

TOWNSHIP OF LAKE OF BAYS PROCEDURE MANUAL			
Chapter:	Administration	Index No.	AD-2.9
Section:	Municipal Property	Effective Date:	Sept 3/13
Subject:	Original Shore/Road Allowance Closure Procedures	Revision Date:	
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1. PURPOSE

1.01 To provide a procedure in accordance with the *Municipal Act, 2001, as amended*, for the closure and conveyance of original shore/road allowances within the Township of Lake of Bays.

2. POLICY

2.01 General Provisions

- a) The Township solicitor will act on behalf of the Township in the closure and conveyance of all shore/road allowances.
- b) The applicant is responsible for paying all administrative, legal, surveying, advertising and land acquisition costs involved in the shore/road closing. In the event that an applicant fails to pay the costs incurred within six (6) months of Council passing the applicable by-law, all outstanding costs will be added to the tax roll and collected in the same manner as taxes pursuant to Section 398 of the *Municipal Act, c.25, S.O. 2001, as amended*.
- c) Required by-law to approve the closure and conveyance of shore/road allowance will not be passed until the current realty taxes on the applicant's property are paid and the account is up to date.
- d) The land acquisition costs are calculated on the square footage of the shore/ road allowance as determined by the Reference Plan and subject to the fees set out in the Township User Fee By-law.
- e) Applications will be considered **terminated** if inactive for a period of **one year**.

2.02 Shore Road Allowance

- a) Applicants **must** own property directly abutting the original shore road allowance. The Township will only convey to the adjacent landowner the portion of the shore road allowance above the controlled or normal high water mark. Any flooded portion of the shore road allowance will be closed and retained by the Township.
- b) 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 Township Official Plan policies, by-law regulations or procedures.
- c) Generally the portion of shore road to be closed and conveyed will be determined by straight lot lines projections. As a result of the irregular nature of the shoreline, deviations from straight extension of existing lot lines may be considered and may be required by the Township in these cases.

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- d) Applications for closure of "portions" rather than the entire shore road allowance will only be considered at the discretion of Council and are subject to the following criteria:
- Owners are required to have an excess of 1000 ft. of shoreline frontage;
 - 500 ft. is the minimum partial closure; and
 - The 500 ft. portion of original shore road allowance consists of a continuous non-interrupted measurement.

2.03 Road Allowance

- a) The Township may close and convey original road allowances when all of the following criteria is met:
- A comparable or better parcel of land located in the vicinity is provided in exchange; and
 - Other land owners will not be deprived of the sole vehicular access to their property; and
 - Applicants must own property directly abutting the road allowance; and
 - The closure will not conflict with Township Official Plan policies, by-laws or procedures.
- b) Where application is made to exchange road allowance for shore road allowance the following shall apply:
- The applicant shall pay the difference between the current cost of the road allowance and the original shore road allowance based on the Township User Fee By-law; and
 - Where the road allowance is of greater value than the original shore road allowance due to land mass, then the Township shall exercise the right to do an equal exchange of land for land at the lower of the two values.

2.04 PROCEDURE

The initial application fee, as per the Township's, shall include:

- a) Review of the application and creation of new file;
- b) Circulations to various departments;
- c) Correspondence with applicant pre-approval;
- d) Site visit of the subject land(s);
- e) Distribution of Notice of Circulation to abutting neighbour(s);
- f) Transfer of file to solicitor with instruction letter;
- g) Preparation of preliminary approval report to Council, if required;
- h) Review of new reference plan;
- i) Preparation of final surplus report and resolutions; and
- j) Presentation of by-law to Council and public meeting.

