

THE CORPORATION OF THE TOWNSHIP OF MADAWASKA VALLEY

BY-LAW NUMBER 2023-11

Being a By-Law to to establish procedures for the sale
of land

WHEREAS the Municipal Act, R.S.O. 2001, as amended 2006, c. 32, Schedule A s. 113, s. 270 (1) provides that every Municipality which has the authority to sell land shall pass a by-law establishing procedures including the giving of notice to the public governing the sale of land;


AND WHEREAS the Municipality of the Township of Madawaska Valley deems it advisable and in the public interest to pass such a by-law pertaining to the sale of Shoreline Road Allowances and other Road Allowances;

1. **THAT** 1. In this By-Law, the term "Road Allowance" includes a Shoreline Road Allowance unless otherwise stated.
2. **THAT** the Municipality establishes the procedures set out in Schedule "A" attached hereto as the procedures to be followed for the sale and closure of Road Allowances, including the giving of notice to the public. Schedule "A" is hereby incorporated into, and forms part of this By-Law.
3. **THAT** before selling any real property, the Municipality shall:
 - a. give notice to the public of the proposed sale in accordance with the provisions set out in Schedule "A" attached hereto, and
 - b. pass a by-law or resolution at a meeting open to the public declaring the real property to be surplus.
4. **THAT** the Mayor and the CAO/Clerk of the Municipality be and they are hereby authorized and instructed on behalf of the Corporation of the Township of Madawaska Valley to enter into and execute under its corporate seal and to deliver whatever documents are necessary to effect the closing and sale of Road Allowances in accordance with the said procedures.
5. **THAT** By-Law Number 2013-38 is hereby repealed; any applications for road closure and sale made under this By-Law before the date of final passing of this By-law shall be processed in accordance with the said By-law.
6. **THAT** this By-Law shall take effect upon the third and final reading thereof.

**READ A FIRST, SECOND and THIRD TIME and FINALLY PASSED THIS 21 DAY
OF February, 2023.**




MAYOR - Mark Willmer


CAO/CLERK - Suzanne Diane Klatt

SCHEDULE "A"

PROCEDURES FOR THE CLOSURE AND/OR SALE OF ROAD ALLOWANCES

1. Applicants are encouraged to pre-consult with the Township prior to submitting an application.
2. A Road Allowance, or part thereof, will only be closed upon an Application by the abutting landowner or owners, or at the instance of the Municipality.
3. The Shoreline Road Allowance and any part of other Road Allowances abutting on water will only be closed above the high-water mark.
4. Flooded Road Allowances or Road Allowances on a flood plain will not be closed.
5. If a building(s) or structure(s) is encroaching on a Shoreline Road Allowance or other Road Allowance, Council may in its discretion close and sell only a portion of the Road Allowance with such area of land surrounding the building or buildings (generally 3 metres) as to allow adequate access to the same as Council in its discretion sees fit.
 - a. For the purchase of a portion of a Road Allowance under Section 5, notice under Section 14 a), c) and d) will not apply.
6. The following Road Allowances shall not be closed:
 - a. Those portions of Road Allowances used and known as portage trails, or portage trails that Council wishes to preserve;
 - b. Road Allowances which Council determines have historic or cultural value;
 - c. All portions of a Road Allowance that contain, abut, or provide access to important fish spawning areas, wildlife habitat or other environmentally sensitive features;
 - d. Road Allowances which are, in the opinion of Council, in its absolute discretion, required for public recreational purposes, public access, emergency access, public travel or other municipal purposes, unless alternative public access is provided by the Applicant.
7. The Municipality shall have the right to reserve easements considered necessary to ensure drainage or to grant easements for access for others or for other public purposes prior to closure.
8. Road Allowances, other than Shoreline Road Allowances, leading to water shall not be closed unless the Applicant provides, in exchange from their lands, and at their expense, an alternate and sufficient access to the water on the same body of water, with the same or better water frontage.
9. The selling price for a Road Allowance will be calculated at a cost per linear foot, measured by taking the average of the outer and inner limits, regardless of the width of the Road Allowance being sold.
10. If the Municipality decides to sell a Road Allowance where the land abutting on the original Road Allowance or part of the said allowance is owned by more than one person, each person is entitled to the soil and freehold of, and a conveyance of, that

part of the Road Allowance abutting his/her land to the middle line of the allowance in accordance. A person may release his or her interest or decline to purchase his or her half of the Road Allowance in which case the Municipality may, in its discretion, retain the portion of the said road allowance or sell all of the Road Allowance to the other abutting owner.

