

Schedule A to By-law No. 33-2021

Policy Name:	Original Road Allowance and Original Shore Road Allowance Closure and Sale	Policy No: 02-2021
Department:	Clerks	
Effective Date:	May 10, 2021	
Date Revised:		
Authority:	Council	

POLICY STATEMENT:

The Municipality of Arran-Elderslie will consider an application for the closure and conveyance of certain types of roads within the Municipality to abutting owners. All closures are at the discretion of the Municipality of Arran-Elderslie.

PURPOSE:

This policy applies to the closure and sale of an Original Road Allowance and an Original Shore Road Allowance by the Corporation of the Municipality of Arran-Elderslie.

The Municipal Act provides that a Council of a Municipality may pass by-laws for stopping up all or part of a highway and for selling the same. A highway includes any road under the municipality's jurisdiction. All closures are at the discretion of the Municipality.

SCOPE:

The procedures established in this bylaw are intended to provide guidance to Council and staff. These procedures will govern the sale and disposal Original Road Allowance and Original Shore Road Allowance owned by The Corporation of the Municipality of Arran-Elderslie.

POLICY:

1. The Municipal solicitor will act on behalf of the Municipality in the closure and conveyance of all Original Shore Road Allowances (OSRA) and Original Road Allowances (ORA).
2. The Applicant is responsible for preparing the Application and submitting the required documentation, paying all administrative, legal, surveying advertising and land acquisition costs involved in the OSRA/ORA closing. In the event that an applicant fails to pay the costs incurred within six (6) months of Council passing the applicable bylaw, all outstanding costs will be added to the tax roll and collected, in the same manner as taxes pursuant to Section 398 of the Municipal Act, c. 25, S.O. 2001, as amended.
3. The required bylaw to approve the closure and conveyance of OSRA/ORA will not be passed until the current realty taxes on the applicant's property are paid and the account is up to date.
4. Applications will be considered terminated if inactive for a period of one (1) year.

ORIGINAL ROAD ALLOWANCE (ORA)

The Municipality may close and convey ORA when all of the following criteria are met:

- a) A comparable or better parcel of land located in the vicinity is provided in exchange, if required by Council, and
- b) Other land owners will not be deprived of the sole vehicular access to their property; and
- c) Applicants must own property directly abutting the ORA; and
- d) The adjoining owners that are not the applicants shall consent to the closure and sale of the ORA;

- e) The closure will not conflict with Municipal policies, bylaws or procedures or County of Bruce Official Plan; and
- f) The ORA does not lead to or abuts a water body.
- g) The municipality will obtain an appraisal of the fair market value of the unopened road allowance from a person/company certified by the Appraisal Institute of Canada. Once the appraisal is received, copies will be provided to the applicant(s) and a letter of intent to proceed must be received by the municipality within thirty (30) days along with a **deposit of ten percent (10%) of appraisal value or at least \$500.00** to confirm desire to proceed by the applicant(s).

ORIGINAL SHORE ROAD ALLOWANCE (OSRA)

- a) Applicants must own property directly abutting the OSRA. The Municipality will only convey to the adjacent land owner the portion of the OSRA above the controlled or normal high-water mark. Flooded land will not be sold. The portion of land between the OSRA and the property owner's lot that is owned by the Crown (Ministry of Natural Resources and Forestry), if any, must be purchased through the Ministry of Natural Resources and Forestry prior to proceeding with the Municipal OSRA purchase. The existence of Crown land may be documented in a previous Survey of the Land or will become evident at the time the Reference Plan is prepared.
- b) The cost of the OSRA will be \$2,000.00. The applicant will be responsible for all surveying, legal, administrative, and advertising costs.
- c) Applications will not be approved if it is deemed:
 - i. To have a negative impact on neighbouring owners of land; or
 - ii. Other land owners may be deprived of the sole vehicular access to their property; or
 - iii. Closure will result in conflicts with municipal bylaw regulations or procedures or County of Bruce Official Plan.
- d) Generally, the portion of OSRA to be closed and conveyed will be determined by straight lot lines extensions. As a result of the irregular nature of the shoreline, deviations from straight extension of existing lot lines may be considered and may be required by the Municipality in these cases.
- e) The application shall be to close and purchase the OSRA along the entire frontage of the applicant's property. Applications for closure of portions other than the entire OSRA will only be considered at the discretion of

