

**THE CORPORATION OF THE TOWNSHIP OF GREATER MADAWASKA**

**BY-LAW NUMBER 30-2016**

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Being a By-Law to establish procedures for the Sale and Disposition of Road Allowances and/or Shoreline Road Allowances

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**WHEREAS** sections 8, 9 and 11 (2), 2, 3 & 4 of the Municipal Act 2001, S.O. 2001, c. 25 as amended provide that a municipality may pass by-laws respecting public assets and thereby the sale or disposition of real property of the Municipality;

**AND WHEREAS** section 270 (1) of the Municipal Act provides that municipalities shall adopt and maintain policies respecting its sale and other disposition of land and thereby the procedure to accomplish the same;


**AND WHEREAS** the Council of the Corporation of the Township of Greater Madawaska deems it expedient to exercise the authority provided to it as aforesaid;


**NOW THEREFORE** the Council of the Corporation of the Township of Greater Madawaska enacts as follows:

1. The closure and sale of Shoreline Road Allowances and/or Road Allowances shall be considered on a case-by-case basis and shall generally only be granted for legal or technical reasons.
2. In the event that Council deems it expedient to sell or otherwise dispose of any real property of the Municipality, it shall by resolution declare the same as surplus to the needs of the Municipality and the policies and procedures set out in Schedule A attached hereto shall be observed.
3. Upon compliance with the policies and procedures set out in Schedule A, Council, may authorize the sale or disposition of real property of the Municipality. If Council does authorize the same, it shall do so by by-law and therein set out and approve of such terms as Council may deem advisable.
4. This By-law shall not apply to the following classes of land:
  - i. Land 0.3 metres or less in width acquired in connection with an approval of decision under the Planning Act.
  - ii. Closed highways if sold to an owner(s) of land abutting the closed highway.
5. By-law 12-2008 is hereby repealed.
6. This by-law shall come into force on the date of third reading and passage.

**READ** a first and second time this 24<sup>th</sup> day of May, 2016.

**READ** a third time and passed this 24<sup>th</sup> day of May, 2016.

  
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Glenda McKay  
Mayor

  
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Allison Holtzauer  
CAO/Clerk-Treasurer

## **SCHEDULE "A" TO By-Law 30 -2016**

### **PROCEDURE – SALE/DISPOSAL OF SHORELINE ROAD ALLOWANCES and/or ROAD ALLOWANCES**

The following procedures shall apply to all sales or disposition of real property of the Municipality:

1. The sale and disposal of a Shoreline Road Allowance and/or Road Allowance may be by Application by an abutting landowner, or at the instance of the Municipality under a Tender, Auction, or other method as determined appropriate by Council.
2. If the sale and disposal of a Shoreline Road Allowance and/or Road Allowance is by Tender or Auction, the tendering or auctioning procedures in effect at the time of the sale shall apply, with modifications as necessary.
3. If the sale and disposal of a Shoreline Road Allowance and/or Road Allowance is by application from an abutting landowner, the applicant is required to pre-consult with the Township Planner and/or other applicable Township staff prior to submitting any application.
4. Shoreline Road Allowances or other Road Allowances consisting of flooded land or located within a floodplain will not be closed. If a main building or dwelling is located on a flood plain, the Municipality may, in its discretion, and in special circumstances considered on a case by case basis, sell the land actually occupied by the main building.
5. If a building or structure is located on a Shoreline Road Allowance or other Road Allowance, Council may in its discretion close and sell only a portion of the Road Allowance surrounding the building or structure as to allow adequate access to the same.
6. The following Shoreline Road Allowances or other Road Allowances shall not be closed:
  - a. Those portions used and known as portage trails, or portage trails Council wishes to preserve;
  - b. Shoreline Road Allowance or other Road Allowances which Council determines have historic, cultural, or recreational value;
  - c. All portions of a Shoreline Road Allowance or other Road Allowances that contains, abuts, or provides access to important fish spawning areas, wildlife habitat, or other environmentally sensitive features;
  - d. All Shoreline Road Allowances or other Road Allowances which are in the opinion of Council required for public waterfront recreational purposes, public access, emergency access, public travel, or other municipal purposes, unless at the discretion of Council, alternative public access is provided by the Applicant or is available nearby on the same body of water;
  - e. Shoreline Road Allowances or other Road Allowances in areas where community development is likely to occur.
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. A Shoreline Road Allowance or other Road Allowance shall not be closed which would have the effect of rendering any property landlocked.
9. The selling price for a Road Allowance, not leading to or abutting water, will be \$10 per linear foot, measured by taking the average of the outer and inner limits, regardless of the width of the Road Allowance being sold. The selling price for Shoreline Road Allowances or other Road Allowances leading to, or abutting, water shall be determined by an appraisal of the real property from an independent qualified appraiser who shall be a Registered Member (in good standing) of the Appraisal Institute of Canada.
10. At the Applicant's expense an Ontario Land Surveyor (OLS) shall plant marked pickets at the corners and along the length (as needed to demonstrate boundaries), of the Shoreline Road Allowance and/or Road Allowance to be closed.
11. At least thirty (30) days prior to Council passing a by-law for closing a Shoreline Road Allowance and/or Road Allowance the Municipality will 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 and by direct mail to applicable agencies as determined by Township staff. In addition, the Municipality shall post notification of the closure in at least one location in the vicinity of the Shoreline Road Allowance and/or Road Allowance to be closed.
12. At least thirty (30) days prior to Council passing a by-law for closing a Shoreline Road Allowance and/or Road Allowance, the Municipality shall send notice, and a Consent Form, to the Owners of the land abutting the Applicant's property informing them of the application and notifying them that they have thirty (30) days in which to submit any objection in writing to the Municipality or alternatively release their interests in the Shoreline Road Allowance and/or Road Allowance by completing and providing to the Municipality the Consent Form.
13. Where the land abutting the Shoreline Road Allowance and/or 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. Costs related to the conveyancing will duly be borne by each property owner. A person may release his or her interest or decline to purchase his or her half of the Road Allowance by completing the Consent Form.
14. If after the thirty (30) day notice period to abutting land owners expires and no objections or release of interest, in the form of a completed Consent Form, is received by the Municipality, the Municipality may, in its discretion, sell all of the Shoreline Road Allowance and/or Road Allowance to the Applicant.
15. Municipal staff may conduct a field inspection of the Shoreline Road Allowance and/or Road Allowance to be closed.
16. Council, after considering comments from agencies, the public, and Township staff, may approve, refuse, or hold the application in abeyance pending further information. If Council approves the application, it will pass a resolution to declare the Shoreline Road Allowance and/or Road Allowance surplus, and pass a by-law authorizing the disposal of the subject lands.

17. After the By-law is passed the Municipal Solicitor will prepare a Transfer for the conveyance of the Shoreline Road Allowance and/or Road Allowance from the Municipality to the Applicant, or their successors in title, in the name or names as noted on the Transfer/Deed of Land to the abutting land.
18. The Applicant shall pay all costs of the Municipality pertaining to the Application and processing of the same including administrative, advertising, legal fees, and disbursements, surveying, and all applicable taxes on all of the foregoing prior to the delivery of the Transfer/Deed of the Land to the Applicant.
19. All conditions as stipulated by the Municipality must be adhered to before the transaction is concluded.