

## **GENERAL POLICY**

1. The Corporation of the Town of Bracebridge will consider applications for the closure and conveyance of all types of unused highways, including road allowances, within the Town to abutting owners. All closures are at the discretion of the Council of The Corporation of the Town of Bracebridge. The policies dealing with the closing of various types of highways are set out in the official plans of the District Municipality of Muskoka and of the Town. The primary reason for closing a portion of highway is that there is no present or anticipated future public use for the highway, and it does not serve as the sole vehicular access to any property.

## **GENERAL PROCEDURES**

2. The boundaries of a portion of road to be closed are in the discretion of Council.
3. Generally the portion of road to be closed and conveyed will be determined by extension of the existing lot lines, in order to provide regularly shaped lots for zoning purposes.
4. Despite (3) above, Council will consider deviations from the extension of existing lot lines in some circumstances. The decision will be based on comments from the Municipal Surveyor. The location of existing buildings will normally be respected.
5. Applications will not be approved if other owners of land are or may be deprived of the sole vehicular access to property or if the closure conflicts with Town By-laws or practices.
6. Council may elect not to close a road allowance when it abuts or provides access to significant fish spawning areas, wildlife habitat or other environmentally significant features as identified by the Ministry of Natural Resources, or contains significant historical, cultural, or recreational features. If Council decides to close such a road, the Town may require the applicant to enter into a Site Plan Agreement to preserve and protect the identified feature(s).
7. Final approval of the required by-law will not be given until the realty taxes on the applicant's property are paid in full.
8. An Agreement may be required between the Town and the applicant for the exchange of lands as deemed necessary by the Municipality for roadway or other purposes. The applicant will be required to pay all costs involved.
9. Council will take into consideration the proximity of a closed road to open municipally maintained roads, District Roads or Provincial highways.
10. The Town may not close road allowances or portions thereof if they abut a Shore Road Allowance or lead to water unless the provisions of Subsections (11) or (12) are applicable.
11. Agreements may be entered into between the applicant and the Town to exchange land for road allowances provided the applicant pays all costs involved.
12. In special circumstances such as a road allowance crossing a peninsula with water on both sides, an island where the road allowance has no present or foreseeable future municipal use, and where Council deems other suitable public access is in close proximity, Council may agree to close and convey such road allowances that lead to Shore Road Allowances or water.
13. Flooded land will not be transferred to private ownership without the consent of the Ministry of Natural Resources

## **PLANNING REQUIREMENTS**

14. Roads abutting a lot on a registered Plan of Subdivision that has been registered for more than 8 years:
  - 14.1 If a road is to be closed and deeded to the owner of an abutting lot on a registered plan of subdivision, the road will not naturally merge with the abutting lot. The owner of these parcels may convey them separately unless they are merged on title by the passage of a deeming by-law. The purpose of the deeming by-law is to "deem" the lot not to be a lot on a registered plan of subdivision, thereby allowing the two parcels to merge on title.
  - 14.2 The Planning and Development Department requires a letter signed by the owners of the lands requesting their lot "to be deemed not to be a lot on a registered plan of subdivision" accompanied by the fee applicable at the time. This process will take approximately two (2) months and can be initiated any time during the road closing process. After the deeming by-law is passed, it must be registered against title to the property, lodged with the Minister and sent to the affected proper owners.
15. Roads abutting a lot on a registered Plan of Subdivision that has been registered for less than 8 years:
  - 15.1 It is not possible to deem a lot on a registered Plan of Subdivision that has been registered for less than 8 years.
  - 15.2 In this situation the Town requires that a small portion of the lot on the Registered Plan be transferred to the Municipality if the lot abuts lands owned by the Town, or steps taken to have a small piece transferred to another adjoining owner.
  - 15.3 If it is necessary to involve another owner, and in the opinion of the Town's Director of Planning and Development, the transfer does not constitute poor planning, the Town will assist in the transfer so as to avoid the Land Severance process. In this situation all additional legal and survey costs are to be borne by the applicant.
16. Roads abutting a lot created by consent pursuant to conditions imposed by the Land Division Committee after March 31, 1979:
  - 16.1 When lots are to be created by consent and a road closing is required as a condition of consent, the Committee of Adjustment may deal with the issue in two ways:
    - 16.1.1 Include a condition that the road closing must take place before the severance is finalized.
    - 16.1.2 Stipulate in the consent that it does not apply to subsequent transfers of the land. This allows the closed portion of a road to merge with the lot after the new lot has been created.
  - 16.2 If a road was to be closed and conveyed to an abutting owner whose lands were created by consent after March 31, 1979, and the lot has not been dealt with as above, the two parcels would not merge. The Town requires that a small portion of the applicant's existing property be transferred to the Municipality if the lot abuts lands owned by the Town, or steps be taken to have a small piece transferred to another adjoining owner.
  - 16.3 If it is necessary to involve another owner, and in the opinion of the Town's Director of Planning and Development, the transfer does not constitute poor planning, the Town will assist in the transfer so as to avoid the Land Severance process. In this situation, all additional legal and survey costs are to be borne by the applicant.