2.05 Application shall be submitted to the Township accompanied by:

- a) Application fee, as per the Township User Fee By-law;
- b) Seasonal (summer) pictures of the shore road or road allowance;
- c) A detailed sketch or site plan, "to scale", which clearly shows the following:

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- i) The location and measurements of **all** existing buildings/structures (including docks, boathouses, accessory buildings and septics) on the **applicant's property**;
 - ii) The location and measurements of **all** existing structures on the **township's property**,
 - iii) The distance from the structures to the abutting lot lines and from the shore line,
 - iv) Vegetation, driveways and paths.
- d) Letter of Authorization, if the applicant has engaged the services of an agent to act on their behalf;

2.06 Applications are circulated to the Planning, Public Works and Building/By-law Departments for comments and consideration in respect to the provisions of the Township Official Plan, Development Permit By-law and other applicable by-laws and policies. Applications may be granted subject to conditions (e.g. deeming by-law or development permit)

2.07 Pursuant to the Township's Delegation of Powers By-law, Council has provided staff the authority to grant preliminary approval of shore/road allowance applications. Council approval, in the form of staff report will **only** be required for the following reasons:

- a) Adjoining landowner is the Ministry of Natural Resources, District Municipality of Muskoka or the Township of Lake of Bays;
- b) The applicant disagrees with the conditions set forth in the granting of preliminary approval;
- c) Objections to the closure and conveyance have been received;
- d) At the discretion of staff.

2.08 Once preliminary approval is granted, the Township will provide a letter notifying the applicant and will forward a letter of instruction along with the necessary documents to the Township solicitor to proceed with the file.

2.09 The applicant will engage the services of an Ontario Land Surveyor familiar with shore/road closings to prepare a new reference plan of the subject shore/road allowance subject to the following:

- a) Staff or Council pre-approved property lot line extensions;
- b) must show **all** structures on the applicant's property as well as the shore/road allowance;
- c) must show **all** encroachments on the township property from the neighbouring properties.

NOTE: the structures may be removed from the reference plan once the Township has reviewed and approved the plan. The draft plan **MUST NOT** be deposited in the Registry Office until final approval is received from the Township.

2.10 The Township solicitor upon receiving the letter of instruction from the Township will proceed as follows:

- a) Contact the applicant in writing, requesting the name of their surveyor; establish costs relating to legal, advertising and purchase price of land.

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- b) Shall request three (3) copies of the reference plan (including an electronic version) and forward one (1) copy of said survey to the Township for approval.
- c) Perform sub-search of title to confirm that the applicant is the owner of the property abutting the subject shore/road allowance
- d) Provide notice of application to the following:
 - i) District Municipality of Muskoka, if applicable;
 - ii) Ontario Hydro (Markham);
 - iii) Bell Canada (Huntsville);
 - iv) Public Works Canada
- d) If no objection is received from the above-noted agencies the Township solicitor shall request a public meeting date from the Corporate Services Department
- e) The Township solicitor shall prepare and submit the public notice to the Corporate Services Department via email to be posted on the Township website for two (2) consecutive weeks and advertised in the local newspaper in the Township Notice Board, prior to the public meeting to declare the land surplus and the conveyance by-law by Council.
- f) The by-law, together with all required affidavits and exhibits, is prepared and submitted to the Township for consideration.
- g) At the scheduled public meeting Council is required to give consideration to written comments that may be provided to the Clerk of the Municipality. The resolution declaring the land surplus and the by-law are then passed concurrently in that order by Council at the scheduled public meeting.
- h) The name of the transferee and manner in which title is taken shall be identical to the registered ownership of the lands to which it is being added.
- i) The Corporate Services Department will forward the resolution and executed by-law(s) to the Township solicitor for preparation of the necessary documents for registration.
- j) The Township solicitor will then:
 - i) Request the land acquisition fees from the applicant for compensation payable to the Municipality, including H.S.T.;
 - ii) Prepare the Document General, Transfer/Deed of Land and Land Transfer Tax Affidavit;
 - iii) Obtain the Clerk's signature on the Certificate of Compliance from the Municipality;
 - iv) Register the Transfer/Deed of Land, Document General with By-law within six months of the execution date of the by-law;
 - v) Forward applicable fees and registered documents to the Township; and
 - vi) Forward appropriate documents to the applicant.

