



## THE CORPORATION OF THE TOWNSHIP OF HAMILTON

### Policy and Procedure for Closure and Disposal of Road Allowances

#### **PREAMBLE**

The Township of Hamilton Council supports the retention of road allowances in order to provide opportunities for public access.

However, the Township will give consideration to the closure and disposal of a road allowance in circumstances where the road allowance cannot or will not be required as a road or where the subject road allowance is not a viable means of public access to a water body or other public access point.

The Township will consider for sale a road allowance **ONLY** to the property owner(s) whose land is adjacent to this allowance.

#### **PURPOSE**

To establish a policy with respect to the Municipality's position with regard to the closure and disposal of road allowances and a procedure to process any request that has been supported by Council in accordance with the following principles.

##### Shoreline Road Allowance

Council will give consideration to the closure and disposal of a road allowance, which in the original survey, leads along or on the shore of any lake or other water or along the bank of any river, stream or other water. The road allowance in this case must be situated in such a manner that it splits the applicant's waterfront property in two and/or is the only separation between the applicant's property and the shoreline of any lake. This shall be referred to as a shoreline road allowance.

##### Inland Road Allowance

Council will give consideration to the closure and disposal of a road allowance adjacent to property which is not on the waterfront but where the development pattern or other circumstances in the area dictate that the road allowance cannot or will not be required for road purposes. This shall be referred to as an inland road allowance.

##### Road Allowance Leading to Water

Council will give consideration to the closure and disposal of a road allowance leading to water where the development pattern or other circumstances in the area dictate that the road allowance cannot or will not be required for road purposes or as a viable means of public access to a water body or other public access point.

Council will also consider the closure and disposal of a road allowance where, in the opinion of Council, the applicant can provide an alternate means of viable public access.

## **PROCEDURES**

Prior to submitting an application for a road allowance closure, the proposal must be submitted to Council, at a regular council session, for consideration. If Council approves of the said proposal, a resolution deeming the subject property to be surplus land will be passed.

Once the subject lands have been deemed surplus by resolution of Council, the Applicant must file the following documentation with the municipality:

1. A correctly completed "Application to Purchase" form together with copy of deed of abutting lands.
2. A cheque payable to the Township of Hamilton to cover the processing costs and purchase price of the lands.  
In the case of a Road Allowance Leading to Water the purchase price of the lands shall be paid in accordance with the approved agreement of purchase and sale. Detailed information with respect to the calculation of costs is provided below.

## **COSTS**

### **Costs For Lands**

- a) Shoreline Road Allowance: Minimum fee of \$2,500.00.  
Calculation based on \$0.378 cents per square foot.
- b) Inland Road Allowance: Minimum fee of \$1,000.00.  
Calculation based on \$0.15 cents per square foot.  
*Road allowances lying adjacent to lots within registered plans of subdivision shall be offered for sale at fair market value.*
- c) Road Allowance Leading to Water: The value of the lands will be determined through the Offer of Purchase and Sale negotiation process and will not be valued less than the fair market value together with such premium as mutually negotiated between the Council and the applicant.

## Processing Costs

- d) A \$2,150.00 security deposit, in addition to the cost for lands, must be paid to the Township at the time of application. This deposit will be used to pay the legal fees, advertising costs, Solicitor's administration; any other costs related to the application and includes \$150.00 for the municipal administration fee.
  - e) Where there is a group of Applicants co-operating to proceed through the process simultaneously, staff will estimate the total costs of the process and the security deposit collected from each applicant will be an equal share of the total estimated amount.
  - f) If the costs incurred to process the application are greater than this amount the Applicant(s) will be required to submit additional funds. If after the closure is complete, there are funds remaining on deposit, a refund will be issued to the Applicant(s).
3. A \* **Reference Plan** of the road allowance showing it as a part on a Plan that can be registered for merging purposes. All costs associated with the preparation of the reference plan are the responsibility of the Applicant.  
*\*(3 hard copies and 1 electronic copy)*

### REFERENCE PLAN REQUIREMENTS

- a) The reference plan must show all structures and their plotted location on the lands to be closed and deeded;
  - b) If the subject property is a shoreline road allowance or a road allowance leading to water the reference plan of the lands to be closed and deeded shall not include any areas that have been filled, "man-made" or are under water;
  - c) The reference plan must show any/all submerged portions of a shoreline road allowance;
  - d) The reference plan must show any/all filled lands on the bed of the waterbody if applicable;
  - e) The road allowance must be identified as a part on the reference plan that can be registered for merging purposes
4. Given the costs and time to process an application to close a road allowance, it is advantageous for the applicants to obtain the consent from adjacent landowners,

indicating their approval of the purchase of the road allowance as shown on the reference plan.

It is suggested that the applicant discuss the application to purchase a road allowance with neighbouring property owners and ask them to sign a statement on a copy of your reference plan.

Suggested statement to be included on your reference plan;

"We the undersigned abutting property owners have no objections to the proposed extension of property as shown on this reference plan for (Applicant's name), for the purpose of acquiring the road allowance abutting their property."

**Reference Plan to be initialled and dated by abutting owners to.**

5. The municipality will review the documentation provided and advise the Applicant of any deficiencies. Upon presentation of your application to the Township Office, Municipal Staff will calculate your cost for lands based on the frontage indicated on the reference plan in accordance with the method set out above (if applicable).
6. Upon receipt of a completed application and the required fee, the Clerk will forward all pertinent information to the Public Works & Infrastructure, Emergency Services and Planning and Building Departments for their review and comments in preparation of a report to Council.  
For Shoreline Road Allowance or Road Allowances leading to water, circulation to and approval from Parks Canada/ Trent Severn Waterways shall be required.
7. All requests for road allowance closings, where physically possible, shall be inspected by staff.  
All requests for road closure made between November 1<sup>st</sup> and March 31<sup>st</sup> may be placed on hold until a site inspection can be made.
8. During the legal process the applicant will be supplied with a proposed notice of closure that must be displayed on the property for a period of two (2) weeks minimum. The posting at the subject property will be the responsibility of the Applicant and notice must be permitted to remain for the required period of time. The Municipality will post notices in public areas such as the Library, Municipal Office, Arena, etc. The Municipality will mail a copy of the public notice to adjacent land owners.  
All legal fees associated with the sale are the responsibility of the Applicant, along with the initial application fee; preparation of the reference plan of survey; advertising costs and the cost for the purchase of the road allowance, including an appraisal if required.
9. The notice must be published in local newspaper(s) at least two (2) times, the final publication must be one week prior to the Council meeting when the closure By-law will be considered.

10. Any person who feels his/her ingress or egress to his/her property may be affected, can file an objection to the proposal. Council shall determine the merit of any objections raised prior to providing a final decision to enact a By-law to stop-up, close and dispose of the subject road allowance.
11. Any applications required under the Ontario Planning Act, as a result of acquisition of lands to bring the newly merged property into conformity with the Township Zoning By-law (Minor Variance, Zoning By-law amendment, Deeming By-law Etc.) shall be completed prior to the 3<sup>rd</sup> reading of the By-law approving the Offer of Purchase and Sale.

An affidavit from a Solicitor in good standing confirming that the transferred lands shall be registered in the same name and title as the receiving lands to effect merging of title, must accompany the offer to purchase/agreement of purchase and sale.

A road allowance must be joined in title with the abutting property (ies) as the case may be. It will not be permitted to be a stand alone property.