

**THE CORPORATION OF THE TOWNSHIP OF  
EDWARDSBURGH CARDINAL**

**BY-LAW NO. 2022-32**

**“A BY-LAW TO ADOPT POLICIES AND PROCEDURES GOVERNING THE  
CLOSURE AND SALE OF MUNICIPAL HIGHWAYS WITHIN THE TOWNSHIP OF  
EDWARDSBURGH CARDINAL”**

**WHEREAS** Section 27(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, empowers a municipality to pass by-laws in respect of a highway over which it has jurisdiction; and

**WHEREAS** Section 34(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a by-law permanently closing a highway does not take effect until a certified copy of the by-law is registered in the proper land registry office; and

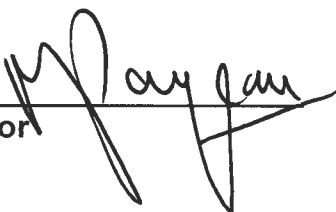
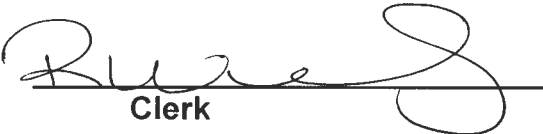
**WHEREAS** Section 35 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that a municipality may pass bylaws removing or restricting the common law right of passage by the public over a highway and the common law right of access to the highway by an owner of land abutting a highway within the boundaries of the municipality;

**NOW THEREFORE BE IT RESOLVED** that the Council of the Township of Edwardsburgh Cardinal enacts as follows:

1. That the Policies and Procedures Governing the Closure and Sale of Municipal Highways, as outlined in Schedule “A” attached hereto shall form part of this bylaw, is hereby adopted.
4. That this by-law shall come into force and take effect upon passing.

Read a first and second time in open Council this 24 day of May, 2022.

Read a third and final time, passed, signed and sealed in open Council this 24 day of May, 2022.

 _____ Mayor	 _____ Clerk
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## **Schedule "A" to By-law 2022-32**

### **Policies and Procedures Governing the Closure and Sale of Municipal Highways**

#### **Definitions**

1. In this policy,

"Applicant" means the person or collectively the people applying for the stopping up, closure, and/or sale of Municipality Highways, but shall not include the Municipality.

"Application" means the application for closure and sale of a Highway.

"Clerk" means the Clerk of the Municipality.

"Council" means Council for the Municipality.

"Highway" includes the following over which the Municipality owns and has jurisdiction:

- (a) a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway, and except as otherwise provided, includes a portion of a highway;
- (b) a road allowance laid out in the original Crown surveys that are located in the Municipality;
- (c) road allowances, highways, streets, lanes, walks, and promenades shown on a registered plan of subdivision;
- (d) all highways transferred to the Municipality under the Public Transportation and Highway Improvement Act;
- (e) all highways established by by-law of the Municipality on or after January 1, 2003; and
- (f) all highways that existed on December 31, 2002.

"Municipality" means the Corporation of the Township of Edwardsburgh/Cardinal.

"Notice of Closing" means the notice of closing of a Highway as attached to this policy or as may be amended from time to time.

#### **General Policies**

2. The following general policies apply to the closure and sale of Municipality Highways:
- (a) Council will generally entertain written applications requesting the stopping up, closure, and/or sale of Highways;
  - (b) Council may approve, approve with conditions or not approve, at its sole discretion, an Application requesting the stopping up, closure, and sale of Highways;
  - (c) Factors against the stopping up, closure, and sale of Highways include, without limitation:
    - (i) Conflict with existing, proposed, or planned public infrastructure;
    - (ii) Conflict with existing or proposed public use of the Highway lands;
    - (iii) The Highway is required for public access to surface water;
    - (iv) Conflict with legislation;
    - (v) Potential negative impact on natural heritage features;
    - (vi) The Highway closure may result in a person having no motor vehicle access to and from a person's land over any Highway, and the person has not agreed, in writing, to this loss of access;
  - (d) Factors in favour of the stopping up, closure, and sale of Highways include, without limitation:
    - (i) The Highway is deemed to be not required for current or future use by the Municipality;
    - (ii) The Highway is not required for public access to water;
    - (iii) The stopping up, closure, and sale of a Municipality Highway supports development, and without limitation, closures that create full buildable



lots will be given preference over splitting of a highway amongst abutting property owners;

- (e) When the stopping up, closure and/or sale of a Municipality Highway is initiated by an Applicant, the Municipality shall not be responsible for any costs arising from the stopping up, closure and/or sale. All costs pertaining to the processing of the Application are to be borne by the Applicant, such costs to include, without limitation, administrative costs, legal and other consulting costs, disbursement costs, advertising costs, survey costs, court costs, land purchase costs, and taxes. These costs remain the responsibility of the Applicant whether or not Council decides to stop up, close, and/or sell the Highway.
- (f) An application to close a Highway may be deemed by the Municipality to be expired if it has been inactive for a period of one (1) year.
- (g) Council may initiate and conclude, if desired, the process of stopping up, closure, and/or sale of a Highway.
- (h) Council will determine whether an application to close and convey a Highway will proceed by way of by-law or when the Highway is shown on a registered plan, by way of by-law or by way of an order from the Superior Court of Justice.
- (i) On the sale of a Highway that has been stopped up and closed:  
if the resulting parcel is non-buildable, the Municipality favours its sale to abutting property owners, and when practicable, the merger of the stopped up and closed portion of the Highway with the abutting parcel.  
if the resulting parcel is buildable, the Municipality favours its sale as a discrete buildable parcel.
- (k) Council approval for the stopping up, closure and/or sale of a Highway does not imply a promise, warranty, guarantee or support for future development or redevelopment applications that may be submitted for lands including the stopped up, closed, and sold Highway.