17. Existing Lots Of Record:
- 17.1 Existing lots of record are lots that were created before the passage of the applicable zoning by-law.
  - 17.2 When a road is closed and merged with an abutting lot, the lot is no longer an existing lot of record because its dimensions or shape has changed after the passage of the applicable by-law.
  - 17.3 Newly created non-serviced waterfront lots generally require a minimum of 200 feet of frontage and one acre in area. Zoning by-laws state that where a lot addition is made to an existing lot of record, the lot is deemed to comply with the minimum lot frontage and lot area requirements.
  - 17.4 Where an existing lot does not meet the frontage and/or area requirements of the zone, and a portion of closed road allowance is added to it, a planning application (zoning amendment or minor variance) is required.
  - 17.5 The zoning amendment fee in effect at the time will apply.

#### **SPECIFIC CLOSURE PROCEDURES**

- 18. The Town will provide a potential applicant with a formal application form, advise as to the procedures to be followed, as well as information on the fees required.
- 19. The road closure procedure commences when the application and the current fee are received, together with the following information:
  - 19.1 A sketch showing the road being considered, the applicant's property and any structures located thereon.
  - 19.2 A location map.
  - 19.3 Other details as requested on the application form.
- 20. Upon receipt of the formal application and the required application fee, the Town staff shall make a report to General Committee complete with the sketch and comments from the Planning and Development and Public Works Departments, and where applicable the District of Muskoka. A report by the Municipal Surveyor is also necessary and will comment on specific features, utility considerations and the proximity to other municipal, regional or Crown roads or facilities. The report will contain a recommendation for the consideration of the Committee as to the merits of the closure based on the above. A formal survey or reference plan is not required at this point. Council's consideration of an application will not be delayed by any reports not received within 30 days.
- 21. General Committee will consider the merits of the application and may recommend proceeding with the closure in whole or in part. Such recommendation will be submitted to Council for final approval.
- 22. If General Committee or Council rejects the application, the application fee, less costs to that point, will be refunded when advice of such rejection is issued. The same refund shall be provided should it be found that the road has already been closed and conveyed.
- 23. Should the applicant decide to withdraw his/her application following its initial approval by Council, the Town will retain the total application fee.

24. Upon the approval of Council, a letter of instruction, enclosing the necessary documents, will be sent to the Town Solicitor. The Town Solicitor will advise the applicant directly.
25. Applicants for all road closures pay all costs associated with the legal and survey work required in connection with the closure and sale. The application fee includes the cost of the Municipal Surveyor's initial review and, if necessary, a review of the draft survey plan for the subject road. If the Municipal Surveyor feels that a site review is required after reviewing the draft plan then the cost of this additional review will be the applicant's responsibility. Other costs such as those for an appraisal are also considered the applicant's responsibility.
26. A deposited reference plan of survey for the subject road must be filed with the Municipality within one year from the date of the motion approving the application or the motion will be considered null and void and a new application will be required.
27. The Town requires that its solicitor act on its behalf in the closure and sale of Town roads. All legal fees associated with the sale are the responsibility of the applicant. The applicant is responsible for engaging an Ontario Land Surveyor familiar with road closings to prepare a survey plan of the subject road. Prior to this plan of reference being deposited in the Land Registry Office, it must be reviewed by the Municipal Solicitor and the Municipal Surveyor to ensure it complies with the Town's policies. If further costs are incurred with respect to the plan review, they will be the responsibility of the applicant.
28. The Town Solicitor, upon receiving instructions, will proceed as follows:
  - 28.1 Sub-search title to confirm that the applicant is the owner of the property abutting the subject road.
  - 28.2 Provide a notice to Public Works Canada, Bell Canada and Hydro One, and to the Ministry of Transportation if required.
  - 28.3 Notice of the by-law is then advertised in two successive issues of one of the local newspapers, having general circulation in the area involved. Advertising costs are included in the Town of Bracebridge Fees and Charges By-law.
  - 28.4 The by-law, together with all required affidavits and exhibits, is prepared and submitted to the Town for consideration and passed at a meeting of Council.
  - 28.5 If approved by Council, the by-law is then returned to the Solicitor to register the by-law.
  - 28.6 The applicant will be required to forward payment of the balance of cost of the procedure, and the full amount of the compensation due to the Municipality, including H.S.T. The Solicitor will prepare the Transfer document and Land Transfer Tax Affidavit and will obtain a Certificate of Compliance from the Municipality. The Transfer will be registered and reports, funds and documents forwarded as appropriate to the applicant and to the Town.
  - 28.7 Estimated length of procedure is approximately six to eight months after the receipt of the survey plan as noted in Section 26 hereof.
29. This procedure shall be reviewed as may be considered necessary and in the public interest.

