

# Town of Greater Napanee Road Allowance Closure and Sale Policy



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Department:	Legislative Services	Contact:	Clerk
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## 1. Introduction

The Town of Greater Napanee owns numerous unopened road allowances, some of which have a history of use for public travel and some of which are not essential corridors and whose closure would have no significant impact on the Town or its residents. A policy is required to outline the steps for processing requests to close and convey these properties.

## 2. Purpose

The purpose of this policy is to provide clear and consistent guidelines for processing requests to close and convey unopened road allowances owned by the Town and to ensure the sales of such properties are consistent with the policies in the Town's Sale of Land By-law.

## 3. Scope

This policy applies to the closure and sale of road allowances within the Town of Greater Napanee.

## 4. Definitions

**Applicant** includes an individual and/or a corporation or any other legal entity and their successors, assigns, heirs, executors, administrators, or any other legal representatives of a person to whom the context may apply according to law.

**Appraisal** means a formal written opinion of the fair market value of the land which may be provided by:

- a) An opinion of an independent Real Estate Agent having knowledge of land values in the area; or
- b) by a formal valuation by a qualified Real Estate Appraiser.

**As Is** means without regard for state of repair, location of any and all

structures, walls, retaining walls or fences (freestanding or otherwise) or encroachment by buildings or fences or otherwise, on the land or adjoining properties or streets, and without warranty or representation as to use, environmental contamination, hazards or risks.

**Council** means the Council of the Corporation of the Town of Greater Napanee.

**General Manager of Growth & Infrastructure** means the Town employee holding the position of General Manager of Growth & Infrastructure, or the Town employee holding the responsibility for Planning and Development, or their designate appointed in writing.

**Road Allowance** includes a road allowance made by the Crown surveyors and a road allowance, lane or alley shown on a registered plan of subdivision.

**Town** means the Corporation of the Town of Greater Napanee.

## **5. Responsibilities**

### **5.1. Council is responsible for:**

- a) Approval of this policy and any amendment thereto; and
- b) Final approval of any decisions to declare land as surplus to the municipality's needs; and
- c) Final approval of any decision to close and convey a road allowance.

### **5.2. The General Manager of Growth & Infrastructure is responsible for:**

- a) Reviewing and providing comments on all applications to purchase road allowances, with consideration given to current and future operational needs of the Town and current and future needs of residents; and
- b) Providing recommendations to Council regarding whether municipal lands should be declared as surplus, in accordance with the provisions of the Sale of Land By-law.

### **5.3. The Clerk is responsible for:**

- a) Recommending updates to this policy based on best practices and identified needs of the corporation and community;
- b) Ensuring this policy is reviewed every five years, or more frequently as directed by Council;
- c) Acting as the initial point of intake for processing requests to close and convey road allowances; and
- d) Ensuring requests to purchase road allowances as processed in accordance with this policy.

## **6. Policy for Applications to Close and Convey a Road Allowance**

## **6.1 Council Discretion**

- a) Council may, in their sole discretion, authorize the closure of any road allowance in accordance with the provisions of this policy. Council shall not be required to grant any request to close and/or convey a road allowance.
- b) Council may choose to close a road allowance and not convey it to the adjacent property owner(s) but retain the land as municipal property.
- c) The decision to convey a road allowance shall in no way be understood to obligate Council or Town staff to grant or support any discretionary planning approvals associated with the subject property, such as changes to the Official Plan or Zoning By-law, site plan control, minor variances or building permits.
- d) Council's decision on the selling price of the road allowance will be final.

