



Stop Up and Closure of Road Allowances Lanes and Alleyways Procedure Policy

Department:	Corporate Services
Division:	Realty and Property Services
Section/Function:	N/A
Approval Level:	Council
Effective Date:	February 13, 2023
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1.0 Purpose

The purpose of this policy is to establish and maintain a consistent and equitable framework with respect to the closure of road allowances, lanes and alleyways within the City of Belleville as well as the procedures for processing such requests. The sale of such property will be conducted in accordance with s. 34, the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended.

This policy does not apply to the Sale of Disposition of Surplus Lands (See Real Property Acquisition and Disposition Policy).

2.0 Policy Statement

The Municipality of City of Belleville supports the retention of road allowances in order to provide opportunities for public access. However, the Municipality will give consideration to the closure and disposal of a road allowance, lane or alleyway in circumstances where the road allowance, lane or alleyway cannot or will not be required as a road or where the subject road allowance is not a viable means of public access to a water body or other public access point. The Municipality will not consider the closure and conveyance of any road allowance, or portion thereof, which would deprive any property owner of ingress or egress to their lands or if the closure conflicts with Municipal By-laws or procedures. Within the City of Belleville, the Municipality owns all original concession road allowances, lanes and alleyways which have not yet been stopped up and conveyed. Provincial legislation allows municipalities to sell such road allowances, except any portions which are covered by water which are then under the jurisdiction of the Province of Ontario. The City of Belleville Council may authorize the closure of any road allowance, lane or alleyway in accordance with the provisions of this Policy.

All costs incurred by the City related to the closure of any road allowance, lane or alleyway shall be at the expense of the Applicant(s) unless specified otherwise by Council. Costs related to legal fees, disbursements and applicable taxes, advertising, surveying, registration, administration and land. An administration fee of \$300.00 + HST as well as a \$2,500.00 deposit will accompany each request. This fee will not be refunded if the request is denied at any stage in the process. Notice of a road allowance, lane or alleyway closure request will be provided to property owners whose land abuts the subject road allowance, lane or alleyway.



Stop Up and Closure of Road Allowances Lanes and Alleyways Procedure Policy

All land, with or without improvements, shall be sold on an “**as is**” basis. The value applied to the sale of a road allowance, lane or alleyway will, in most instances, be based on values established by an Appraisal for purposes of road related acquisition and sale for road widening purposes. Some urban values may require specific valuations as circumstances dictate and as identified in the Real Property Acquisition and Disposition Policy. If both abutting landowners would like to obtain the road allowance, lane or alleyway, nominal consideration for the land can be considered.

If an abutting property owner submits written notice of interest in purchasing the property, the land will be divided in a manner deemed to be fair and appropriate and offered to the interested parties. Generally, the Municipality will convey half of the width of the road allowance, lane or alleyway to each abutting land owner unless there is an agreement between the abutting landowners (which agreement may include a landowner’s written expression that it does not wish to purchase any portion of the road allowance). There may be instances where Council will need to allocate the road allowance differently due to specific circumstances and the allocation decision ultimately lies with Council. Applications for closure of “portions” rather than the entire road allowance may be considered at the discretion of Council. Every effort will be made, where possible, to also offer the road allowance, lane or alleyway to the adjacent property owners.

Upon the conveyance thereof, any road allowance, lane or alleyway shall be required to merge in title with the abutting owner’s property as it is not intended to create a separate lot. Purchasers of road allowances, lanes or alleyways should be made aware that such purchases may result in an increased land assessment value. The City is under no obligation by virtue of the conveyance of any road allowance, lane or alleyway to grant or support any approvals, including changes to the Official Plan or Zoning By-law or with respect to any other matter, including but not limited to site plan control, minor variances and building permits on such terms as are considered reasonable by Council.

The City of Belleville may choose to close a road allowance, lane or alleyway and not convey it to the adjacent property owners but retain as City property at Council’s discretion.

