



<b>Title:</b>	<b>Road Closure Policy</b>	
<b>Policy Group:</b> <b>Your Community's Change and Growth</b>	<b>Policy Administrator:</b> <b>Development Services</b>	
<b>Resolution No.</b> <b>CW-169-2023</b>	<b>Policy Number:</b> <b>DS-04</b>	
<b>Approval Date:</b> <b>2023-09-14</b>	<b>Revision Date:</b> <b>2027-09-14</b>	

## 1. Policy Statement

- a) The Corporation of the County of Prince Edward (hereafter the "Municipality") is committed to Conveyance and Closure of Roads in a manner that is fiscally responsible, transparent, accountable and consistent.

## 2. Purpose

- a) The purpose of this Policy is to provide guidance and procedures to govern the process for the Closure of Roads within Prince Edward County.

## 3. Scope

- a) This Policy applies to Council and all municipal departments.
- b) This Policy applies to the Closure of Roads initiated by the Municipality or initiated through an unsolicited written application received from the public. Where the Road has been successfully closed through this policy and the Road is to be conveyed, it shall be conveyed through the Sale or Disposition of Land policy.
- c) This Policy does not apply to temporary road closures required for a special event on municipal property, streets and roadway.

## 4. Legislative Authority

- a) Section 270(1) of the *Municipal Act, 2001* provides that municipalities shall adopt and maintain policies with respect to the sale and other disposition of land, the circumstances in which the Municipality shall provide notice, and the delegation of its powers and duties.

## 5. Definitions

- a) **"Abutting"** shall mean a parcel of land adjoining another parcel of land having one (1) or more lot lines in common;
- b) **"Appraised value"** means a valuation of the fair market value of the land prepared by an appraiser with an Accredited Appraiser Canadian Institute (AACI) or Canadian Residential Appraiser (CRA) designation.
- c) **"CAO"** means the Chief Administrative Officer appointed by By-law of Council or their designate.
- d) **"Closure"** means the closure of a road to remove its status as a Public Highway under the Act and to convert the land holding from that of a road authority to other lands owned by the Municipality.
- e) **"Conveyance"** means the act of transferring property from one party to another.
- f) **"Council"** means the elected council for the Corporation of the County of Prince Edward.
- g) **"Disposition"** means the act of selling, transferring, conveying or otherwise disposing of an interest in Land, whether or not such disposition or sale involves the exchange of money or another form of consideration.
- h) **"Land(s)"** means real property and real estate and shall include all buildings or any part of any building and all structures, machinery, fixtures erected or placed upon, in, over, under or affixed to Land and highways which have been or may be stopped up and closed, but does not include personal property.
- i) **"Landlocked"** means a parcel of land that will not have sufficient access to a public road if the whole or a portion of road allowance is closed.
- j) **"Municipality"** means the Corporation of the County of Prince Edward.
- k) **"Municipal Act"** means the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended.
- l) **"Municipal Lands"** means Lands owned by the Municipality, including road allowances.
- m) **"Reference Plan"** means a plan prepared by an Ontario Land Surveyor which pictorially details the dimensions of a parcel of land or

easement and which provides a legal description for registration purposes. May also be referred to as a “**Survey**”.

- n) “**Road**”, for the purposes of this policy, means a Public Highway under the Municipal Act and the terms Street, Highway, Common Highway, Original Road Allowance, Road Allowance, Shore Road Allowance, Quarter Session Road, (all whether open or not opened), are all used within the meaning of 'Road'.
- o) “**Sale**” means the sale, transfer, conveyance or exchange of Land and includes a lease of 21 years or longer, but does not include the granting of an easement or right of way, and ‘**Disposal**’ shall have a similar meaning.
- p) “**Surplus Land**” means any Land that has been deemed by by-law or resolution of Council to be no longer of use to the Municipality.
- q) “**Valuation**” means the value of Lands as determined through subsection 6e) ii) of this Policy.