## **6.2 Principles for Evaluating Applications**

- a) Each application will be considered individually on its merits. In deciding whether to approve any particular application, the Town will consider:
  - i. Whether there is an opened road that parallels or provides the same intended services of the unopened road allowance;
  - ii. Whether portions of the road allowance have already been closed and conveyed;
  - iii. Whether the application would correct or improve a hardship or planning issue related to the Applicant's land;
  - iv. Whether the road allowance contains or leads to a site of historical or archeological significance;
  - v. Whether the road allowance is required for current or future development, utilities, emergency services access, or other municipal needs;
  - vi. Whether the road allowance is required for access to future industrial or aggregate developments; and
  - vii. Whether the road allowance has the potential to provide current or future public access to a water body, crown lands, trails, or other public recreation uses.
- b) An application to close and convey a road allowance will not be considered if any property will be landlocked as a result.
- c) An application to close and convey a road allowance will not be considered if an owner will be deprived of their sole vehicular access to their land as a result.

## **6.3 Road Allowances Leading to Water**

- a) It is specifically noted that unopened road allowances which lead to waterbodies are of significant interest to not only the municipality but also to 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

accordance with Section 34(2) and 43 of the *Municipal Act, 2001* or other legislation or agreements.

- b) As a general rule, unopened road allowances leading to water will not be closed unless it can be demonstrated that there is a suitable public access to the same water body nearby.

#### **6.4 Responsibility for Fees and Costs**

- a) All costs incurred by the Town related to the closure of any road allowance shall be at the expense of the Applicant, unless specified otherwise by Council. These costs may include legal fees, disbursements and applicable taxes, advertising, surveying, registration, administration, and the value assigned to the land.
- b) Where the Town has reasonable cause to believe that the road allowance is the site of an original road, the Town may require the completion of a stage 1 archaeological assessment at the cost of the Applicant.
- c) An administration fee, as established under the Fees and Charges By-law, must accompany each request. This fee is non-refundable if the application is denied at any stage in the process.
- d) The Applicant's costs will be first deducted from the deposit submitted with the application. If the costs, including the cost to purchase the land, exceed the deposit amount, the Town will issue a final invoice for the remaining costs. Failure to pay the invoice will result in the costs being added to the property tax bill of the Applicant's property associated with the application.
- e) Where multiple Applicants are acquiring a portion of the road allowance being closed, the costs to close and convey the property will be divided proportionally, based on the amount of land being conveyed to each Applicant.

#### **6.5 Calculation of Land Value**

- a) The normal flat fee per square foot is established in Schedule A of this policy. Where no fee exists, an Appraisal shall be required.
- b) Notwithstanding Section 6.5(a), in any circumstance deemed appropriate by Council, such as where the sole purpose of the application is to improve the value of the Applicant's land, and not to correct a past planning issue or serve a broader public purpose, the Town may require an Appraisal to determine the value of the land.
- c) Notwithstanding Section 6.5(a), where an application to purchase a road allowance leading to water has been approved, the Town shall require an Appraisal to determine the value of the land.
- d) Council may agree to an exchange of land in lieu of payment where there is a planning, infrastructure, or other public benefit to the Town.
- e) At Council's discretion, the sale value of the land may be adjusted to accommodate extenuating circumstances.

## **6.6 Other Applicable Policies**

- a) All road allowances shall be sold on an “an is” basis.
- b) Upon conveyance, the road allowance shall be required to merge in title with the abutting owner’s property as it is not intended to create a separate lot.
- c) Where an Applicant requests to purchase a road allowance that abuts the land of one or more other property owners, all property owners sharing a property line with the portion of the road allowance under consideration will be given an opportunity to submit written notice of interest in purchasing a fair and appropriate portion of the land and the Town shall consider such offers unless Council determines that there is an overriding public or planning interest in restricting this ability.

## **7. Procedure for Applications to Close and Convey a Road Allowance**

### **7.1 Application**

- a) The Applicant shall submit a written request using the form required by the Town to the Clerk. The application shall be accompanied by a detailed sketch of the proposed road closing which shows the adjacent parcels and roadways, approximate location of any structures, and the portion of the road allowance proposed to be closed.
- b) The request shall be accompanied by a non-refundable application fee at the rate set in the current Fees & Charges By-law.
- c) The request shall be accompanied by a refundable deposit of \$3,000 toward administrative, legal and land value costs.
- d) The application form shall include an agreement by the Applicant to compensate the Town for any costs over and above the deposit amount.
- e) The Clerk may request the applicant to submit additional information to clarify the specific context of the request.

