

THE CORPORATION OF THE TOWNSHIP OF TUDOR AND CASHEL

BY-LAW NO: 2012-13

Being a By-Law to adopt policies and procedures for the disposition of shoreline road allowances within the Corporation of the Township of Tudor and Cashel.

WHEREAS Section 270 (1) of the Municipal Act, 2001 as amended (the Act) requires all municipalities to adopt and maintain a policy with respect to its sale and other disposition of land;

AND WHEREAS the Disposition of Shoreline Road Allowance Policy attached hereto as Schedule "A" provides guidance for the disposition of shoreline road allowance in accordance with the principles as outlined therein;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF TUDOR AND CASHEL ENACTS AS FOLLOWS:

1. In this By-Law, the term "Road Allowance" includes a Shoreline Road Allowance unless otherwise stated.
2. That the Township establishes the procedures set out in **Schedule "A"** attached hereto as the procedures to be followed for the sale and closure of road allowances, including the giving of notice to the public. **Schedule "A"** is hereby incorporated into, and forms part of this By-Law.
3. That before selling any real property, the Township shall:
 - a) pass a by-law or resolution at a meeting open to the public declaring the real property to be surplus, and
 - b) shall give notice to the public of the proposed sale in accordance with the provisions set out in **Schedule "A"** attached hereto.
4. That the Reeve and the Clerk of the Township be and they are hereby authorized and instructed on behalf of the Corporation of the Township of Tudor and Cashel to enter into and execute under its corporate seal and to deliver whatever documents are necessary to effect the closing and sale of road allowances in accordance with the said procedures.
5. That any applications for road closure and sale made under this By-Law before the date of final passing of this By-law shall be processed in accordance with the said By-law.
6. That all By-Laws or parts of By-Laws heretofore passed inconsistent with the provisions hereto and respecting the sale of shoreline road allowances and other road allowances within the Township are hereby repealed;
7. That this By-Law shall take effect upon the third and final reading thereof.

PASSED THIS 05TH DAY OF JUNE, 2012.

REEVE: WANDA DONALDSON

SEAL

CLERK: BERNICE CROCKER

SCHEDULE "A"

PROCEDURES FOR THE CLOSURE AND SALE OF ROAD ALLOWANCES

1. The shoreline road allowance and any part of other road allowances abutting on water will only be closed above the high water mark. Flooded land will not be sold.
2. Flooded shoreline road allowances or shoreline road allowances or other road allowances on a flood plain will not be closed. If a main building or residence is located on a flood plain, special consideration may be given to sell the land actually occupied by the main building.
3. If a building or buildings are located on a shoreline road allowance or other road allowance, Council may in its discretion close and sell only a portion of the road allowance with such area of land surrounding the building or buildings as to allow adequate access to the same to the Applicant(s) as Council in its discretion sees fit.
4. Shoreline road allowances used and known as portage trails, or portage trails that Council wishes to preserve will not be closed.
5. Shoreline road allowances, which are identified for municipal recreational purposes will not be closed.
6. Shoreline road allowances, which have historic or cultural value will not be closed.
7. Shoreline road allowances used for access to properties will not be closed unless an alternate, suitable and sufficient access, with the express written consent of all serviced owners, is found acceptable by the Township.
8. Road allowances leading to the water shall not be closed unless an alternate, suitable and sufficient access, with the same or better water frontage is provided elsewhere.
9. The Township of Tudor and Cashel will not become involved in any boundary line disputes.
10. The selling price for the shoreline road allowance will be **\$500.00**.
11. A by-law passed by the Township permanently closing a road allowance does not take effect until a certified copy of the by-law is registered in the Land Registry Office for the Land Titles Division, Hastings No. 21.
12. The Applicant(s) shall pay all costs of the Township pertaining to the Application and processing of the same including administrative, legal fees and disbursements, survey and HST on all of the foregoing prior to the delivery of the Transfer/Deed of Land for the transfer to the Applicant(s).
13. The Applicant(s) shall complete the "Application for Closure and Sale of a Road Allowance" for the Township of Tudor and Cashel, a copy of which is attached hereto as **Schedule "B"**.
14. The Applicant(s) shall submit the Application to the Township with the following:
 - a) a copy of the registered Transfer/Deed of Land for the property abutting the part of the road allowance showing the names of the current owners;
 - b) a sketch indicating with reasonable accuracy, the lot lines, dimensions of and present access to the property. If a reference plan is available, it shall be used in lieu of a sketch. The Applicant(s) shall outline on the sketch or plan the area of shoreline for which the "Application for Purchase of Shoreline Road Allowance" is being made, particulars of other roads on the property and of other shoreline road closings in the area. The Clerk will review the sketch and if it is determined that it contains insufficient information, the Application will be returned to the Applicant(s) for completion; and
 - c) Payment of the sum of \$250.00 to cover part of the Municipal Administration Fee and \$500.00 as a deposit to cover some of the costs associated with the purchase of the Land.

