

Subject <b>Municipal Road Allowances</b>		Policy <b>PL 4.11.07</b>	Page 1 of 2
Compiled by - Branch <b>Lands &amp; Waters</b>	Section <b>Land Management</b>	Date Issued <b>March 9, 2007</b>	
Replaces Directive Title <b>Road Allowances and Crown Shoreline Reserves - Disposition</b>	Number <b>PL 4.11.03</b>	Dated <b>February 26, 2003</b>	

## 1.0 BACKGROUND

Road allowances refer to allowances originally laid out for roads by a Crown surveyor, including both road allowances shown on an original township survey and road allowances shown along the water in a plan of subdivision. Road allowances are generally 66 feet in width.

Road allowances made by the Crown surveyors that are located in municipalities and road allowances, highways, streets and lanes shown on a registered plan of subdivision, are identified in Section 26 of the Municipal Act, (2001) as highways - unless they have been closed. A highway is owned by the municipality that has jurisdiction over it, subject to any rights reserved by a person who dedicated the highway or any interest in the land held by any other person (s. 30) With some exceptions, as further specified in the Municipal Act (2001), a local municipality has jurisdiction over,

- all road allowances located in the municipality that were made by the Crown surveyors;
- all road allowances, highways, streets and lanes shown on a registered plan of subdivision; and
- a municipality may by bylaw, assume an unopened road allowance made by the Crown surveyors and all road allowances, highways, streets and lanes shown on a registered plan of subdivision for public use.

A bylaw establishing a highway or assuming a highway for public use may only be repealed by a closing bylaw under section 34. Before passing a bylaw to permanently close a highway, a municipality must give public notice of its intention to pass the bylaw.

From time to time, municipalities consider requests to permanently close road allowances, often for purposes of conveying the parcel(s) to abutting landowners. For example, many waterfront properties have over the years, constructed cottages, residences and other structures on the road allowances in front of their properties. Consequently, some waterfront property owners have encountered problems with land transfers, mortgages, insurance claims and the settling of estates because their improvements area located on, or partly on, land they do not own. In other cases, waterfront property owners have wanted to acquire such road allowances for other reasons (e.g. clear title to water's edge).

## 2.0 PROGRAM DIRECTION

### 2.1 Goal

To provide clear direction on the Ministry of Natural Resources' recognition of municipal authority for the administration and disposition of municipal road allowances.

### 2.2 Policies

#### 2.2.1 Recognition of Municipal Authority for Road Allowances

Administration and disposition of road allowances and dedicated roads in private plans of subdivision in municipalities is the responsibility of the municipality in which they are located. The Ministry of Natural Resources has no direct role or responsibility in the administration and disposition of such road allowances. The Ministry will not hinder the municipality in its decisions on the administration or disposition of such road allowances.

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### **2.2.2 Municipal Planning**

Where the Ministry may have program or resource management interests related to lands, waters and resources on or adjacent to municipal road allowances, the Ministry will work through the One Window Planning System led by the Ministry of Municipal Affairs to encourage consideration of these interests in municipal planning documents and decisions. MNR may also use its commenting role as an adjacent land owner under the Planning Act to address matters appropriate to this landowner role.

MNR program or resource management interests may include: protection and rehabilitation of shore lands to provide for fish and wildlife habitat; maintenance of access to public lands; maintenance of access to recreational waters; and retention of public ownership of submerged portions of road allowances, where such submerged portions may abut a provincial park or conservation reserve. It is important to make this information related to MNR interests available to municipalities (e.g. through Land Information Ontario) to facilitate municipal decision making.

### **2.2.3 Submerged Road Allowances**

While Section 43 of the Municipal Act, 2001 requires municipalities to seek the consent of the Ministry of Natural Resources prior to conveying submerged portions of road allowances, the Act does not require, nor does the Ministry generally wish to acquire title to these submerged road allowances. While MNR has at times in the past agreed to some requests from municipalities to accept title to closed, submerged road allowances, or parts thereof, this practice requires complex, administrative work by the Ministry, for minimal return in terms of public land management and/or resource management.

From the Ministry's perspective, municipalities have clear authority in these cases and may either choose to retain ownership of such submerged road allowances, transfer ownership to another agency or convey the submerged portion to the backshore property owner.

In select instances however, such as where the submerged road allowance abuts a related provincial park, the Ministry may encourage public ownership of the submerged portion of the road allowance – either through retention by the municipality or by conveyance to the Crown for possible further addition to the provincial park. In these select instances, this policy recommendation and approach will be proactively advanced through the municipal plan input provisions of Section 2.2.2 of this policy.

The Ministry of Natural Resources will work with the Ministry of Municipal Affairs and Housing to identify opportunities for repealing or amending Section 43 of the Municipal Act, 2001 consistent with the above approach to submerged road allowances. In the interim and in order to satisfy the consent requirements of Section 43 of the Municipal Act, 2001 Ministry field offices will where requested, provide a “blanket” consent letter to municipalities, consenting to the municipal conveyance of submerged road allowances.

## **3.0 REFERENCES**

- Municipal Act, 2001 – Sections 24 to 43
- Provincial Park and Conservation Reserves Act – Section 32