



POLICY

A Policy to Govern the Disposition of Original Shore Road Allowances for the Municipality of Highlands East

Policy No.: P-009
By-law #: 2021-122
Department: Planning
Effective Date: 01 Jan 2022
Revision Date:

Purpose:

The Municipality of Highlands East is home to many lakes, large and small. Original Shore Road Allowances are sixty-six foot (66') wide strips of Municipally owned land along the shorelines of several lakes in Highlands East. The Municipality of Highlands East may, at the discretion of Council, dispose of these strips of land to the abutting upland owner.

Policy Statement:

The Municipality of Highlands East acknowledges that the waterbodies and natural environment of the area are two of the Municipality's greatest assets. Official Plan policies for the County of Haliburton and the Municipality of Highlands East encourage protection of the shoreline of lakes and rivers.

The closure and sale of original shore road allowances to upland property owners does not permit any clearing, cutting, landscaping or constructing that is otherwise not permitted by the Municipality's Zoning Bylaw, Official Plan, or other applicable legislation at the County, Provincial or Federal level.

Scope:

1. The Municipality of Highlands East offers for sale the dry land portions of original shore road allowances only to properties that are located on lakes.
2. The Municipality does not normally offer for sale original shore road allowances that are located along the shores of rivers.
3. The Municipality of Highlands East does not offer the flooded portion of any shore road allowance for sale.
4. The sale of original shore road allowances or any other allowances for road along the shorelines of lakes within the Municipality shall only be made to the direct **upland owner**.
5. Original shore road allowances that are located in front of original allowances for road that lead to water shall not be offered for sale, as the Municipality is the upland owner in these locations.

6. Original shore road allowances that are currently being utilized for public road shall not be stopped up, closed and conveyed, as they cannot be rendered surplus to Municipal needs.
7. Property owners who have discovered through a survey that a strip of Crown land is located between their lot and the original shore road allowance in front of their lot must first purchase and patent this land from the Government of Ontario before the Municipality may stop up, close and convey the original shore road allowance to them. This is because in cases where Crown land separates a property from the original shore road allowance, the Crown would be considered the upland owner.
8. The Municipality of Highlands East has no ownership over Crown Reserves and all requests to purchase or make use of Crown reserves must be directed to the Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNR).
9. An updated reference plan of survey illustrating the portion of original shore road allowance to be purchased must be provided by the applicant to the Municipality and its solicitor. At the request of applicants, municipal staff may review existing surveys to determine if they are suitable for use.
10. **Shoreline structures shall be closely scrutinized.** Council may require the relocation or removal of structures that are not compliant with the Municipality's Zoning Bylaw and/or Ontario Building Code prior to the conveyance of the original shore road allowance. Non-compliant structures that may not be removed (principal structures or select accessory structures) may require an amendment to the zoning bylaw to recognize their location prior to final conveyance of the original shore road allowance and may require permit applications under the Ontario Building Code.
11. If there is a septic system or a Class 1 system (privy) on the shoreline road allowance the applicant shall supply the municipality with a copy of the sewage system inspection report and use permit issued by the Municipality or local Health Unit, if applicable. The municipality may require a current inspection of the septic system by the Highlands East Building Department. Where a septic system is found to be deficient, upgrade or replacement may be required prior to the conveyance of the original shore road allowance.
12. In accordance with the Municipal Freedom of Information and Protection of Privacy Act, the personal information gathered within the application form will be used for the purpose of processing this application.
13. Applicants should expect that an average shore road allowance purchase application will take one (1) year to complete, provided the survey is provided to the Municipality and Municipal Solicitor with the application.

Definitions:

Crown Land: Any unpatented land owned and managed by the Province of Ontario.

Crown Reserve: A portion of unpatented Crown land normally located between patented land and the shoreline of a waterbody that has been specifically reserved by the Crown.

Frontage: For the purposes of this policy, frontage is the distance between the projections of the side lot lines of the upland property measured along the water's edge as illustrated on the plan of

survey provided for the purchase. This distance shall be utilized for the calculation of the purchase price.

Municipality: The Municipality of Highlands East.

Original Shore Road Allowance: An original shore road allowance is a strip of land, normally sixty-six (66) feet wide that was surveyed along the shorelines of several lakes during the time of the original surveys for the geographic townships that make up the Municipality of Highlands East. The original shore road allowance may be entirely on land, partially flooded, or wholly under water.

