COUNTY OF RENFREW

BY-LAW NUMBER 57-09

A BY-LAW TO ESTABLISH A RIGHT-OF-WAY PROTECTION & ACQUISITION POLICY FOR THE MUNICIPAL ROAD SYSTEM WITHIN THE JURISDICTION OF THE CORPORATION OF THE COUNTY OF RENFREW

WHEREAS authority is given to the County of Renfrew, hereinafter referred to as the Corporation, being a municipality authorized by Section 11(3) of the Municipal Act 2001 to pass by-laws regarding highways under the jurisdiction of the Corporation;

AND WHEREAS the Corporation desires to implement a policy regarding Right-of-Way Protection & Acquisition on roads within the jurisdiction of the Corporation.

NOW THEREFORE the Council of the Corporation of the County of Renfrew hereby enacts as follows:

1. That Public Works & Engineering Policy PW-12 Right-of-Way Protection & Acquisition, as outlined in Schedule ‘A’ attached to and made part of this By-law, shall form part of the Public Works & Engineering Policies and Procedures of the Corporation of the County of Renfrew.

2. That this By-law shall not be interpreted to contradict or violate any statute or regulation of the Province of Ontario.

3. That this By-law shall come into force and take effect immediately upon the passing thereof.

READ a first time this 29th day of April, 2009.

READ a second time this 29th day of April, 2009.

READ a third time and finally passed this 29th day of April, 2009.

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DONALD RATHWELL, WARDEN          NORM LEMKE, CLERK
**POLICY STATEMENT**

The County of Renfrew as a road authority, has a need to acquire and protect rights-of-way for the existing and future needs of the County Road System. The County of Renfrew will pay the costs of certain activities pertaining to the conveyance of land to the County for road purposes and the disposal of property that is surplus to the need of the County of Renfrew for road purposes.

**BACKGROUND**

The County of Renfrew, as the road authority having jurisdiction over County Roads, may make and enforce by-laws and policies pertaining to the acquisition of lands required for road widenings to permit road improvements.

1. The Municipal Act, 2001 in Section 11 permits a municipality to pass by-laws pertaining to the public assets of the Municipality acquired for the purpose of exercising its authority under the Act, and to pass by-laws pertaining to highways.

2. The Planning Act in Section 51 (25) provides that when a proposed subdivision abuts on an existing highway, that sufficient land, other than land occupied by buildings or structures, be dedicated to provide for the widening of the highway to such width as the approval authority considers necessary. This section of the Planning Act also applies to the creation of lots through the consent (severance) process.

3. Section 13 of the County of Renfrew Official Plan states that new development which proposes access to or fronts on a County Road must satisfy all requirements of the Public Works & Engineering Department. Conditions that may be imposed by the Department typically include the acquisition of property, undertaking road improvements required to support the development, and obtaining permits and approvals.

**PROCEDURES**

**Right-of-Way Requirements**

When a County Road is to be improved and the acquisition of additional road widening is required, the road shall be widened to the following widths:

- The desirable rural road right-of-way shall be 26 metres unless otherwise approved by the Director of Public Works & Engineering.
• The desirable right-of-way width may be increased or decreased only if the engineering design of the road improvement confirms that an alternative right-of-way width is justified and can be demonstrated to accommodate a proper road cross section and the anticipated drainage works and other municipal services and utilities as approved by the Director of Public Works & Engineering.

• In the case of a land severance, proposed plan of subdivision or other development proposal where the timing of potential road improvements is undetermined, the minimum road widening requirements shall extend to a distance of 13 metres from the centreline of the existing road right-of-way, or in the instance of known design details the proposed centreline.

• In the case of developed areas where the presence of buildings and other structures prevents the acquisition of a road widening to the desired widths, the maximum feasible widening shall be acquired as approved by the Director of Public Works & Engineering.

Property Acquisitions

Property acquisitions for roads purposes are historically processed through one of the following two methods:

1. Planning Applications for development proposals
2. Delivery of the Capital Works Projects

The procedures followed for the acquisition of property for each scenario are outlined below.

