

# THE CORPORATION OF THE TOWNSHIP OF NIPISSING

## BY-LAW NUMBER 2023-03

### Being a by-law to regulate the sale and disposition of municipal property.

**WHEREAS** the Municipal Act, 2001, c. 25 S270(1)1. provides that a municipality shall adopt and maintain policies with respect to the sale and other disposition of land;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF NIPISSING ENACTS AS FOLLOWS:

#### **1. SHORT TITLE**

1.1. This by-law may be cited as the "Sale and Disposition of Municipal Property By-Law".

#### **2. PURPOSE/OBJECTIVE**

2.1. The objectives of this by-law are:

2.1.1. to purchase and administer property only in support of municipal objectives;

2.1.2. to purchase, maintain, preserve and sell property to the maximum long-term economic advantage to the Township;

2.1.3. to ensure an efficient process for simple property sales and purchases by the Township;

2.1.4. to be transparent in the sale and purchase of property by the Township;

2.1.5. to ensure public accountability.

#### **3. DEFINITIONS**

3.1. "Abutting Land" means real property that directly borders the municipality's land parcel. In the case of the disposal of a closed highway, abutting land is considered real property that is immediately to the side of the closed highway.

3.2. "Appraisal" means a written opinion of the market value of the land prepared by a registered member of the Appraisal Institute of Canada, the assessed value as determined by the Municipal Property Assessment Corporation (MPAC), or other person(s) deemed by Council to be qualified for the purpose identified herein.

3.3. "Appraised Value" means the value noted in the appraisal, or the assessed value as determined by the Municipal Property Assessment Corporation (MPAC).

3.4. "Clerk" means the Clerk of the Township, including their successor and designate from time to time;

3.5. "Council" means the duly elected Municipal Council of the Corporation of the Township of Nipissing;

3.6. "Disposition" means the sale, transfer, conveyance or exchange of the Fee Simple Interest in Real Property, or the granting of a permanent easement or right of way, but does not include the granting of a short-term Lease or the release of easement or right of way by the Township. A lease of twenty-one (21) years or longer shall be considered a disposition. For clarity, "Sale" shall have a similar meaning.

**Sale and Other Disposition of Land Policy and Procedures**

- 3.7. "Fair Market Value" means the highest amount that real property might be expected to realize if sold in the open market by a willing seller to a willing buyer.
- 3.8. "Fee Simple Interest" means an ownership of Real Property in which the owner has the right to control, use or dispose of the Real Property at will.
- 3.9. "Highway" means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, includes a portion of a highway.
- 3.10. "Municipal Administrator" means the Municipal Administrator for the Township of Nipissing, including their successor and designate from time to time;
- 3.11. "Property" means land or real estate, including any improvements, structures and whatever is attached or affixed to the property and whatever grows on the land, that is owned by the Township or that is owned by its agencies, boards or committees and the jurisdiction for the sale of which rests with the Township;
- 3.12. "Township" means The Corporation of the Township of Nipissing.

**4. EXCLUSIONS**

This policy shall not apply to the following:

- 4.1. The sale of land under Part X1 (Sale of Land for Tax Arrears) of the Municipal Act, c. 25, S.O. 2001, as amended and any related Ontario Regulation made by the Minister.
- 4.2. Land transferred to the Township of Nipissing for security or for temporary roads or other works in connection with any agreement to which the municipality is a party under the Planning Act, R.S.O. 1990, c.P. 13;
- 4.3. Use of unopened road allowances belonging to the Township of Nipissing, as defined and with established policies under By-Law Number 2021-57.
- 4.4. Cemetery lots and lands designated for cemetery use by the Township of Nipissing (Funeral, Burial and Cremation Services Act, 2002 S.O. 2002, c.33);
- 4.5. Sale to public bodies:
  - i) A municipality;
  - ii) A local board including a school board and a conservation authority; and
  - iii) The Crown in right of Ontario or Canada and their agencies.

**5. GENERAL PROVISIONS**

- 5.1. Prior to the disposal of any property by the municipality, the Council of the Township of Nipissing shall by Resolution declare the property to be surplus. Road allowance and shore road allowance will not require a declaration of surplus land.
- 5.2. A prospective purchaser may submit an expression of interest for particular Township-owned land(s) through a written request. This request will be received by Township Staff and presented to Council during a regularly scheduled Council meeting accompanied by a Staff Report providing information on compliance with municipal and provincial policies as appropriate.