## 6. General

- a) Road Closure and Conveyance Request
  - i. All requests for Road Closure and Conveyance shall be in accordance with this Policy and shall conform to the procedures outlined herein.
  - ii. All requests for Road Closure and Conveyance shall be initiated by either a property owner Abutting the subject road or the Municipality.
    - 1. Where the applicant is an Abutting property owner, the request shall be submitted to staff in the form prescribed by the Municipality and shall contain a deposit payable to the County of Prince Edward in the amount outlined under Schedule "D" in the Fees and Charges By-Law, as amended.
    - 2. Where the applicant is the Municipality, the request shall be submitted to staff in the form prescribed by the Municipality and the initiating department shall be responsible for all fees, excluding the application fee, outlined in subsection 6c) iii).
  - iii. All Surveys required shall be conducted by the Municipality and applicants are advised that they do not have authority to conduct Surveys of Municipally owned land. A preliminary survey plan may be initiated at this point to assist in the review.

b) Road Closure and Conveyance Request Review Process

- i. Following receipt of the completed application form and the deposit, staff will conduct a review of the application with respect to the Considerations outlined in subsections 6b) ii), iii) and iv).
- ii. When staff conducts a review of the application the following will be considered:
  1. Is there an open Public Highway that parallels the subject Road that essentially serves as the intended Road?
  2. Have portions of the Road already been disposed and are situated adjacent to the requested Closure?
  3. Is this a Road that could serve present or future public needs?
  4. Does Closure of the Road correct/improve a hardship?
  5. Is the request for personal improvement to applicant's property?
- iii. Staff will review adjacent properties to ensure the Road:
  1. will not result in any property being landlocked as a result of the Closure;
  2. does not abut Crown Land including a Road under water.
  3. does not lead to a bridge, wharf, quay, shoreline or any other work owned by the Crown; and
  4. is not under water, but if closure is to be recommended, written comment from MNR as to consent of MNR to convey (reference *Municipal Act* Section 43) will be requested.
- iv. To assist staff in their review and consideration of any Road Closure request Council has provided the following direction:
  1. Roads leading to water will not be closed with the intent to dispose unless the applicant can provide an equivalent or improved alternate access to water.
  2. Roads, which if closed, would create landlocked parcels of property will not be closed unless the applicant can provide an equivalent or improved alternate access for the potentially landlocked property(s).

3. Roads, which if closed, would provide benefit or personal improvement only for the applicant, will not be closed unless it can be demonstrated by the applicant that the requested closure would eliminate a hardship; in which case the requested closure could be considered by Council.
  4. Roads, which if closed, would provide the applicant with a larger holding for the purpose of dividing to create new development lots will not generally be considered unless it receives the prior consent of Council or unless required pursuant to a draft plan approval conditions for a new subdivision.
- v. Following review of the application in accordance with respect to Section 6b):
1. Should the application be denied, the applicant will be so advised in writing with any remaining portion of the refundable portion of the deposit returned to the applicant.
  2. Should the application be recommended to proceed, the process outlined below will be followed.

c) Closure and Conveyance

- i. Where the applicant is an Abutting property owner:
  1. if the applicant does not own both sides of the road, staff will contact the owner(s) on the other side to determine if there is interest in purchasing the half of the Road which fronts their property.
  2. If there is no interest, staff will request a release in writing (necessary prior to final survey).
  3. If the owner of the opposite side of the road has an interest in purchasing a portion of the road allowance, that owner will be advised to submit an application and the original application shall be amended accordingly. Generally, the Municipality will Convey half of the width of the Road to each abutting property owner unless there is an agreement between the abutting landowners.
- ii. Where the applicant is the Municipality, staff will notify the Abutting property owner(s) of the request and the opportunity to provide input at the Public Meeting.

