

CORPORATION OF THE TOWN OF PETAWAWA

BY-LAW 1384/21

**BEING A BY-LAW TO ADOPT A POLICY GOVERNING THE SALE OF
MUNICIPAL ROAD ALLOWANCES WITHIN THE CORPORATION OF
THE TOWN OF PETAWAWA**

WHEREAS Section 270 (1), paragraph 1 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, requires municipalities to adopt and maintain a policy with respect to the sale and other disposition of land;

AND WHEREAS Council wishes to adopt a policy specific to governing the sale of municipal road allowances;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN
OF PETAWAWA ENACTS AS FOLLOWS:**

1. That the “Policy Governing the Sale of Municipal Road Allowances” attached hereto as Appendix “A”, be and is hereby adopted.
2. That Appendix “A” is deemed to form part of this by-law.
3. That any and all By-laws/Policies or parts of By-laws/Policies heretofore passed inconsistent with the provisions hereto and respecting the sale of shoreline road allowances and other road allowances within the Corporation of the Town of Petawawa are hereby repealed.
4. That this by-law shall come into force and take effect following third reading.

By-law read a first and second time this 18th day of January, 2021.

By-law read a third time and passed this 18th day of January, 2021.

APPENDIX "A" TO BY-LAW 1384/21

POLICY GOVERNING THE SALE OF MUNICIPAL ROAD ALLOWANCES



WHEREAS within the Town of Petawawa, the Municipality owns all original concession road allowances which have not yet been stopped up and conveyed;

AND WHEREAS Provincial legislation allows municipalities to sell such road allowances, except any portions which are covered by water;

AND WHEREAS the Town of Petawawa supports the retention of road allowances in order to provide opportunities for public access;

AND WHEREAS however, the Municipality 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;

AND WHEREAS generally, the Town will convey half of the width of the road allowance to each abutting land owner unless there is an agreement between the abutting landowners (which agreement may include a landowner's written expression that it does not wish to purchase any portion of the road allowance);

AND WHEREAS there may be instances where Council will need to allocate the road allowance differently due to specific circumstances and the allocation decision ultimately lies with Council;

AND WHEREAS applications for closure of "portions" rather than the entire road allowance may be considered at the discretion of Council;

NOW THEREFORE the following policy document will provide for appropriate direction to staff and Council regarding the sale of municipal road allowances.

PURPOSE

This policy provides guidance on how the Town of Petawawa addresses the closing of open and unopened municipal road allowances, as well as the sale of said municipal road allowances to the public.

DEFINITIONS

“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 water body. 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 water body. 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.

POLICY

1. Road closures must be completed in accordance with Section 34 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
2. Criteria to be considered by Council include the following:
 - Could the parcel in question potentially be used for municipal or public purposes?
 - Is the parcel part of a continuous portion of waterfront road allowance?
 - Is the applicant’s use of his/her land being adversely affected by not owning the waterfront road allowance?
 - Are any neighbours being adversely affected?
 - Are there environmental concerns?
 - What are the adjacent land uses?
 - Are there any Official Plan, zoning by-law or government agency concerns?
 - Does the applicant agree to purchase the land at fair market value and pay for all applicable costs such as, but not limited to, the costs associated with the preparation of a survey, appraisal fees, advertising costs, legal fees?

3. The Municipality will not consider the closure and conveyance of any road allowance, or portion thereof, which would deprive any property owner of ingress or egress to their lands, or if the closure conflicts with municipal by-laws or procedures.

ADMINISTRATION

1. Staff who are responsible for processing applications for closing and conveying of road allowances shall follow this policy.
2. This policy shall come into force and take effect upon adoption by Council.
3. The applicant is responsible for all fees associated with this process, including but not limited to: the application fee; preparation of the reference plan of survey; cost of the appraisal of the subject property; the fair market value as determined by the appraisal; and all costs legal or otherwise associated with the purchase, transfer and registration of the road allowance. There shall be no expense, generated by this process, to the Town of Petawawa.

PROCEDURE

1. Pre-consultation with municipal staff is required prior to the submission of an application.
2. The submission of a complete application must include a \$250.00 non-refundable application fee. Upon receipt of this request a circulation to the immediate neighbours as well as appropriate municipal staff is completed requesting comments. Should an adjacent property owner wish to purchase the 33 foot wide portion of an inland road allowance or a road allowance leading to water they must also complete an application for consideration. Upon the mutual consent of the participant(s), if two (2) or more applicants join in one (1) application, costs for each participant may be shared, and can be reduced.

A legible plan MUST be attached to the application form, which clearly identifies the area of unopened road allowance proposed to be purchased. Although an Ontario Land Surveyor's plan is NOT required at this stage, it is encouraged that the applicant obtain the services of an Ontario Land Surveyor or equivalent, to prepare an initial draft plan.

3. A report is presented to Council for consideration of the sale of the road allowance. Council will make a decision to approve "in principle" or decline support of the proposal.
4. Should Council decide to decline the proposal the file is closed. If Council approves in principle the proposed sale, the balance of the application fee

(adjusted annually on January 1st, as defined in By-law 1310/19) must be submitted by the applicant(s) prior to the Town proceeding with the sale process. Any application will be considered terminated if inactive for a period of one (1) year.

