

THE CORPORATION OF THE TOWNSHIP OF PERRY

BY-LAW #2005 -22

**BEING A BY-LAW TO ADOPT POLICIES GOVERNING THE CLOSURE
AND SALE OF ORIGINAL SHORELINE ROAD ALLOWANCES**

WHEREAS authority is found in Section 28 (2), Section 33, Section 34 (1), Section 35 and Section 268 of the Municipal Act S.O. 2001, chapter 25, as amended;

AND WHEREAS Council desires to have a policy so that potential applicants are aware of the processes to be followed in the closing and sale of original shoreline road allowances;

NOW THEREFORE the Council of the Corporation of the Township of Perry ENACTS AS FOLLOWS:

1.

THAT the attached Schedule 'A' entitled 'Original Shoreline Road Allowance Closing and Sale Policy and Procedures', which forms part of this by-law, is hereby adopted by Council.

2.

THAT the attached Schedule 'B' entitled 'Shoreline Road Allowance Closing: Request', which forms part of this by-law, is hereby adopted by Council.

3.

THAT the attached Schedule 'C' entitled 'Lot Line Extension Acknowledgement', which forms part of this by-law, is hereby adopted by Council.

4.

THAT the attached Schedule 'D' entitled 'Notice of Road Closing', as an example of the required shoreline road allowance closing and sale advertisement for the 'Almaguin Forester', which forms part of this by-law, is hereby adopted by Council.

5.

THAT the attached Schedule 'F' entitled 'Sample By-law', as an example of the required shoreline road allowance closing and sale by-law, which forms part of this by-law, is hereby adopted by Council.

6.


THAT By-law #2004-10, being a "by-law to adopt policies governing the sale of original shoreline road allowances" is hereby rescinded, and is replaced by By-law #2005-22, being a "by-law to adopt policies governing the sale of original shoreline road allowances".

7.

THAT this entire by-law shall take effect and come into force upon the third and final reading and enactment thereof.

Read a first and second time, this 5th day of Oct., 2005

Read a third and final time and enacted in open council, this 5th day of Oct., 2005


MAYOR


CLERK

Schedule 'A'- By-law #2005-22

The Corporation of the Township of Perry

ORIGINAL SHORELINE ROAD ALLOWANCE CLOSING AND SALE POLICY AND PROCEDURES

GENERAL PROCEDURES:

1.
The Township of Perry reserves unto itself the right to offer an original shoreline road allowance, after it has been properly closed pursuant to this By-law (By-law #2005-22), to the land owner whose property fronts on the shoreline road allowance in question.
2.
For the purpose of this policy, the applicant shall be considered the party who desires, and is granted permission by the Township, to undertake the shoreline road closing and sale process. In all cases, the applicant will be considered by the Township to be the land owner whose property fronts on the shoreline road allowance in question.
3.
All costs pursuant to this shoreline road allowance closing and sale policy and procedure shall be borne by the applicant and the undertaking will be at his/her own risk.
4.
The application form, attached hereto as Schedule 'B', shall be submitted to the Clerk of the Township at the time of submission, accompanied by the application and legal cost fees.
5.
As well, the applicant shall provide at the time of submission, from the adjoining property owner(s), their acknowledgment as to the location of the lot lines to be extended through the closing and sale of the original shoreline road allowance in question. This shall come through completion of the document found attached to this by-law as Schedule 'C'. Non-completion of this form from the adjoining property owner(s) shall not impede the original shoreline road closing and sale process for the applicant.
6.
Furthermore, the applicant shall provide at the time of submission a proper 'redline' survey with accurate measurements of the lot and existing buildings or structures (if present) and their setbacks from the waterbody and property lines.
7.
Pursuant to Section 268 of the Municipal Act SO 2001 c. 25, as amended, Council must declare the shoreline road allowance in question to be 'surplus' to the municipality's need. The shoreline road allowance must be declared surplus to the municipality's need, at the request of the applicant's solicitor, prior to any notice being posted for consideration of the closing and sale by-law by Council.

8.

It is the responsibility of the applicant's solicitor to process the following steps of the original shoreline road allowance closing and sale policy and procedure. Written verification that all of the steps have been completed shall be forwarded to the Township Clerk at least seven (7) days prior to Council's consideration of the shoreline road allowance closing and sale by-law.

