

The Corporation of the Township of Leeds and the Thousand Islands

By-Law Number 2025-036

Being a by-law to Establish an Unopened Road Allowance Policy in the Township of Leeds and the Thousand Islands.

Whereas the Council of the Corporation of the Township of Leeds and the Thousand Islands deems it expedient to establish policies; and

Whereas Section 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power, including a municipality's capacity rights, powers and privileges under Section 9, shall be exercised by By-law;

Whereas Section 28(2) of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended, states that a local municipality has jurisdiction over all road allowances in the municipality that were made by Crown surveyors and all road allowances shown on a registered plan of subdivision;

Whereas pursuant to Section 34(1) of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, the Council of the Township of Leeds and the Thousand Islands ("Township") may pass a by-law to stop up, close and sell any highway or part thereof;

Whereas Section 44 of the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended, imposes on local municipalities the obligation to manage and maintain the public road system lying within the boundaries of the Municipality;

Whereas the Township receives requests from property owners and other interested parties for permission to use or purchase portions of unopened road allowances lying within the boundaries of the Township;

Therefore, be it resolved that the Council of the Corporation of the Township of Leeds and the Thousand Islands hereby enacts as follows:

1. The Unopened Road Allowance Policy identified as Schedules "A, B and C" attached hereto and forming part of this By-Law be hereby approved and adopted.
2. This By-law shall be known and may be cited as the "Unopened Road Allowance Policy".
3. This By-law shall come into force and take effect on the day of passing.
4. By-law 01-038, being a By-law to Establish a procedure for the stopping up, closing and sale of unopened road allowances be repealed.
5. Any By-law or Resolution passed prior to this by-law which are in contravention of any terms of this by-law are hereby rescinded.

Given First and Second Readings: Monday, July 14, 2025

Given Third Reading and Passed: Monday, July 14, 2025

Corinna Smith-Gatcke, Mayor

Michelle Hannah, Clerk

Schedule A - General Policy

1. Purpose

The purpose of this policy is to provide a consistent process with respect to establishing uses of Unopened Road Allowances in the Township of Leeds and the Thousand Islands and processing Unopened Road Allowance applications related to the following:

Request to close and transfer (purchase).

Licence Agreement (as defined herein).

2. Definitions

“Applicant” means any person or company applying to close and transfer (purchase) an Unopened Road Allowance, or to obtain a Licence Agreement.

“Council” means the Council of the Township of Leeds and the Thousand Islands.

“Ontario Land Surveyor” means a cadastral land surveyor in good standing and registered with the Association of Ontario Land Surveyors.

“Private Lane” means any street that is not maintained by the Township.

“Settlement Area” is any lands defined as such in the Township Official Plan.

“Staff” means Planning and Development staff where not specifically defined.

“Township” means the Township of Leeds and the Thousand Islands.

“Unopened Road Allowance” means any public highway as defined in the Municipal Act, 2001, that has not been opened and assumed for maintenance purposes by the Township. They also include unopened roads on Plans of Subdivision and former municipal roads that are not presently maintained.

3. Unopened Road Allowances – Public Use

3.1 Right of the Public to Use Unopened Road Allowances

Members of the public have a right of access to, over and along unopened road allowances for the purpose of passing and repassing only.

3.2 Motorized Vehicle Use

Motorized vehicle use is prohibited on unopened road allowances except where exemptions have been approved by Council where existing trails exist. Where the above-mentioned exemption applies, only the portion of Unopened Road Allowance over which the known lane or marked trail traverses is motor vehicle use permitted.

3.3 Other Uses

The use of unopened road allowances for the storage of materials or location of structures of any sort is prohibited.

3.4 Alterations of Unopened Road Allowances

No one shall make any alterations to an Unopened Road Allowance.

3.5 Trees on Unopened Road Allowances

The Township owns all trees and other vegetation on Unopened Road Allowances. Trees and other vegetation shall not be altered in any way with the exception of Private Lanes in the Township which traverse an Unopened Road Allowance historically. In this instance, only necessary tree and vegetation removal for safety purposes shall be permitted.

