

The Corporation of the Township of North Huron

By-law No. 25-2020

A by-law to establish a policy and procedures for the sale and disposition of land owned by the Township of North Huron

WHEREAS Section 270 (1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, requires a municipality to adopt and maintain policies with respect to its sale and other disposition of land;

AND WHEREAS Section 8 (1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate;

AND WHEREAS Section 9 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS it is deemed expedient to pass a by-law to establish a policy governing the sale and other disposition of land owned by the Municipality;

NOW THEREFORE the Council of the Corporation of the Township of North Huron ENACTS as follows:

1. That this by-law may be cited as the "Sale and Disposition of Land By-law",
2. That Council hereby establishes a policy and procedures as per Schedule "A" attached hereto for the sale and other disposition of land owned by the Corporation of the Township of North Huron.
3. That By-law No. 25-2008 and all other by-laws or resolutions of the Corporation of the Township of North Huron inconsistent with the provisions herein are hereby repealed.
4. That this by-law shall come into force and takes effect on the day of the final passing thereof.

Read a first and second time this 2nd day of March, 2020.

Read a third time and passed this 2nd day of March, 2020.

Bernie Bailey, Reeve

CORPORATE SEAL

Carson Lamb, Clerk

Schedule “A” to By-law No. 25-2020 Township of North Huron

A Policy and procedures for the sale and disposition of land owned by the Township of North Huron

1. Short Title

1.1. This policy may be cited as the “Sale and Disposition of Land Policy”.

2. Legislative Requirement

2.1. Section 270 of the Municipal Act, 2001, as amended, requires all municipalities to adopt and maintain a policy with respect to its sale and other disposition of land.

3. Purpose

3.1. To ensure compliance by the Township with Section 270 (1) of the Municipal Act, 2001, as amended, which requires municipalities to adopt and maintain policies regarding the sale and other disposition of municipally owned land.

3.2. To establish and formalize a consistent, transparent and accountable procedure to be followed in the disposition of real property by the Township of North Huron.

4. Applicability

4.1. This Sale and Disposition of Land Policy applies to The Corporation of the Township of North Huron and any of its local boards where applicable.

4.2. The disposition of land by the Township shall be in accordance with the requirements of the Municipal Act, 2001 and the provisions of this Policy as applicable.

5. Definitions

5.1. “**Agreement**” means a legal document that binds the Corporation of the Township of North Huron and all other parties, subject to the provisions of the contract;

5.2. “**Appraisal**” means a written valuation of the fair market value of the surplus land provided by a land appraiser or such other qualified person as determined by Council;

5.3. “**CAO**” means the Chief Administrative Officer or designate of the Township of North Huron, appointed by By-law;

5.4. “**Clerk**” shall mean the Clerk or designate of the Township of North Huron, appointed by By-law;

5.5. “**Council**” refers to the current elected Council of the Township of North Huron;

5.6. “**Disposition/ Disposal**” means the sale, transfer, conveyance or exchange of the fee-simple interest in land or the granting of a lease of 21 years or longer by the Township, but does not include the granting of a lease for less than 21 years, the granting of a license, or the granting or release of an easement or right-of-way by the Township;

5.7. “**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;

5.8. “**Land**” means real property owned by the Township and includes any building and/or structures located thereon;

5.9. “**Market Value**” means the most probable price which property should bring in a competitive and open market as of a specified date under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably and in their own best interests, and assuming the price is not affected by undue stimulus;

5.10. “**Newspaper**” means a publication in printed sheet or online form, intended for general circulation in the Township of North Huron, published regularly at intervals of no longer than one week, consisting in great part of news

of current events of general interest that may or may not be sold to the public and to regular subscribers;

- 5.11. **“Notice”** shall mean the notification provided to the public and any other entity as required in accordance with the provisions of this Policy;
- 5.12. **“Real Property”** means lands owned by the Corporation of the Township of North Huron, whether vacant or not, or any other proprietary interest in lands owned by the Corporation of the Township of North Huron, and without limiting the generality of the foregoing, includes easements, right of ways, leaseholds exceeding 21 years, and any interest in the lands under agreement of purchase and sale;
- 5.13. **“Reeve”** means the Member of Council who has been duly elected under the Municipal Elections Act as Head of Council and represents the Township of North Huron in accordance with Section 225 of the Municipal Act;
- 5.14. **“Surplus”** means property that the Township does not require to meet its present or anticipated future needs;
- 5.15. **“Township”** shall mean the Corporation of the Township of North Huron; and
- 5.16. **“Treasurer”** means the Treasurer for the Corporation of the Township of North Huron, appointed by By-law.

