



## The Corporation of the Town of Tecumseh

### Policy Manual

<b>Policy Number:</b>	<b>99</b>
<b>Effective Date:</b>	<b>August 8, 2023</b>
<b>Supersedes:</b>	Alley Closing Policy 99 (11/12/2019)
<b>Approval:</b>	<a href="#">Click or tap here to enter text.</a>
<b>Subject:</b>	<b>Alley Closing and Sale Policy</b>

#### 1. Purpose

- 1.1 To abide by Section 270(1) of the *Municipal Act, 2001* (the “**Act**”) that requires all municipalities to adopt and maintain a policy with respect to the “sale and other disposition of land”.
- 1.2 To establish consistent, transparent, and fair procedures relating to the Disposal of streets, alleys, and road allowances to abutting owner(s).

#### 2. Scope

- 2.1 The scope includes all municipally owned streets, alleys, and road allowances within the Town. This Policy is applicable to the potential disposal of:
  - 2.1.1 a street, alley, or road allowance not previously deemed surplus to the needs of the Town, to abutting property owner(s) completed with Council direction.
  - 2.1.2 land that does not have direct access to a highway not previously deemed surplus to the needs of the Town, to the owner(s) of land abutting that land.

#### 3. Procedure

This procedure outlines the process for closing and deeding municipal streets, alleys, and road allowances to abutting owners.

### 3.1 **Street and/or Alley Search**

- 3.1.1 An abutting landowner ("**Applicant**") completes a request for a Street or Alley search, submits it to the Director Legislative Services and Clerk or designate ("**Director**") and pays the applicable title search fee. The Applicant will be given the "Instructions to Applicants for Right-of-way Closings" document in the form and manner attached hereto as Schedule A (as may be amended from time to time).
- 3.1.2 Within ten (10) days thereafter the Director processes the form and performs a search to identify:
- i. Whether the street, alley, or road allowance (collectively "**Right-of-way**") is an open municipal Right-of-way.
  - ii. Whether the Right-of-way may have easements or other considerations on title that would make the subject property unsuitable for closure.
- 3.1.3 Within thirty (30) days after performing the search the Director reviews the results of the search and circulates further to internal town departments for consultation as appropriate to review the requested closure and determine if the Right-of-way should be closed and conveyed. In determining if a Right-of-way should or should not be closed and conveyed, the Director shall have regard to the Alley Classification Guidelines attached as Schedule B to this Policy.
- 3.1.4 If the Director determines that the Right-of-way should not be closed, the Applicant will be notified in writing of the decision, and that decision may be appealed in writing within seven (7) calendar days from the date the Applicant was notified of the Director's decision. Such appeal to Council shall be:
- i. by way of correspondence detailing the reasons for such appeal; and
  - ii. addressed to Council and sent to the Municipal Clerk for inclusion on the next available regular council meeting agenda. At such meeting Council will support or not support the appeal by way of resolution and its decision shall be final.

3.1.5 A Right-of-way may not be closed where the effect of the closure would deprive an abutting property owner of their only means of access. A partial closure of the Right-of-way may be considered if it maintains access for that affected abutting property owner.

3.1.6 If the Director (or Council) determines the Right-of-way may be closed, the Applicant must then submit an Application to Close a Street or Alley in the form and manner attached as Schedule C hereto (as may be amended from time to time) to the Director within thirty (30) days thereafter.

3.1.7 The application fee must be paid in full but may be split amongst affected abutting property owners.

### **3.2 Street and/or Alley Closing Circulation**

3.2.1 Within ten (10) days upon receipt of an Application to Close a Street or Alley, the Director will circulate the application further for comment within thirty (30) days to the appropriate utility companies and other outside agencies such as the Essex Region Conservation Authority, as appropriate.

3.2.2 The Director will review the comments.

### **3.3 Reporting and Approval Process**

3.3.1 Within forty-five (45) days after receipt of comments from external agencies, the Director will prepare a report and bring before Council to identify the results of the review, comments received, and provide a recommendation on whether the Right-of-way may or may not be stopped up, closed, and offered for conveyance to the abutting landowners.

3.3.2 Notification will be provided to all abutting or affected landowners of the Council meeting at which this matter will be discussed.

