

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW 2016-059

A BY-LAW TO DELEGATE TO STAFF AUTHORITY TO APPROVE THE RELEASE OF CITY PROPERTY INTERESTS IN CERTAIN CIRCUMSTANCES

Recitals

1. From time to time circumstances arise where the municipality becomes the owner of relatively minor property interests obtained for development or other purposes. These include strips of land as conditions for development approvals, easements, road widening requirements and reserves prior to development conclusion.
2. City staff is often approached by developers with requests to relocate easements, release reserves or release subdivision agreements to facilitate development within Kawartha Lakes. As the land re-develops, or as neighbouring lands develop the need for, or the location for, these minor property interests may change.
3. It is expedient to delegate to staff the authority to approve these releases and adjustments in circumstances where alternate sites are provided for the property interest, or in circumstances where the property interest is no longer required.
4. This by-law updates and replaces By-laws 2012-079 and 2012-080.
5. Pursuant to Section 23.1, 23.2 and 23.3 of the Municipal Act, 2001, S.O. 2001, c.25, Council is authorized to delegate administrative authority to staff.
6. The delegated authority must be authorized by by-law.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2016-059.

Section 1.00: Definitions and Interpretation

1.01 Definitions: In this by-law,

“City”, “City of Kawartha Lakes” or “Kawartha Lakes” means The Corporation of the City of Kawartha Lakes and includes its entire geographic area.

“City Clerk” means the person appointed by Council to carry out the duties of the clerk described in section 228 of the *Municipal Act, 2001*;

“Council” or “City Council” means the municipal council for the City.

“Director of Development Services” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“Director of Engineering and Corporate Assets” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“Director of Public Works” means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

“Easement” means that property right described as “a dominant tenement” over another’s land for access including a “right of way” or for drainage;

“Owner” means the owner of property;

“Property” refers to the servient tenement to an easement;

“Reserve” refers to a small piece of property held by the City until such time as conditions have been fulfilled by a developer.

“Servient Tenement” means the land over which the City owns an easement or right-of-way.

1.02 **Interpretation Rules:**

- (a) The Schedules attached to this by-law form part of the by-law, and are enforceable as such.
- (b) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.

1.03 **Statutes:** References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

Section 2.00: General

2.01 **Delegation:** The authority to approve release of easements, reserves, subdivision agreements and road widening parcels is delegated to the Director of Engineering and Corporate Assets.

2.02 **Consultation Required:** Prior to any final approval delegated within this by-law, the Director of Engineering and Assets shall consult with the Director of Development Services and the Director of Public Works to ensure all City interests are resolved.

2.03 **Approval:** The Director of Engineering and Corporate Assets may present a by-law to the Council to effect any approved property interest action within this by-law, without separately reporting on the history of the property interest.

2.04 **Council Authorization:** Wherever an action does not meet the delegation criteria established within this by-law, the Director of Engineering and Corporate Assets shall prepare a report to Council seeking direction.

2.05 **Signing Authority:** Any action authorized in this by-law shall comply with the requirements of the Signing Authority By-law in effect at the time of the transaction.

2.06 **Acquisition and Disposition of Land:** Where an action authorized in this by-law requires the acquisition or disposition of land, the procedures for such land acquisition or disposition shall be in accordance with the governing by-law in effect at the time of the transaction.

Section 3.00: Criteria for Delegated Approval Authority

3.01 **Criteria for Easements on land owned by a third party:** The Director of Engineering and Corporate Assets may approve the release of any easement which meets the following criteria:

- (a) the easement provided access to property, the Director of Engineering and Corporate Assets must be satisfied that adequate alternate access has been provided, either by the owner or otherwise;
- (b) the easement involves drainage of the property or other properties, the Director of Engineering and Corporate Assets must be satisfied that an adequate alternate route has been provided, either by the owner or otherwise;
- (c) the easement involves the potential for trail connections; and
- (d) the release of the easement does not prejudice in any way the safety of any member of the public.