These lands are owned by the Municipality of Highlands East. Additional municipally owned road allowances, created on plans of subdivision or Crown patent plans that serve as road allowances along the shorelines of lakes may also be considered 'original shore road allowances' for the purpose of this policy.

Upland owner: The 'upland' owner for the purposes of this bylaw is defined as the legal land owner of the property that directly abuts the original shore road allowance.

Policy/Procedure:

Complete Application:

Applications shall not be processed until such a time that:

1. A completed application to purchase the shore road allowance is submitted and signed by all registered owners;
 - a. Should an agent be appointed, an 'authorization for agent' shall be provided.
2. A site plan or survey showing the shore road allowance and existing/proposed structures is submitted;
3. The prescribed fee in the amount of \$4350 is received.

Note: A completed survey is not required to begin processing a request to close and purchase an original shore road allowance. However, the required survey showing buildings must be submitted to the Municipality to review for zoning and building compliance prior to the closure and conveyance.

Delay in providing this survey may delay the sale process.

Applications may be filed in person at the Wilberforce Municipal Office:

2249 Loop Road
Wilberforce, Ontario

In the mail:

Municipality of Highlands East
P.O. Box 295
Wilberforce, Ontario
K0L 3C0

Or via email:

info@highlandseast.ca

Administrative Procedures:

1. Once the Municipality is in receipt of the items outlined above, it is reviewed for completeness and assigned a file number.
2. The application and site plan is provided to the By-law Enforcement Officer or designate to perform a site visit and to review the property file. Should weather or site access prevent a site visit, the application may be held until such a time the site visit can be completed.
3. Once completed, the By-law Enforcement Officer's report is provided to the applicant, Chief Building Official, planning staff and the municipal solicitor whom is responsible for the processing of the purchase of the municipal shoreline.
4. If through a review of the survey and site visit together with the property file brings to light compliance issues with the Zoning Bylaw, Ontario Building Code or the County of Haliburton's Shoreline Tree Preservation Bylaw (as amended), these concerns will be provided to Council and the applicant.
5. A report shall be brought to a Meeting of Council, and Council may choose to approve the application in principle and render the portion of shore road allowance to be purchased surplus. This approval may be contingent upon the property owner addressing outstanding zoning or building compliance issues.
6. The application and approval in principle is provided to Bishop and Rogers, the Municipality's agent and solicitor for the original shore road allowance disposition process. The Municipal Solicitor will contact the applicant directly to request required documentation and a legal fee deposit to proceed.
7. Nine (9) copies of the preliminary plan showing buildings that is produced by your Ontario Land Surveyor shall be provided to the Municipal Solicitor, and two (2) copies shall be provided directly to the Municipality of Highlands East. A digital copy of this survey, in PDF format, shall be provided to the Municipality via email to info@highlandseast.ca.
8. The Municipal Solicitor will circulate and receive approvals from the appropriate parties including:
 - a. Abutting waterfront neighbours;
 - b. The County of Haliburton;
 - c. Public Works Canada;
 - d. Hydro One Networks;
 - e. Bell Canada;
 - f. The Ontario Ministry of Transportation.
9. Please note that the Municipality and the Municipal Solicitor are not in a position to mediate boundary disputes between neighbours and disagreement regarding the portion of shore road allowance to be closed may delay closure and conveyance.
10. Once requisite approvals have been received, the Municipal Solicitor shall request that the Ontario Land Surveyor deposit their plan in the Land Registry Office. Three (3) hard copies of the registered plan shall be provided to the Municipal Solicitor and one (1) hard copy and one (1) digital copy shall be provided to the Municipality.

11. Once all responses are received the municipal solicitor will provide notice of the pending shore road allowance closing as an item on a Council Meeting Agenda. An advertisement in the local newspaper for two consecutive weeks, a minimum of ten (10) days prior to approval of the by-law.
12. Any concerns raised by adjacent landowners would be resolved to Council's satisfaction prior to the enactment of a by-law to stop up, close and dispose of the subject road allowance.
13. Should a deeming bylaw be required to merge the shore road allowance with the upland property, a deeming bylaw authorization will be provided to the landowners for signature, and the \$200 non-refundable fee shall be collected.
14. The by-law for the closure and conveyance of the shoreline will be considered for approval by the Council of the Municipality of Highlands East together with the deeming bylaw, if necessary. If zoning or building compliance issues have not been resolved, the by-law shall be held by staff until such a time that compliance is achieved.
15. Once the by-law(s) have been forwarded to the municipal solicitor, their office prepares the deed and all applicable documents for signatures and will complete the registrations by electronic means after all outstanding monies have been paid in full and which lands will be consolidated with the current ownership of the applicant.

