



The Corporation of the Town of Tecumseh

Policy Manual

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1. Purpose

- 1.1 To abide by Section 270(1) of the *Municipal Act, 2001* (the “Act”) that requires all municipalities to adopt and maintain a policy with respect to the “sale and other disposition of land”.
- 1.1 To establish consistent, transparent, and fair procedures relating to the Disposal of Real Property deemed surplus to the needs of the Town.

2. Scope

- 2.1 Subject to Section 2.2, this Policy is applicable to all Town operations involving the Sale of Surplus Land, including any agencies, boards, or commissions whose financial operations are accounted for within the Town’s financial statements.
- 2.2 This Policy is not applicable to the Disposal of land where:
 - 2.2.1 The transaction is governed by the federal and/or provincial government:
 - a. The sale of lands for Tax Arrears as indicated in the *Municipal Act, 2001*.
 - b. The expropriation of land under the *Expropriations Act, 1990*.
 - c. Any other situations as governed by provincial or federal legislation.
 - 2.2.2 The transaction is completed in accordance with Council direction and the legal entity obtaining ownership or interest in the land is any government authority.
 - 2.2.3 The Town is transferring land to a corporation in which the Town is the sole shareholder, and the transaction is completed in accordance with Council direction.
 - 2.2.4 The property is deemed to be a Special Project and the transaction is completed in accordance with Council direction.
 - 2.2.5 A closed alley, closed road, road allowance or Right-of-way is conveyed to an abutting property owner(s) and the transaction is completed pursuant to the Town’s Alley Closing Policy or otherwise with Council direction.

- 2.2.6 Land that does not have direct access to a highway is sold to the owner(s) of land abutting that land.
- 2.2.7 Other Agreements authorized by Council, such as a development agreement.
- 2.2.8 Land that is transferred by the Town to a developer through the site plan or other subdivision development process in exchange for land of equal or greater value.
- 2.3 This policy shall be reviewed every five (5) years from the date it becomes effective, and/or sooner at the discretion of the Chief Administrative Officer (CAO) or designate.

3. Definitions

- 3.1 **“Agreement of Purchase and Sale”** means a legal document that binds the Corporation of the Town of Tecumseh and all other parties, subject to the provisions of the contract.
- 3.2 **“Appraisal”** is a written opinion of the fair market value of the Surplus Property and may include a letter of opinion.
- 3.3 **“Disposal”** is the sale, transfer, conveyance, or exchange for other lands of the fee simple interest in the Surplus Property or the granting of a lease of 21 years or longer by the Town. A Disposal does not include the granting or release of an easement or a right-of-way, the granting of a lease less than 21 years, or the granting of a license.
- 3.4 **“Execute”** means to legally bind the Corporation of the Town of Tecumseh to the terms and conditions defined within an agreement by applying signatures of designated signing authorities of all parties named in the agreement and the corporate seal (if applicable).
- 3.5 **“Expression of Interest (EOI)”** means a situation where a prospective purchaser has expressed a written interest in acquiring Real Property either solicited or unsolicited by the Town.
- 3.6 **“Market Value”** means the most probable price which a property should bring in a competitive and open market as of a specified date under all condition's 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.
- 3.7 **“Non-Viable Real Property”** means surplus Real Property for which a building permit cannot be granted because it is either landlocked, or

because it is of insufficient size and shape to permit development unless developed in conjunction with abutting land.

- 3.8 **“Notice”** means the notification provided to the public in accordance with the provisions of this policy.
- 3.9 **“Other Land Interests”** is the granting of an interest in land that is not a disposal, such as easements, leases, encroachments, etc.
- 3.10 **“Real Property”** means land and buildings which are owned by the Town of Tecumseh, including Viable and Non-Viable property.
- 3.11 **“Sale”** means an agreement to purchase property for an agreed upon sum of money or declared equivalent in exchange for title to the property.
- 3.12 **“Special Project”** means Real Property to be used for development or other opportunity, as determined by Council.
- 3.13 **“Surplus Property”** means Real Property located in the Town of Tecumseh and owned by or for the benefit of the Town for which Council has determined that the disposition of the said land is in the best interests of the Town after a consideration of all relevant circumstances, including, but not limited to, the current and future programs and operational requirements of the Town.
- 3.14 **“Town”** means the Corporation of the Town of Tecumseh.
- 3.15 **“Viable Real Property”** means a parcel of land which, on its own, would be eligible for a building permit.