- iii. In the Municipality's review, staff will engage survey review, have a preliminary survey plan prepared, obtain legal advice and title search, if required, at the applicant's expense. This cost is additional to the deposit described in subsection 6a) ii) 1.
- iv. Staff will circulate review documents and background information to affected departments and solicitor (if necessary) for comment.
- v. Staff will obtain all necessary information (such as draft surveys, etc.) to prepare the Notice of Public Meeting.

d) Public Meeting

- i. Within two months of receiving notice under section 6c) v. staff will:
  - 1. prepare a Notice of Intent to close the Road or to declare Surplus, Close and Convey the road as identified on the draft survey and forward to staff for review.
  - 2. place advertisement in local papers once a week for two successive weeks prior to the Public Meeting.
  - 3. Clerk's Office will add as a "Statutory Deputations" to the Committee of the Whole agenda, a Notice of Public Meeting for deputations with respect to the proposed road closure.
- ii. If objections or concerns are heard at the Public Meeting, further direction will be provided by Committee to staff.
- iii. If no objections or concerns are heard at the Public Meeting, the Road Closure process or the Road Closure and Conveyance process will continue.
- iv. Development Services will then advise the applicant that the process is proceeding and that a Report will be brought to Council.

e) Report / By-Law to Council

- i. Staff shall submit a staff report outlining the request, confirmation that the review process outlined under section 6 has been satisfied, the results of the departmental review process, and comments from the Public Meeting to Council with a staff recommendation and by-law to proceed with the request, in whole or in part, to Close the Road. Where the intention is to also convey the Road, the by-law will include the

request to declare Surplus, Close and initiate the valuation of land process..

1. Should the staff recommendation is not in favour of closing the road, based on the departmental review and/or feedback from the Public Meeting, a by-law will still be required with the report in the event that Council wishes to proceed with the request.
- ii. If the by-law is approved by Council, the valuation of land shall be determined in accordance with the Sale or Disposition of Land Policy. This does not apply to roads that are only being closed and not conveyed.

f) Costs

- i. The applicant shall be responsible for all costs associated with the Closure and Conveyance which may include legal opinions and advice, appraisal fees, title search, registration, advertising, survey and land costs, with the exception of costs for Big Island Road Closures previously approved by the Township of Sophiasburgh.
- ii. Costs for Road Closures on Big Island that had been carried out by the previous Township of Sophiasburgh and where confirmation of provincial approval is in doubt shall be borne by the County of Prince Edward.
- iii. Land costs shall be based on an appraised value. An Offer of Purchase and Sale will be prepared and submitted to the requestor for the appraised value.
- iv. Property exchanges in lieu of payment can be considered on a case-by case basis.
- v. If a property exchange is agreed upon, the applicant would be responsible for all costs identified in this section. If there are multiple applicants, costs for each applicant may be shared.
- vi. If the Municipality initiates the exchange the Municipality would be responsible for said costs.

## **7. Responsibility and Implementation**

- a) Council is responsible for approving this Policy.
- b) The CAO or designate is responsible for:

- i. directing compliance and resolving any conflicts with this Policy;
  - ii. assigning appropriate service departments for the administration of this Policy as required; and
  - iii. establishing procedural guidelines;
- c) Staff shall be responsible for:
  - i. The administration and management of the Policy in consultation with such departments or committees as deemed appropriate as described in the Policy.
  - ii. The Public Meeting, as outlined in section 6d) of the Policy.
  - iii. The valuation of the land, as indicated in section 10.2 of the Policy.

## **8. Documentation and Forms**

- a) All requests to close a road shall be submitted on the application form prescribed by the municipality from time to time and accompanied by the application fee outlined in the Municipality's Fees and Charges By-law, as amended.
- b) In addition to the application fee, all costs associated with the disposition of Municipal Lands shall be borne by the purchaser. These costs may include the Valuation, public notice, reference plan, legal fees, realty fees, encumbrances, improvements or such other costs associated with the land sale.