### **7.2 Internal Review**

- a) Once the Clerk has received a complete application, it will be forwarded to the General Manager of Growth & Infrastructure, who may further circulate the application to other internal departments for initial review and comment. This review should take place within 30 days of the initial receipt of the complete application and payment.
- b) After the review by the General Manager of Growth & Infrastructure, the application should also be referred to the Recreation Advisory Committee to provide specific comments regarding whether the road allowance has the potential to provide current or future public access to a water body, crown lands, trails, or other public recreation uses.
- c) The referral in Section 7.2 (b) shall not be required if the General Manager of Growth & Infrastructure identifies that the application is ineligible for approval on other grounds, or if a condition or feature exists which makes the road allowance inappropriate for recreation uses.
- d) The Recreation Advisory Committee shall have up to 90 days from the

date of referral to perform an initial review and provide comments.

### **7.3 Initial Review by Council**

- a) After the internal review is completed, the Clerk shall prepare a report to Council with a recommendation to either reject or accept the application. The decision to reject or accept the application shall be at the discretion of Council.
- b) If the application is rejected, the Applicant's deposit will be refunded, less any costs incurred to date.
- c) If the application is accepted, the application will be moved to the next phase in the procedure.

### **7.4 Circulation to Adjacent Landowners**

- a) The Clerk will prepare a notice to be distributed by mail to all owners of land adjacent to the portion of the road allowance proposed to be closed and sold. The notice shall include a sketch showing the boundaries of the road allowance and the land of the property owners being notified.
- b) The adjacent landowners will be given an opportunity to express their interest in purchasing the portion of the lands abutting their property and/or to express any objections to the sale. Adjacent landowners will be given a minimum of three weeks to respond to the inquiry.
- c) Any adjacent landowners wishing to purchase a portion of the road allowance will be required to enter into an agreement with the Town to be responsible for their portion of the survey costs, legal costs, and land purchase costs, to be determined on a proportional basis on the area of land actually transferred.
- d) All adjacent landowners will be given the opportunity to submit an offer to purchase the portion of the road allowance unless Council determines that there is an overriding public or planning interest in restricting this ability. If this occurs, landowners will still be notified of the proposed sale and given an opportunity to submit comments.

### **7.5 Circulation to Public Agencies**

- a) The Clerk will prepare a notice of proposed closure and sale and circulate it to all public agencies having a potential interest in the land for comment. All agencies shall be given a minimum of four weeks to provide comments.
- b) The agencies to be notified shall include the County of Lennox and Addington, Hydro One, Enbridge, and Bell Canada.
- c) If the road allowance abuts a provincial highway, notice shall be provided to the Ontario Ministry of Transportation.
- d) If the road allowance abuts a waterbody, wetland, or crown land, notice shall be provided to the Ontario Ministry of Natural Resources.
- e) Additional notices may be circulated at the recommendation of either the General Manager of Growth & Infrastructure or the Recreation Advisory Committee.

- f) If an easement agreement is required to be entered into or identified on the plan of survey, the applicant(s) will be responsible for the costs associated with such work.

#### **7.6 Public Meeting and Final Review by Council**

- a) Notice of a Public Meeting for Council to consider the closure of the road allowance shall be given to the general public in accordance with the Town's Public Notice Policy.
- b) A staff report containing comments from Town Staff and any public agencies shall be included on the Council agenda.
- c) Council will hold a public meeting to hear from anyone who may support or oppose the application.
- d) Following the public meeting, at the same or a subsequent meeting of Council, Council shall consider a motion authorizing Town staff to proceed with the necessary documentation to complete the road allowance closing and sale. If the motion is defeated, no further action shall be taken and the Applicant's deposit shall be refunded, less any costs incurred to date.

