

# THE CORPORATION OF TAY VALLEY TOWNSHIP

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## BY-LAW NO. 2020-055

### ROAD CLOSING & SALE POLICY

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**WHEREAS**, 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;

**AND WHEREAS**, Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act or any other Act;

**AND WHEREAS**, Section 5 (3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power, including a municipality's capacity, rights, powers and privileges under Section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

**AND WHEREAS**, 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 property under its control;

**NOW THEREFORE BE IT RESOLVED THAT**, the Council of the Corporation of Tay Valley Township enacts as follows:

#### 1. GENERAL REGULATIONS

1.1 **THAT**, the Road Closing & Sale Policy, attached hereto as Schedule "A", be adopted.

#### 2. ULTRA VIRES

2.1 Should any sections of this by-law, including any section or part of any schedules attached hereto, be declared by a court of competent jurisdiction to be ultra vires, the remaining sections shall nevertheless remain valid and binding.

**THE CORPORATION OF TAY VALLEY TOWNSHIP  
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**3. BY-LAW REPEALED**

**3.1 THAT,** By-Law No. 2013-004 be repealed.

**4. EFFECTIVE DATE**

**THAT,** this by-law shall come into force and effect as of the 1<sup>st</sup> day of January 2021.

ENACTED AND PASSED this 8<sup>th</sup> day of December, 2020.

  
**Brian Campbell Reeve**



  
**Amanda Mabo, Clerk**

**THE CORPORATION OF TAY VALLEY TOWNSHIP  
BY-LAW NO. 2020-055**

**SCHEDULE "A"**



Tay Valley Township

<b>SECTION:</b>	<b>NUMBER:</b>
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**SUBJECT: ROAD CLOSING & SALE POLICY**

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**1.0 PURPOSE**

- 1.1 The Municipality will consider requests to stop-up, close and sell municipal unopened road allowance provided:
  - a) the unopened road allowance is deemed surplus to the Municipality's current and future needs; and
  - b) all costs are born by the applicant and/or those persons to whom the lands are sold
- 1.2 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.

**2.0 LEGISLATIVE AUTHORITY**

- 2.1 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.
- 2.2 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 property under its control.

**3.0 SCOPE**

- 3.1 This policy applies to Municipal Unopened Road Allowances within the Municipality.

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**4.0 PROCEDURE**

**4.1 WRITTEN REQUEST**

The Applicant shall submit a written request, including a detailed sketch, to the Clerk. The sketch of the proposed road closing shall include the lot, concession, geographic township, adjacent roadways and measurements of the portion to be closed and of the equally divided portions of lands to be offered for sale to adjacent landowners, if applicable.

The Applicant shall submit with the written request a non-refundable \$300 fee and a \$2,000 deposit to cover administrative, legal and land value costs. The applicant shall also execute an agreement to compensate the Township for any costs over and above the deposit.

The Committee of the Whole shall review the application and make a recommendation to proceed or reject the application.

**4.2 REJECTION OF APPLICATION**

If the recommendation is to reject the application, the issue will be placed on the Council agenda for formal denial.

Once Council rejects the application the Applicant will be refunded the deposit less any costs to date.

**4.3 ACCEPTANCE OF APPLICATION**

If the recommendation is to proceed with the application the following procedure shall be undertaken:

The Applicant shall obtain a reference plan of the area proposed for closing and sale.

The Township shall obtain an opinion of value of the parcel(s) to be conveyed in order to establish the purchase price. Such opinion shall be based on an amount per square foot of land to be transferred.

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#### 4.4 CIRCULATION TO ADJACENT LAND OWNERS

Township 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 survey. The name, address and telephone number 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 certain parcels of land, the Applicant 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 land.