- 3.02 **Criteria for Easements on land owned by the City:** The Director of Engineering and Corporate Assets may approve easements owned by the City under this by-law which provide access to the City for:
- (a) installation, maintenance, repair and replacement of underground, overhead or surface municipal services;
 - (b) a pathway for the travel of water;
 - (c) another parcel of land owned by the City, for which there is no other legal access;
 - (d) a relocation where the location is satisfactory; and
 - (e) the easement is no longer necessary for municipal purposes.
- 3.03 **Criteria for Reserves on land owned by the City:** The Director of Engineering and Corporate Assets may approve the release of a reserve owned by the City where:
- (a) the land parcel is within a travelled highway and by all appearances, practices and treatments, the land parcel in question has been historically treated as if it has already been dedicated as public road allowance; or
 - (b) the land parcel prevents an adjacent developed property from having access to or frontage on a highway, and no history can be located for the reasons for imposition of the reserve and conditions for lifting the reserve; or
 - (c) by all appearances, practices and treatments, the land parcel in question has been historically treated as if it has already been dedicated as public road allowance; or
 - (d) the land parcel was set aside through a development approval process as a reserve pending the completion of conditions by an adjacent land owner.
- 3.04 **Criteria for Reserves associated with a Development Agreement:** The Director of Engineering and Corporate Assets may approve the release of a reserve associated with a Development Agreement where:
- (a) the development conditions imposed at the time of the City's reservation of the reserve have been met to the Director of Engineering and Corporate Assets' satisfaction;
 - (b) the reserve is no longer required due to an extension of a road; and
 - (c) the release of the reserve does not prejudice in any way the safety of any member of the public.
- 3.05 **Criteria for Subdivision Agreements:** The Director of Engineering and Corporate Assets may approve the release of any subdivision agreement where:
- (a) the subdivision agreement has been released from a portion of the development but not every lot in accordance with the terms of the conditions of the subdivision agreement;
 - (b) the subdivision agreement financial security has been released; and
 - (c) the release of the subdivision agreement does not prejudice in any way the safety of any member of the public.
- 3.06 **Road Widening Strips:** The Director of Engineering and Corporate Assets may conclude that of a parcel of land owned by the City was intended to be dedicated by by-law as part of a road allowance where:
- (a) the land parcel is immediately adjacent to another parcel of land owned by the City which has been dedicated as public road allowance; and
 - (b) where it not part of the road allowance, the land parcel would be preventing adjacent property from having frontage on a road allowance; and
 - (c) by all appearances, practices and treatments, the land parcel in question has been historically treated as it if has already been dedicated as public road allowance; or
 - (d) a development project previously approved by the council contains a condition that the land owner in question deed land to the City for the purposes of the widening of the adjacent road allowance;

Section 4.00: Signing Approval Authority

- 4.01 **Easements:** Where an easement has been approved in accordance with Section 3.01 and 3.02 of this by-law, the Director of Engineering and Corporate Assets shall advise the Mayor and City Clerk, who are authorized to sign a Release of Easement in a form satisfactory to the City's legal advisors.
- 4.02 **Reserves:** Where a reserve has been approved in accordance with Section 3.03 and 3.04 of this by-law, the Director of Engineering and Corporate Assets shall advise the Mayor and City Clerk, who are authorized to sign the documents necessary, in a form satisfactory to the City's legal advisors, to remove any passage hindrance imposed by the reserve.
- 4.03 **Subdivision Agreements:** Where a subdivision agreement release has been approved in accordance with criteria set out in Section 3.05 of this by-law, the Director of Engineering and Corporate Assets shall advise the Mayor and City Clerk, who are authorized to sign a release of that agreement in a form satisfactory to the City's legal advisors, and at the expense of the person requesting the release.
- 4.04 **Road Widening Strips:** Where a road widening strip has been identified in accordance with the criteria set out in Section 3.06 of this by-law, the Director of Engineering and Corporate Assets shall present a by-law to the Council to dedicate the reserve as part of the immediately adjacent road allowance.

Section 5.00: Costs

- 5.01 **Easement Costs:** All costs for the release or relocation of easements shall be borne by the holder of the Servient Tenement title, unless Council determines otherwise.
- 5.02 **Reserve Costs:** Where a by-law is presented pursuant to 3.03 (a) through (d) inclusive, the costs for preparation and registration of the by-law shall be borne by the City. Where the by-law is presented pursuant to Section 3.03 (d), the costs for preparation and registration of the by-law shall be borne by the adjacent land owner.
- 5.03 **Road Widening Costs:** Where a by-law is presented pursuant to 3.06 (a) through (c) inclusive, the costs for preparation and registration of the by-law shall be borne by the City. Where the by-law is presented pursuant to Section 3.06 (d), the costs for preparation and registration of the by-law shall be borne by the adjacent land owner.
- 5.04 **Subdivision Agreement Release Costs:** The costs associated with the subdivision agreement release under Section 3.05 of this by-law, shall be borne by the person requesting the release.

Section 6.00: Administration and Effective Date

- 6.01 **Administration of the By-law:** The Director of Engineering and Corporate Assets is responsible for the administration of this by-law.
- 6.02 **Effective Date:** This By-law shall come into force on the date it is finally passed.

By-law read a first, second and third time, and finally passed, this 22nd day of March, 2016.

Andy Letham, Mayor

Judy Currins, City Clerk