Council and are subject to the following criteria:

- i. Owners are required to have an excess of 100 feet of shoreline frontage;
 - ii. 100 feet is the minimum partial closure; and
 - iii. The 100-foot portion of OSRA consists of a continuous non-interrupted measurement.
- f) Where an application is made to exchange a forced (travelled) road running through the applicant's property for an OSRA the Municipality shall waive the land acquisition cost, however the applicant shall be responsible for administrative, legal, surveying and advertising costs involved in the OSRA closing and the transfer of the forced (travelled) road portion to the Municipality.

PROCEDURE:

General Information:

- Proceed with this policy if someone wants to purchase, stop-up and close an unopened road allowance or unopened shore road allowance.
 - All costs are borne by the applicant, not Municipality.
1. The applicant (who wants to purchase, stop-up, and close the unopened road allowance or unopened shore road allowance), must submit the attached application to stop-up and close a road allowance which shall include an accurate description of the portion of the road allowance requesting to be closed, and a legal description of the applicant's lands. The application shall also contain reasons requesting the closure, stop-up, or purchase of the road allowance or unopened shore road allowance.
 2. The applicant shall submit a Reference Plan of the proposed ORA/OSRA to be stopped up and closed, including the identification of adjacent lands and location of buildings.
 3. The Applicant(s) shall submit, with the written request, an applicable deposit as per Municipal Fees and Charges bylaw of **\$500.00**. The applicant shall be responsible for legal fees, survey fees, advertising fees and any administrative fees.
 4. Review the application and create a new file. Keep a detailed list and record of all associated fees as the applicant is responsible for paying all fees.

5. Circulate to all departments for comment.
6. Review of Preliminary Reference Plan and title documents of applicant.
7. Prepare a report outlining the application and departmental comments/concerns for Council's consideration. Council must approve the closing and/or sale of the road allowance or shore road allowance by resolution. The resolution must be prepared declaring the land surplus and available for sale. If Council rejects the application, the applicant will be returned the \$500 deposit less any legal or administrative fees to date.
8. The municipality will conduct a detailed search to ascertain the proper names and addresses of all owners of lands abutting the portion of the unopened road allowance proposed to be closed and sold. A sketch will be prepared showing the holdings of any adjacent owners and the portion of the roadway to which they have a right of first refusal.
9. The adjacent landowners will be contacted in writing, to ascertain their interest in the purchase of abutting lands. Adjacent landowners will be afforded a minimum of three (3) weeks to respond to the letter. The name(s) and address(es) of all such persons will be noted in the file as well as their decision whether to participate and acquire a portion of the unopened road allowance.
10. Should there be no interest shown in the purchase of the portion of the unopened road allowance, the applicant(s) and any other immediately adjacent landowner who has shown interest in acquiring the lands, will be given the opportunity to purchase the unclaimed portions of such land.
11. Prior to selling any unopened road allowance, the municipality shall give notice to the public of the proposed closing and sale of the municipal road allowance and hold a minimum of one public meeting. Provide notice on the website, at the office, Facebook, and in the local paper (at least one printing). Copies will also be posted in the immediate vicinity of the portion of the unopened road allowance proposed to be closed and sold. The Notice shall include a brief description of the road allowance and a sketch if at all possible, as well as the date, time and location of the public meeting.
12. After public consultation, a report will be submitted to Council at the next regular meeting for further consideration with respect to final decision to

close road and at this time a Council resolution is required to proceed to next steps, if applicable.

13. The municipality will obtain an appraisal of the fair market value of the unopened road allowance from a person/company certified by the Appraisal Institute of Canada. Once the appraisal is received, copies will be provided to the applicant(s) and a letter of intent to proceed must be received by the municipality within thirty (30) days along with a further **deposit of ten percent (10%) of appraisal value** or **at least \$500.00** to confirm desire to proceed by the applicant(s).
14. If the applicant(s) decide to not proceed with the acquisition, the applicant(s) will be responsible for costs associated with advertising and appraisal. Remainder of deposit will be refunded.
15. Should the applicant exercise their right to purchase the road allowance, the appraisal shall have a one-year validity and could be recommenced during this time period with a **further deposit of \$1,000.00** and the next steps would proceed.
16. The Applicant(s) shall obtain a reference plan (survey), prepared by an Ontario Land Surveyor, of the area proposed for closing and sale and submit such to the municipality prior to the commencing of any legal work concerning the road closing.
17. Once a reference plan has been submitted to the municipality, the municipal solicitor shall be authorized to proceed with the preparation of the legal work concerning the road closing.
18. The Closing and Sale of Municipal Road Allowance By-law will be brought to Council for formal approval.
19. The transfer of the land will only be completed once the legal work is completed and after receipt of total payment.