*The receipt of an expression of interest to purchase Township-owned lands does not obligate the Council to dispose of such lands.*

- 5.3. The Township shall obtain a property valuation for a parcel to be considered. Any property valuation obtained shall be used solely as a guide and shall not be determinative of the terms of price upon which Council may sell any particular parcel. Without limiting the generality of the foregoing, other factors, including the history of the parcel or related properties, may be considered.
- 5.4. Notwithstanding the requirements outlined in Section 5.3., the Council shall have the absolute authority to determine the selling price of the land.
- 5.5. Method of Disposal shall be determined by Council in its sole discretion. Direction shall be provided by Resolution providing any of the following methods:
- Direct Sale/Negotiation
  - Request for Tender (RFT)
  - Listing with Real Estate Agent/Broker
  - Land Exchange
- 5.5.1. Direct Sale/Negotiation  
Direct sale and/or negotiation may be selected with the following considerations:
- The negotiated prices shall be determined to be not less than the appraised value plus costs as identified in section 7.1.
  - The Municipal Administrator shall be authorized to negotiate a direct sale upon direction of Council by Resolution.
  - The Municipal Administrator shall submit all final offers to Council for review.
- 5.5.2. Request for Proposal (RFP)  
In accordance with the Township's Procurement Policy, Council may direct surplus lands be disposed of by a Request for Proposal (RFP) process.
- 5.5.3. Listing with Real Estate Agent/Broker  
Listing by the Township or its agent with one or more property listing services may be selected with the following considerations:
- The listing price shall be determined to be not less than the appraised value plus costs as identified in Section 7.
  - The Municipal Administrator shall be authorized to sign the listing agreement upon direction of Council by Resolution.
  - The Municipal Administrator shall submit all final offers to Council for review.
- 5.5.4. Land Exchange  
A land exchange involves a reciprocal transfer of land of an equivalent value (monetary or public interest) in whole or in part. Such exchanges may be negotiated with the following considerations:
- The negotiated price shall be determined to be not less than the appraised value plus costs identified in Section 7.
  - The Municipal Administrator shall be authorized to negotiate a direct sale upon direction of Council by Resolution.
  - The Municipal Administrator shall submit all final offers to Council for review.

## **6. ROAD ALLOWANCES/SHORE ROAD ALLOWANCES**

- 6.1. The Township of Nipissing encourages the preservation of road allowances leading to the water, as provided in the Official Plan, Municipal Roads section.

- 6.2. The Township of Nipissing will not typically consider the stop up and closing of an unopened road allowance where the road allowance might potentially serve future development or where other land owners may be deprived of the sole vehicular access to their property or where the closure will result in conflicts with Township Official Plan policies, by-law regulations or procedures.
- 6.3. All costs incurred for the road closing are to be borne by the applicant.
- 6.4. Applications for the purchase of road allowance or shore road allowance shall be made using the document, Schedule "A", attached hereto and forming part of this by-law.
- 6.5. Applications to purchase shore road allowance which is adjacent to areas identified in the Township of Nipissing Official Plan as nesting areas, spawning areas, environmentally sensitive areas, and or areas where the public has or could have access to water may not be considered for sale. Council may request a detailed ecological study provided by a certified professional selected and contracted by the municipality. Such study shall indicate by a preponderance of evidence, that the proposed change is practical, necessary, attainable and beneficial. All costs of studies shall be borne by the Applicant, whether the application is approved or denied.
- 6.6. The Township will consider applications to close and sell minor portions of the shore road allowance, where applicable and as is required to legalize minor encroachments previously constructed by error in judgment.
- 6.7. An Administrative Fee for the submission of an application to purchase a Road Allowance or Shore Road Allowance will be applied per the current user fee by-law in effect. This fee will be non-refundable. A developer deposit shall be required for an application approved in principle by Council by Resolution. This amount shall be per the current user fee by-law in effect. This deposit shall be used for any legal costs, administrative and advertising fees, planning fees for the use of a professional planner, and or fees required for studies prepared in direct relation to the application.
- 6.8. Applicants must own property directly abutting the original shore road allowance. The Township will only convey to the adjacent landowner the portion of the shore road allowance above the controlled or normal high-water mark.
- 6.9. The applicant is responsible for making arrangements for the survey with an Ontario Land Surveyor. All costs associated with the survey are the responsibility of the applicant and are to be paid directly to the surveyor.
- 6.10. Where the Application is for the closing of a Shore Road Allowance, the final decision as to the direction in which the lot line extends across the road allowance rests with Council after input from the adjacent owners.

## **7. RECOVERY OF COSTS**

- 7.1. All costs incurred or anticipated to be incurred to dispose of the land, including but not limited to, legal fees, surveying costs, appraisal fees, encumbrances, advertising and improvements, shall be borne by the purchaser.

**8. ENACTMENT**

This By-Law shall come into effect upon passage. Applications and or requests received after this date shall be governed by the procedures detailed in this by-law.

By-Laws 2008-1227, Sale of Land; 2007-1205, Development Expenses and 1196, Restating Council's Policy re Shore Road Allowances are hereby repealed.

That this By-law shall come into force and effect immediately on the passing thereof.

Read a first, second and third time and passed this 3<sup>rd</sup> day of January, 2023.