4. Interpretations

- 4.1 Any reference in this Policy to any statute or any section of a statute shall, unless expressly stated, be deemed to be reference to the statute as amended, restated, or re-enacted from time to time. Any references to a by-law or Town policy shall be deemed to be a reference to the most recent passed policy or by-law and any replacements thereto.
- 4.2 All dollars in this document are expressed in Canadian Dollars.
- 4.3 All solicitations and processes under this Policy shall be conducted in English.

5. General Conditions

5.1 Council Privilege

- 5.1.1 Council reserves the right to refuse, in its sole discretion, any submission to purchase any property or part thereof, regardless of whether the applicant has met all requirements herein.
- 5.1.2 Council reserves the right to adjust the Disposal price where, in the opinion of Council, it is in the best interests of the Town to do so.
- 5.1.3 Council reserves the authority to waive the application of any section of this Policy.

5.2 Standardization

- 5.2.1 It will be the policy of the Town, wherever possible, to standardize the Disposal of Real Property to allow for the Town to:
 - a. Divest itself from Real Property with little to no value to the Town.
 - b. Maximize asset potential.
 - c. Reduce the risk or liability to the Town.
 - d. Promote growth and development within the Town of Tecumseh.
 - e. Institute fair and competitive bidding on Real Property.
 - f. Apply a consistent and streamlined process with regard to the Disposal of Real Property.

5.3 Declaration of Surplus Property

- 5.3.1 The Director Legislative Services and Clerk or designate shall ensure that all utilities and third parties who have infrastructure, or other assets, located on the subject Real Property are consulted, prior to the Real Property being declared Surplus.
- 5.3.2 The Director Legislative Services and Clerk or designate shall obtain comments from Town departments regarding the resulting effects on operations prior to the subject Real Property being declared Surplus Property.

5.3.3 Prior to the Disposal of Real Property, and after receiving a written or verbal report from administration, Council, if it so wishes, shall declare the property Surplus Property by official resolution at a regular meeting of Council.

5.3.4 The Disposal of Viable or Non-Viable Real Property to abutting property owner(s) does not need to be declared surplus by Council prior to its Disposal.

5.4 Notifications

5.4.1 Notification of the intention to dispose of Real Property shall be provided to the public in any local publication (print and/or online) and/or the Town's website and/or the posting of a sign on the Real Property, for a period of not less than two (2) weeks.

5.4.2 The notice of the proposed Disposal shall contain the location of the Real Property by address or legal description, the name, title, and telephone number of one or more staff having information about the Disposal, a general description of the method of Disposal, and the latest date by which inquiries may be made to any staff member.

5.4.3 Notice may not be provided if the Disposal of Real Property is for a land exchange. This will be determined and approved by the CAO.

5.4.4 Lands that are exempted from the requirement for a declaration of surplus shall also be exempted from the requirement to provide public notice of the disposal.

5.4.5 If the Town is provided an Expression of Interest to purchase Real Property, subject to approval by Council, the Disposal of the subject Real Property may be conducted through direct negotiation with the potential buyer and public notice of the intent to dispose of the subject Real Property will not be provided. (See 5.8(b)(iii) herein).

5.5 Property Values

5.5.1 Prior to the negotiation of the Disposal of Viable Real Property, at least one Appraisal shall be obtained.

5.5.2 It is not necessary to obtain an appraisal when the estimated value of the Real Property to be disposed of is less than \$10,000.00, or when the cost of obtaining the appraisal would be more than 50% of the estimated value of the land.

