

**THE CORPORATION OF THE TOWNSHIP OF MONTAGUE
BY-LAW NO. 3814-2021**

BEING to enter into a Road Allowance Use Agreement between the Rideau Lakes ATV Club, and the Corporation of the Township of Montague;

WHEREAS Section 5 (3) of the Municipal Act 2001 S.O. Chapter 25 states that the powers of a municipality shall be exercised by by-law

AND WHEREAS the Council of the Township of Montague deems it expedient to enter into an agreement with the Rideau Lakes ATV Club for the use of particular roads and road allowances in the Township;

NOW THEREFORE, the Council of the Corporation of the Township of Montague enacts as follows:

1. That the Council of the Corporation of the Township of Montague enter into an agreement with the Rideau Lakes ATV Club;
2. That Schedule "A" attached hereto shall be read with and form part of this By-law.
3. Should any part, section, subsection or portion of this by-law be repealed or declared by a court of competent jurisdiction to be illegal, the same shall not affect the validity of the by-law as a whole or in part thereof, except for that which was declared to be invalid.
4. Where any by-law, passed prior to this by-law, conflicts with the terms of this by-law, this by-law shall prevail.
5. That this by-law comes into force on the day it is passed.

READ A FIRST, SECOND & THIRD TIME & PASSED, SIGNED & SEALED THIS 16th DAY OF FEBRUARY 2021.


REEVE


CLERK

Attachment "A"

ROAD ALLOWANCE USE AGREEMENT

PARTIES

The parties to this Agreement are:

1. Rideau Lakes All-Terrain Vehicle Club
("RLATVC")
Address:
Email: info@rlatvc.org
2. The Corporation of the Township of Montague
("Montague")
Address: 6547 Roger Stevens, P.O. Box 755, Smiths Falls ON K7A 4W6
E-Mail: info@township.montague.on.ca

BACKGROUND:

1. The RLATVC wishes to use sections of Old Quarry Road and unopened Road Allowances for the purpose of an all-terrain vehicle trail.
2. The sections in the Township that are to be used for the purpose of a designated Trail is set out in **Schedule "A"** attached hereto.
3. Brown, MacPherson, Rosedale Road, Richardson, McConnell and Wood Road is a highway Montague has jurisdiction over it pursuant to s. 28 of the Municipal Act, 2001, S.O. 2001, c. 25 and amendments thereto.

AGREEMENT

In consideration of the premises and the mutual covenants and agreements herein contained, the Parties agree as follows:

1. The Municipalities consent to the members of RLATVC using the Trail on the terms and conditions contained herein.
2. The parties acknowledge and agree that the initial term of this Agreement is five (5) years commencing 02 / 16 /2021 and ending 02 / 16 /2026.
3. All costs associated with implementing and maintaining any of the conditions of this Agreement shall be borne by RLATVC.
4. RLATVC acknowledges that part of this agreement is a shared trail with Rideau Trail Association and shall ensure that all members are trained on proper trail etiquette. Signage shall be the installed and maintained by RLATVC, including but not limited to stop signs, shared trail, etc., RLATVC agrees to providing Rideau Trail Association

with priority access when the trail is being used simultaneously.

5. RLATVC acknowledges that the use of the Rideau Trail shall be in accordance with and will comply with all applicable Federal, Provincial, Municipal statutes, regulations and by-laws which relate to or affect the Lands, and to indemnify and save harmless the Licensor from any costs, charges or damages arising from any breach thereof.
6. The RLATVC will use the Lands for the purpose of all-terrain vehicle riding, and Rideau Trail maintenance activities further described in **Schedule "B"**. It is understood and agreed that the RLATVC will not use the Lands for any purposes other than that above-mentioned failing which, the Township of Montague reserves the right to remove all installations, equipment, property, and works with 30 days' notice at the RLATVC own risk and expense.
7. Upon execution of this Agreement, RLATVC shall submit written evidence from the adjacent private property owners confirming that permission has been lawfully granted for the use of their property to access the Recreational Trail.
8. The Parties agree that the use of the trail is at the sole risk of the users and members of RLATVC.
9. RLATVC shall, always, maintain Commercial General Liability Insurance issued on an occurrence basis for an amount of not less than \$10,000,000. Per occurrence / \$10,000,000. Annual aggregate for any negligent acts or omissions by 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 & operations; non-owned automobile; broad form property damage; broad form completed operations; owners & 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 Municipality 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

The said insurance policy 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 Municipalities.

