

BYLAW 2016-18

**BEING a By-law to Establish Policies and Procedures  
For the Closure of Shore Road Allowances**

WHEREAS the Municipal Act, S.O. 2001, Chapter 25, a municipality may enact a By-law to stop up, close and sell part of a road allowance.

AND WHEREAS the Township of Corporation of the Township of Limerick deems it necessary to set forth its policies and administration procedures in the closing and disposition of Shore Road Allowances;

NOW THEREFORE the Corporation of the Township of Limerick enacts as follows;

1) DEFINITIONS

In this Policy;

- a) Municipality or Township means the Corporation of the Township of Limerick;
- b) Clerk means the Clerk of the Corporation of the Township of Limerick;
- c) Council means the Council of the Corporation of the Township of Limerick;
- d) Shore Road Allowance means the original 66' foot wide strip of land lying adjacent to a body of water as laid out by a Surveyor under Crown instructions, and shall be defined by the common law rule as to the boundary between land and water placing it at the water's high water mark indicated at the level at which the water is held for a period sufficient to leave a water mark along the bank, however does not include a linear Road Allowance (i.e. one between Concessions or Lots) that intersects a water body).
- e) Municipal solicitor means the law firm as currently retained by the Council of the Corporation of the Township of Limerick;

2) PURPOSE

- a) To establish a policy to regulate the closure and disposal of shore road allowances and to develop a procedure to consistently process any request that has been supported by Council in accordance with the following principles;
- b) Council will give consideration to the closure and disposal of a shore 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 shore 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 bank of any river, stream or other water or the shore of any lake or other water. This shall be referred to as a shore road allowance.
- c) Only the portion of the Shore Road Allowance lying directly in front of the Applicant's abutting lands shall be considered for closure and sale to the applicant.

3) GENERAL

- a) Council will not consider the closure and disposal of any shore road allowance if in Council's opinion the shore road allowance is used for Public Access or municipal purposes or has the potential for Public or Municipal purposes in the future; or if the Council determines that the abutting neighbours are not in agreement for a legitimate reason with the proposed mutual boundary, or the privatization of the shore road allowance.
- b) Any person who feels his/her ingress or egress to his/her property may be affected can file an objection to the proposal. Any concerns raised by members of the public must be resolved to Council's satisfaction prior to the enactment of a bylaw to stop-up, close and dispose of the subject road allowance.
- c) If there are any buildings/structures on the shore road allowance, the Municipality may require removal of buildings and upgrading of septic system prior to completing the conveyance. Accessory building(s) in particular will be closely scrutinized. Council may

require their removal prior to conveying the road allowance. Purchasing the original shore road allowance does not permit construction or alteration of any kind of structure or shoreline alterations on the Original Shore Road Allowance and in this regard, the Township of Limerick Zoning By-law 2013-20 as may be amended from time to time, and the Hastings County Official Plan requirements must be complied with and all other applicable approvals obtained, e.g. Crowe Valley Conservation Authority permits.

- d) If there is a septic system or a Class 1 system (privy) on the Shore Allowance the Applicant shall supply the Municipality with a copy of the sewage system inspection report and use permit issued by the local Health Unit. The Municipality may require a current inspection of the septic system by the local Health Unit, together with its approval of the system.
- e) Council may impose any condition upon the sale and transfer of the closed road allowance that it considers necessary and appropriate. This may include the registration of a prohibition or restrictive covenant on title of the lands.
- f) With respect to the conveyance of the shore road allowance, the dry land portion of the allowance is conveyed to the adjacent landowner. The flooded portion of the allowance is retained by the Municipality and/or Crown.
- g) Applicants should allow a minimum of one year to complete the purchase of the shore road allowance. The completion time may increase should easements be required or complications occur during the process. There is no guarantee of completion within a set time frame.
- h) Subject to change of title, original applicants must assign the application and fee to the transferee and complete an Assignment Agreement (Assignee assumes and agrees to perform all of the applicants obligations under the Original application), attached to this policy as Schedule B.
- i) All tax payments must be current and the subject property shall not have any debts owing to the Municipality.
- j) Title to the shore road allowance must be taken in the same manner as the applicant's abutting lands such that they legally merge in title. It will not be permitted to be a stand-alone property.