3.6 Improvement of Unopened Road Allowances

The Township may permit persons to make improvements to Unopened Road Allowances for access to their properties. However, the right of access of the public to an Unopened Road Allowance is paramount and therefore the Township shall not ordinarily permit the use or improvement of a road allowance in such way as to restrict public access.

3.7 Obstructing Unopened Road Allowances

No one shall cause any Unopened Road Allowance to be obstructed, including with the use of a fence, gate, chain, parked vehicle or other item.

3.8 Defining the Location of Unopened Road Allowances

The Township has no obligation to determine the location of Unopened Road Allowances in the Township.

It is the user's responsibility to ensure they are on the Unopened Road Allowance and have not deviated onto private property.

Determining the location of any Unopened Road Allowance can only be done by an Ontario Land Surveyor.

4. Application Process – Request to Close and Convey an Unopened Road Allowance

4.1 Pre-Consultation with Township Staff

An Applicant is required to submit documentation clearly illustrating the proposal; and pre-consult with staff prior to submitting an application.

4.2 Submission of a Complete Application

A complete application includes the following:

- Complete application form commissioned by a Commissioner for Taking Oaths (use of metric measurements required);
- Payment of required fee and deposit;
- Sketch (or drawing) indicating the estimated length and width of the portion of the Unopened Road Allowance proposed to be closed (use of metric measurements required); and
- All items on the checklist within the application must be provided.

4.3 Review of Application

- a) A site visit will be scheduled and conducted by Staff;
- b) Public notice of application will be in accordance with Section 7 of this policy;
- c) Consultation as required;
- d) Staff will prepare a report to Council regarding the application, including a by-law for Council's consideration, and a meeting will be held for Council to consider the application and any comments received from the public; and
- e) Council will direct Staff whether to proceed further with the application, deny the application or provide additional direction.

4.4 Survey and Agreement of Purchase and Sale (Subject to Council Direction to proceed following consideration of initial Staff report)

The applicant shall retain an Ontario Land Surveyor to survey the pertinent portion(s) of the Unopened Road Allowance, the cost of which shall be borne by the Applicant.

The Surveyor shall provide a draft survey for review by Staff prior to depositing with the Land Registry Office.

The applicant shall retain a certified appraiser to determine the fair market value of the Unopened Road Allowance to be conveyed. The purchase price of the land will be based on the area of the land determined by survey measurements. The cost of which shall be borne by the Applicant.

4.5 Purchase of the Unopened Road Allowances

- a) Following payment of the purchase price in the form of certified funds in accordance with the Agreement of Purchase and Sale, staff will forward all relevant paperwork to the Township's solicitor. The Township's solicitor will contact either the applicant or their solicitor (as advised by the applicant) to execute all necessary documents. Once the executed documents have been returned to the Township's solicitor, registration of the transfer will be completed.
- b) The Township's solicitor will register a Parcel Consolidation merging the portion of Unopened Road Allowance with the benefitting lands.

4.6 Fees & Expenses

All legal fees and expenses incurred by the Township, such as document preparation and registration, will be paid by the Applicant by drawing down from the deposit. Any excess deposit will be held by the Township until all legal invoices have been received, and the transaction has been completed. If legal expenses exceed the remaining deposit amount, the Applicant will be billed directly for the remaining balance. If the remaining balance is not paid within 60 days of the invoice, the outstanding amount will be applied to the tax roll of the Applicant's property.

Once all invoices and fees have been paid, the remainder of the deposit, if any, will be returned by cheque to the Applicant.

5. General Provisions

- 5.1 Road allowances leading to waterbodies directly from a Township owned and maintained road will not generally be considered for closing and transferring. It is the policy of the Township to maintain public access to waterbodies.
- 5.2 Road allowances in Settlement Areas will not generally be considered for closing and conveyance. It is the policy of the Township to keep road allowances in the Settlement Areas for potential future use as roads, trails, bridges, parking areas etc. as the Township may determine.
- 5.3 The Applicant must own property directly abutting the portion of Unopened Road Allowance proposed to be purchased. The Township will only convey to the adjacent landowner, the portion of the Unopened Road Allowance which directly

abuts their property. It is required that the subject portion of unopened road allowance be merged legally with one or more abutting properties located in the Township, or an abutting Township. For clarity, the closure of an Unopened Road Allowance shall not create a new lot of record but shall only enlarge existing land holdings. The closure and sale of a portion of an Unopened Road Allowance shall also not create a “flag” or “panhandle” shaped parcel of land.