A request to close and convey a road allowance, lane or alleyway will not proceed if:

- a) There is a municipal or legislated use for the road allowance, lane or alleyway.
- b) An owner of land will be deprived of their sole vehicular access to their land as a result of the closure.
- c) An owner of land will be landlocked as a result of the closure.
- d) A majority of property owners with land abutting a road allowance, lane or alleyway object. Property owners who do not respond to circulations will be considered in the determination in support of a request.
- e) The request conflicts with Official Plan Policy



Stop Up and Closure of Road Allowances Lanes and Alleyways Procedure Policy

- f) The parcel of land leads to or abuts any body of water.

If any of the above conditions are met, City staff will advise the Applicant that the request is denied. In the event that the transfer of title is not completed within one (1) year from the date Council authorizes the declaration of surplus, the approval of such transfer of title will lapse. Any subsequent requests shall be subject to the provisions of this Policy in force at such future time, in all respects and require a new application and applicable fees.

The Director of Corporate Services and the Manager of Realty and Property Services are responsible for the administration of this policy and processing of the closing and conveying of road allowances, lanes and alleyways for the City of Belleville.

3.0 Definitions/Acronyms (As Required)

For the purposes of this policy:

“Applicant” includes an individual and/or a corporation or any other legal entity and their successors, assigns, heirs, executors, administrators, or any other legal representatives of a person to whom the context may apply according to law.

“As is” means without regard for state of repair, location of any and all structures, walls, retaining walls or fences (freestanding or otherwise) or encroachment by buildings or fences or otherwise, on the land or adjoining properties or streets, and without warranty or representation as to use, environmental contamination, hazards or risks.

“Appraisal” means a written opinion of the current Fair Market Value of property, the conditions and limitations at the time of the opinion or estimate of value. An individual accredited by the Appraisal Institute of Canada, may prepare the Appraisal. The form and content of the report shall be at the discretion of the Manager Realty and Property Services.

“City” means the Corporation of The City of Belleville.

“Council” means the Council of the Corporation of The City of Belleville.

“Land” means real property owned by the Corporation of City of Belleville.

“Fair Market Value” the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.



Stop Up and Closure of Road Allowances Lanes and Alleyways Procedure Policy

“Property Identification Number (PIN)” Every Ontario property has been assigned a unique 9-digit electronic identification number for unique numerical indexing of legal description-based property identification.

“Real Property” real property includes land, buildings, anything that is erected or growing on or affixed to the surface of the land, minerals and anything subsurface, and all rights issuing out of, annexed to, and exercisable without or about land such as leases, licenses, mortgages, air rights, easements and rights of access.

“Real Property Rights” any right, interest or benefit in land, but is not limited to, fee simple acquisitions, leases, licenses, options, permits, air rights, density transfers, permanent easements, rights-of-way, linear corridors, and other limited interests such as joint-use agreements, temporary working easements, access easements, permissions to enter and construct, and any other legal binding agreement related to the acquisition of property rights for the City of Belleville.

“Surplus” means property that The City of Belleville no longer requires to meet its current or future needs;

“Surveyor” means the services of an Ontario Land Surveyor to prepare a new reference plan of the subject road allowance, lane or alleyway. The form and content of the reference plan shall be at the discretion of the Manager Realty and Property Services.

4.0 Process

- 4.1 The applicant is responsible for all fees associated with this process, including but not limited to, the application fee, legal fees, reference plan of survey, and the cost for the purchase of the road allowance, lane or alleyway. There shall be no expenses to the City of Belleville. 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.
- 4.2 The applicant must complete the application form and submit it to the Manager of Realty and Property Services, with payment of applicable fees made at time of submission. The required application fee is in accordance with the current year City of Belleville Fees and Charges By-law. This amount is a non-refundable application fee. Any application will not be processed until the fees are paid and will be considered terminated if inactive for a period of one (1) year at which time a new application and paid fees will be required.



