

THE CORPORATION OF THE TOWNSHIP OF MADAWASKA VALLEY

BY-LAW NUMBER 2007-54

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

WHEREAS the Municipal Act, R.S.O. 2001, c. 25, section 268, 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;

NOW THEREFORE The Corporation of the Township of Madawaska Valley enacts as follows:

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 including the giving of notice to the public governing the closure and sale of road allowances. **Schedule “A”** is hereby incorporated into, and forms part of this By-Law.
3. That before selling any real property, the Municipality shall:
 - 3.1 pass a by-law or resolution at a meeting open to the public declaring the real property to be surplus, and
 - 3.2 shall give notice to the public of the proposed sale in accordance with the provisions set out in **Schedule “A”** attached hereto.
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 That By-Law Number 2004-51 is hereby repealed; any applications for road closure and sale made under this By-Law before the date of final passing of this By-law shall be processed in accordance with the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 AND SECOND TIME THIS 17th DAY OF September, 2007.

READ A THIRD TIME AND FINALLY PASSED THIS 17th DAY OF September, 2007.

MAYOR – John Hildebrandt

CAO/CLERK - Pat Pilgrim

SCHEDULE "A"

PROCEDURES FOR THE CLOSURE AND SALE OF ROAD ALLOWANCES

1. A shoreline road allowance or part thereof will only be closed upon an Application by the abutting landowner or owners.
2. The shoreline road allowance and any part of other road allowances abutting on water will only be closed above the high water mark. Flooded land will not be sold.
3. Flooded shoreline road allowances or shoreline road allowances or other road allowances on a flood plain will not be closed. If a main building or residence is located on a flood plain, special consideration may be given to sell the land actually occupied by the main building.
4. If a building or buildings are 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 with such area of land surrounding the building or buildings as to allow adequate access to the same to the Applicant(s) as Council in its discretion sees fit.
5. Shoreline road allowances used and known as portage trails, or portage trails that Council wishes to preserve will not be closed.
6. Shoreline road allowances, which have been identified for municipal recreational purposes will not be closed.
7. Shoreline road allowances, which have historic or cultural value will not be closed.
8. Shoreline road allowances used for access to properties will not be closed unless an alternate, suitable and sufficient access, with the express written consent of all serviced owners, is found acceptable by the municipality.
9. Road allowances leading to the water shall not be closed unless an alternate, suitable and sufficient access, with the same or better water frontage is provided elsewhere.
10. The Township of Madawaska Valley will not become involved in any boundary line disputes.
11. The selling price for the shoreline road allowance will be **\$4.00 per linear foot**, measured by taking the average of the outer and inner limits.
12. A by-law passed by the Township permanently closing a road allowance does not take effect until a certified copy of the by-law is registered in the Land Registry Office for the Land Titles Division, Renfrew No. 49.
13. 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 GST on all of the foregoing prior to the delivery of the Transfer/Deed of Land for the transfer to the Applicant(s).

14. In accordance with Section 34 (7) of the Municipal Act, 2001, the Municipality shall not pass a by-law permanently closing a road allowance if it would result in a person having no motor vehicle access to and from the person's land over any highway, unless the person agrees to the by-law. Notwithstanding the foregoing, if a person fails to agree to a by-law within thirty (30) days after public notice is given of the Municipality's intention to pass the by-law, the Municipality may apply to the OMB in accordance with S. 34(8) of the Municipal Act, 2001.

15. The Applicant(s) shall complete the "Application for Closure and Sale of a Road Allowance" for the Township of Madawaska Valley, a copy of which is attached hereto as **Schedule "B"**. The application must be signed by all of the Owners of the abutting lands. If one or more of the Owners does not sign the Application, the Applicant (s) must attach his, her or their written authorizations allowing someone else to sign the application on his or her or their behalf.

16. The Applicant(s) shall submit the Application to the Municipality with the following:
 - 16.1 a copy of the registered Transfer/Deed of Land for the property abutting the part of the road allowance showing the names of the current owners;

 - 16.2 a sketch indicating with reasonable accuracy, the lot lines, dimensions of and present access to the property. If a reference plan is available, it shall be used in lieu of a sketch. The Applicant(s) shall outline on the sketch or plan the area of shoreline for which the "Application for Purchase of Shoreline Road Allowance" is being made, particulars of other roads on the property and of other shoreline road closings in the area. The Planning and Licencing Officer will review the sketch and if it is determined that it contains insufficient information, the Application will be returned to the Applicant(s) for completion.