Agreements of purchase and sale will be drafted between the Township and those persons interested in purchasing portions of the unopened road allowances. Such Agreements shall stipulate the allocation of costs (preliminary legal, survey, advertising, opinion of value, general administration, etc.) for each potential purchaser. Such costs shall be shared on the basis of percentage; namely the area being purchased by each person over the total area being closed. Further, the Agreement of purchase and sale shall stipulate that the purchase price shall be adjusted, prior to closing, to reflect the ACTUAL cost based on a recalculation of the allocation of costs (as supported by invoice paid by the Township) and the area of land actually transferred, (as determined by the reference plan). In addition, the purchaser shall carry the cost of retaining their own solicitor, should they choose not to utilize the services of the municipal solicitor in the eventual transfer of ownership.

#### 4.5 PUBLIC / AGENCY NOTICE

The Municipality shall prepare a Notice of Closing and Sale (Form A, attached).

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An appropriate date for the hearing before Council shall be included. Such date shall allow a minimum of four (4) weeks between the date of first publication and the date of the hearing.

The Municipality shall forward a copy of the Notice, to the Clerk of the County of Lanark.

The Municipality shall publish a copy of the Notice in one or more local news papers at the discretion of the Clerk as determined by the location of the proposed road closing and sale. Such Notice shall be published once a week for two (2) consecutive weeks, prior to the date of the hearing.

The Applicant shall post plastic-laminated copies of the Notice, at least four (4) weeks prior to the public meeting, in six (6) of the most public places in the immediate vicinity of the portion of the unopened road allowance proposed to be closed and sold. The Municipality suggests four (4) postings within the unopened road allowance proposed for closing / sale and at least one (1) on the entrance to the property, or right-of-way leading to the property, at the publicly travelled road.

Municipality shall forward a copy of the Notice to each of the following agencies listed below to request their response as soon as possible. If an Easement Agreement must be entered into to protect access or an unregistered easement, a By-law and Agreement will be prepared for circulation with the Notice and for execution upon final approval to stop-up, close and sell the road allowance.

The agencies to be notified are:

- Bell Canada
- Hydro One Networks
- Parks Canada
- Public Works & Government Services Canada
- Rideau Valley or Mississippi Valley Conservation Authority
- Ontario Ministry of Natural Resources
- Ontario Ministry of Transportation, (if a portion of the road allowance adjoins a provincial highway)

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The Township shall host the public hearing and hear all persons who may support or oppose the application. At the same or the subsequent meeting of Council, Council shall pass a motion authorizing Township staff to proceed with the necessary documentation to complete the road closing and sale. If the motion is rejected, no further action shall be taken and all costs to date, shall be recouped from the applicant, less the deposit submitted with the application.

#### 4.6 APPROVAL TO STOP-UP, CLOSE AND SELL

If the motion to proceed is passed the following steps shall be taken:

The Municipality shall prepare, for the Municipal solicitor, an affidavit confirming that:

- a) the Clerk of the County was notified;
- b) the required advertisements were published;
- c) posting of Notice at the site was accomplished; and
- d) required hearing was conducted.

The Applicant shall arrange for the preparation of a reference plan showing the parts to be closed and conveyed to the respective adjacent landowners. Such reference plan shall be registered and utilized in recalculation of the purchase price(s) and the preparation of Transfer deeds.

The Municipal solicitor shall prepare transfer deeds for each of the parcels to be transferred.

Upon receipt of the transfer deeds, the Municipality shall prepare the necessary by-law to stop-up, close and sell the unopened road allowance as well as by-laws authorizing execution of each transfer deed.

Such transfer deeds shall be provided to the applicant and/or adjacent landowners upon payment of the balance of the purchase price and/or the applicant's account.

The by-law to stop-up, close and sell the unopened road allowance and the transfer deeds shall be registered on title. Copies of the registered documents shall be forwarded to the Clerk for filing.

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## 5.0 ACCOUNTABILITY FRAMEWORK

5.1 The Clerk is responsible for ensuring compliance with this policy.

## 6.0 POLICY REVIEW

6.1 This Policy shall be reviewed at least once per term of Council.

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