Fees and Costs:

The application fee to be submitted **with** the application is \$4350.00.

The land costs are effective for all applications received after **January 1, 2022**.

Breakdown of Costs:

Non-refundable municipal administration fee: \$350.00

0 - 150 feet of shoreline frontage as defined on plan of survey: \$4000.00 plus HST

Beyond 150 feet, the fee per linear foot of frontage is \$20.00 plus HST

Frontage is determined by the distance along the high water mark as measured by the Ontario Land Surveyor on their preliminary plan of survey.

Additional Fees:

Should a **Deeming Bylaw** be required to permit the lot to merge on title, an additional \$200.00 fee shall be payable to the Municipality of Highlands East.

Survey fees are the responsibility of the applicant. The survey must be produced by an Ontario Land Surveyor to the standard outlined below in 'Survey Requirements'.

Legal fees and disbursements are the responsibility of the applicant and shall be billed directly to the applicant by the Municipality's solicitor. The Municipal Solicitor will contact the applicant after the application has been approved in principle by Council and advise the applicant of estimated costs in this regard.

Note: If the applicant wishes to have their own solicitor act on their behalf for the purchase, the applicant must provide a written acknowledgment that they are responsible for all legal fees and disbursements to complete the purchase, both of their own solicitor and those incurred by the Municipal Solicitor on behalf of the Municipality.

All legal fees and disbursements must be paid in full prior to the conveyance of the road allowance.

Survey Requirements:

An updated reference plan of survey that is suitable for registration in the Land Registry Office must be completed in order to facilitate the conveyance of land.

Reference Plan Requirements:

- The survey of the lands to be closed and deeded shall not include any areas that have been filled, “man - made” or are under water;
- The survey must show any/all submerged portions of the shoreline road allowance;
- The survey must show any/all filled lands on the bed of the waterbody;
- Unless otherwise approved by Council and abutting landowners, the portion of shoreline road allowance to be surveyed may only include those areas within the straight-line projection of the applicants' side lot lines between the inner limit of the shore road allowance and the high water mark of the lake.
- The survey must not be deposited until **after** the direction from the municipal solicitor is received.
- The frontage at the shoreline along the high water mark must be shown clearly in feet/meters.
- The dry land original shoreline road allowance must be defined as a separate part number;
- Surveys that are submitted and do not meet all of the above criteria will be rejected.

Buildings and Shoreline Structures:

- The draft reference plan must illustrate the location of any structures located on the shore road allowance or that are located on the upland property within **60 m** of the high water mark of the lake together with distance ties the high water mark and pertinent side and rear limits.
- If a modified version of the draft reference plan is used, the surveyor may choose to remove the structures prior to registration.
- The surveyor may provide a Surveyor's Real Property Report to illustrate structures as outlined above but a reference plan of survey of the shore road allowance to be purchased is required to complete the conveyance.

Deeming Bylaw:

Lots that are created through a plan of subdivision cannot merge legally with the original shore road allowance due to an exception under Section 50(5) of the *Planning Act*. Section 50(4) of the *Planning Act* permits municipalities to pass a bylaw to deem lots to no longer be within a plan of subdivision so that they may merge with abutting land.

In order to permit a lot on a plan of subdivision to merge with the shore road allowance and complete the conveyance of land, a **Deeming Bylaw** must be passed by the Council of the Municipality of Highlands East and registered as part of the purchase of the original shore road allowance.

Care should be given by landowners if they have abutting properties in the same names, as a deeming bylaw could create an inadvertent merge on title.

Staff will advise property owners if their lots require a deeming bylaw prior to the final closure and sale of the original shore road allowance.

A deeming bylaw authorization must be signed by all legal owners and a fee in the amount of **\$200** must be paid to the Municipality prior to the passage of the bylaw.