1. **PLANNING APPLICATIONS**

The following are the requirements and procedures for the acquisition of property for road purposes involving planning applications:

**0.3 m Wide Reserves**

Land identified as 0.3 m wide reserves are intended to control access to the County Roads and are not considered to be for road widening purposes and do not form part of the road right-of-way. All 0.3 m wide reserves are to be conveyed to the County of Renfrew, at no cost to the County, as a condition of approval of the proposed development. The proponent or developer shall be responsible for the preparation and registration of all surveys and land transfer documents required to convey the 0.3 m wide reserve to the County, free and clear of all encumbrances.
Daylighting Triangles

Daylighting triangles are intended to provide for unobstructed sight lines and other roadway needs at intersections. Daylighting triangles are required at all intersections with County roads and extend beyond the through right-of-way limits. The extent of the daylighting triangles required shall comply with the requirements set out in the Geometric Design Guide for Canadian Roads as published by the Transportation Association of Canada (TAC) and are specified as follows:

- Intersection of County Road and Local Road 5 metres x 5 metres
- Intersection of County Road and County Road 10 metres x 10 metres

Alternative daylighting triangle sizes may be required on the basis of site specific designs and other considerations as approved by the Director of Public Works & Engineering.

Plans of Subdivision

The property identified by the Public Works & Engineering Department as required for road widening purposes, daylighting triangles and 0.3 m wide reserves, adjacent to County Roads, shall be conveyed to the County of Renfrew at no cost to the County as a condition of approval of the proposed plan of subdivision. The proponent or developer shall be responsible for the preparation and registration of all surveys and land transfer documents required to convey the road widenings, daylighting triangles and 0.3 m wide reserves to the County, free and clear of all encumbrances.

Commercial and Industrial Developments

Commercial and industrial developments are typically the subject of Site Plan Agreements and require the approval of the County of Renfrew Public Works & Engineering Department for all works within the County Road right-of-way. The property identified by the Public Works & Engineering Department as required for road widening purposes, daylighting triangles and 0.3 m wide reserves, adjacent to County Roads, shall be conveyed to the County of Renfrew at no cost to the County, as a condition of approval of the proposed development. The proponent or developer shall be responsible for the preparation and registration of all surveys and land transfer documents required to convey the road widenings, daylighting triangles and 0.3 m wide reserves to the County, free and clear of all encumbrances.
Severances

Road widenings will be secured to provide a 26 metre wide right-of-way along County Roads except as otherwise approved by the Director of Public Works & Engineering. Examples of typical road widening requirements are indicated in Appendix 1 to this policy. In addition to the requirements for road widenings, there may be requirements for daylighting triangles to be conveyed to the County of Renfrew.

The following process outlines the requirements for the acquisition of road widenings and daylighting triangles, through the consent (severance) process:

- Road widenings and daylighting triangles as identified through a review of the proposed severance shall be conveyed to the County of Renfrew as a condition of approval of the proposed severance.
- The County of Renfrew will compensate the proponent of the severance, for the property to be acquired based on the fair market value of the property to be acquired.
- The value of the property to be acquired shall be determined by a Qualified Appraiser who is an accredited member of the Appraisal Institute of Canada (AIC). The cost of the appraisal shall be borne by the County. In the event that the proponent requesting the severance wishes to obtain another separate appraisal, such appraisal shall also be conducted by a Qualified Appraiser who is an accredited member of the Appraisal Institute of Canada (AIC). The cost of the separate appraisal shall be borne by the proponent.
- In the event that the proponent undertakes a separate appraisal, the value of the property shall be determined to be the average of the values determined by the appraisals.
- The minimum value of the total compensation paid by the County of Renfrew for road widenings and daylighting triangles shall be not less than $500.00 exclusive of the legal fees and survey costs.
- The County of Renfrew shall be responsible for the additional legal survey costs to identify the extent and limits of the road widenings and daylighting triangles.
- The County of Renfrew shall be responsible for the additional legal fees associated with the acquisition of the road widenings and daylighting triangles. The County of Renfrew will pay the actual legal costs to a maximum of $500.00 plus GST, as compensation in full for all costs associated with the preparation, processing and execution of the transfer of the road widening and the daylighting triangle. This includes:
(a) Preparation of all documents;
(b) Electronic registration of all land transfer documents; and
(c) Documentation necessary to complete the transaction.