#### **Submission Requirements:**

- 3. Prior to submission of an Application, the Applicant must pre-consult with the Municipality to canvass possible issues which may arise and to gain an understanding of the time and costs involved. For this discussion, a comprehensive sketch should be provided by the Applicant.
- 4. The Applicant shall submit the following information as part of the Application process:
  - (a) a signed Application;
  - (b) an up-to-date copy of the Parcel Register and copies of the Transfers/Deeds of Land abutting the parts of the Highway showing the names and interests of the current owners, and where deemed advisable by the Municipality, a sub-search of title for the Highway and/or abutting landowners.
  - (c) a sketch indicating with reasonable accuracy the highway to be stopped up and closed including an identification of adjacent lands and the location of buildings on the lands;
  - (d) an Application processing fee of \$500.00.

#### **Processing Procedure:**

- 5. When the Municipality receives a completed Application, including the processing fee, staff will circulate the Application within the Municipality for comment to determine, among other things, whether the Highway is surplus land, whether there are services or utilities located within the lands or which will be affected by the closure and sale of the Highway and whether there are any objections or concerns relating to the closure and sale.
- 6. Municipal staff will send letters to citizens and tenants who may be affected by the closure of the Highway and invite expressions from them of their potential concerns to be received by the Municipality within sixty (60) days.
- 7. Municipal staff shall send letter to any or some of Ontario Power Generation, Hydro One Networks Inc., Bell Canada, Union Gas, and any other utilities as applicable, the United Counties of Leeds and Grenville, the Ministry of Transportation, the Ministry of Natural Resources, the South Nation River



Conservation Authority, the Government of Canada (a municipality permanently closing a highway requires the consent of the Government of Canada if the highway abuts on land, including land covered by water, owned by the Crown in right of Canada or leads to or abuts a bridge, wharf, dock, quay or other work owned by the Crown in right of Canada) as appropriate and invite their comments or objections to the proposed Application to the stopping up, closure and sale of the Highway.

8. At the expiry of sixty (60) days, staff shall prepare a report outlining the merits of the Application.
9. Staff will prepare a Notice of Hearing and establish a public hearing date. The Notice of Hearing will be published for three (3) consecutive weeks in two (2) local newspapers and a sign shall be posted at a reasonable number of locations at the Highway. Staff shall mail by regular mail a copy of the Notice of Hearing to all persons who submitted comments in response to the letters required by section 6 and 7 of this policy.
10. The proposed closure and/or sale shall be discussed at a public meeting as advertised. Representations may be made to Council regarding the closure and sale by the Applicant and any person who claims that he or she will be adversely affected by the proposed by-law. Council will consider all representations prior to passing a by-law to stop up, close and/or sell all or part of the Highway on whatever terms or conditions it deems desirable, including any third party consents that may be required.
11. In the event that affected landowners require compensation for lands adversely affected by the Application, Council shall consider whether the affected landowners should be compensated and how staff is to determine the appropriate quantum of compensation.
12. Following the public hearing, Council may:
  - (i) dismiss the application;
  - (ii) grant the application with or without conditions;
  - (iii) adjourn the hearing in the event that further information is required for Council to make a decision.
13. If the Application is approved, Council shall direct staff to obtain an updated survey showing the Highway or the portions of the Highway to be stopped up, closed and/or sold. The Municipality will have the Ontario Land Surveyor deposit the Reference Plan. The Applicant shall deposit a sum with the Municipality sufficient to cover some or all of the survey costs as Council's direction.
14. Once the Ontario Land Surveyor has deposited the Reference Plan and all conditions have been satisfied, council shall pass permanently closing the Highway and shall direct staff to register a certified copy at the Land Registry Office.
15. The Clerk will prepare a Certificate of Compliance verifying the procedures taken.

**Costs:**

16. Without limiting the general policies on costs as set out above, all costs shall be borne by the Applicant, including but not limited to the following:
  - (a) All costs of Municipality staff and Council in processing the Application;
  - (b) All legal, engineering, planning, and survey costs;
  - (c) the costs of surveying the parcel to be closed;
  - (d) preparation and deposit of the Reference Plan;
  - (e) the cost of an appraisal;
  - (f) advertising costs and other costs incurred in giving notice;
  - (g) disbursements such as sub-searches at the Land Registry Office, registered mailings or courier, photocopies, registration fees, Land Transfer Taxes, land purchase price including applicable taxes; and
  - (h) costs related to retaining various easements for utilities.
  - (i) any costs associated with compensating affected landowners, if applicable.
17. All outstanding costs remaining must be paid within thirty (30) days of being invoiced. If there is an unspent balance from the deposit, it will be returned to the Applicant.