



**SCHEDULE A TO BYLAW 2017-012**

<b>Municipality of Hastings Highlands- Corporate Policies and Procedures</b>			
<b>DEPARTMENT:</b> Planning			<b>POLICY #:</b>
<b>POLICY:</b> Original Shore Road Allowance and Original Road Allowance Closure and Sale			
<b>DATE:</b> Nov.2016	<b>REV. DATE:</b>	<b>COVERAGE:</b> Municipality of Hastings Highlands	<b>PAGE #:</b>

**PURPOSE:**

To provide a procedure for the closure and conveyance of Original Shore Road Allowances (OSRA) and Original Road Allowances (ORA) within the Municipality of Hastings Highlands.

**POLICY STATEMENT:**

The Municipality of Hastings Highlands will consider 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 Hastings Highlands.

**GENERAL PROVISIONS:**

1. The Municipal solicitor will act on behalf of the Municipality in the closure and conveyance of all OSRA and 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. The land acquisition costs are calculated on the inner limit of the shoreline for an OSRA or on the length of the ORA at the cost per foot established by the Municipal Fees bylaw from time to time.
5. Applications will be considered terminated if inactive for a period of two (2) years.

#### **ORIGINAL SHORE ROAD ALLOWANCE (OSRA)**

6. 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.
7. Applications will not be approved if it is deemed:
  - a. To have a negative impact on neighbouring owners of land; or
  - b. Other land owners may be deprived of the sole vehicular access to their property; or
  - c. Closure will result in conflicts with municipal bylaw regulations or procedures or County of Hastings Official Plan.
8. 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.
9. 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:
  - a. Owners are required to have an excess of 1,000 feet of shoreline frontage;
  - b. 500 feet is the minimum partial closure; and
  - c. The 500 foot portion of OSRA consists of a continuous non-interrupted measurement.
10. 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.



## **ORIGINAL ROAD ALLOWANCE (ORA)**

11. The Municipality may close and convey ORA when all of the following criteria is 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 Hastings Official Plan; and
  - f. The ORA does not lead to or abuts a water body.

### **PROCEDURE:**

12. The non-refundable application fee shall include:
- a. Review of the application and creation of new file;
  - b. Correspondence with applicant regarding application;
  - c. Preparation of Report to Council for tentative approval;
  - d. Correspondence with applicant advising of tentative approval and next steps;
  - e. Review of Preliminary Reference Plan and title documents of applicant;
  - f. Preparation of Report to Council for approval of Preliminary Reference Plan;
  - g. Correspondence with applicant advising to instruct Surveyor to register Reference Plan;
  - h. Providing Municipal solicitor with documentation and instructions to prepare Notice and Bylaw to declare property surplus;
  - i. Preparation of Report to Council;
  - j. Presentation of Bylaw to Council and Public Meeting;
  - k. Confirmation that taxes are paid up to date;
  - l. Providing Municipal solicitor with certified copies of Bylaw;
  - m. Receiving documentation from Municipal solicitor to register Bylaw and transfer property
  - n. Receiving land acquisition funds and reporting letter enclosing registered documents from Municipal Solicitor and closing file.
13. **Application To Close And Convey Original Shore Road Allowance/Original Road Allowance (OSRA/ORA)** shall be submitted to the Municipality accompanied by the following:



- a. Application fee, as per the current Municipal User Fees Bylaw;
  - b. Detailed sketch or site plan of the applicant's property clearly indicating with reasonable accuracy the following:
    - i. The location of the OSRA/ORAs;
    - ii. Lot lines and dimensions;
    - iii. The location and measurements of all existing buildings/structures (including docks, boathouses, accessory buildings and septic system) on the applicant's property;
    - iv. The location and measurements of all existing structures on the Municipality's property;
    - v. The distance from the structures to the abutting lot lines and from the shoreline;
    - vi. Vegetation, driveways and paths.
  - c. For the closing of an OSRA, approval of the abutting property owners concerning the location of the extension of the side lot line is required in the following manner:
    - i. Signed and witnessed **Consent of Abutting Land Owner and Lot Line Extension Authorization** form; and
    - ii. A Sketch or survey signed by all abutting owners (neighbours) which clearly shows the applicant's property and the abutting properties and the proposed extension of the boundary lines from the inner limit of the shore line of the applicant's property to the high water mark.
  - d. For the closing of an ORA, approval from the abutting property owner is required in the following manner:
    - i. Signed and witnessed **Letter of Agreement** to the closure and transfer of the ORA.
    - ii. A Sketch or survey signed by the owners abutting the ORA which clearly shows the applicant's property and the abutting property and the proposed extension of the boundary lines across the ORA.
14. The applicant shall clearly mark on the ground the boundary lines as agreed to with their neighbours on either side of the applicant's property and shall plant pickets at least two feet (2') high marked with red paint or with a survey ribbon as follows:
- a. For the closing of an OSRA, beside the corner of the applicant's property nearest the water and another marking the inner limit of the OSRA or
  - b. For the closing of an ORA on both sides of the ORA to be closed and conveyed.