15. In the case of an Application to purchase a Shoreline Road Allowance, the Township shall determine the boundary lines from the corner survey post of the Applicant's property to the high water mark. Upon the filing of the Application for Closure and Sale of a Shoreline Road Allowance, the Township shall send notice to the Owners of the land abutting the Applicant's property fronting the Shoreline Road Allowance on either side, informing them of the application and notifying them that they have 21 days in which to submit any objection in writing to the Township. The Township will not enter into any negotiations between the Applicant and the abutting Owners or arbitrate any issues in any manner. In the Notice to the abutting Owners, the Township shall also inform them that if they enter into agreement with the Applicant as to the extension of the boundary lines from the corner survey post of the Applicant's property to the high water mark, they and the Applicant must submit a copy of the written consent in the form attached as **Schedule "C"** hereto within 21 days of the Notice and that the Consent itself will be considered by Council in making its decision in dealing with the Application. If no consent is filed within that time, the Township may proceed with Application and if Council approves the sale, Council will, in its discretion, determine the sidelines.
16. In the case of an Application relating to a Shoreline Road Allowance, if the Applicants and the abutting Owners agree to the location of the sidelines of the Shoreline Road Allowance to be closed and sold, the Applicant shall clearly mark the boundary lines as proposed on either side of his or her property, and shall plant a picket marked with red paint or with a survey ribbon a minimum of 2 feet beside the corner post of the Applicant's property nearest the water and another marking the extension of the boundary line to the high water mark as determined by the municipality, and as indicated on the plan.
17. A field inspection of the abutting property and road allowance will be conducted (if deemed necessary by the Council).
18. After the application has been reviewed by the Township on a preliminary basis and after a field inspection is conducted (if Council deems it necessary), the Township may by letter give tentative approval to the Application but such approval does not necessarily guarantee the final approval of the application. This procedure is designed to pinpoint obvious problems in the initial stages of the application and therefore eliminate further expenses to the Applicant.
19. Applicants who have received tentative approval shall pay an additional amount of \$250.00 on account of costs. If the Applicant later abandons the Application, some or all of this amount may be refunded to the extent it is not required to pay the costs incurred by the Township to the date of the abandonment.
20. Receipt of payment will be deemed as authorization to proceed with the Application, at which time, the Applicant will arrange to obtain a Reference Plan of the shoreline road allowance prepared by an Ontario Land Surveyor. It is the Applicant's responsibility to arrange for and obtain the Reference Plan. In the case where an abutting Owner has consented to the location of the sidelines for the Shoreline Road Allowance, prior to depositing the Plan at the Registry Office, the Applicant shall obtain the written approval of the abutting land owners to the location of the sidelines; such approval is to be indicated by the written consent of the abutting Owners endorsed on a true copy of the Plan, a copy of which shall be delivered to the Township.
21. The Applicant shall deliver two (2) copies of the Reference Plan after it has been deposited at the Registry Office together with the written Certificate of the surveyor that the location of the sidelines as shown on the draft Reference Plan, which was approved by the abutting Owners, if applicable, is the same as on the final Reference Plan as deposited.
22. Upon receipt of the Reference Plan, the Township will have their solicitor prepare a by-law for the closure of the shoreline road allowance, for presentation to Council at the appropriate time.

23. Before passing a by-law for permanently closing any shoreline road allowance or any part thereof, the Township shall give public notice of its intention to pass the by-law by publication of an advertisement in, a newspaper having circulation within the Township on at least two (2) occasions with the last publication to be at least thirty (30) days prior to the Council meeting at which time the by-law will be considered. The notice will contain a statement that the Township intends to pass a by-law permanently closing a part or all of a shoreline road allowance and intends to sell it to the abutting owner(s).
24. In addition, notification of the closure will be posted at the municipal office and on the township's website.
25. If no reasonable objections are received from any person or corporation, the by-law will be passed. If objections are received but Council decides to pass the By-law notwithstanding such objections, the By-law will be passed.
26. After the By-law is passed, the Township solicitor will prepare a Transfer/Deed of Land for the conveyance of the shoreline road allowance from the Township to the applicants, or their successors in title, in the name or names as noted on the Transfer/Deed of Land to the abutting land.
27. Any outstanding costs, identified in paragraph 13 herein, shall be paid by the Applicant(s) in full prior to the delivery of the Transfer/Deed to the Applicant(s). All conditions as stipulated by the Township must be adhered to before the transaction is concluded.