11. The Applicant(s) shall complete the "Application for Closure and Sale of a Shoreline Road Allowance and/or Road Allowance" for the Township of Madawaska Valley.

12. The Applicant(s) shall submit the Application to the Municipality with the following:

- a. A current Parcel Abstract for the property abutting the part of the Road Allowance showing the names of the current owners;
- b. A sketch or a draft survey prepared by an Ontario Land Surveyor which specifically delineates the subject portion of the road allowance to be closed. The sketch or draft survey must depict the location of any structures located on the road allowance (such as by way of a survey real property report (SRPR)) as well as any travelled roads or paths. Additionally, the surveyor will provide a statement confirming the depictions of the buildings and structures and roads/paths, or the lack thereof, as the case may be. All to the satisfaction of the Township.
- c. Shoreline road allowances containing buildings and structures built without building permits will not be closed. Applications identifying such buildings and structures shall not be considered by the municipality until the buildings and structures are properly remedied to the satisfaction of the Township.
- d. Unless otherwise approved by Council, the portion of shoreline road allowance to be surveyed may only include those areas within the straight-line projection of the applicants' side lot lines between the inner limit of the shore road allowance and the high-water mark of the lake.
- e. Payment of the application fee.

13. By submitting the application, the Applicant(s) consents and agrees that a field inspection of the Road Allowance may be conducted at any time throughout this process (and without notice) either by staff, Council, or other agents of the municipality.

14. Notice of an application for the closure and sale of a road allowance shall be given at least 30 days prior to the consideration of a by-law for the closure and sale of a road allowance in the following manner, and such notice will be deemed the minimum notice and other forms of notice (such as additional mail outs or posting), can be given at the discretion of the Municipality:

- a. The Municipality shall post notification of the application in a public location in the vicinity of the Shoreline Road Allowance &/or Road Allowance.
- b. The Municipality shall send notice, by registered mail, to the Owners of the land abutting the Applicant's property fronting the Shoreline Road Allowance &/or Road Allowance on either side, informing them of the

application and notifying them that they have 30 days in which to submit any objection in writing to the Municipality.

- c. Notice of an application will be mailed to properties within 120 metres of the subject land.
 - d. The Municipality shall give public notice of its intention to pass the by-law by publication of an advertisement in a local newspaper having circulation within the Municipality.
 - e. The Municipality will notify applicable Township staff, Ontario Power Generation, Hydro One Networks Inc., Bell Canada, Ministry of Transportation, Public Works and Government Services Canada, or their successors, of the Application and will invite their comments with regards to the application. If any of the foregoing do not reply within 30 days of the date of the letter, the Municipality may proceed to consider the Application without receipt of the replies.
15. Following the expiration of the 30-day notice period the Township will instruct the Applicant to provide to the Township one electronic copy (pdf) and three hard copies of a Registered Reference Plan depicting the subject portion of the road allowance to be closed as a separate part on the plan.
16. Once all matter pertaining to the closure and sale of the road allowance have been addressed to the satisfaction of the Township, the municipality will pass a by-law for the closure of the Shoreline Road Allowance &/or Road Allowance.
17. After the By-law is passed, the municipal solicitor will prepare, or approve, a Transfer for the conveyance of the Road Allowance from the Municipality to the Applicants, or their successors in title, in the name or names as noted on the Transfer/Deed of Land to the abutting land.
18. As a condition to the transfer the Purchaser shall acknowledge and accept that the property is being sold "as is" and there is no warranty or other representation with respect to the physical condition of the property or any environmental matters.
19. As a condition to the sale of the Road Allowance, a solicitor's undertaking is required to consolidate the Road Allowance with the applicant's land, or where a consolidation is not possible, a solicitor's undertaking to take steps to avoid that, in future transactions, the land abutting the Road Allowance is transferred separately from the Road Allowance. Such steps may include an agreement to consolidate, restrictive covenants, PIN consolidations, or other steps that may be deemed appropriate in the circumstances.
20. The Applicant(s) shall pay all costs of the Municipality pertaining to the Application and processing of the same including administrative, legal fees and disbursements, survey and HST on all of the foregoing prior to the delivery of the Transfer/Deed of to the Applicant(s).
21. All conditions as stipulated by the Municipality must be adhered to before the transaction is concluded.