#### 4) PROCEDURES

- a) The applicant shall complete and submit an Application to Purchase Shore Road Allowance, attached to this policy as Schedule A, along with the applicable fees indicated under Section 5. If this Application is signed by a solicitor or agent on behalf of the applicant, written authorization must accompany the Application, as provided for in the application attached as Schedule A.
- b) A sketch, or survey plan if available, must be attached to the Application showing the property and proposed portion of the shore road allowance to be closed.
- c) The application shall be submitted to the clerk who will direct it to Council for Approval in Principle. The clerk will notify the applicant if the application is denied/refused in principle or should further information be required. Otherwise, the application will proceed to the next step.
- d) The applicant will then submit one hardcopy and one copy of a preliminary draft Reference Plan of Survey, prepared by an Ontario Land Surveyor, of the subject allowance showing all buildings and other requirements as noted in this policy under Section 6. The preliminary reference plan/survey MUST include the signed consent from all adjoining land parcel owners as indicated under Section 11 of this policy.

**Note: The applicant is responsible for making arrangements for the survey with an Ontario Land Surveyor. All costs associated with the survey are the responsibility of the applicant and are to be paid directly to the surveyor.**

- e) The Clerk will forward the Application and supporting documentation (including preliminary draft survey) to the Municipal solicitor. The Municipal solicitor shall circulate the draft reference plan to Bell Canada, Hydro One Networks Inc., along with any other government services or agencies as deemed necessary, to receive their consent to the closing of the shore road allowance. A search of the Provincial Land Registry Office will be undertaken to ensure that the applicants are the owners of the abutting lands, and no further easements or encumbrances are registered on title that will impinge on the success of the application. Should any title issues be discovered which may affect the application; it shall be the Applicant's responsibility to rectify these issues at Applicant's expense.
- f) Once the Municipal solicitor is satisfied that all consent requirements are obtained he/she shall prepare, and forward to the Clerk, the Public Notice which shall be posted at the Municipal office and published on the Municipal website for ten (10) days prior to the passage of the Bylaw. The applicant will be supplied with a proposed notice of closure upon acceptance of the application that must be displayed in a prominent place in the vicinity of the property. The posting at the subject property will be the responsibility of the Applicant and notice must be permitted to remain until the sale is complete.

Note: Section 34(2) of the Municipal Act S.O., 2001, Chapter c.25 provides that a by-law permanently closing a highway shall not be passed without the consent of the Government of Canada if the highway, abuts on land, including land covered by water, owned by the Crown in right of Canada; or leads to or abuts on a bridge, wharf, dock, quay or other work owned by the Crown in right of Canada

- g) A draft bylaw shall be prepared by the Municipal solicitor and forwarded to the Clerk for presentation and consideration by Council. If there are no legitimate and reasonable objections received, Council may in its discretion deem the subject lands surplus and approve the sale of the shore road allowance. If the By-law is duly passed, a certified copy of the Bylaw and public notice, along with a statutory declaration made by the Clerk shall be forwarded to the Municipal solicitor.

Note: Any affected person can file an objection to the proposal. Any legitimate concerns raised by members of the public will be resolved to Council's satisfaction prior to the enactment of a bylaw to stop-up, close and disposal of the subject road allowance.

- h) The Municipal solicitor shall prepare and register the By-Law and Document General to create a parcel register for the shore road allowance. The Municipal solicitor shall coordinate the registration of any Transfer/Deeds of easement which may be required by Bell Canada or Hydro One as a pre-condition of the sale of the subject lands. The Municipal solicitor shall then prepare the Transfer/Deed of land to transfer title of the shore road.
- i) Registration of Transfer/deed shall be completed upon receipt of all applicable outstanding costs, including purchase price and applicable Harmonized Sales Tax and land transfer tax.