ROAD ALLOWANCE APPRAISAL

The municipality will obtain an appraisal of the fair market value of the unopened road allowance from a person/company certified by the Appraisal Institute of Canada. Once the appraisal is received, copies will be provided to the applicant(s) and a letter of intent to proceed must be received by the municipality within thirty (30) days along with a further deposit of ten percent

(10%) of appraisal value or at least \$500.00 to confirm desire to proceed by the applicant(s).

If the applicant(s) decide to not proceed with the acquisition the applicant(s) will be responsible for costs associated with advertising and appraisal. Remainder of deposit will be refunded.

Should the applicant(s) decide not to proceed with the purchase once the appraisal has been prepared and does not exercise their option to purchase within thirty (30) days, the second party, if applicable, can proceed to purchase both halves of the road allowance for the appraisal value of each part.

Should the applicant exercise their right to purchase the road allowance, the appraisal shall have a one-year validity and could be recommenced during this time period with a further deposit of \$1,000.00 and the next steps would proceed.

Council reserves the right to adjust any appraisal if extenuating circumstances become apparent.

REFERENCE PLAN (SURVEY) OF ROAD ALLOWANCE

The Applicant(s) shall obtain a reference plan (survey), prepared by an Ontario Land Surveyor, of the area proposed for closing and sale and submit such to the municipality prior to the commencing of any legal work concerning the road closing.

CLOSING AND SALE OF MUNICIPAL ROAD ALLOWANCE BY-LAW

Once a reference plan has been submitted to the municipality, the municipal solicitor shall be authorized to proceed with the preparation of the legal work concerning the road closing.

The Closing and Sale of Municipal Road Allowance By-law will be brought to Council for formal approval.

The transfer of the land will only be completed once the legal work is completed and after receipt of total payment.

ERRORS AND OMISSIONS

It is acknowledged that any error or omission in following the procedures, in which error or omission was not the result of bad faith on behalf of the municipality will not necessarily render such disposal invalid or void.

PRIVACY

The disclosure of information relevant to the sale of Surplus Lands shall be in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act,
R. S. O. 1990, c. M.56, as amended.

ADMINISTRATION:

Funds from the sale of OSRA/ORR shall be transferred to a reserve fund.

Attachments:

Attachment A – Application to Close and Convey Original Shore Road Allowance/Original Road Allowance (OSRA/ORR)

Attachment B – Consent of Abutting Land Owner and Lot Line Extension Authorization (Original Shore Road Allowance)

Attachment C – Letter of Agreement (Original Road Allowance).

ATTACHMENT A

**APPLICATION TO CLOSE AND CONVEY ORIGINAL SHORE ROAD
ALLOWANCE/ORIGINAL ROAD ALLOWANCE (OSRA/ORA)**

Applicant Name(s)

Applicant Mailing Address

Applicant Telephone Numbers

Applicant email

Property Legal
Description and
CivicAddress

Roll number

Lot(s)	Concession	Geographic Township of
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1. I/We am/are the registered owner(s) of the lands described above and hereby apply to have the Original Shore Road Allowance (OSRA) / Original Road Allowance (ORA) abutting said property closed and conveyed to me/us.
2. I/We hereby confirm that I/we have read the contents of the Municipality of Arran-Elderslie Original Shore Road Allowance and Original Road Allowance Closure and Sale policy and agree to abide by this policy.
3. I/We acknowledge that I/we will be responsible for paying all legal, surveying, advertising and administrative costs involved in the OSRA/ORA closing and will be obliged to pay to the Municipality the land acquisition costs as per the current Fee bylaw for the property and that should I/we fail to pay the costs incurred within six (6) months of Council passing the applicable bylaw, all outstanding costs will be added to my/our tax roll and collected, in the same manner as taxes pursuant to Section 398 of the *Municipal Act, c. 25, A. O. 2001*, as amended.
4. I/We confirm that there is no foot or vehicular traffic that passes through the road allowance to be closed and that access to no other property will be denied by virtue of the said road closing.
5. I/We confirm that there are no easements, verbal or written, registered or unregistered that apply to the said OSRA/ORA to be closed and that there are no utility services such as hydro, telephone, etc. that run through the

said OSRA/ORR to be closed.