#### **7.7 Approval to Close and Convey**

- a) If the motion to proceed is passed by Council, the Clerk shall coordinate with the Applicant to ensure all necessary documents to complete the closure and conveyance of the road allowance are prepared.
- b) The Applicant shall arrange for the preparation of a reference plan showing the parts to be conveyed to the respective adjacent landowners. The reference plan shall be registered and utilized in the calculation of the purchase price and preparation of transfer deeds. On the agreement of the Applicant, the Town may coordinate the reference plan work at the Applicant's cost.
- c) If the Town has required an Appraisal be obtained as a condition of the conveyance, the Town shall arrange for the Appraisal to be completed. The Applicant shall have 30 days from receipt of the Appraisal to determine whether to proceed with the purchase of the road allowance.
- d) The Clerk shall calculate the total cost for the land transfer based on either the reference plan details and flat rate established in Schedule A or the appraisal, and shall ensure the value of the transfer is deducted from the Applicant's deposit or invoiced to the Applicant.
- e) The Town shall pass a by-law to close and convey the road allowance subject to any terms as stipulated by Council through the application process.
- f) The Clerk shall provide the Town's solicitor with any required documentation to complete the transfer of the land and registration of the road closure by-law on title.

#### **7.8 Final Calculation of Costs**

- a) Upon receipt of all invoices related to the application, the Clerk shall

confirm the balance of all costs against the Applicant’s deposit and shall issue a request for the refund of any remaining balance to the Applicant or an invoice for any outstanding costs.

- b) If the invoice for outstanding costs remains unpaid after 60 days, the Town may add the costs to the tax roll of the Applicant’s property that is the subject of the application and collect in the same manner as taxes pursuant to Section 398 of the *Municipal Act, 2001*.

**8. Legislative Authority**

- Section 26-28 of the *Municipal Act, 2001* states that the local municipality has jurisdiction over and may pass by-laws related to road allowances made by Crown surveyors or shown on a registered plan of subdivision within the municipal boundaries.
- Section 29 of the *Municipal Act, 2001* states that neighboring municipalities have joint jurisdiction over any road allowance forming a boundary line.

**9. Related Documents**

- Sale of Land By-law
- Public Notice Policy By-law
- Fees and Charges By-law
- Official Plan
- Delegation of Authority for Temporary Road Closures By-law

**10. Appendices**

- Schedule A – Standard Flat Rates for Land Valuations

**Revision History**

Date	Number	Description
July 27, 1998	Policy A98/07/27-02	Policy adopted by Resolution #313/98
February 19, 2007	Resolution #40/07	Policy amendments to set flat fee per acre for sales and required circulation of notice to adjacent landowners
June 23, 2020	By-law 2020-0035	Update application fee in Fees & Charges By-law
May 27, 2025	Policy LS-2025-01	Update policy and procedures, separate permanent and temporary road closures into distinct policies and processes

**Schedule A to Town of Greater Napanee Road Closure and Sale Policy – Standard Flat Rates for Land Valuations**

For the purposes of the sale of closed road allowances, as well as Class 2 – Non-Developable Lands as defined in the Land Sale By-law, the following flat rates may be used to calculate the value of land instead of an appraisal.

For the purpose of this Schedule, 'Urban Area' means the urban settlement area as defined in the current version of the Town's Official Plan.

Despite any rates contained in this policy Council may, in its sole discretion, require an appraisal to be obtained by the prospective purchaser.

The rates in this policy shall be reviewed at least once every five years, and at any time at the direction of Council.

<b>Category</b>	<b>Rate</b>
Within Urban Area – under 0.5 acres	\$54,250 per acre or \$1.25 per ft <sup>2</sup>
Within Urban Area – under 5 acres	\$41,920 per acre or \$0.96 per ft <sup>2</sup>
Within Rural Area – residential, commercial or industrial use	\$12,150 per acre
Within Rural Area – agricultural use	\$2,730 per acre