- 5.4 An application must not conflict with the Township Official Plan, Zoning By-Law regulations, the Recreation, Parks and Leisure Master Plan or any other Township policies as applicable, failing which the application shall not be processed.
- 5.5 HST shall be payable in addition to all road allowance purchase prices.
- 5.6 Council may, as a condition of such conveyance, require any of the following:
 - Exchange of other property (if possible / if applicable).
 - The subject lands to be re-zoned under the Planning Act.
- 5.7 Applicants and members of the public may not speak as a delegation in relation to any Unopened Road Allowance closure matters for which an application has been received. All comments must be received, in writing and will be provided to Council as part of their consideration of the application.

6. Financial Considerations

- 6.1 The Applicant is responsible for paying all administrative, legal, surveying, advertising and land acquisition costs. In the event the applicant fails to pay any costs incurred through this process within 60 days of the invoice being sent, all outstanding costs will be added to the tax roll of the Applicant's property and collected in the same manner as taxes pursuant to Section 398 of the Municipal Act, 2001, S.O. 2001, as amended.
- 6.2 The Application fee and deposit are payable in accordance with the General Rates and Fees By-law at the time of submission of the Application.
- 6.3 Legal Fees: If a title search of the Unopened Road Allowance is not provided with the application, the Township may have a title search completed and the costs of such will be deducted from the deposit, as well as an administrative fee in accordance with the General Rates and Fees By-law.
- 6.4 Advertising costs: Advertising costs will be deducted from the deposit.

- 6.5 Posting Signage for Notice Requirements: A fee, in accordance with the General Rates and Fees By-law will be deducted from the deposit if Staff are required to place signage on the benefitting lands.
- 6.6 Purchase Price: The purchase price for an Unopened Road Allowance will be determined by a land appraisal provided by a certified Land Appraiser retained by the Applicant. If the Township is not in agreement with the appraised value a peer review of the appraisal may be completed by the Township at the cost of the Applicant.

7. Public Notice

- 7.1 Following submission of a complete application, information pertaining to the request will be made available on the Township website no less than 20 days prior to the Council Meeting to consider the application.
- 7.2 All landowners abutting the portion of Unopened Road Allowance proposed to be closed and conveyed or subject to a License Agreement will be sent a notice by mail to the address on file with the Municipality no less than 20 days prior to the public meeting held by Council.
- 7.3 Notice of the application will be posted on the benefitting lands no less than 20 days prior to the public meeting held by Council.
- 7.4 A summary of the Notice shall be placed on the Township website and in the Township Weekly Update at least 20 days prior to the public meeting held by Council.
- 7.5 The notice shall include a description of the Unopened Road Allowance and a description of the benefitting Lands, how to provide comments, and the date, time and place of the meeting where comments will be considered by Council. The abutting owner notice shall include information about the potential for abutting landowners to purchase a portion of the Unopened Road Allowance.

8. Consultation

- 8.1 Each application will be subject to consultation with the following Township departments:
- Operations/Public Works (feasibility of roads, bridges and boat launches in the area).

- Recreation (feasibility of boat launches, parking amenities, park creation and other recreation considerations).
- Corporate Services (property tax for the benefitting property must be up to date prior to the transfer of the road allowance).
- Planning & Development (Best planning practice review).
- Building (Review of any structures including permits known on the Unopened Road Allowance).

8.2 Each application will be subject to consultation with the relevant external agencies, where applicable, and may be subject to further costs with respect to the consultation, payable to the external agency separately. External agencies may include:

- The Cataraqui Conservation Authority (where applicable)
- Ministry of Natural Resources and Forestry (where applicable)
- Parks Canada (where applicable)
- The St. Lawrence Parks Commission (where application)

Through the above consultation, Staff will determine if the Unopened Road Allowance is eligible to be closed and transferred.