- a) Preparation and posting of the notice to be advertised in the "Almaguin Forester", which has general circulation in the area, for four (4) consecutive weeks prior to consideration of the shoreline road allowance closing and sale by-law by Council. This notice is to be approved by the Township Clerk, prior to its posting. A sample of an appropriate newspaper notice may be found attached as Schedule 'D'. This notice is required under s. 34 of the Municipal Act SO 2001, c. 25 and shall also be deemed, in this form, to be appropriately in compliance with the sale of land requirements under s. 268 of the Municipal Act.
- b) Posting of the appropriate notice in six (6) public places in the immediate neighbourhood of the road closing for four (4) weeks prior to consideration of the shoreline road allowance closing and sale by-law. A sample of the appropriate notice may be found attached as schedule 'D'.
- c) Notice sent to Ontario Hydro, as applicable.
- d) Notice sent to Bell Telephone, as applicable.
- e) Notice sent to Public Works Canada, as applicable.
- f) Approval of the Ministry of Municipal Affairs and Housing.
- g) Notice sent to Centra Gas Inc., as applicable.

9.

The applicant's solicitor shall prepare the by-law to authorize the shoreline road allowance closing and sale, which shall be delivered to the Township Clerk for review at least seven (7) days prior to consideration of the shoreline road allowance closing and sale by Council. A sample of this required by-law is attached as Schedule 'E'.

10.

The by-law authorizing the closing and sale of the shoreline road allowance in question shall be considered on the time and date, and at the location specified in and through items 8 (a) – (g) above.

11.

After Council's approval through the adoption of the shoreline road allowance closing and sale by-law, a proper legal survey shall be completed by the applicant's surveyor, two copies of which shall be forwarded to the Township and filed with the Township Clerk.

12.

The Deeds/Transfer shall be completed by the applicant's solicitor and submitted to the Township Clerk for review. The name of the transferee and manner in which title is taken to the road allowance shall be identical to the lands to which the shoreline road allowance is being added.

13.

The Township's solicitor shall review and register, along with the signed by-law, the Deeds/Transfer at the Land Registry Office and forward the original documents to the Township. The Township Clerk will send the registered documents to the applicant's solicitor, a copy of which shall be retained by the Township for their own records.

NOTES TO THE APPLICANT:

1.

Only that portion of the road allowance above the high water mark on a controlled level water body shall be closed, sold and deeded to the applicant.

2.

The requisite payment to the Township of Perry by the applicant for the shoreline road allowance property itself shall be 15 cents per square foot.

3.

The average estimated cost of closing and buying one 150 foot wide shoreline road allowance, by 66 feet deep, excluding GST, would be as follows:

Application (Township Fee):	\$500.00
Legal Costs (Township Fee):	\$800.00
Legal Costs (Applicant's Solicitor):	\$1,200.00
Survey Costs (Applicant's Surveyor):	\$1,500.00
Land Acquisition (Township Fee):	<u>\$1,485.00</u> (plus G.S.T.)
Total:	\$5,485.00

4.

An application shall be deemed to be expired if it has been inactive for a period of one year.

5.

NOTE: Should Council request that the applicant and the Township enter into a Site Plan Agreement, the Agreement will be drafted by the applicant's solicitor in a form satisfactory to the Township and registered on title by the Township's solicitor at the expense of the applicant. *This will include the requirement that photographs (including digitally formatted photographs) of the shoreline be taken by the applicant and submitted along with the agreement.*

AN APPLICATION FOR THE CLOSURE/SALE OF THE ORIGINAL SHORELINE ROAD ALLOWANCE MUST INCLUDE THE ATTACHED SCHEDULES 'A' AND 'B', ALONG WITH THE \$500.00 APPLICATION FEE AND \$800.00 LEGAL FEE PAYMENTS AT THE TIME OF SUBMISSION.

Schedule 'B'- By-law #2005-22

The Corporation of the Township of Perry

APPLICATION FOR CLOSING ORIGINAL SHORE ROAD ALLOWANCE

Date: _____ Roll #: _____ Civic Address: _____

Name: _____

Home Address: _____

_____ Phone: _____

Con: _____ Lot: _____ Plan #: _____ Parts: _____

I hereby apply to the Township of Perry, for the closing and conveying of that portion of the Original Shore Road Allowance above the high water mark **in front of my property**, and having the ownership of the same transferred to the above name(s).

I agree to pay all Township, legal, survey and other fees involved in the above transaction, plus the rate per square foot, as established by Township Policy.

Submitted herewith is the following:-

- a) Application fee of \$500.00
- b) Legal Costs of \$800.00, payable to the Township of Perry
- c) 'Redline' survey showing existing property lines, including shoreline road allowance and extended side lot lines through the said allowance, and existing buildings and structures on the property with their setbacks from the waterbody and property lines.
- d) Acknowledgement of the neighbours on each side of the subject property, using the form found as Schedule 'C' of By-law #2005-22

Yours Truly,

Name of Solicitor

Signature

Address

Signature

Phone: _____

Schedule 'C'- By-law #2005-22

The Corporation of the Township of Perry

APPLICATION FOR CLOSING ORIGINAL SHORE ROAD ALLOWANCE

Lot Line Extension Acknowledgement

The applicant, _____ is the owner of Part of Lot _____, Concession _____, in the Township of Perry.