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3. ADMINISTRATION

- 3.01 Staff and the Township solicitor who are responsible for processing applications for the closing and conveying of original shore/road allowances shall follow this policy.
- 3.02 This policy shall come into force and take effect under By-law 2013-060 on September 3rd, 2013.

4. REVISION CONTROL

Revision Date	Revision	Effective Date

5. ATTACHMENTS

- 5.01 Attachment A – Original Shore/Road Allowance Closure Application
Attachment B – Notice of Circulation

ATTACHMENT "A"



Township of Lake of Bays
Original Shore/Road Allowance Closure Policy AD-2.9

SHORE/ROAD ALLOWANCE CLOSURE APPLICATION

Name: _____
Address: _____
Phone: _____
Email: _____
Property Roll #: _____ Plan #: _____
Concession: _____ Lot: _____ Parts: _____
Civic Address: _____

Submitted with this application is the following:

- a) Application fee
b) Seasonal (summer) pictures of the shore road or road allowance;
c) A detailed sketch or site plan, "to scale", which clearly shows the following:
i) The location and measurements of all existing buildings/structures (including docks, boathouses, accessory buildings and septic) on the applicant's property;
ii) The location and measurements of all existing structures on the township's property,
iii) The distance from the structures to the abutting lot lines and from the shore line,
iv) Vegetation, driveways and paths.
d) Letter of Authorization, if the applicant has engaged the services of an agent to act on their behalf;

- 1. I/We confirm that I/We have read and understand the Original Shore/Road Allowance Closure Policy and agree to abide by this policy.
2. I/We acknowledge that I/We will be responsible for paying all legal, surveying, advertising, and administrative costs involved in the shore/road closing and will be obliged to pay to the Municipality the land acquisition rate as per the current User Fee By-law for the property.
3. I/We confirm that there is no foot or vehicular traffic that passes through the road allowance to be closed and that access to no other property will be denied by virtue of the said road closing.
4. I/We confirm that there are no easements, verbal or written, registered or unregistered, that apply to the said road allowance to be closed.
5. I/We acknowledge that any approval that may be given to this application by the Township of Lake of Bays is subject to all other approvals being obtained for all other statutory bodies, failing which this application cannot be approved.
6. I/We authorize township staff to enter onto the subject lands to conduct a site visit in accordance with the processing of this application.

Dated this _____ day of _____, in the year _____.

Signature

Signature

ATTACHMENT "B"



Township of Lake of Bays
Original Shore/Road Allowance Closure Policy AD-2.9

**NOTICE OF CIRCULATION
SHORE/ROAD ALLOWANCE CLOSURE**

This Notice of Circulation is to advise you that an application has been received by the Township of Lake of Bays from _____, registered owner (s) of property located at (civic address) _____ to close and convey the original ___shore road or _____ road allowance adjacent to their property.

Please refer to the attached sketch which has been submitted to the Township clearly illustrating the applicant's property, the immediately adjoining properties, proposed lot lines and the subject municipally-owned land proposed to be closed.

Pursuant to Sections 9 and 35 of the *Municipal Act, 2001, as amended*, a Public Meeting will be held with respect to the proposed shore road/road allowance closure. Said meeting will be advertised in Muskoka Region newspaper and on the Township website under "Public Notices". Any comments and/or concerns must be received by the Municipal Clerk prior to the meeting.

Yes I/we support this application and proposed lot line projections.

Yes, I have concerns with this application and will submit them in writing to the Clerk.

I/We _____ are the registered owner(s) of land abutting the above noted property and have reviewed the attached sketch and understand that we will have the opportunity to review and comment prior to the public meeting.

Dated this _____ day of _____, in the year _____.

Signature

Signature

If you have any questions, please contact the Township Corporate Services Department at (705) 635-2272.