Policy Communication:

This policy shall be provided on the Municipality's website and in Municipal offices upon request.

Administrative Information:

Mandatory:

No

Attachments:

[Revised OSRA Application](#)

Revision Log:

Number	Date	Description



Municipality of Highlands East

Application for the Closure and Purchase of an Original Shore Road Allowance

Information Sheet for Applicants

1. **Completion of Application**

The attached application form is to be completed and submitted to the Highlands East Planning Department. In all cases, please ensure that you keep a copy for your files. The applicant is advised to approach the Planning Department for policy information before making a formal application. Every application must be complete. All applicable information requested on the application form must be provided before the application will be considered by Council.

2. **Authorization of Agent**

The application should be completed by the property owner or his authorized agent. Where the application is being submitted by an agent, the written authorization of the owner is required. Section "3" of the application is provided for this purpose.

3. **Application Fee and Planning Services Acknowledgment**

Each application shall be accompanied by payment (cash, e-transfer, a cheque) made payable to the Municipality of Highlands East, in the amount of \$4350.00, and shall be accompanied by one signed, witnessed and dated copy of the attached "Planning Services Acknowledgment".

The non-refundable administration fee for each deeming by-law, required to complete the conveyance of a road allowance is \$200.00.

4. **Plans Required**

Each application shall be accompanied by two (2) hardcopies and one (1) digital copy of a plan showing:

- (a) The boundaries and dimensions of the property.
- (b) The accurate location, size and type of all proposed and existing buildings and structures on the property.
- (c) The distance (setbacks) from side, rear and front lot lines of all existing or proposed buildings.
- (d) The location, width and names of all roads within or abutting the property, indicating whether they are public traveled roads, private roads or rights of way or unopened road allowances. The location and number of parking and loading spaces, ingress, egress and direction of traffic.
- (e) The location of all natural and artificial features on the property (i.e. railways, wells, septic tanks, drainage ditches, watercourses, slopes, swamps, wooded areas), the location of any of these features on adjacent lands which may affect the proposal, and any proposed changes to the land, such as grading, blasting, planting or channelization.
- (f) The use of adjoining lands (i.e. residential, agricultural, commercial, etc.).
- (g) The location and nature of any restrictive covenant or easement affecting the property.

Note: A plan of survey prepared by an Ontario Land Surveyor is not required for submission with the application, however a plan of survey, produced in compliance with the governing Shore Road Allowance Closure and Disposition policy in force, is required prior to closure and conveyance of the Shore Road Allowance. Delay in providing this plan will delay the processing, review and closure of the shore road allowance.

5. Additional Information

Additional information may be required to properly process the application, and will be requested if necessary.

6. Responsibility of Applicant

The filing of this application is considered as an undertaking by the applicant to accept all conditions as herein set forth.

7. Effective Date

The effective date of this application shall be deemed to be that on which it is received with sufficient information.

8. Submission

Mail, deliver or email the application to: Municipality of Highlands East
Planning Department
2249 Loop Rd
P.O. Box 295
Wilberforce, Ontario
K0L 3C0
info@highlandseast.ca



Application for Closure and Purchase of an Original Shore Road Allowance

The undersigned hereby applies to the Municipality of Highlands East for the closure and purchase of an allowance for road herein.

1. **Applicant and Ownership Information:**

- (a) Applicant's Name: _____
Mailing Address: _____
_____ Postal Code: _____
Telephone Number: Home: _____ Bus: _____
Email: _____
- (b) Registered Owner's Name: _____
Mailing Address: _____
_____ Postal Code: _____
Telephone Number: Home: _____ Bus: _____
Email: _____
- (c) Reason for Request: _____

- (d) Civic Address (911 Address if assigned): _____
- (e) Tax Roll Number: 46 – 01 - _____ - 000 - _____
- (f) Legal Description of the Applicant's Land Abutting the Shore Road Allowance:
Lot: _____ Concession: _____ Geographic Township/Ward: _____
Lot: _____ Registered Plan: _____ Geographic Township/Ward: _____
- (g) If the Council of the Corporation consents to the closing of the allowance, will any person(s) be deprived of a means of ingress and egress to and from his land or place of residence?