I, _____, the owner of abutting lands described as Part of Lot _____, Concession _____, in the Township of Perry do hereby acknowledge the Township of Perry closing the shore road allowance in question and _____ (applicant) purchasing that shore road allowance lying in front of his/her property.

I have reviewed the copy of the sketch appended hereto and hereby agree to the proposed lot line extensions as shown on the sketch.

Dated this _____ day of _____, 20__.

Neighbour

Witness

**If Not in Agreement to Proposed Lot Line Extensions, Please Provide Reason:

Schedule 'D'- By-law #2005-22

The Corporation of the Township of Perry

-Public Notice-

Notice of Shoreline Road Closing and Sale

TAKE NOTICE that the Council of the Corporation of the Township of Perry proposes to enact a by-law pursuant to Sections 28 (2), 33, 34 (1), 35 and 268 of the Municipal Act SO 2001 c.25, as amended to:

- 1) Close and Sell all that part of the original shore road allowance lying in front of Lot____, Concession_____, Township of Perry, District of Parry Sound, being Part (Lot)____ Plan_____
- 2) Close all that part of the original shore road allowance of said Lot____, Concession_____, of said Township, being Part____ of Part (Lot)____, Plan_____

The proposed by-law will come before the said Council for consideration at its regular meeting to be held in the Council Chambers at (address), (village), Ontario, on the ____ day of _____, at the hour of 7:00 pm in the evening. Written comments and questions may be provided to the Clerk of the Township at the address below.

Will Jaques
Clerk-Administrator
Township of Perry
90 Old Government Rd.
PO Box #70
Emsdale, ON
P0A 1J0

(705) 636-5941

(Name of Applicant)
(Civic Address)

Schedule 'E' - By-law #2005-22

The Corporation of the Township of Perry

By-law #20__ - __

Being a By-law to stop up, close and sell part of the Original Shore Road Allowance in front of Lot __, Concession __, Township of Perry in the District of Parry Sound, designated as _____ on a plan of survey deposited in the Registry Office for the Registry Division of Parry Sound District or (under the Land Titles Act) as Plan _____

WHEREAS Section 28, 33, 34, 35 and 268 of the Municipal Act, SO 2001, c.25, as amended, provides that the Council of a Municipality may pass by-laws for the stopping up of the Road Allowance and Original Shore Road Allowance within the Municipality;

AND WHEREAS the Council of the Corporation of the Township of Perry deems it expedient to stop up and close a portion of the Original Shore Road Allowance herein described as Parts __ & __ on Plan _____ and to convey Part ____ to the owner of the land whose property has frontage that on this Original Shore Road Allowance in question;

AND WHEREAS notice of intention this by-law has been published in accordance with the provision of Sections 34, 35 and 268 of the Municipal Act SO 2001, c. 25, as amended;

AND WHEREAS the Council of the Corporation of the Township of Perry has heard in person or by his/her counsel, solicitor or agent, any person who claims that his land will be prejudicially affected by the by-law and who has applied to be heard;

AND WHEREAS by resolution # _____ - _____, the said lands were declared surplus;

NOW THEREFORE be it enacted as a by-law of the Corporation of the Township of Perry, namely;

1. That the following portions of the Original Shore Road Allowance in the Corporation of the Township of Perry, namely:

Those lands being described as part of the Original Shore Road Allowance lying in front of Lot __, Concession __, Township of Perry, in the District of Parry Sound, designated as Parts __ & __ on Plan _____ be and the same as hereby stopped up and closed;

2. That the soil and freehold of the said portion of the Original Shore Road

Allowance lying above the present high water mark herein described as Part ___ on Plan _____, shall be sold to the owners of the land whose property has its frontage on this Original Shore Road Allowance.

3. That the price at which the portion of the said original shore road allowance is to be sold, shall be the sum of FIFTEEN CENTS (\$0.15) per square foot;
4. That the Mayor and Clerk be and they are hereby authorized and directed to sign such documents and conveyances as may be necessary or expedient for carrying out the provisions of this by-law and to affix to such documents the corporate Seal of the Township of Perry.

Read a First and Second time this _____ day of _____, 20__

Read a Third and Final Time and Enacted in Open Council this ___ day of _____, 20__

MAYOR

CLERK-ADMINISTRATOR