Stop Up and Closure of Road Allowances Lanes and Alleyways Procedure Policy

- 4.3 A legible plan **MUST** be attached to the application form, which clearly demonstrates the area of unopened road allowance, lane or alleyway requested to be purchased.
- 4.4 The Applicant will be responsible for contacting all owner(s) of the property adjacent to the allowance to determine if those property owners wish to purchase the portion of the road allowance for which they would be eligible to purchase. If that property owner does wish to purchase their portion, they must also complete an application, with applicable fees, for consideration. Upon the mutual consent of the participant(s), if two (2) or more applicants join in one (1) application, costs for each participant may be shared, and can be reduced.
- 4.5 Upon receipt of a completed application and the required fee, the Realty and Property Services Department will provide an internal and external electronic circulation of the request including maps and forward all pertinent information for their review and comments for a period of thirty (30) days, to determine any requirements that the City or outside agency (Hydro, gas etc.) may have including, but not limited to, the establishments of easements, drainage easements or covenants on title, installation of culverts or other such measures as required to protect the future needs of the City.
- 4.6 All requests for road allowance, lanes or alleyway closings, where physically possible, shall be inspected by municipal staff. All requests for road closures made between November 1st and March 31st, may be placed on hold until a complete and unobstructed site inspection can be scheduled unimpeded by winter access limitations.
- 4.7 All lands for consideration must be declared surplus by passing of a Resolution of Council.
- 4.8 The Municipality will arrange for a Public Notice, informing the public about the proposed road closing. An advertisement shall be placed in at least one newspaper having general circulation within the local area once a week for a minimum period of three consecutive weeks advising a map and legal description of the road allowance and the date, time and location of the Council meeting at which this item will be considered. The Notice shall also be posted on the municipal website.
- 4.9 Any objections received from the public on a specific closing and deemed valid by Staff, will be referred to Council. Any person, who feels the ingress or egress to their property may be affected, can file an objection to the application. Council shall determine the merit of any objections raised prior to providing a final decision to enact a By-law to stop-up, close and dispose of the subject road allowance.
- 4.10 Applications will not be approved if it is deemed:



Stop Up and Closure of Road Allowances Lanes and Alleyways Procedure Policy

- a) to have a negative impact on neighbouring owners of land; or
 - b) other landowners may be deprived of the sole vehicular access to their property; or
 - c) closure will result in conflicts with Municipal Official Plan policies, by-law regulations or procedures previously adopted.
- 4.11 The Municipality will provide a sign(s) to the applicant, in which the sign(s) must be posted to clearly identify the subject road allowance for a period of fourteen (14) days minimum. The posting of the sign(s) at the subject property will be the responsibility of the applicant and notice must be permitted to remain for the required period of time.
- 4.12 Municipal staff will prepare and present a report to Council for the approval or denial, to stop-up, close and offer for sale the subject road allowance.
- 4.13 If Council approval is granted, the Manager of Realty and Property Services will engage the services of an Ontario Land Surveyor to prepare a new reference plan of the subject road allowance, lane or alleyway. The road allowance, lane or alleyway must be identified as a part on the reference plan that can be registered for merging purposes. A road allowance, lane or alleyway must be joined in title with the abutting property. It will not be permitted to be a stand-alone property. Upon receipt of the draft plan, Municipal staff will review and if satisfied, the Manager of Realty and Property Services will direct the surveyor to deposit the survey at the Ontario Land Registry Office.
- 4.14 Once all approvals have been obtained as set out above, the City's solicitor will provide the transfer documents, as well as the Acknowledgement and Direction to the Manager of Realty and Property Services to be signed first by the Applicant (s) and then by the Mayor and the Clerk, which will effectively result in the registration of the By-law authorizing the transfer. The Applicant(s) will be responsible for any legal costs and any Land Transfer Tax.
- 4.15 Final approval of the required By-law will not be given until the current realty taxes on the applicant's property are paid in full and the account is up to date.
- 4.16 Municipal staff will prepare and present the By-law to Council, to authorize the Mayor and Clerk to execute the transfer documents.
- 4.17 All executed documents will be returned to the City's solicitor for registration. Only the City solicitor will be authorized to register documents on behalf of the City of Belleville.



Stop Up and Closure of Road Allowances Lanes and Alleyways Procedure Policy

5.0 Appendix, Related Documents & Links

Next Review Date:	
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