



**To:** General Purposes Committee  
**From:** Christine McGilvray  
 Manager, Lands and Property  
**Re:** Council Approved Process for  
 Discharging Rights of Way

**Date:** November 29, 2005  
**File:** 06-2285-00/Vol 01

**Staff Recommendation**

That Council approve the process for approval of discharging rights of way as set out in this report.

*Christine McGilvray*  
 Christine McGilvray  
 Manager, Lands and Property  
 (4005)

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ROUTED TO:	CONCURRENCE		CONCURRENCE OF GENERAL MANAGER <i>(Acting)</i>			
Engineering .....	Y	<input checked="" type="checkbox"/>	N	<i>As per the</i> <hr/>		
Law .....	Y	<input checked="" type="checkbox"/>	N			
Development Applications.....	Y	<input checked="" type="checkbox"/>	N			
Policy Planning .....	Y	<input checked="" type="checkbox"/>	N			
<b>REVIEWED BY TAG</b>	YES		NO	<b>REVIEWED BY CAO</b>	YES	NO
	<input checked="" type="checkbox"/>	<i>DW</i>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Staff Report

### Origin

At the Council meeting of October 3, 2005, Council considered a report seeking approval to discharge existing rights of way (disposition of property rights). During discussion, Council requested staff to consider the feasibility of developing a policy which would give staff the authority to deal with routine rights of way matters.

### Findings Of Fact

The Community Charter Section 26 requires that before Council disposes of land, a public notice must be published.

A statutory right of way is an interest in land, and to ensure that land transactions are valid, the authority to approve disposals of land and interests in land should not be delegated. In most cases, Council may approve a disposal by resolution.

Therefore, a simplified reporting process to Council seeking approval of right of way discharges is set out below.

### Analysis

#### How Discharge Requests are Generated

Requests for discharging of City rights of way are typically generated by the following actions:

1. Rezoning Applications and Development Permit Applications (Council approved processes).

The advertising of the specific disposition will be generated as a result of Council's approval of the rezoning or DP.

For rezoning applications, discharges will be advertised prior to fourth reading and final adoption of the rezoning bylaw. For DP applications, the advertising will be carried out after Council's approval of the DP.

2. Subdivision Applications and Building Permit Applications (staff approved processes).

Council approval is not required to process these applications. Therefore a Council resolution is required to authorize discharge of rights of way as identified by staff during the subdivision or building permit processes. Advertising will take place before final approval of the subdivision or building permit.

3. Development Adjustments to Previously Approved Schemes.

From time to time, opportunities arise for further improvement or refinement of a previously approved scheme. If a discharge of a right of way is necessary to achieve this and is supported by staff, Council approval is required.

4. Owner generated requests.

The City receives and processes requests from property owners who have ascertained that a utility right of way registered on their property is unused and appears surplus to City needs. The presence of the right of way may impose an unnecessary restriction, for example interfering with the planting of trees or placement of a shed or other garden feature.

These requests are reviewed by staff in relevant divisions and if deemed appropriate for discharge, the matter will be brought before Council for approval.

5. Staff generated requests.

While planning future delivery of utility or other community services, Engineering or Urban staff sometimes identify abandoned rights of way and suggest discharge. Law Department staff sometimes identify old right of way charges that were inadvertently “carried over” onto newly created parcels, that can now be cleared off the title, and suggest discharge.

These requests are reviewed by staff in relevant divisions and if deemed appropriate for discharge, will be brought before Council for approval.

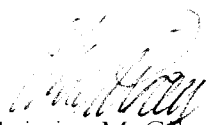
Reporting To Council

It is anticipated that anywhere from two to six right of way discharge requests per month may need Council approval. Staff suggest that the report will be in the format below:

- Property Affected: (civic address)
- Right of Way to be D/C: Plan no. and title charge no.
- Reason for Discharge: as per 1 – 5 described previously
- Financial Implications: who bears costs and whether the right of way is to be sold
- Legal Description: Lot XX Section XX etc

**Conclusion**

That Council approve the process outlined in this report for the discharge of rights of way over private property.



Christine McGilvray  
 Manager, Lands and Property  
 (4005)