THE CORPORATION OF TOWNSHIP OF TUDOR AND CASHEL
APPLICATION FOR CLOSURE OF A SHORELINE ROAD ALLOWANCE &/OR ROAD ALLOWANCE

MUNICIPAL ADMINISTRATION FEE: \$250.00
DEPOSIT FOR PURCHASE OF LAND: \$500.00

1. Name of Property Owner(s): _____

2. Civic Address of Subject Property: _____

3. Mailing Address of Applicant(s): _____

4. Telephone Number: (____) _____
5. Fax Number: (____) _____
6. Date of Birth for (each owner):

year month day

year month day
7. Applicant's Solicitor _____
Telephone Number: (____) _____
Address: _____

8. Legal/Property Description: Lot. No. _____ Concession No. _____
Plan No. _____ Frontage: _____
Depth: _____ Acreage: _____
Geographic Township: _____
Lake/River: _____
9. Items required to accompany Application:
Sketch/Plan of Property (attached) Yes _____ No _____
Reference Plan (attached/if applicable) Yes _____ No _____
Copy of Transfer/Deed of Land (attached) Yes _____ No _____
10. Is there an access to the property other than the shoreline road allowance?
Yes _____ No _____
11. Is the shoreline road allowance serving as access to other properties?
Yes _____ No _____
12. Do the adjoining property owners consent to this Application?
Yes _____ No _____
13. Are the Consent Forms Attached: Yes _____ No _____
14. Have the abutting owners signed the plan showing the established boundaries?
Yes _____ No _____

DATE OF APPLICATION: _____

SIGNATURE(S) OF APPLICANT(S): _____

SCHEDULE "B" (continued)

TERMS OF THE APPLICATION

The submission of the "Application for Closure of the Shoreline Road Allowance" is hereby deemed as formal request by the Applicant(s), signed thereon for **The Corporation of the Township of Tudor and Cashel** to commence with the closure and disposition of the shoreline road allowance as described in this application and outlined on the sketch or Reference Plan of Survey hereto attached.

The Applicant(s)/Owner(s) hereby agree(s) to purchase from **The Corporation of the Township of Tudor and Cashel** the shoreline road allowance as described on the attached application for the purchase price of **\$500.00**.

The Applicant (s)/Owner(s) hereby agree(s) to pay all legal fees and disbursements, administrative and survey costs and GST/PST and/or HST associated with the closure and disposition of the shoreline road allowance, all or in part, as may be required from time to time.

It is understood that the Township cannot in any way guarantee the successful completion and sale of the shoreline road allowance to the Applicant(s) should there be an objection to the Application.

A NON-REFUNDABLE MUNICIPAL ADMINISTRATION FEE in the amount of \$250.00 must accompany this Application.

SCHEDULE "C"

THE CORPORATION OF THE
TOWNSHIP OF TUDOR AND CASHEL
371 Weslemkoon Lake Road, Box 436, RR 2, GILMOUR, ON K0L 1W0
TEL: (613) 474-2583 · FAX: (613) 474-0664
E-MAIL - clerk@tudorandcashel.com

CONSENT TO SALE OF SHORELINE ROAD ALLOWANCE

IN THE MATTER OF the Application for Closure of Shoreline Road Allowance made by:

(Applicants names)

for that portion of the 66 foot shoreline road allowance located on:

Part Lot/Lot _____, Concession _____ or Registered Plan _____

Designated as Part(s) _____ on Reference Plan 21R-_____

Geographic Township of _____, now in the TOWNSHIP OF TUDOR AND CASHEL

along the shore of _____ River/Lake,

abutting the Applicant's property.

I/We the undersigned, being the owner(s)of the adjacent property, consent to the closure and sale of the described shoreline road allowance as indicated on the attached plan/sketch.

I/We have no objection to the tentative boundary of the shoreline road allowance as outlined.

I/We understand that the final boundaries will be determined by an Ontario Land Surveyor and may vary slightly from that indicated on the attached plan/sketch and that a Preliminary (Draft) copy of the Reference Plan of Survey will be provided to me /us to review for verification with my / our approval being evidenced by signing the Plan and writing "Approved" thereon together with the date of signing.

DATED this _____ day of _____ 20__ .

SIGNATURE(S)

(please print name below signature)

PLEASE NOTE:

That the boundary line should be marked with a picket marked with red paint at the site/location as agreed upon between you and your neighbor, in accordance with the Policies and Procedures (Paragraph 17.) before you consent to any sale. If you consent to the Application for Closure of the Shoreline Road Allowance you are also required to sign the plan, which must be attached to this Consent Form.