

<b>The Corporation of the Town of Perth</b>			
<b>Closing and Sale of Municipal Road Allowances Policy</b>		<b>Effective:</b>	March 28, 2023
		<b>Replaces:</b>	N/A
<b>Issued by:</b>	Director of Legislative Services/Clerk Services	<b>Approval:</b>	By-law No. 5085

## **1.0 PURPOSE**

- a. The purpose is to establish a policy and procedures to address applications made to The Corporation of the Town of Perth (“the Town”) requesting the permanent closure and sale of municipally-owned road allowances (“municipal road allowance(s)”).

## **2.0 LEGISLATIVE AUTHORITY**

- a. Section 11 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (“the Municipal Act”), provides that a lower-tier municipality may provide any service or thing that the Town considers necessary or desirable for the public.
- b. Section 391 of the Municipal Act provides that a municipality may impose fees or charges on persons,
  - i. for services or activities provided or done by or on behalf of it;
  - ii. for costs payable by it for services or activities provided or done by or on behalf of any other Town or any local board; and
  - iii. for the use of its property including property under its control.

## **3.0 SCOPE**

- a. This policy applies to the closure and sale of municipal road allowances by the Town.
- b. The Town will consider requests to close and sell municipal road allowances provided:
  - i. the municipal road allowance is deemed surplus to the Town’s current or future needs; and
  - ii. all associated costs are borne by the applicant and/or those persons to whom the lands are sold.
- c. It is specifically noted that municipal road allowances which lead to waterbodies may be of significant interest to not only the Town but also other

government and regulatory agencies. Although an application for closure may be submitted, the applicant should be aware, circulation to and approval from other agencies may be required in addition to municipal approval.

#### **4.0 RESPONSIBILITY**

- a. It is the responsibility of the Director of Legislative Services/Clerk (“the Clerk”) to ensure compliance with this Policy.

#### **5.0 PROCEDURE**

##### **5.1 Written Request - Submission Requirements**

An application requesting the closure and sale of a municipal road allowance shall include the following information and shall be submitted to the Clerk:

- a. A letter of request which shall include an accurate description of the portion of the municipal road allowance requesting to be closed and sold, a legal description of the applicant’s lands and the reasons for requesting the closure of the municipal road allowance.
- b. A map or sketch of the municipal road allowance proposed to be closed, shall include:
  - i. estimated measurements of the portion to be closed,
  - ii. legal description,
  - iii. the identification of adjacent lands,
  - iv. the location of any buildings, and
  - v. the equally divided portions of lands to be offered for sale to adjacent landowner(s), if applicable.
- c. A non-refundable application fee as per the Town’s current Fees and Charges By-law (for 2023, the fee is \$853.17 including HST) and a \$3,000 deposit to cover associated costs, including but not limited to: administrative, legal, reference plan/survey and land value costs. The applicant shall also execute an agreement to compensate the Town for any costs in excess of the deposit.
- d. A traffic evaluation, if the portion of municipal road allowance being requested to be closed and sold is actively being used by vehicular traffic.
- e. Once a complete application has been received; the Clerk will circulate it to all Town departments for comments.

## **5.2 Acceptance or Rejection of the Application**

- a. A Staff Report regarding the application and departmental comments shall be brought forward to the Committee of the Whole for review and to make a recommendation to Council for acceptance or rejection of the application.
- b. If the application is rejected by Council, the Applicant will be refunded the deposit less any costs incurred to date.
- c. If the application is accepted by Council, a motion declaring the land surplus and available for sale shall be prepared.

## **5.3 Circulation to Adjacent Land Owners**

- a. The Town will conduct a detailed search to ascertain the names and addresses of all current owners of land(s):
  - (i) adjacent to, and
  - (ii) within a distance of 150m from the portion(s) of the municipal road allowance proposed to be closed and sold.
- (iii) A sketch/map will be prepared showing the holdings of any adjacent landowner(s) and the portion(s) of the municipal road allowance to which they have a right of first refusal.
- (iv) The adjacent landowner(s) will be contacted in writing, to ascertain their interest in the purchase of abutting lands. Adjacent landowner(s) will be given a minimum of four (4) weeks to respond to the Clerk. The contact information of all such persons, including but not limited to: name(s), address(es), email address(es) and telephone number(s), shall be noted in the file, as well as their decision whether or not to participate and acquire a portion of the municipal road allowance.
- (v) Should there be no interest shown in the purchase of certain portions of the lands, the Applicant and any other immediately adjacent landowner(s) who has shown interest in acquiring the lands, will be given the opportunity to purchase the unclaimed portions of the municipal road allowance.

## **5.4 Notice to Public and Agencies**

- a. Prior to selling any municipal road allowance, the Town shall give notice to the public of the proposed closing and sale of the municipal

road allowance and hold a minimum of one public meeting. The Public Notice shall include the following information:

- Date, time and location of the public meeting
- Description of the municipal road allowance proposed to be closed, as well as a sketch/map.