This will clearly mark the extension of the boundary lines that have been agreed to and will enable the surveyor to prepare an accurate Reference Plan.



15. The Municipality will not become involved in any boundary line disputes with abutting owners, however, should a dispute arise
  - a. The Municipality will consider proposed conveyances after parties have completed mediation through County of Hastings Planning Department, a Notary Public or an Ontario Land Surveyor;
  - b. During deliberations, mediators and land owners shall have regard to the policies contained herein;
  - c. Upon receiving written notice of successful mediation from each landowner, Council may consider closure and sale within the agreed boundary lines.
16. Notwithstanding the above, should mediation be unsuccessful, the Municipality may
  - a. Close and sell as to the shortest line from the property stake the portion of the road allowance applied for by the applicant without the written consent or approval of either one or both of the applicant's neighbours as to the shortest line to the shore road allowance; or, in rare circumstances
  - b. The Municipality may at its sole discretion, close and sell to the applicant a portion of the OSRA abutting the applicant's land if deemed advisable in the interest of good planning. All costs of the transaction will be assigned and apportioned to each property and payable to the Municipality upon request from the land owner to acquire the Transfer of the land abutting his/her property(s).
17. A field inspection of the abutting property and road allowance will be conducted if deemed necessary by Municipal staff or Council.
18. The application shall be reviewed to determine any obvious obstacles affecting the normal procedure of sale. Following a recommendation to Council, a resolution may be passed by Council giving the applicant notice of tentative approval to proceed with the completion of the sale within a time limit of two (2) years. If warranted, a request for extension may be considered. Otherwise, the application will be deemed expired after two (2) years.
19. ORA leading to water shall not be closed unless an alternate, suitable and sufficient access, with the same or better water frontage is provided elsewhere.
20. If a building or buildings are located on ORA or OSRA, Council may, in its discretion, close and sell only a portion of the road allowance being a three metre (3m) envelope around the building or buildings.
21. Once tentative approval is granted, the Municipality will provide a letter notifying the applicant to provide the Municipality with the following:
  - a. Certified cheque payable to the Municipal solicitor, in trust, in the amount of \$1,000.00 or other amount as directed by staff or Council. This amount is a deposit for legal fees, disbursements and advertising costs and shall



- be deemed as authorization to proceed with the transfer of the OSRA or OSRA.
- b. Copy of the Transfer (deed) to their property abutting the OSRA or ORA
  - c. Preliminary Reference Plan prepared by an Ontario Land Surveyor familiar with OSRA/ORR closings of the subject road allowance showing
    - i. all structures on the applicant's property
    - ii. all encroachments on the road allowance.
  - d. Prior to depositing the Reference Plan at the Registry Office, the applicant shall obtain the signature of the abutting owners endorsed on a true copy of the Preliminary Reference Plan to acknowledge the boundaries established by the Reference Plan.
22. A copy of the Preliminary Reference Plan approved by the abutting owners shall be delivered to the Municipality for approval by Council.
23. The Municipality will notify the applicant when the Preliminary Reference Plan has been approved by Council and will advise the applicant to have the surveyor register the Reference Plan.
24. The applicant will provide four (4) paper copies and one PDF format copy of the registered Reference Plan and Surveyor's Report to the Municipality.
25. The Municipality will forward to the Municipal solicitor the following documents received from the applicant:
- a. Reference Plan and Surveyor's Report;
  - b. Transfer (deed) to applicant's property; and
  - c. Certified cheque payable to Municipal Solicitor in the amount of \$1,000.00.
26. The Municipality will instruct the Municipal solicitor as follows:
- a. Prepare the Public Notice;
  - b. Submit the Public Notice to the Municipality to be posted in six (6) locations of the Municipality and on the Municipal website;
  - c. Publish the Notice in The Bancroft Times and The Valley Gazette at least 30 days prior to the Public Meeting to declare the lands surplus;
  - d. Prepare the Bylaw to declare the lands surplus together with all required affidavits and exhibits;
  - e. Submit the Bylaw, affidavits and exhibits to the Municipality.
27. At the scheduled Public Meeting Council is required to give consideration to written comments that may be provided to the Clerk of the Municipality and all other public input. The resolution declaring the land surplus and the bylaw are then passed concurrently in that order by the Council at the scheduled Public Meeting.
28. The Municipality will forward the resolution and executed bylaw to the Municipal solicitor for preparation of the necessary documents for registration.
29. The Municipal solicitor will then:



- a. Perform a subsearch of title to confirm that the applicant is the owner of the property abutting the OSRA or ORA; ensure the necessary documentation is registered to merge the title to the applicant's original land holdings and the OSRA or ORA;
- b. Prepare all documentation required to transfer the OSRA or ORA;
- c. Provide the Municipality with all documentation required to be executed by the Mayor and or Clerk to complete the closure and transfer;
- d. Within six (6) months of the date of the Public Meeting and passing of the bylaw the Municipal solicitor shall
  - i. register the Bylaw to close and convey the OSRA/ORR and prepare the Transfer to complete the sale of the OSRA/ORR on behalf of the applicant and obtain the land acquisition fees from the applicant and provide payment of same to the Municipality, provide registered documents to the Municipality and the applicant; or,
  - ii. Should the applicant require his own solicitor to complete the applicant's purchase the Municipal solicitor shall provide the applicant's solicitor with the Transfer to be registered and requisition the land acquisition funds from the applicant's solicitor, provide the land acquisition funds to the Municipality and shall complete the transaction as an arm's length real estate purchase and sale. The applicant will be responsible for his own solicitor's fees and disbursements as well as those of the Municipal solicitor.

#### **ADMINISTRATION:**

30. Funds from the sale of OSRA/ORR shall be transferred to a reserve annually.
31. Staff and the Municipal solicitor who are responsible for processing applications for the closing and conveying of OSRA and ORR shall follow this policy.
32. This policy shall come into force and take effect under bylaw 2017-012 on the 18<sup>th</sup> day of January, 2017.
33. Attachments:
  - a. Attachment A – Application to Close and Convey Original Shore Road Allowance/Original Road Allowance (OSRA/ORR)
  - b. Attachment B – Consent of Abutting Land Owner and Lot Line Extension Authorization (Original Shore Road Allowance)
  - c. 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)

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Applicant Mailing Address

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Applicant Telephone Numbers

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Applicant email

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Property Legal Description  
and Civic Address

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Roll number 12 90 - - -

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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 Hastings Highlands 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 User 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 Hastings Highlands 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:

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Owner



*In accordance with the Municipal Freedom of Information and Protection of Privacy Act, the personal information in this application will be used for the purpose of processing this application. **NOTE: This application will become a public record in the Report to Council for tentative approval which is published in the Council Agenda.***

*Questions regarding this application should be directed to the Building/Planning Clerk, Municipality of Hastings Highlands, Box 130, Maynooth, Ontario, K0L 2S0 (613) 338-2811 X 222*



**ATTACHMENT B  
APPLICATION TO CLOSE AND CONVEY ORIGINAL SHORE ROAD ALLOWANCE  
CONSENT OF ABUTTING OWNERS AND LOT LINE EXTENSION AUTHORIZATION**

The Applicant, \_\_\_\_\_ is the Owner of  
Part of Lot(s) \_\_\_\_\_, Concession / Plan \_\_\_\_\_,  
in the Geographic Township of \_\_\_\_\_, in the Municipality of  
Hastings Highlands, 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 Hastings Highlands, 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 \_\_\_\_\_, 201\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Abutting property owner

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Abutting property 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  
Hastings Highlands,

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 Hastings Highlands, 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 \_\_\_\_\_, 201\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Abutting property owner

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Abutting property owner