### **3.4 Notice to Landowners of Opportunity to Purchase and Estimate of Costs**

3.4.1 Once Council has received and approved the report and directed Administration to provide a copy of the approved report together with an estimate of costs to the affected landowners, then within thirty (30) days thereafter a notice re: Opportunity to Purchase and Estimate for Costs for the Closure and Conveyance of a Street or Alley in the form and manner attached hereto as Schedule D (as may be amended from time to time) will be prepared and sent by

the Director to the property owners abutting the Right-of-way to be closed, and will include:

- i. The cost to reimburse the Town for the completion of a 12R plan from a registered Ontario Land Surveyor.
- ii. The fair market value cost of the parcel(s).
- iii. Title registration fees.
- iv. Costs associated with any applicable easements, relocation or removal of a sewer, water, gas mains, telephone and/or hydro lines.
- v. The closed Right-of-way will be sold in “as is” condition.
- vi. Notice that the landowners bear all costs associated with legal fees for the preparation of the deed.
- vii. Notice that failure by an abutting landowner to accept the estimate constitutes a refusal to participate further in the process and could result in the affected parcel being sold to another abutting landowner.
- viii. Notice that the costs are proportionate, and estimates may change depending on the number of abutting landowners willing to acquire their portion of the Right-of-way.
- ix. An amount to be refunded, should the process be stopped for any reason, for example in the case that:
  - The Town terminates the process.
  - There are too few interested parties.
  - A landowner identifies an existing use as a Right-of-way.
  - Easements or other title conditions cannot be accommodated or rectified.
- x. Notice that by agreeing to apply to purchase the closed municipal Right-of-way, the abutting landowners also agree to any easements, encroachments, or other considerations deemed necessary to close the Right-of-way and ensure access to existing utilities or infrastructure.

- xi. Notice that the Town reserves the right to terminate the process if less than 100% of the subject lands are not claimed.
- xii. The deadline to respond to the notice and pay the cost estimate.
- xiii. An acknowledgement that the associated estimated costs which are not recovered will be equally divided amongst the landowners who have agreed to purchase their portion of the Right-of-way. These landowners will be given further notice of any increase in their proportionate share of the costs and will be given a deadline to bring in the increase.

3.4.2 Landowners will be offered the opportunity to apply to purchase subject lands based upon proximity to the affected lands in the following manner:

- i. Primacy will be given to landowners abutting the Right-of-way to the middle of the Right-of-way, any constructed barrier (such as a fence), natural features, or any other division of the Right-of-way the Town deems appropriate.
- ii. In the event the landowner given first choice on the acquisition of a portion of the subject land declines the offer to purchase, secondary consideration will be given to the landowner who abuts the same section of the Right-of-way.
- iii. Tertiary considerations for the subject lands can be considered thereafter by the Director, including consideration to be given to other landowners abutting the street, alley, or road allowance or such other considerations that may or may not involve the conveyance of all the subject Right-of-way.

### 3.5 **By-law**

3.5.1 Upon the acceptance of the estimate by the majority of the abutting landowners, the Director will within thirty (30) days thereafter prepare and send to Council a By-law to close the Right-of-way to convert it from a municipal Right-of-way to municipally owned lands. The By-law shall include all necessary easements, encroachments, or agreements to access, support, repair, maintain utilities and/or Town infrastructure, how the Right-of-way will be divided and the cost to each landowner who has agreed to acquire their section of the Right-of-way.

- 3.5.2 Upon adoption of the By-law, the Director will thirty (30) days thereafter arrange for the By-law to be registered and distributed, as appropriate.

### **3.6 Deed Preparation**

- 3.6.1 Within thirty (30) days thereof the Director will notify the abutting landowners who have agreed to purchase a portion of the Right-of-way of the registration of the By-law.
- 3.6.2 Once the By-law is approved, the noted conditions, easements, and/or encroachments shall be added to the title.
- 3.6.3 The Director will arrange to have deeds prepared for all abutting landowners who have agreed to purchase their portion of the closed Right-of-way including all applicable easements, encroachments, or other conditions, as set out in the By-law.
- 3.6.4 Deeds prepared in this manner will be reviewed and subject to approval by the Town or an authority that the Town secures for this purpose.
- 3.6.5 Any costs which have not been recovered must be paid in full prior to the Town releasing the deed to the abutting landowners. Any costs that have not been recovered may also, where applicable, be added to the tax roll and collected in the same manner as taxes.
- 3.6.6 Following the completion of all prior steps, notice is provided of the successful completion of registration on title and the deed is signed and provided to the successful Applicant(s).

## **4. Policy Review**

This Policy shall be reviewed every five (5) years from the date it becomes effective, and/or sooner at the discretion of the CAO or designate.

## **5. References and Related Documents**

- *Municipal Act, 2001*
- *Expropriations Act, 1990*
- *Planning Act, 1990*