5. All requests for road allowance closings, where physically possible, shall be inspected by municipal staff. All requests for road closure made between November 1st and March 31st, may be placed on hold until a site inspection can be scheduled.
6. Once the applicant obtains an approval in principle from Council, the applicant(s) must engage the services of an Ontario Land Surveyor to prepare a new reference plan of the subject road allowance that is to include the following:
 - Any pre-approved property lot line extensions;
 - Identify all structures on the applicant's property as well as the road allowance. The identification of any structures will be removed from the draft reference plan once the Municipality has reviewed and approved the plan; and
 - The survey must show all encroachments on the road allowance from any neighbouring properties.

The road allowance must be identified as a part on the reference plan that can be registered for the purpose of merging the subject properties. A road allowance must be joined in title with the abutting property(ies). It will not be permitted to be a stand-alone property.

The draft plan **MUST NOT** be deposited in the Land Registry Office prior to its approval by the municipal staff. Upon receipt of the draft plan, municipal staff will review and if satisfied, will direct the applicant's surveyor to deposit the survey at the local Land Registry Office. Upon registration of the required survey, the applicant(s) will be required to submit two (2) paper copies and provide one electronic version of the Registered Plan to the Town of Petawawa Planning and Development Department.

All registered plans must show/indicate the required area and linear measurements of the subject property.

7. Once the registered plan is received, Town staff will contact a local appraiser, provide them with a copy of the survey and request that an appraisal of the property be completed. This report will provide the fair market value of the subject property.
8. All lands for consideration must be declared surplus by the passing of a Resolution of Council and following the procedures for the sale of real property as set out in By-law 238/2003.

9. The Municipality will prepare a Public Notice, informing the public about the proposed road closing and sale of surplus land. This notice will be advertised for three (3) consecutive weeks prior to the Council meeting.
10. The Municipality will provide a Public Notice sign(s) to the applicant(s) that must be posted to clearly identify the subject road allowance. The posting of the sign(s) at the subject property is the responsibility of the applicant and the Public Notice must remain in place for the whole notice period.
11. Any person who feels the ingress or egress to their property may be affected, can file an objection to the application. 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.

Applications will not be approved if it is deemed:

- To have a negative impact on neighbouring owners of land; or
 - Other land owners may be deprived of the sole vehicular access to their property; or
 - Closure will result in conflicts with Official Plan policies, by-law regulations or procedures previously adopted.
12. Municipal staff will prepare and present a final report to Council for the approval or denial to stop-up, close and offer for sale the subject road allowance.
 13. Once all approvals have been obtained as set out above, the Town's solicitor will prepare the transfer documents. As noted previously, the applicant will be responsible for all costs associated with the transfer and registration of the subject property along with the payment of any Land Transfer Tax and any other outstanding fees associated with the file.



APPLICATION TO CLOSE A MUNICIPAL ROAD ALLOWANCE

Pursuant to the Municipal Act, 2001, S.O. 2001, c. 25, as amended

APPLICATION

FOR OFFICE USE ONLY Application Fee (adjusted annually on January 1 st , as defined in By-law 1310/19)	Date
Pre-consultation	
Application with non-refundable fee of \$250.00	
Report to Council	
Approval in Principle	
Submission of balance of application fee	
Final Approval	

APPLICANT INFORMATION	
Name	Home Phone No.
	Work Phone No.
	Fax. Number
Mailing Address	Postal Code:
Email Address:	

AUTHORIZED AGENT/SOLICITOR INFORMATION	
Name	Phone No.
	Fax Number
Address	Postal Code:
Email Address	

Please specify the person that is to be contacted about this application: _____

LOCATION OF THE APPLICANT(S) PROPERTY	
Geographic Township:	
Concession:	Lot:
Registered Plan:	Part(s) #
Civic Address	

LOCATION OF THE SUBJECT ROAD ALLOWANCE	
Geographic Township	
Concession:	Lot:
Registered Plan:	Part(s) #

DETAILS	
Dimensions of the subject road allowance:	
Identify adjacent land uses:	
Has the road allowance ever been used as a public road? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide details.
Will the closure of this road allowance prohibit access to any other property? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide details.
Are there any easements or restrictive covenants affecting this road allowance? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide details.

Is the parcel part of a continuous portion of waterfront road allowance? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable	If yes, provide details.
Is the applicant's use of his/her land being adversely affected by not owning the waterfront road allowance? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable	If yes, provide details.
Are there any environmental concerns? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide details.

AUTHORIZATION OF OWNER FOR AGENT TO MAKE THE APPLICATION

If the Declaration is signed by an Agent on the Owner's behalf, the Owner's written authorization below must be completed.

I (we) _____ of the _____
 of _____ in the _____ of _____
 do hereby authorize _____ to act as my (our) agent in this application.

 Signature of Owner(s)

 Date

DECLARATION

I/We, _____ of the Municipality of _____
 in the County of _____ solemnly declare that all the statements
 contained in this application and all of the supporting documents are true and that I/We make this
 solemn declaration conscientiously believing it to be true and complete and knowing that is of the
 same force and effect as if made under oath and virtue of the **CANADA EVIDENCE ACT**.

DECLARED before me at the _____ of _____

in the County of Renfrew this _____ day of _____ 20_____.

 Signature of Owner or Authorized Agent

 Date

 Signature of Commissioner

 Date

The information on this form is being collected under the authority of section 4 of the Municipal Freedom of Information and Protection of Privacy Act. This information will be used for the purpose of processing an access request under the Act. Enquiries regarding the collection of this information should be directed to the Office of the Clerk, Town of Petawawa, 1111 Victoria Street, Petawawa, Ontario, K8H 2E6, (613) 687-5536.