9. Application Timeline

Applications will be deemed abandoned if inactive for a period of one (1) year. The Township's expenses will be deducted from the deposit, and any remaining deposit will be returned to the Applicant, and the file will be closed. A new application will be required, should the original application be deemed abandoned.

10. Legal

The Township's solicitor will act on behalf of the Township with respect to the closure and conveyance of all Unopened Road Allowances.

11. Agreement of Purchase and Sale

Following Council approval for the sale of an Unopened Road Allowance the Applicant will be required to enter into an Agreement of Purchase and Sale for the subject lands.

12. Licence Agreement

12.1 A Licence Agreement is a legal document entered into with the Township authorizing the use of Township property, namely untravelled portions of Unopened Road Allowances. The most common examples of this are Licence

Agreements relating to the use of an Unopened Road Allowance as a means of access to that person's property. The specifics of the use are set out in each individual agreement.

- 12.2 Licence Agreements shall be permitted on Unopened Road Allowances where the continued use requires a Licence Agreement from the Township. The Licence Agreement will allow the Applicant to use the lands for access to a property or other. Council must deem a new use necessary and appropriate. The granting of a Licence Agreement may be withheld for any reason, in the sole and absolute discretion of Council..

12.3 Process

After a pre-consultation with Staff an application to request a Licence Agreement must be submitted accompanied by the applicable fee and deposit, a drawing of the Unopened Road Allowance and description of the current or proposed use such as the private lane, or driveway.

- a) Staff will review the application with the pertinent departments and will schedule the matter on a Council meeting agenda.
- b) A survey sketch of the Unopened Road Allowance will be required to be used as a schedule to the License Agreement showing the use of the Unopened Road Allowance.
- c) If Council passes the By-law authorizing the License Agreement, the By-law will be sent to the Township's solicitor to be registered on title to the benefitting lands. No registrations shall occur on the Unopened Road Allowance.

12.4 Fees

The application fee and deposit, as established in the General Rates and Fees By-law, are required to be submitted with the application.

All legal costs and expenses incurred are the responsibility of the Applicant and will be drawn from the deposit provided with the application.

All costs for improving and maintaining the unopened road allowance in accordance with the Licence Agreement are the sole responsibility of the Applicant.

- 12.5 Each Licence Agreement shall set out the parameters of how the Unopened Road Allowance can be altered and maintained. Each individual property making use of the Unopened Road Allowance will be required to enter into a separate Licence

Agreement for the use, development and maintenance of the Unopened Road Allowance. A single Licence Agreement may be entered into at the discretion of Staff if there are several parties requiring the use of the Unopened Road Allowance.

- 12.6 Licence Agreements shall not run with title but shall be extinguished upon the sale and/or transfer of the property benefitting from the Licence Agreement.

Schedule B – Purchase Price Determination

The purchase price of every Unopened Road Allowance shall be determined by:

Market Appraisal – A market appraisal prepared by an accredited appraiser (AACI, P. App, CRA) with the Appraisal Institute of Canada to the satisfaction of the Township.

All Unopened Road Allowances shall be treated equally in terms of costs for sale purposes. Where an appraisal is required to be carried out, the cost of the appraisal shall be the responsibility of the Applicant who is seeking approval to close an Unopened Road Allowance.

Schedule C – Fees

Applications to Close and Purchase Unopened Road Allowance or Licence Agreement for use of an Unopened Road Allowance:

Application Fee: In accordance with General Rates and Fees By-law, as amended.

Planning Deposit - Legal Review: In Accordance with General Rates and Fees By-law to be drawn down from for expenses incurred by the Township. The Applicant will be required to pay the balance of any costs over and above the value of the deposit. Any remaining deposit value will be returned to the Applicant upon completion of the land transfer.

Posting Signage for Notice Requirements: In accordance with the General Rates and Fees By-law. The application fee and deposit are due at the time the Application is submitted.

Any remaining balance of the deposit will be refunded when the Planning file is closed.