- Draft copies of the plan of survey and the prepared acknowledgements and directions authorizing electronic registration on behalf of the County of Renfrew, are to be submitted to the County of Renfrew Public Works & Engineering Department, 9 International Drive, Pembroke, Ontario, K8A 6W5 for review and signature prior to registration.
- The Council of the County of Renfrew shall pass a by-law confirming and authorizing the property acquisition to proceed, dedicating the property as a public highway and authorizing the execution of the appropriate documents.
- The proponent will be advised when the plan of survey and the acknowledgements and directions have been reviewed and signed, then instructions will be given to register the plan and execute the transfer.
- The plan of survey will be registered at the Land Titles Office at the proponent’s expense unless otherwise arranged.
- The registered plan of survey in both electronic and paper format and copies of the land transfer documents will be forwarded to the County of Renfrew Public Works & Engineering Department.
- A solicitor’s invoice or statement or a paid solicitor’s statement outlining the particulars of the transaction, will be submitted for payment. The proponent’s solicitor shall confirm in writing that the title to the road widenings and daylighting triangles are free and clear of all liens and encumbrances.
- The Ontario Land Surveyor’s invoice for preparation and registration of the plan of survey for road widenings and daylighting triangles is to be submitted to the County of Renfrew Public Works & Engineering Department.
- The payment for the additional survey fees and legal fees will be processed and a cheque will be sent to the proponent or the proponent’s solicitor.
- The Secretary-Treasurer of the Land Division Committee will be notified after the registered deed and plan of survey have been received that this condition of approval has been satisfied. All correspondence is to include the Land Division Committee File Number as well as the County Road Number.
2. DELIVERY OF CAPITAL WORKS PROJECTS

Negotiated Land Acquisitions

Property acquisition may be required to support the construction or reconstruction of County of Renfrew infrastructure. In these cases the amount of property required will be determined through the planning and design stages of the project. The extent of property required should consider the immediate needs of the project as well as the future infrastructure needs.

The desirable rural road right-of-way shall be 26 metres unless otherwise approved by the Director of Public Works & Engineering. However, the right-of-way width may be increased or decreased if the engineering design of the road improvement confirms that an alternative right-of-way width is justified and can be demonstrated to accommodate a proper road cross section and the anticipated drainage works and municipal or utility servicing requirements as approved by the Director of Public Works & Engineering.

The following process outlines the requirements for the acquisition of property required to support the construction or reconstruction of County of Renfrew infrastructure:

- The property requirements shall be identified through the planning and design stages of the project.
- The affected property owners shall be contacted at an early stage to determine their willingness to sell property to the County and any special considerations that the property owner identifies that should be considered in the purchase of the property.
- The County of Renfrew will compensate the owner of the property, for the property to be acquired based on the fair market value of the property to be acquired.
- The value of the property to be acquired shall be determined by a Qualified Appraiser who is an accredited member of the Appraisal Institute of Canada (AIC). The cost of the appraisal shall be borne by the County. In the event that the property owner wishes to obtain another separate appraisal, such appraisal shall also be conducted by a Qualified Appraiser who is an accredited member of the Appraisal Institute of Canada (AIC). The cost of the separate appraisal shall be borne by the property owner.
- In the event that the property owner undertakes a separate appraisal, the value of the property shall be determined to be the average of the values determined by the appraisals.
- The costs of other items such as new fencing, additional entrances and other issues that form part of the consideration for the acquisition of the property, may be considered in determining the purchase price of the property.
• The minimum value of the total compensation paid by the County of Renfrew for property acquisitions shall be not less than $500.00 per parcel acquired, exclusive of the legal fees and survey costs.
• The County of Renfrew shall be responsible for the legal survey costs to identify the extent and limits of the property required.
• The County of Renfrew shall be responsible for the legal fees associated with the acquisition of the property required. The County of Renfrew will pay the actual legal costs associated with the preparation, processing and execution of the transfer of the property required. This includes:
  (a) Acquisition of Title Searches;
  (b) Preparation of all documents;
  (c) Electronic registration of all land transfer documents; and
  (d) Documentation necessary to complete the transaction;
  (e) Legal Fees required to remove liens and encumbrances from the title to the lands being acquired.
• The Council of the County of Renfrew shall pass a by-law confirming and authorizing the property acquisition to proceed, dedicating the property as a public highway and authorizing the execution of the appropriate documents.
• A solicitor’s invoice or statement or a paid solicitor’s statement outlining the particulars of the transaction, will be submitted for payment by the property owner for all legal costs incurred by the property owner in relation to the property acquisition.

**Expropriation**

In the event that property acquisition is required to support the construction of County of Renfrew infrastructure and an affected property owner is not willing to sell the property required to the County, the County of Renfrew reserves the right to proceed to expropriation in accordance with the *Expropriations Act* and as authorized by the Council of the County of Renfrew.

**Disposal of Property**

The disposal of rights-of-way that are identified as being surplus to the needs of the County of Renfrew shall be completed in accordance with the requirements of Policy GA-02 Disposal of Assets.