6. Procedures

The following step-by-step procedures shall apply to the disposition of land by the Township. If applicable, multiple steps can be completed simultaneously and the order of these steps can be completed in the most practical and economical sequence.

Step One: Commencement of Disposal Proceedings

- 6.1. The Township may commence the proceedings to dispose of municipally owned land at its own initiative or upon the receipt of a written request or inquiry from an applicant.
- 6.2. All requests or inquiries received from an applicant regarding the potential disposition of municipally owned lands shall be directed to the Clerk.
- 6.3. Applicants interested in purchasing municipally owned land must provide a letter of request to the Clerk. The letter must contain the municipal address of the individual, contact information, reasons for his/her request to purchase the land including the proposed or intended use, the address and/or legal description and a location sketch of the said lands.
- 6.4. The Clerk will verify with the applicant that the lands in question are indeed owned by the Township and will circulate Department Heads the letter of request and a location sketch of the property.
- 6.5. The Clerk will canvass Department Heads to determine if it is appropriate to dispose of the lands or if there are reasons why the Township should not or is unable to dispose of the land at this time.
- 6.6. If it is the consensus of the Department Heads that the disposition of lands should not or cannot be supported, the Clerk will inform the applicant of this decision and provide an update to Council.
- 6.7. If it is the consensus of the Department Heads that the disposition of lands could potentially be pursued, the Township will continue with Step Two of this policy.

Step Two: Declaration of Surplus Land

- 6.8. Before any disposition of land by the Township (regardless of whether the proceedings were commenced by the Township or the applicant), the following actions shall occur, unless an exemption in Section 6.9 applies:
- a) Notice of lands considered to be surplus shall be circulated to all Department Heads by the Clerk for comment.
 - b) Once departmental comments have been received, a staff report shall be submitted to Council recommending:
 - i. Whether the land should be declared surplus;
 - ii. The suggested method of disposing of the land; and

- iii. That authority for staff to negotiate the terms and conditions of the proposed disposition be granted, if applicable.
- c) Provided that Council approves of a recommendation to declare the land surplus, the land shall be declared surplus by a resolution of Council at a meeting open to the public.

Exemptions for Declaration of Surplus Land:

- 6.9. The following classes of land shall be exempt from the requirement to be declared surplus prior to sale:
- a) Land that is transferred to another government body or public utility in exchange for other land for road allowance or road widening purposes within the geographic limits of the Township of North Huron.
 - b) Land that is transferred by the Township to a developer through the site plan or subdivision development process in exchange for land of equal or greater value.
 - c) Land acquired as a road widening or part of a road widening in connection with an approval or decision under the Planning Act, as amended, including road widening lands being conveyed, in whole or in part, back to the original owner of the land or their successor in title.
 - d) Land being expropriated from the Township by another governmental body pursuant to the Expropriations Act or any other legislation.
 - e) Closed highways or unopened road allowances, if sold to an owner(s) of land abutting the closed highway or unopened road allowance.
 - f) Land that does not have direct access to a highway if sold to the owner(s) of land abutting that land.
 - g) Land conveyed by the Township to fulfill the conditions of an existing agreement sanctioned by the Township.
 - h) Lands formerly used for railway lands, if sold to an abutting owner.

Step Three: Obtaining a Written Appraisal

- 6.10. Prior to the disposal of land by the Township, at least one written appraisal of the fair market value of the land shall be obtained by the Township.
- 6.11. When an appraisal is obtained by the Township, it shall state the criteria used to determine value within the appraisal.
- 6.12. An appraisal shall be considered current for a period of two years from the date of the appraisal. In the event that land is not disposed of by the Township within two years of the date of the most recent appraisal obtained by the Township, an updated appraisal is recommended, at the discretion of Council.
- 6.13. Notwithstanding that certain lands are exempted from the requirement for a declaration of surplus prior to disposition as set out in Section 6.9. of this Policy, an appraisal shall be required for those lands prior to any disposition unless exempt under Section 6.14. of this Policy.