- (h) If so, a written authorization from the person(s) so affected is required to be submitted with the application.
- (i) The Municipality may only stop up, close and convey to the adjacent property owner that portion of the allowance which lies above the high water mark. In this case, the Municipality will circulate a copy of the preliminary survey to the abutting owners to inform them of the proposed lot line extensions.
- (j) Applicants will be responsible for all legal, survey, advertising and administrative costs in addition to the actual purchase price of the land.

2. Deeming Bylaw Caution:

Please fill out this section if your lot is described as a lot on a plan of subdivision:

I/We, _____, being the registered owners of Lot _____, Registered Plan _____ in the Geographic Township of _____ acknowledge that in order to add the subject road allowance to our property the Municipality must pass a by-law pursuant to section 50(4) of the Planning Act. I/we understand that I/we must now take care how we register adjoining parcels which we own as they may merge with Lot _____, Registered Plan _____. I/we consent to the passage of said by-law. I/we understand and agree to pay the \$200.00 non-refundable administration fee for the Deeming By-law.

WITNESSED BY:

	Per:	Owner's Signature
	Per:	Owner's Signature

DATE: _____, 20__

3. Authorized Agent(s):

If the applicant is not the owner(s) of the land that is subject of this application, the owner(s) must complete the following or a similar authorization:

I/We, _____, am/are the registered owner(s) of the lands subject of this application and I/we hereby authorize _____ to prepare and submit this application on my/our behalf and, for the purposes of the Freedom of Information and Protection of Privacy Act, to provide any of my/our personal information that will be included in this application or collected during the processing of the application.

Date: _____ Owner(s) Signature: _____

4. Consent of the Owner(s):

I/We, _____, are the registered owner(s) of the lands subject of this application and, for the purposes of the Freedom of Information and Protection of Privacy Act, I/we hereby authorize and consent to the use by, or the disclosure to any person or public body of any personal information that is collected under the authority of the Planning Act for the purposes of processing this application. I/we also authorize and consent to representatives of Council, committee members, municipal staff and/or any consultant/professional employed by the municipality for the purpose of processing this application, entering upon the lands subject of this application for the purpose of conducting any site inspections as may be necessary to assist in the evaluation of this application.

Date: _____ Owner(s) Signature: _____

5. Affidavit:

I/we _____ of the Township/Town/City of _____ in the County/District/Region of _____ solemnly declare that all of the above statements contained in this application are true and I, we make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath, and by virtue of the "Canada Evidence Act".

DECLARED before me at the _____)
of _____ in the _____)
of _____ this _____)
day of _____, 20____)

Signature of Owner(s) - or Authorized Agent

Signature of Commissioner, etc.

Planning Services Acknowledgement

The filing of this application is considered as an undertaking by the registered owner(s) to accept all terms and conditions as set forth herein:

Applicant's Responsibility:

1. The Applicant agrees to provide the Municipality with the following:
 - (a) Any information in the Applicant's possession concerning all planning matters with respect to this application.
 - (b) All surveys, drawings, sketches or plans as required for processing of this application.
 - (c) The required application fee of \$4350.00.
2. The applicant acknowledges that they have read and understand the Municipality's current Policy to Govern the Closure and Conveyance of Original Shore Road Allowances for the Municipality of Highlands East.
3. The applicant acknowledges that they are responsible for the payment of all legal fees and disbursements incurred in the processing of this application.
4. The applicant acknowledges that they are responsible for the payment of all fees and disbursements incurred by the Municipality, should the services of an engineer, surveyor, solicitor or other professional be required for the processing of this application.
5. The applicant acknowledges that shoreline structures that have been constructed in contravention of the Zoning Bylaw or Ontario Building Code may be required to be removed or brought into compliance prior to the final closure and conveyance of the original shore road allowance. An application to amend the zoning bylaw may be required to bring buildings on the property into compliance.

Municipality's Responsibility:

6. The Municipality agrees to process the application in accordance with the provision of the Municipal Act, 2001.

Site Visits:

7. The Applicant acknowledges that Municipal staff, Councillors or Committee members may be required to visit the property which is the subject of this application in order to process this application. The Applicant consents to site visits as may be required.
8. The Applicant acknowledges that the processing of this application may require the taking of pictures, of the subject property. The Applicant consents to such pictures as may be required.

Witnessed by:

Per: _____
Owner's Signature

Per: _____
Owner's Signature

DATE: _____, 20____