required to be established and may be held in trust.

Other Jurisdictions:

22. That a condition of the use, development and maintenance of a joint jurisdiction (boundary line) road allowance shall be the RLATVC submitting written evidence from the adjacent municipality that permission has been lawfully granted.
23. That the RLATVC shall provide written evidence from the United Counties of Leeds and Grenville ("UCLG") that lawful access has been granted for the use of any highways under UCLG jurisdiction.

Insurance:

24. That a condition of the use, development and maintenance of the road allowances shall be the RLATVC obtaining and maintaining Commercial General Liability Insurance issued on an occurrence basis for an amount of not less than \$5,000,000 per occurrence/\$5,000,000 annual aggregate for any negligent acts or omissions by the RLATVC including members relating to this Agreement. Such insurance shall include, but is not limited to bodily injury and property damage including loss of use; personal injury; contractual liability;

premises, property and operations; non-owned automobile; broad form property damage; broad form completed operations; owners and contractors protective; occurrence property damage; products; employees, volunteers and members as Additional Insured(s); contingent employers liability; cross liability and severability of interest clause. Such insurance shall add the Corporation of the Township of Elizabethtown-Kitley as Additional Insured. This insurance shall be non-contributing with and apply as primary and not as excess of any insurance available to the Municipality.

25. That a condition of use, development and maintenance of the road allowances shall be the RLATVC obtaining and maintaining automobile insurance with respect to owned or leased vehicles used directly or indirectly in the performance of the services (use of licensed vehicles) covering Third Party liability for bodily injury, death and damage to property with a limit of not less than \$2,000,000 inclusive for each and every loss.
26. That the policies shown above shall not be cancelled unless the Insurer notifies the Municipality in writing at least thirty (30) days prior to the effective date of the cancellation. The insurance policy will be in a form and with a company which are, in all respects, acceptable to the Municipality.
27. That it is further noted that any and all deductibles applicable to the above noted insurance policies shall be the sole responsibility of the RLATVC and the Municipality shall not be liable for any deductibles.
28. That it is acknowledged that the Municipality is entitled to request any changes and or additions to insurance requirements that it deems necessary, at its sole discretion, during the life of this agreement. The RLATVC will provide evidence of compliance with any requested changes and/or additions within ten (10) business days.
29. That the RLATVC shall provide proof of insurance upon execution of this Agreement.
30. That the RLATVC shall indemnify and hold the Municipality harmless from and against any liability, loss, claims, demands, costs and expenses, including reasonable legal fees, occasioned wholly or in part by any negligence, acts or omissions whether willful or otherwise by the RLATVC, their officers, employees, members, volunteers or other persons for whom the RLATVC is legally responsible.

Termination:

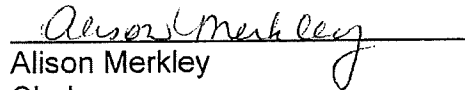
31. That either party may terminate this agreement within 180 days written notice. Regardless of which party provides notice of termination, during this notice period, the RLATVC will fully and dutifully implement all requirements of the approved decommissioning plan. Failure to implement the decommissioning plan in full will entitle the Municipality to use any and all funds held in trust to implement the plan, and further, any additional costs above and beyond any funds held in trust shall be recoverable from the RLATVC and/or its officer.

Administration:

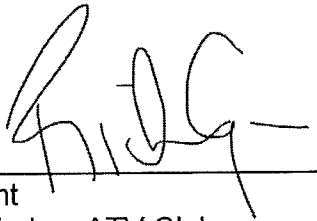
32. This agreement shall not be subject to the *Arbitration Act*.



Brant Burrow
Mayor
Township of Elizabethtown-Kitley
I have authority to bind the Corporation



Alison Merkley
Clerk
Township of Elizabethtown-Kitley
I have authority to bind the Corporation



President
Rideau Lakes ATV Club
I have authority to bind the organization

Schedule 'A'

All-terrain Vehicles (ATVs) shall be permitted to access highways within and under the jurisdiction of the Township of Elizabethtown-Kitley as detailed under By-law 22-69. The authority shall not extend to highways under the jurisdiction of the United Counties of Leeds and Grenville or the King's Highways.

Notwithstanding the above, the ATVs shall generally not be permitted on local municipal roads within the boundaries and confine of the villages, hamlets and built-up settlement areas within the Township of Elizabethtown-Kitley. This includes all roadways south of County Road 2 and the boundary roadway of Oxford Avenue.

The identified road allowances agreed to be used, developed and maintained by the RLATVC for the purpose of a designed off-road vehicle recreational trail are as follows:

Road	From	To
Kitley Line 1	County Road 29	Motts Mills Road
Motts Mills Road	Kitley Line 1	County Road 1
Kitley Line 3	County Road 1	Drummond Road
Unopened Road Allowance between Concessions 4 and 5	Drummond Road	Unopened Road Allowance at Concession 5, Lots 24 and 25
Botham Road	Unopened Road Allowance Concession 5, Lots 24 and 25	End of maintained Botham road
Unopened road Allowance Concession 6 between Lots 24 and 25	End of maintained Botham Road	County Road 8
Baker Road	County Road 8	Dunham Road
Unopened Road Allowance between Concession 7 and 8	Dunham Road	Lake Eloida Road
Kitley Line 7	Lake Eloida Road	Healey Road
Lake Eloida Road	Kitley Line 7	Bellamy Park Entrance
Healey Road	Kitley Line 7	Chant Road
Unopened Road Allowance between Concession 4 and 5	Drummond Road	Kitley Bastard Road