Note: Acknowledgement and Direction for the transfer/deed of land may be signed by the Applicant with the Municipal solicitor, the Applicant's solicitor or the Municipal clerk. Two forms of identification are required, being a driver's licence or passport and a credit card, SIN card or birth certificate. A certified copy of each will be forwarded to the Municipal solicitor along with outstanding costs to register the deed.

## 5) FEES

- a) The purchase price for the Shore Road Allowance shall be \$3.00 foot, calculated on the entire outer limit boundaries of the shore road allowance, AND
- b) \$500.00 Non-refundable municipal administration fee, AND
- c) \$500.00 security deposit which will be applied towards the legal fees and disbursements and advertising costs;
- d) The administration fee and security deposit must be paid to the Township at the time of application;
- e) If the costs incurred to process the application are greater than this amount the applicant 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.
- f) Council retains the right to amend these fees and the applicable purchase price from time to time.
- g) Applicants shall be responsible for all costs of the application.

## 6) REFERENCE PLAN/SURVEY REQUIREMENTS

A reference plan of survey suitable for registration which describes the applicable portion of the shore road allowance as a part on the Plan shall be prepared and delivered in draft to the municipality. All costs associated with the preparation and registration of the reference plan is the responsibility of the Applicant. Generally the portion of the shore road allowance to be closed and conveyed will be determined by straight lot line projections. However, as a result of the irregular nature of the shoreline or if neighbouring structures encroach, deviations from straight extensions or existing lot lines may be required.

The reference plan must;

- a) show all structures;
- b) show any/all submerged portions of a shore road allowance;
- c) identify the portion of the shore road allowance to be sold, as a separate part or parts on the reference plan that can be transferred to merge the parcel with the applicant's abutting lands.
- d) Shall include the signed consent of all adjacent landowners, indicating their approval of the purchase of the road allowance with boundaries in the location shown on the reference plan.
- e) Where applicable, shall indicate the location of any Bell Canada or Hydro One Network Inc. facilities and may wish to designate a separate part on the plan where these facilities are located for an easement.

The reference plan should not be deposited on title until it has been reviewed by the municipality.

## 7) CONSENT REQUIREMENTS

Applicants are required to obtain the consent of all neighbours owning land abutting the Applicant's land and the parcel of shore road allowance to be purchased. The neighbours will be required to confirm that they have no objection to the closure and sale of the relevant portion of the shore road allowance and that they agree to the proposed location of the boundary for the shore road allowance parcel by signing the following statement which will be on the draft reference plan:

"We the undersigned abutting property owners have no objections to the proposed closure and sale of the shore road allowance to \_\_\_\_\_ in the location and with boundaries as indicated on this reference plan."

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

8) POLICY REVIEW

Council shall review this policy and the fees for the purchase of shore road allowances during each term of Council. This policy may be amended from time to time as deemed necessary by Council resolution and only after public notification by means of posting on the Municipal website, notice of intent at a publicly held open meeting, and posting at the Municipal office.

9) VALIDITY

In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction, to be ultra vires, such provision, or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all provisions of this by-law shall remain in full force and effect.

This by-law repeals by-law 2008-08 of the Corporation of the Township of Limerick. This by-law shall come into force and take effect upon final reading thereof and shall apply to all applications submitted after that date.

READ a first and second time this 15th day of August, 2016.  
READ a third time and finally passed this 15th day of August, 2016.

THE CORPORATION OF THE TOWNSHIP OF LIMERICK

\_\_\_\_\_  
REEVE – SHARON CARSON

\_\_\_\_\_  
CLERK – JENNIFER TRUMBLE

CERTIFICATION

I hereby certify that this is a true copy of a Bylaw 2016-18, passed by the Council of the Township of Limerick at their meeting held on 15th day of August 2016.

Date: \_\_\_\_\_

Clerk: \_\_\_\_\_

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