 - 16.3 in the case of an Application to close and sell a Shoreline Road Allowance, the written Consent of the property owners on either side of the Applicant's property is required (Consent Form is attached as **Schedule "C"**) and the signatures of the consenting property owners must also be endorsed on a copy of the plan approving the extension of boundary lines from the corner survey post of the applicant's property to the high water mark. The municipality will (a) supply the name and last known address of the adjoining property owner(s) so that the applicant can obtain their own consents or (b) upon written authorization from the applicant try and contact the adjoining owner on behalf of the applicant and charge the related costs to the applicant. The Township will not enter into any negotiations or arbitrate in any manner while obtaining the consent.

 - 16.4 payment of the sum of \$500.00 as a non-refundable application fee to cover some of the costs of processing the Application.

17. In the case of an Application relating to a Shoreline Road Allowance, the Applicant(s) shall clearly mark the boundary line as agreed to with their neighbor on either side of his or her property on the ground and shall plant a picket marked with red paint or with a survey ribbon a minimum of 2 feet high beside the corner post of the Applicant's property

nearest the water and another marking the extension of the boundary line to the high water mark as agreed to with his or her neighbor and as indicated on the plan. This will clearly mark the boundary line that has been agreed to and will enable the surveyor to prepare an accurate survey plan.

18. Upon receipt of an Application to close up and sell a Road Allowance, the Municipality will notify Ontario Power Generation, Hydro One Networks Inc., Bell Canada, Ministry of Transportation, Public Works and Government Services Canada and when applicable the Ministry of Natural Resources, or their successors by mail of the Application and will invite their comments with regards to the application. If any replies are not received from any of the agencies within 30 days of the date of the letter, the Municipality may proceed to consider the Application without receipt of the replies.
19. A field inspection of the abutting property and road allowance will be conducted if deemed necessary by the Council.
20. After the application has been reviewed by the municipality on a preliminary basis and after a field inspection is conducted (if it is deemed one to be necessary), the Municipality may by letter give tentative approval to the Application but such approval does not necessarily guarantee the final approval of the application. This procedure is designed to pinpoint obvious problems in the initial stages of the application and therefore eliminate further expenses to the Applicant.
21. Applicants who have received tentative approval shall pay an additional amount of \$400.00 on account of costs. If the Applicant later abandons the Application, some or all of this amount may be refunded to the extent it is not required to pay the costs incurred by the Municipality to the date of the abandonment.
22. Receipt of payment will be deemed as authorization to proceed with the Application, at which time, the Applicant will arrange to obtain a Reference Plan of the shoreline road allowance prepared by an Ontario Land Surveyor. It is the Applicant's responsibility to arrange for and obtain the Reference Plan. Prior to depositing the Plan at the Registry Office, the Applicant shall obtain the written approval of the abutting land owners to the location of the sidelines, such approval to be indicated by the written consent of the abutting Owners endorsed on a true copy of the Plan, a copy of which shall be delivered to the Municipality.
23. The Applicant shall deliver three (3) copies of the Reference Plan after it has been deposited at the Registry Office together with the written Certificate of the surveyor that the location of sidelines as shown on the draft Reference Plan which was approved by the abutting Owners is the same as on the final Reference Plan as deposited.
24. Upon receipt of the Reference Plan, the municipality will prepare a by-law for the closure of the shoreline road allowance, which will be given its first and second readings.

25. Before passing a by-law for permanently closing any shoreline road allowance or any part thereof, the Municipality shall give public notice of its intention to pass the by-law by publication of an advertisement in “This Week”, a newspaper having circulation within the Municipality on at least two (2) occasions with the last publication to be at least thirty (30) days prior to the Council meeting at which time the by-law will be considered. The notice will contain a statement that the Municipality intends to pass a by-law permanently closing a part or all of a shoreline road allowance and intends to sell it to the abutting owner(s).
26. In addition, notification of the closure will be posted in three public locations, in the vicinity of the road allowance in question.
27. If no objections are received from any person or corporation, the by-law will be given its third reading and passed. If objections are received but Council decides to pass the By-law notwithstanding such objections, the By-law will be given its third reading and passed.
28. After the By-law is passed, the municipal solicitor will prepare a Transfer/Deed of Land for the conveyance of the shoreline road allowance from the Municipality to the applicant, in the name or names as noted on the Transfer/Deed of Land to the abutting land.
29. The municipal solicitor will not represent Applicants in the Road Allowance Purchase proceedings.
30. Any outstanding costs, identified in paragraph 13 herein, shall be paid by the Applicant(s) in full prior to the delivery of the Transfer/Deed to the Applicant(s). All conditions as stipulated by the Municipality must be adhered to before the transaction is concluded.