THE CORPORATION OF THE  
TOWNSHIP OF NIPISSING

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Tom Piper,  
Mayor

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Kris Croskery-Hodgins,  
Municipal Administrator

**Schedule "A" to By-Law Number 2023-03**

**Township of Nipissing**

**Application to Purchase**

Road Allowance      OR      Shore Road Allowance

**Procedure**

**1. Application:**

- a) Submit a complete Application to the Township of Nipissing with payment of a \$250 Application Fee.
- b) Provide as much detail as possible including legal description of the property, copy of property deed for adjacent land owned by applicant, plan or sketch of request.
- c) Review the Official Plan for the Township of Nipissing to determine if the request is within a designated area of interest such as spawning, deer yard, etc.
- d) It is recommended that the applicant informs any adjacent owners to the subject land of the intentions of the application. This will also be done by the Township as part of the process.

**2. Council Determination**

- a) Staff will receive the application and supporting documents. A review of the request will be performed with a staff recommendation provided to Council at the next appropriate Council meeting where the application will be placed on the Agenda.
- b) Council will consider the application at the scheduled meeting. If finding in favour of the application, a Resolution of "Approval in Principle" will move forward and be sent to the Township solicitor for investigation and processing.
- c) If Council does not support the application, the item will not be passed and the process will end.

**3. Deposits – A Summary**

- a) Application fee \$250.00  
This is a Non-Refundable fee for preliminary investigation prior to the Application being placed on the Council Agenda.
  - b) Legal and Planning Deposit \$2,500.00  
This is a deposit to be held by the Township until the finalization of the application. This deposit will be used to cover legal fees, administrative fees, advertising costs, planning services required and the provision of any environmental studies required.
- i) *The File will be placed on hold until the deposit funds have been paid to the Township. This deposit is to be received by the Township within thirty (30) days of Council's "Approval in Principle".*

**4. Land Purchase Price**

This is calculated on the basis of \$25.00 per linear foot of lake frontage as measured and represented on the survey provided by a registered surveyor and filed with the Land Registry Office at the close of the file.

**5. Survey Plan**

Applicants are to instruct their surveyor to prepare a draft survey plan once the application has been "approved in principle" and the deposit has been paid to the Township. Instructions regarding the survey will be received from the Township

solicitor. The applicant is responsible for making arrangements for the survey with an Ontario Land Surveyor. All costs associated with the survey are the responsibility of the applicant and are to be paid directly to the surveyor.

**NOTE:** *If the Application is for the closing of a Shore Road Allowance, the final decision as to the direction in which the lot line extends across the road allowance rests with Council after input from the adjacent owners.*

**6. Municipal Solicitor**

The Township solicitor will give notice to the adjoining land owners, prepare a Public Notice for publication/posting, circulate letters to Bell Canada, Hydro One and Public Works Canada for clearance, prepare the by-laws required, investigate title of the property, and prepare a Transfer/Deed as well as provide information on any issues that may be encountered during each step.

**7. Registration of Transfer**

The final Transfer/Deed will be mailed to the applicant. It is recommended that the applicant have independent advice and take this Transfer/Deed to their solicitor for approval and arrange for their solicitor to register the document.

**8. A Word of Caution**

When the Township solicitor and planners do their investigation, sometimes the most unusual issues turn up and these have to be resolved which adds to the cost of the process. The most common issues are easements required by Hydro One or Bell Canada, but it could be title problems or objections by neighbours. We will work with the applicant to keep them informed during the process of any issues.

NOTE: Savings may be realized if abutting owners apply jointly. The advertising fee would be a shared cost.

**Township of Nipissing**

**Application to Purchase**

\_\_\_\_\_ Road Allowance

\_\_\_\_\_ Shore Road Allowance

**PLEASE PRINT**

Name of Applicant: \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Property Description of Subject Property:

\_\_\_\_\_

PIN Number of Subject Property: \_\_\_\_\_

Names of Adjacent Owners (If known):

1. \_\_\_\_\_

2. \_\_\_\_\_

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By signing below, the applicants acknowledge:

**I acknowledge that by purchasing the Original Shore Road Allowance, it does not permit construction or alteration of any kind of structure, or shoreline improvements on the shoreline allowance or shoreline alterations without obtaining all applicable approvals. The Township of Nipissing Zoning By-Law requirements must be complied with.**

Date:

Signature of Applicant(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I/We, \_\_\_\_\_, being the registered owner(s) of the lands subject of this application and, for the purposes of the Municipal Freedom of Information and Protection of Privacy Act, I/we hereby authorize the consent to the use by or the disclosure to any person or public body of any personal information that is collected under the authority of the Municipal Act or Planning Act (whichever Act applies) for the purposes of processing this application.

**NOTE: All registered owners of the property must sign the Application for Shore Road Allowance Closing.**