

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

By-law No. 2006-11

A BY-LAW TO ESTABLISH POLICIES For Closing and selling of Road Allowances and Licensing of Encroachments on Road Allowances

WHEREAS the Municipality may pass By-laws in respect of highways under its jurisdiction;

AND WHEREAS this Municipality from time to time receives applications to close and sell parts of these road allowances and to license encroachments thereupon;

AND WHEREAS it is the general policy of this Municipality that encroachments upon Municipal road allowances shall, over time, be removed;

AND WHEREAS the purpose of this By-law is to establish policies with respect to the disposition of, or retaining of, road allowances and licensing of encroachments on road allowances;

BE IT ENACTED AS A BY-LAW OF this Municipality as follows:

1 **General Policy**

Council may approve:

1.1 applications for closing and selling of unopened road allowances, except in those situations where Council deems it not to be in the best interests of the Municipality to proceed with such closings;

1.2 applications to license encroachments on road allowances, except in those situations where Council deems it not to be in the best interests of the Municipality to proceed with such licensing.

2 **Owner of adjacent lands**

The Applicants for road closing and licensing of encroachments must be an owner of land adjacent to or abutting that portion of said road allowance which is the subject matter of the Application, subject to Section 3.

3 **Application by non abutting Owners**

Council may consider and approve applications submitted by those persons who are not abutting land owners where Council is satisfied that :

3.1 **Consent**

the approval would not adversely affect the owner of land adjacent to or abutting the subject road allowance; in this regard, Council may require the applicant to obtain the consent of the abutting land owner(s);

3.2 **Access**

the applicant has appropriate road access (Municipally maintained roads and/or registered right-of-way) to the applicant's lands;

3.3 **Compliance**

the applicant's lands, including the lands which are the subject of the application, comply with the Zoning By-law requirements of the Municipality;

3.4 **Conditions**

such further conditions as Council deems necessary in light of the circumstances.

4 **Sale Price**

The sale price for the conveyance of a closed road allowance and the fee for the presence of an encroachment shall be based on a per square foot basis to be set by Council from time to time.

5 **Survey**

The Applicant for a road closing or encroachment license, if the Application is approved in principle by Council, may be required to obtain a survey of the subject property, which must show the original boundaries of the road allowance, and the location and size of all buildings situated on the road allowance. In the case of the closing of a shore road allowance, the survey shall show the original water level and the current water level.

6 **Legal and Administration Costs**

The Applicant will be responsible for all municipal, legal, administrative and survey costs in connection with the proposed Application. A Two Thousand (\$2,000) Dollar deposit will be required by the Municipality against legal and administrative costs.

7 **Shore roads under water**

No road allowance that is entirely under water shall be sold. Where a shore road allowance that is the subject of an application is partially under water, Council may direct that such portion that is under water not be sold and that such lands be shown as a distinct and separate part on the reference plan prepared pursuant to Section 5.

8 **Encroachments on road allowances**

Whereupon the Municipality gives approval for an encroachment, Council shall as a condition of such approval require the applicant to enter into a license agreement for such encroachment(s). The agreements, may include, among other things, provisions regarding the term and termination of the agreement, the removal of encroachments upon termination and payment of the Municipality's costs related to the authorization of such encroachment and the preparation of any agreements.

9 **Repeal of By-law No. 2002-23**

That By-law No. 2002-23 of this Corporation entitled "A By-law to Provide for the Leasing or selling of the soil and freehold of a Stopped up Highway or Part of a Highway" is hereby repealed.

10 **Repeal of By-law No. 2002-25**


That By-law No. 2002-25 of this Corporation entitled "A By-law to Establish Procedures with respect to Applications for Closing and Selling of Unopened, Unassumed Shore Road Allowances" is hereby repealed.


11 **Repeal of By-law No. 2003-08**

That By-law No. 2003-08 of this Corporation entitled "A By-law to establish policies for Closing and selling of Road Allowances and Licensing of Encroachments on Road Allowances" is hereby repealed.

Passed in open Council as read a First, Second and Third Time
this 22nd day of March, 2006.

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**

Per: 
Sam Dunneti, Mayor

Per: 
Brenda J. Fraser, Clerk/Administrator