30. Road purchase prices or values are to be established as follows:

30.1 Shore Road Allowance:

30.1.1 Following approval of a shore road closure by the General Committee and Council and the passing of requisite by-laws, the applicant shall pay to the Town for the lands represented by a closed Shore Road Allowance adjoining water, based on the following schedule or the schedule that is in effect at that time:

BODY OF WATER	COST PER SQ.FT.
Lake Muskoka; Muskoka River having access to Lake Muskoka	\$1.30
All Other Lakes	\$1.05
Flooded portion of shore road allowance	\$0.40

NOTE: PRICES SUBJECT TO TAX WHERE APPLICABLE.

31. On the reference plan the chosen Surveyor will illustrate the flooded and unflooded portions of the Shore Road Allowance as Parts, the square foot measurement of each, and the foot frontage of the property pursuant to the Zoning By-law.
32. If any structural encroachments onto abutting Town-owned property are discovered, they are to be identified on the plan and Parts created with a 6-foot buffer around the structure. Council will review the encroachment issue prior to the reference plan being finalized and make a decision as to whether the encroachment should be allowed to remain or be removed.
33. An encroachment that is allowed to remain will be dealt with in the pending road closing or by a lease agreement. Purchase costs will be calculated by multiplying the square footage of lands to be sold by the applicable rate per square foot. Council will determine lease costs.
34. If Council orders that the encroachment be removed, such removal must take place prior to the reference plan being deposited and must be confirmed by the Municipal Surveyor. Any costs incurred in this regard are the responsibility of the applicant.
35. Should the Municipal Surveyor, after his review of the draft plan of survey, require any amendments or find it necessary to perform a site visit, the applicant will be responsible for the additional survey costs.

36. Other Roads:
- 36.1 Upon the approval of the closure of roads other than "Shore Road Allowances" by Committee and Council and passing of requisite by-laws, the applicant shall pay to the Town the amount established by appraisal in accordance with the Municipal Act, 2001.
  - 36.2 If the applicant is not satisfied with the value set by the Town or its agent, he/she may obtain, at his/her expense, a second opinion from a real estate appraiser of his/her choice. This second opinion will be taken into consideration by the Town in establishing the value of the lands to be sold.
37. This procedure shall be reviewed each year for possible revisions, as may be considered necessary and in the public interest.

**ROAD ALLOWANCE CLOSING APPLICATION**

DATE _____	ROLL # _____
REGISTERED PROPERTY OWNERS _____ _____	PROPERTY DESCRIPTION LOT # _____ CONCESSION # _____ PLAN # _____ PART OR _____ CIVIC ADDRESS _____ LOTS _____
MAILING ADDRESS _____ _____	PHONE # _____ E-MAIL ADDRESS _____

1. I/We confirm that I/We have read and understand the contents of "The Corporation of the Town of Bracebridge Road Allowance Closure Policy" and agree to abide by the same.
2. I/We acknowledge that, if this application to the Municipality of the Town of Bracebridge is accepted, I/we will be responsible for all legal, survey and other related expenses involved in the road closing, and will be obliged to pay to the Municipality the rate per square foot (plus taxes) or the appraised value (plus taxes) for the property as per the Town's policy.
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, either verbal or written, registered or unregistered, that apply to said road allowance to be closed.
5. I/We acknowledge that any approval that may be given to this application by the Town of Bracebridge is subject to all other approvals being obtained from all other statutory bodies, failing which this application cannot be approved.
6. I/We confirm that if any utility plant is found to be on the road allowance, the Municipal Solicitor may take the necessary steps to ensure that an easement is granted to the appropriate authority.
7. The names and addresses of any owners abutting the road allowance to be closed are listed and we acknowledge that these owners may be notified of this application.
8. I/We acknowledge that Municipal staff and/or Members of Council for the Town of Bracebridge may wish to visit the site for the purposes of reviewing this application and we have no objection to their attendance on the property for this reason.
9. I/We make this solemn declaration conscientiously believing it to be true, and know that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.
10. I/We consent to the use of any personal information by the Town, its Solicitor or its Surveyor, that I/we provide for the purpose of completing this road allowance closing.

DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_ IN THE YEAR \_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Submitted with this application is the following:

1. Application Fee - \$1,350.00 (cheque payable to the Town of Bracebridge)
2. Sketch of subject lands showing location of **all** buildings/structures, including docks, boathouses, pump houses, wells, septics etc.
3. Location map showing the property in relation to the surrounding area.
4. If this application is a condition of severance, please state expiry date of consent if conditions are not met: (dd/m/yyyy)\_\_\_\_\_