

**THE CORPORATION OF THE TOWNSHIP OF MCGARRY**

**BY-LAW NUMBER 95-6**

**BEING A BY-LAW TO ESTABLISH PROCEDURES FOR THE  
SALE OF REAL PROPERTY BY THE MUNICIPALITY**

**WHEREAS** Section 193 (2) of the Municipal Act R.S.O. 1990, Chapter M.45, as amended, requires a Council of a municipality to pass a by-law to establish procedures for the sale of real property by the municipality;

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

1. This by-law may be known as the "Real Property Disposal" by-law.
2. For the purpose of this by-law:
  - a) "Appraisal" shall mean a written opinion from an independent authority as to the fair market value of a real property.
  - b) "Disposal" shall mean the sale of a real property or the lease thereof if the term of the lease is for a period of 21 years or longer.
  - c) "Independent authority" shall mean a person or firm active in the real estate profession who is considered by Council to be knowledgeable in the type of real property being considered for sale or lease and who has no direct or indirect financial interest in the property or who does not expect to benefit in any way from the sale or lease thereof.
  - d) "Local paper" shall mean the Northern Daily News, the McGarry News or the Kirkland Lake Gazette.
  - e) "Public notice" shall mean the posting of the property once by signs indicating that such property is for sale or lease, or one publication by voice or local paper, of the intention by Council to consider the sale or lease of a real property.
3. Prior to the disposal of any real property, the Council shall by resolution passed at a meeting open to the public, declare the real property to be surplus to the needs of the municipality.
4. The council may by resolution direct that the real property be sold by tender.
5. Except as provided in Clause 6, the Clerk-Treasurer shall cause to be obtained at least one (1) appraisal of the real property and shall report that appraisal to the Council prior to the decision on the disposal thereof.
6. Unless council requests or directs otherwise:
  - a) Appraisals shall not be obtained for
    - 1) any class of real property exempted by the Municipal Act or Ontario Regulation 815/94 as may be amended from time to time which regulations is attached hereto as Schedule "A" or
    - 2) if the disposal of real property is to any class of public body exempted by the Municipal Act or the said Regulation.

- b) Appraisals obtained for real property which are subject to a public tendering process shall be reported to Council in a closed session and shall not be released as a public document until the tenders thereof are opened and reported to Council.
7. The Clerk-Treasurer shall give or cause to be given a public notice of Council's intention to dispose of any real property and such public notice shall be given at least five (5) days in advance of the meeting at which the disposal is to be considered.
8. The Clerk-Treasurer shall prepare, or cause to be prepared a public register which register will list and describe the real property owned or leased by the Municipality and such shall be maintained by the Clerk in conformity with the Municipal act and regulations hereunder and be accessible to the public during the normal office hours on the days that the Clerk-Treasurer's office is open to the public.
9. The Clerk-Treasurer shall prepare or cause to be prepared, a Certificate of Compliance in the form set out in Schedule "B" and shall include such certificate with all deeds, transfers or leases authorized by this by-law for a fee of \$10.00.
10. That the Purchaser shall be responsible for the following:
- a) The cost of giving public notice
  - b) The cost of appraisal
  - c) The accepted purchase price
  - d) The cost of a Certificate of Compliance
  - e) All costs required to transfer the real property to his/her name.
11. This by-law shall become effective on the date of passing hereof.

READ a first and second time this 15th day of May, 1995.

  
REEVE

  
CLERK-TREASURER

READ a third and final time this 15th day of May, 1995.

  
REEVE

  
CLERK-TREASURER

## SCHEDULE "A"

### REGULATION MADE UNDER THE MUNICIPAL ACT

#### DISPOSAL OF PROPERTY

1. A municipality or local board may sell the following classes of real property without obtaining an appraisal under subsection 193 (4) of the Act:
  1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*.
  2. Highways, roads and road allowances.
  3. Land formerly used for railway branch lines if sold to an owner of land abutting the former railway land.
  4. Land that does not have direct access to a highway if sold to the owner of land abutting that land.
  5. Land repurchased by an owner in accordance with section 42 or the *Expropriations Act*.
  6. Land to be used for sites for the establishment and carrying on of industries and of industrial operations and incidental uses.
  7. Land sold under sections 112, 112.1, 112.2 and 113 of the *Municipal Act*.
  8. Easements granted to public utilities or to telephone companies.
  9. Land sold under the *Municipal Tax Sales Act*.
2. A municipality or local board may sell real property to the following classes of public bodies without obtaining an appraisal under subsection 193 (4) of the Act:
  1. Any municipality, including a metropolitan, regional or district municipality and the County of Oxford.
  2. A local board as defined in the *Municipal Affairs Act*.
  3. An authority under the *Conservation Authorities Act*.
  4. The Crown in Right of Ontario or of Canada and their agencies.
3. A municipality or local board is not required to list the following classes of real property in the public register established under subsection 193 (7) of the Act:
  1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*.
  2. All highways, roads and road allowances, whether or not opened, unopened, closed or stopped up.
  3. Land formerly used for railway branch lines.
4. This Regulation comes into force on the day that section 55 of the *Planning and Municipal Statute Law Amendment Act, 1994* comes into force.

SCHEDULE "B"

THE CORPORATION OF THE TOWNSHIP OF MCGARRY  
CERTIFICATE OF COMPLIANCE

Form for use with Section 193 of the Municipal Act

Certificate of Compliance with section 193 of the Municipal Act in  
the sale or disposition of the real property described as:

\_\_\_\_\_  
\_\_\_\_\_

(Description may be attached)

I hereby certify that:

1. The Corporation of the Township of McGarry passed By-law No. 95-6 on May 15th, 1995. It is a procedural by-law for the purposes of the sale or other disposition of real property and was in force on the date of the sale or disposition of the property described above.

2. The property was declared surplus under Resolution No. \_\_\_\_\_ enacted or passed on \_\_\_\_\_  
(date)

Delete if not applicable

3. An appraisal of the fair market value of the property was obtained on \_\_\_\_\_  
(date)

Delete if not applicable

4. The property sale or disposition is exempt from the requirement to obtain an appraisal of its fair market value under the following exemption:  
\_\_\_\_\_  
\_\_\_\_\_

Delete if not applicable

5. Public notice of intent to sell or dispose of the property was given by the following method  
\_\_\_\_\_  
\_\_\_\_\_

(describe method)

on the following date \_\_\_\_\_

\_\_\_\_\_  
(Signature of Clerk-Treasurer)  
Form approved December 20, 1994.

\_\_\_\_\_  
(Date)

**Certificate of Compliance**

as per

Section 193 (9) of the Municipal Act

The sale of the real property located at

\_\_\_\_\_  
\_\_\_\_\_

has been lawfully completed with respect to the following:

- \* a by-law outlining the notice to be given to the public and the other procedures to be followed with respect to the disposal of real property was in force in the municipality when the resolution declaring the property surplus was passed;
- \* the notice provisions required by the above noted by-law have been complied with;
- \* the required appraisal was obtained or,
  - i) the property is of a prescribed class that does not require an appraisal,
  - ii) the sale is to a prescribed public body, or,
  - iii) the sale is under Section 210.1 of the Municipal Act.

This will certify that the above transaction has been completed in compliance with the conditions.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_  
(day) (month) (year)

at the Township of McGarry in the District of Timiskaming.

\_\_\_\_\_  
Signed: Clerk-Treasurer