Any and deductibles applicable to the above noted insurance policy shall be the sole responsibility of the RLATVC and the Municipalities shall not be liable for any deductibles.

RLATVC acknowledges that the Municipality is entitled to request any changes and/or additions to insurance requirements that they deem necessary, at their sole discretion, during the life of this Agreement. RLATVC will provide evidence of compliance with any requested changes and/or additions within 10 business days of any request by Montague.

10. RLATVC shall provide proof of insurance to the Municipality upon execution of this Agreement and annually by February 1st of each year thereafter.
11. RLATVC shall save harmless and indemnify the Township of Montague, their respective officers, employees, agents and assigns from and against any liability, loss, claims, demands, costs and expenses (including reasonable legal fees), suits or other proceedings by whomsoever made, sustained, brought or prosecuted in any manner resulting from or attributable to any term or provision of this Agreement or arising from incidents involving RLATVC and its members arising from the use of the Trail by its members or other invites or agents, whether 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.
12. If any matter or thing required to be done by or paid by RLATVC pursuant to this Agreement is not done or paid by them in accordance with the provisions of this Agreement and such default continues, in addition to all other remedies available to it, Montague may arrange to complete such matters or things, and Montague may recover all expenses incurred or all payments required to be made by RLATVC in connection with this Agreement by civil action.
13. Provided that RLATVC has duly and regularly performed the covenants, conditions and provisos contained herein, and subject to obtaining the consent of the Municipality, RLATVC shall have the option to renew the Agreement by notice to the Municipality not later than 60 days prior to the initial term (failing which this option to renew is null and void), for one additional term of five (5) years on the same terms and conditions except there shall be no further option to renew.
14. Any one of the Parties may terminate this Agreement by providing 180 days' written notice to the other Parties. Regardless of which party provides notice of termination, during the notice period, RLATVC will fully and dutifully implement all requirements required of the Municipality.
15. RLATVC agrees that all costs incurred by Montague in connection with the drafting and execution of this Agreement and related documents, and all costs of any action taken by Montague in enforcing the terms of this Agreement shall be borne by and the responsibility of RLATVC and its members.

MISCELLANEOUS

16. In this Agreement, the number and gender shall be construed as the context may require.

17. The headings in this Agreement are for convenience only and do not constitute part of the terms of this Agreement.
18. Time shall be of the essence of this Agreement.
19. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision and any invalid provision will be severable.
20. Any dispute occurring among the Parties relating to the interpretation or implementation of any of the provisions of this Agreement shall be resolved in accordance with the following provisions:
 - a. The Parties shall first attempt in good faith to resolve such dispute by mediation.
 - b. If any issue in dispute is not resolved by mediation, it shall be submitted to arbitration. In that event, the following rules shall apply:
 - i. The arbitration shall be conducted by a single arbitrator appointed either by agreement between or among the disputing parties or, in default of such agreement, by a Judge of the Superior Court of Justice.
 - ii. Unless otherwise agreed by the disputing parties, the arbitration shall be conducted in the Town of Perth.
 - iii. The procedure to be followed shall be agreed upon by the disputing parties or, in default of such agreement, shall be determined by the arbitrator.
 - iv. The arbitration shall proceed in accordance with the provisions of the *Arbitration Act, 1991* (Ontario).
 - v. The decision arrived at by the arbitrator shall be final and binding and no appeal shall lie there from. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.
21. This Agreement shall not be amended or modified in any respect otherwise than in writing and executed by the parties hereto or their respective heirs, administrators, successors or assigns.
22. The parties agree to execute all reasonably necessary documents in order to give effect to the terms and effect of this agreement.
23. This Agreement shall be governed by the laws of the Province of Ontario.
24. Execution of this Agreement and all subsequent notices, correspondence and documentation may be by way of facsimile transmission directed to the parties at the fax numbers listed on page 1 of this Agreement (if any) or by email to the email addresses listed on page 1 of this Agreement (if any).