THE CORPORATION OF TOWNSHIP OF MADAWASKA VALLEY

APPLICATION FOR CLOSURE OF A SHORELINE ROAD ALLOWANCE

- 1. Name of Property Owner(s): _____

- 2. Civic Address of Subject Property: _____

- 3. Mailing Address of Applicant(s): _____

- 4. Telephone Number: (____) _____
- 5. Fax Number: (____) _____
- 6. Date of Birth for (each owner): _____
 year month day

 year month day
- 7. Applicant's Solicitor _____
 Telephone Number: (____) _____
 Address: _____

- 8. Legal/Property Description: Lot. No. _____ Concession No. _____
 Plan No. _____ Frontage: _____
 Depth: _____ Acreage: _____
 Geographic Township: _____
 Lake/River: _____
- 9. Items required to accompany Application:
 Sketch/Plan of Property (attached) Yes _____ No _____
 Reference Plan (attached/if applicable) Yes _____ No _____
 Copy of Transfer/Deed of Land (attached) Yes _____ No _____
- 10. Is there an access to the property other than the shoreline road allowance?
 Yes _____ No _____
- 11. Is the shoreline road allowance serving as access to other properties?
 Yes _____ No _____
- 12. Do the adjoining property owners consent to this Application?
 Yes _____ No _____
- 13. Are the Consent Forms Attached: Yes _____ No _____
- 14. Have the abutting owners signed the plan showing the established boundaries?
 Yes _____ No _____

DATE OF APPLICATION: _____

SIGNATURE(S) OF APPLICANT(S): _____

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TERMS OF THE APPLICATION

The submission of the “Application for Closure of the Shoreline Road Allowance” is hereby deemed as formal authorization of the Applicant(s), signed thereon for **The Corporation of the Township of Madawaska Valley** to commence with the closure and disposition of the shoreline road allowance as described in this application and outlined on the sketch or Reference Plan of Survey hereto attached.

The Applicant(s)/Owner(s) hereby agree(s) to purchase from **The Corporation of the Township of Madawaska Valley** the shoreline road allowance as described on the attached application for the purchase price of **\$4.00 per lineal foot** measured along the high water mark.

The Applicant (s)/Owner(s) hereby agree(s) to pay all legal, administrative and survey costs associated with the closure and disposition of the shoreline road allowance, all or in part, as may be required from time to time.

It is understood that the Municipality cannot in any way guarantee the successful completion and sale of the shoreline road allowance to the Applicant(s) should there be an objection to the Application.

A NON-REFUNDABLE APPLICATION FEE in the amount of **\$500.00** must accompany this Application.

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**THE CORPORATION OF THE
TOWNSHIP OF MADAWASKA VALLEY**

85 Bay Street, P.O. Box 1000, Barry's Bay, Ontario K0J 1B0

TEL: (613) 756-2747 ☎ FAX: (613) 756-0553

E-MAIL - info@madawaskavalley.on.ca



CONSENT TO SALE OF SHORELINE ROAD ALLOWANCE

IN THE MATTER OF the Application for Closure of Shoreline Road
Allowance made by: (Applicants names)

for that portion of the 66 foot shoreline road allowance located on:

Part Lot/Lot _____, Concession _____ or Registered Plan _____

Designated as Part(s) _____ on Reference Plan 49R- _____

Geographic Township of _____, now in the Township of Madawaska Valley along the
shore of _____ River/Lake,

abutting the Applicant's property.

I/We the undersigned, being the owner(s) of the adjacent property, consent to the closure and sale
of the described shoreline road allowance as indicated on the attached plan/sketch.

I/We have no objection to the tentative boundary of the shoreline road allowance as outlined.

I/We understand that the final boundaries will be determined by an Ontario Land Surveyor and
may vary slightly from that indicated on the attached plan/sketch and that a Preliminary (Draft)
copy of the Reference Plan of Survey will be provided for review for verification.

DATED this _____ day of _____ 20__ .

SIGNATURE(S)

(please print name below signature)

PLEASE NOTE:

That the boundary line should be marked with a picket marked with red paint at the site/location as
agreed upon between you and your neighbor, in accordance with the Policies and Procedures
(Paragraph 17.) before you consent to any sale. If you consent to the Application for Closure of
the Shoreline Road Allowance you are also required to sign the plan, which must be attached to
this Consent Form.