6. I/We confirm that if any utility plant is found to be on the road allowance, the Municipal solicitor must take the necessary steps to ensure that an easement is granted to the appropriate authority.
7. I/We confirm that the abutting property owners consent to this application.
8. I/We acknowledge that any approval that may be given to this application by the Municipality of Arran-Elderslie is subject to all other approvals being obtained for all other statutory bodies, failing which this application cannot be approved.
9. I/We authorize Municipal Staff to enter onto the subject property to conduct a site visit in accordance with the processing of this application.
10. We confirm that the property tax account is paid up to date.

Submitted with this **Application to Close and Convey Original Shore Road Allowance/Original Road Allowance** are the following:

- o Required Application Fee (as per the current User Fee Bylaw)
 - o Sketch of subject lands showing:
 - o lot lines and dimensions;
 - o location of all buildings/structures, including docks, boathouses, pumphouses, accessory buildings wells, septic system, vegetation, driveway, paths, stairs, hydro poles, etc.
 - o location of the OSRA/ORR;
 - o distance from the structures to all property lines including OSRA/ORR;
 - o include the location and measurements of all existing structures on the OSRA/ORR;
 - o **Consent of Abutting Owners** from the abutting property owners for **Original Shore Road Allowance (OSRA)** closure
- OR**
- o **Letter of Agreement** from the abutting property owner for **Original Road Allowance (ORA)** closures.

DATED this _____ day of _____, 20__.

Witness

Owner

Witness

Owner

ATTACHMENT B

**APPLICATION TO CLOSE AND CONVEY ORIGINAL SHORE ROAD ALLOWANCE
CONSENT OF ABUTTING OWNERS AUTHORIZATION**

The Applicant, _____ is the Owner of
Part of Lot(s) _____, Concession / Plan _____, in
the Geographic Township of _____, in the Municipality of Arran-
Elderslie, on _____ (name of lake or river)

Address of Applicant's land:

I/We, _____

Address: _____

Owner(s) of the abutting lands, being Part of Lot(s) _____, Concession/Plan _____, in
the Geographic Township of _____, in the Municipality
of Arran-Elderslie, Address of abutting lands: _____

do hereby consent to the applicant purchasing that portion of the Original Shore
Road Allowance lying adjacent to his/her/their property.

I/We have reviewed and signed a sketch or survey presented by the applicant
which clearly shows the applicant's property and my/our property and hereby
agree to the proposed lot line extension as shown on the sketch or survey
attached hereto.

DATED this _____ day of _____, 20____.

Witness

Owner

Witness

Owner

ATTACHMENT C

**APPLICATION FOR CLOSING ORIGINAL ROAD ALLOWANCE
LETTER OF AGREEMENT**

The Applicant, _____ is the Owner of
Part of Lot(s) _____, Concession / Plan _____,
in the Geographic Township of _____, in the Municipality of
Arran-Elderslie,

Address of Applicant's land: _____

I/We, _____

Address: _____

Owner(s) of the abutting lands, being Part of Lot(s) _____, Concession/Plan _____,
in the Geographic Township of _____, in the
Municipality of Arran-Elderslie, Address of abutting lands: _____

do hereby consent to the applicant purchasing that portion of the Original Road Allowance (ORA) lying adjacent to his/her/their property. I/we do not require the ORA for access to my/our property nor do I/we desire to purchase one-half (1/2) of the ORA. I/We have reviewed and signed a sketch or survey presented by the applicant which clearly shows the applicant's property and my/our property and hereby agree to the proposed lot line extension as shown on the sketch or survey attached hereto.

DATED this _____ day of _____, 20____.

Witness

Owne

Witness

Owner

Witness

Owner