Alternatively, any notice to the parties given pursuant to any provision of this Agreement may be given by personal delivery or by prepaid registered post

addressed to the parties at their respective addresses on page 1 of this agreement.

If notice is given by prepaid registered post, it shall be deemed given seven days after the date of mailing.

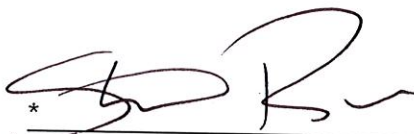
A party may change his fax number, email address or postal address by notice to the other party at any time provided the other party has acknowledged the change or the party giving the notice has confirmation that the notice was received.

25. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns respectively of each of the Parties hereto.

26. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which taken together shall constitute the same agreement.

27. The date of this Agreement is the date on which the last party executes this Agreement.


IN WITNESS WHEREOF the Parties hereto have affixed their hands and seals.

* 

Witness

* _____
Witness

Rideau Lakes All-Terrain Vehicle Club

* 

Name: _____ Date: 19-02-21
Title: President

* _____
Name: _____ Date: _____
Title: Vice-President

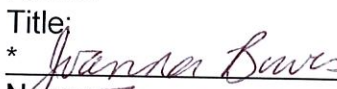
We have authority to bind the Association

The Corporation of the Township of Montague

Per:

* 

Name: _____ Date: March 4, 2021

* 

Name: Joanna Bowes Date: Feb 26, 2021
Title: Clerk Administrator

Schedule A
Rideau Lakes ATV Club Trail Through Montague



Schedule A1

Road Allowance Route from Burchill Rd to Heritage Dr



SCHEDULE "B"

RLATVC GENERAL MAINTENANCE ACTIVITIES

1. RLATVC shall be responsible to inspect agreed upon road allowances for any of the following: obstacles, clearance height/width, drainage, markers, debris and the condition of trail surface. This shall be completed on a as needed basis, but not less than annually.
2. Remove any trees, brush or shrubs which are encroaching the trail, or have fallen along the trail. RLATVC shall be responsible for the clearing of low branches to ensure height clearance of 7ft. Any significant or dangerous trees requiring removal must be reported to Township of Montague rather than removal by RLATVC.
3. RLATVC will refrain from removing vegetation located 8 feet from pathway centreline.
4. Washouts and drainage problems that cause ponding on the trail surface for extended periods should be discussed with the Township of Montague before planning any corrective repairs.
5. Any proposed construction to traverse wet areas must be approved by Township of Montague.
6. Maintenance of trail marking system shall be completed by RLATVC which includes but is not limited to, visual inspection, adjustments, installation, or removal of trail markers, and maintaining vegetation when it begins to hide or cover the marker. Markers are to be fastened to trees at an appropriate height for visual ease and using proper hardware to affix the marker. Marker nails shall be pulled back before bark begins to close around the marker.
7. When completing trail maintenance activities, post warning signs on the trail and pause work to allow other users to pass through the work area without danger. All maintenance safety and training are the responsibility of RLATVC.
8. Garbage and debris are to be removed from trail and disposed of in an appropriate manner.

9. Acts of deliberate dumping, vandalism or cutting of trees are be reported to Township of Montague.
10. Any additional signage and installation locations must first be approved by Township of Montague.
11. All construction activities must be discussed with and approved by Township of Montague.