- b. The Town shall publish/post a copy of the Public Notice:
  - in a local newspaper, once a week for two (2) consecutive weeks, a minimum of ten (10) days prior to the date of the public meeting;
  - on the Town's website and at the Town Hall, a minimum of two (2) weeks prior to the date of the public meeting; and
  - at the site/immediate vicinity of the portion of the municipal road allowance proposed to be closed and sold, a minimum of two (2) weeks prior to the date of the public meeting.
- c. The Town shall circulate a copy of the Public Notice to each of the current owner(s) of land(s) within a distance of 150m from the portion(s) of municipal road allowance proposed to be closed and sold.
- d. The Town shall circulate a copy of the Public Notice to each of the following agencies listed below to request their response/comments:
  - County of Lanark
  - Bell Canada
  - Hydro One Networks
  - Parks Canada
  - Public Works & Government Services Canada
  - Rideau Valley Conservation Authority (RVCA)
  - Ontario Ministry of Natural Resources
  - Ontario Ministry of Transportation (if a portion of the road allowance adjoins a provincial highway)
- e. The Town shall host the public meeting and hear all persons who may support or oppose the application. At the same or a subsequent meeting, the Committee of the Whole shall consider a recommendation to Council authorizing Town staff to proceed with the necessary documentation to complete the closing and sale of the municipal road allowance.
- f. If the motion is defeated by Council, no further action shall be taken and all associated costs incurred by the Town to date, shall be recouped from the applicant, less the deposit submitted with the application.

## **5.5 Reference Plan (Survey) of Road Allowance**

- a. The Applicant(s) shall obtain a reference plan (survey), prepared by an Ontario Land Surveyor, showing the part(s) to be closed and conveyed and shall submit such to the Town prior to the commencing of any associated legal work. The part(s) on the reference plan shall be used in finalizing the purchase price(s).

## **5.6 Municipal Road Allowance Opinion of Value**

- a. The Town shall obtain an opinion of value of the fair market value of the portion of the municipal road allowance to be conveyed in order to establish the purchase price. Such opinion of value shall be based on an amount per square foot or metre of land to be conveyed. Once the opinion of value is received, copies will be provided to the applicant(s) and a letter of intent to proceed must be received by the Town within thirty (30) days, along with an amount equal to the lesser of ten percent (10%) of the determined fair market value or \$500.00, to confirm desire to proceed by the applicant(s).
- b. If the applicant(s) decide(s) not to proceed with the acquisition, the applicant(s) will be responsible for the associated costs incurred by the Town to date. The remainder of the deposit will be refunded.
- c. If the applicant(s) decide(s) not to proceed with the purchase once the opinion of value has been prepared and does not exercise their option to purchase within thirty (30) days, the second party, if applicable, may proceed to purchase both halves of the municipal road allowance for the amount of the opinion of value of each part.
- d. If neither applicant exercises their right to purchase the municipal road allowance, the opinion of value shall have a one-year validity and could be recommenced during this time period with a further deposit of \$1,000.00 and the next steps would proceed.

## **5.7 Closing and Sale of Municipal Road Allowance By-law**

If a Council motion to proceed is passed, the following steps shall be taken:

- a. Once a reference plan has been submitted to the Town, the Municipal Solicitor shall be authorized to proceed with the preparation of the transfer deeds and any other legal documentation for each of the parcel(s) to be transferred concerning the closing and sale of the municipal road allowance.

- b. Agreements of Purchase and Sale shall be drafted between the Town and those person(s) interested in purchasing portions of the municipal road allowance, and shall stipulate:
  - i. the allocation of associated costs for each potential purchaser, shared on the basis of percentage; namely the area being purchased by each person over the total area being closed, and
  - ii. that the purchase price shall be adjusted, prior to closing, to reflect the actual cost based on a recalculation of the allocation of costs (as supported by invoice(s) paid by the Town) and the area of land actually transferred, (as determined by the reference plan).

In addition, the purchaser shall carry the cost of retaining their own solicitor, should they choose not to utilize the services of the Municipal Solicitor.

- c. Upon receipt of the transfer deeds, the Clerk shall prepare a Closing and Sale of Municipal Road Allowance By-law for approval by Council.
- d. The transfer of the land will only be completed once the legal work is completed and after receipt of total payment.
- e. The by-law to close and sell the road allowance and the transfer deeds shall be registered on title. Copies of the registered documents shall be forwarded to the Clerk.

## **6.0 ACCOUNTABILITY FRAMEWORK**

- a. The Clerk is responsible for ensuring compliance with this policy.
- b. It is acknowledged that any error or omission in following the procedures, in which error or omission was not the result of bad faith on behalf of the Town will not necessarily render such disposal invalid or void.

## **7.0 POLICY REVIEW**

- a. This Policy shall be reviewed at least once per term of Council.

## **8.0 PRIVACY**

- a. The disclosure of information relevant to the sale of surplus lands shall be in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56, as amended.