Exemptions for Obtaining a Written Appraisal:

- 6.14. If it would not be practical or economical to obtain an appraisal as determined by staff or a minimum sale price has been approved by Council, then an appraisal will not be required. Circumstances in which it would not be practical or economical to obtain an appraisal include but are not limited to when the estimated value of the land to be disposed of is less than \$5,000.00, or when the cost of obtaining the appraisal would be more than 50% of the estimated value of the land.

Step Four: Approval of Methods for Disposition

- 6.15. If Council is desirous of a potential disposition of the surplus land, a resolution of Council must be passed that indicates the Township's intent to dispose of the land, and the method of disposition.

- 6.16. Council may authorize staff to pursue the potential disposal of surplus land by any of the following methods of disposition:
- a) Listing of the land with a real estate broker;
 - b) Direct advertising, which may include but is not limited to:
 - i. Advertising one or more times in a newspaper or newspapers of general circulation within the Township of North Huron;
 - ii. Listing of the surplus lands on the Council agenda and/or the Township's website as land that intended for sale; and
 - iii. Posting a sign on the surplus lands indicating the Township's intent to sell
 - d) Direct negotiations with a potential purchaser;
 - e) Public tender/ RFP process; or
 - f) Public auction.
- 6.17. To the best of its ability, Council shall prioritize providing equal opportunity to the public when approving of a method of disposition, unless it is not practical given the circumstances of the disposition.

Step Five: Review of Offers and Negotiation of Terms and Conditions

- 6.18. Once Council has reviewed all offers and staff have negotiated the key terms and conditions of the disposition, a staff report shall be brought forward to Council for approval of the disposition and authorization of an Agreement of Purchase and Sale to be prepared for adoption by By-law.
- 6.19. The Township's Solicitor and the CAO shall have the authority to negotiate, add, and/or amend any terms and conditions in the Agreement of Purchase and Sale with the purchaser, provided that the additional terms and conditions protect the rights and interests of the Township.

Step Six: Provision of Public Notice

- 6.20. Where Council has authorized an Agreement of Purchase and Sale to be prepared, notice of the proposed disposition shall be given to the public as set out below.
- 6.21. The notice of the proposed disposition shall be given as follows:
- a) Publication in a newspaper of general circulation within the Township of North Huron at least 14 days prior to the disposition of the land; and
 - b) Posting notice on the Township's website at least 14 days prior to the disposition of the land.
- 6.22. A notice of the proposed disposition shall contain the following information:
- a) The location of the land by reference to the municipal address or legal description, or both;
 - b) The name, title, and telephone number of one or more Township staff having information about the proposed disposition;
 - c) A general description of the method of disposition;
 - d) The latest date by which inquiries may be made of any staff member regarding the proposed disposition; and
 - e) The date that the Agreement of Purchase and Sale will be returning to Council to be adopted by By-law.
- 6.23. If the land proposed for disposition is part of an unopened road allowance, in addition to the notice requirements in Section 6.21, notice of the proposed disposition shall also be provided to all relevant public utility and telecommunications companies.

Exemptions for Providing Public Notice:

- 6.24. Lands that have been exempted from the requirement for a declaration of surplus prior to disposition shall also be exempted from the requirement to provide public notice of the disposition of the land.

Step Seven: Adoption and Execution of the Agreement of Purchase and Sale

- 6.25. After the latest date by which inquiries can be made regarding the proposed disposition of land, the Agreement of Purchase and Sale can be presented to Council for adoption by By-law.
- 6.26. At the time of the presentation of the Agreement of Purchase and Sale, Council shall hear any person who wishes to speak and applies to be heard in respect to the proposed disposition.
- 6.27. Upon adoption of the Agreement of Purchase and Sale by Council, the Reeve and Clerk shall have the ability to sign and execute the Agreement of Purchase and Sale on behalf of the Township.

7. Other Terms and Conditions

- 7.1. Regardless of which of the methods of disposition as set out in Section 6.16 of this Policy is authorized by Council, the disposition of land shall be on the terms and conditions and in a form satisfactory to the Township's Solicitor.
- 7.2. The Township shall adhere to any applicable legislative requirements governing the disposition of land at all times and, where this Policy is in conflict with the requirements of such legislation, the legislation shall supersede the provisions of this Policy and any disposition will proceed in accordance with the legislated requirements.

8. Proceeds of Disposition

- 8.1. All funds paid to the Township in transactions for the disposition of land shall be managed and accounted for by the Treasurer.