



POLICY:	CLOSING AND SALE OF MUNICIPAL ROAD ALLOWANCES SCHEDULE "B" TO BY-LAW 16-17
Committee:	Planning Services Department
Effective Date:	September 26, 2016
Most Recent Revision:	September 23, 2016

SCOPE

This policy applies to the closure and sale of road allowances by the Corporation of the Town of Mattawa.

The Municipal Act provides that a Council of a Municipality may pass by-laws for stopping up all or part of a highway and for selling the same. A highway includes any road under the municipality's jurisdiction.

POLICY

The municipality will consider requests to stop-up, close and sell municipally owned road allowances provided:

- a) The unopened road allowance is deemed to be not required for current or future municipal use;
- b) Council's policy is that where road allowances abut the shores of rivers and are not required for public access to the water, such road allowances may be closed by the municipality;
- c) all costs (survey costs, legal fees, etc.) are borne by the applicant and/or to those persons whom the lands are to be sold. There shall be no expense to the municipality.
- d) Section 34(7) of the Municipal Act, 2001 c.25, provides that a By-law which has the effect of permanently closing or altering a highway is not valid if the result is a person having no motor vehicle access to and from the person's land over any highway, unless the person agrees to such by-law.

It is specifically noted unopened road allowances which lead to waterbodies are of significant interest to not only the municipality 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.

Generally, the municipality will only consider applications for road allowance closings from abutting land owners. However, this is not a legislative requirement and in certain cases, an application to close and convey a road allowance may be accepted from a property owner that does not abut the road allowance.

This policy does not apply to the sale of land under Part XI of the Municipal Act – Sale of Land for Tax Arrears.

This policy does not apply to the Sale of Disposition of Surplus Lands (See Policy for the Sale and Disposition of Land – Schedule A to By-law 16-17.

LEGISLATIVE REQUIREMENTS

Section 11 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a lower-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public.

Section 391 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may impose fees or charges on persons:

- a) for services or activities provided or done by or on behalf of it;
- b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and
- c) for the use of its property including a property under its control.

PROCEDURE

1. WRITTEN REQUEST – SUBMISSION REQUIREMENTS

In order for Council to review the request, the applicant shall submit the following information:

- a) A letter of Request to stop-up and close a road allowance shall include an accurate description of the portion of the road allowance requesting to be closed, and a legal description of the applicant's lands.
- b) The Letter shall also contain reasons requesting the closure of the road allowance.
- c) A map of the proposed road allowance to be stopped up and closed, including the identification of adjacent lands, including the location of buildings.
- d) The Applicant(s) shall submit with the written request a non-refundable \$300 fee and a \$2,000 deposit to cover administrative, legal and land value costs.

2. COUNCIL ACCEPTANCE OR REJECTION OF APPLICATION

Once all submission requirements are received, the Clerk will circulate to all departments for comments.

The application and Departmental comments will then be referred to Council for acceptance or rejection. If Council wishes to proceed with the closing and sale of the municipal road allowance, a resolution shall be prepared declaring the land surplus and available for sale. If the recommendation is to reject the application, the applicant(s) will be refunded the deposit less any costs to date.

3. CIRCULATION TO ADJACENT LAND OWNERS

The municipality will conduct a detailed search to ascertain the proper names and addresses of all owners of lands abutting the portion of the unopened road allowance proposed to be closed and sold. A sketch will be prepared showing the holdings of any adjacent owners and the portion of the roadway to which they have a right of first refusal. The adjacent landowners will be contacted in writing, to ascertain their interest in the purchase of

abutting lands. Adjacent landowners will be afforded a minimum of three (3) weeks to respond to the letter. The name(s) and address(es) of all such persons will be noted in the file as well as their decision whether or not to participate and acquire a portion of the unopened road allowance.

Should there be no interest shown in the purchase of the portion of the unopened road allowance, the applicant(s) and any other immediately adjacent landowner who has shown interest in acquiring the lands, will be given the opportunity to purchase the unclaimed portions of such land.

4. NOTICE TO PUBLIC

Prior to selling any municipal road allowance the municipality 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.

An advertisement shall be placed in at least one newspaper having general circulation within the local area once a week for a minimum period of two consecutive weeks advising the date, time and location of the public meeting.

The Notice shall also be posted on the municipal website and at the municipal office.

Copies will also be posted in the immediate vicinity of the portion of the unopened road allowance proposed to be closed and sold.

The Notice shall include a brief description of the road allowance and a sketch if at all possible as well as the date, time and location of the public meeting.

After public consultation, a report will be submitted to Council at the next regular or special meeting for further consideration with respect to final decision to close road and at this time a Council resolution is required to proceed to next steps, if applicable.

5. ROAD ALLOWANCE APPRAISAL

The municipality will obtain an appraisal of the fair market value of the unopened road allowance from a person/company certified by the Appraisal Institute of Canada. Once appraisal received copies will be provided to applicant(s) and a letter of intent to proceed must be received by the municipality within thirty (30) days along with a further deposit of ten percent (10%) of appraisal value or at least \$500.00 to confirm desire to proceed by the applicant(s).

If the applicant(s) decide to not proceed with the acquisition the applicant(s) will be responsible for costs associated with advertising and appraisal. Remainder of deposit will be refunded.

Should the applicant(s) decide not to proceed with the purchase once the appraisal has been prepared and does not exercise their option to purchase within thirty (30) days, the second party, if applicable, can proceed to purchase both halves of the road allowance for the appraisal value of each part.

Should neither applicant exercise their right to purchase the road allowance, the appraisal 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.

Council reserves the right to adjust any appraisal if extenuating circumstances become apparent.

6. REFERENCE PLAN (SURVEY) OF ROAD ALLOWANCE

The Applicant(s) shall obtain a reference plan (survey), prepared by an Ontario Land Surveyor, of the area proposed for closing and sale and submit such to the municipality prior to the commencing of any legal work concerning the road closing.

7. CLOSING AND SALE OF MUNICIPAL ROAD ALLOWANCE BY-LAW

Once a reference plan has been submitted to the municipality, the municipal solicitor shall be authorized to proceed with the preparation of the legal work concerning the road closing.

The Closing and Sale of Municipal Road Allowance By-law will be brought to Council for formal approval.

The transfer of the land will only be completed once the legal work is completed and after receipt of total payment.

ERRORS AND OMISSIONS

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 municipality will not necessarily render such disposal invalid or void.

PRIVACY

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.

FORMS

N/A