- 5.5.3 In the event the Real Property is not disposed of by the Town within two (2) years of the effective date of the most recent appraisal obtained by the Town, an updated appraisal will be required.
- 5.5.4 Notwithstanding that certain lands are exempt from the requirements of this Policy as set out in 2.2, an appraisal shall still be required for those exempt lands prior to the Disposal with the exception of 5.5(b) above.
- 5.5.5 Disposal of Viable Real Property will be at the appraised value, or equivalent consideration, plus costs as shown below in section 5.13(a) unless Council directs otherwise.
- 5.5.6 Non-Viable Real Property which cannot be rendered viable by means of a consent under the *Planning Act*, regardless of location, will be disposed of at no less than on a full cost recovery basis unless otherwise directed by Council.
- 5.5.7 Non-Viable Real Property which can be rendered viable by means of consent under the *Planning Act* will be sold at appraised Market Value or equivalent consideration plus costs as shown below in section 5.13(a) unless Council directs otherwise.

5.6 Appraisals

- 5.6.1 Appraisals will be prepared by one of the following:
 - a. An independent qualified appraiser who may be a registered member in good standing of the Appraisal Institute of Canada.
 - b. A real estate brokerage firm or an independent real estate agent.
 - c. Any other person deemed by the CAO to be qualified for this purpose, including a qualified land assessor in the Province of Ontario.
 - d. The acquisition of professional services to provide Real Property Appraisals shall be conducted in accordance with the Town's Procurement By-Law or policies as may be applicable.

5.7 Land Surveys

- 5.7.1 Before the Disposal of any Real Property, the Town shall obtain or require a survey or reference plan of the Real Property from an

independent surveyor in accordance with the laws of the Province of Ontario. The acquisition of professional services to provide land surveys shall be conducted in accordance with the Town's Procurement By-Law or policies as may be applicable. The CAO may waive this requirement if an existing survey or reference plan is available.

5.8 Methods of Disposal

5.8.1 Multiple Listing Service (MLS)

- a. Subject to direction from Council, Viable Real Property will be listed on the Multiple Listing Service by a real estate brokerage firm or independent real estate agent retained by the Town for Real Property transactions. The retention of real estate brokers or agents to dispose of Viable Real Property shall be conducted in accordance with the Town's Procurement By-Law or policies as may be applicable.
- b. All Viable Real Property will be marketed for a period of at least thirty (30) n business days prior to the review and consideration of any offer to purchase, except as otherwise provided in this Policy.

5.8.2 Direct Negotiation

- a. Viable Real Property or Non-Viable Real Property which can be rendered viable by means of a consent under the *Planning Act*, may be sold directly to the abutting property owner(s). If more than one abutting property owner wishes to acquire the Real Property, the Director of Legislative Services/Clerk or designate will contact the abutting owners to determine whether a consensus can be arrived at in splitting the property among interested abutting owners. In the event a consensus cannot be arrived at, all interested abutting owners will each be requested to provide the Town with an offer for the entire Real Property.
- b. Non-Viable Real Property which cannot be rendered viable by means of consent under the *Planning Act* may be sold directly to the abutting property owner(s) for lot consolidation purposes. Unless Council directs otherwise the sale of this type of property will be done for no less than on a full cost-recovery basis, including, but not limited to, survey costs, costs for plans, studies or reports, Appraisals, consulting fees, legal fees, disbursements, advertising, improvements,

and administrative costs. If more than one abutting property owner wishes to acquire the Non-Viable Real Property, the Director Legislative Services and Clerk or designate will contact the abutting owners to determine whether a consensus can be arrived at in splitting the Non-Viable Real Property and costs among interested abutting owners. In the event a consensus cannot be arrived at, all interested abutting owners will each be requested to provide the Town with an offer for the entire Non-Viable Real Property.

- c. If the Town receives an Expression of Interest to purchase Real Property, the Town may directly negotiate the sale of said property with the potential buyer upon Council's approval.

- 5.8.3 Subject to direction from Council, the Town reserves the right to dispose of Real Property by way of tender, public auction, or request for proposal/quotation.

5.9 Real Property Transactions

- 5.9.1 Disposals will be done in a manner consistent with accepted conveyancing practices, and in accordance with all applicable federal and provincial legislation and municipal by-laws and policies.
- 5.9.2 The Director Legislative Services and Clerk, or designate, has the authority to extend or abridge the closing date or extend or abridge the time frames on any conditions previously approved by Council on any disposal provided such extension or abridgement does not change the intent of the approved disposal.

5.10 Parkland and Natural Environment Areas

- 5.10.1 There will be no Disposal of parkland or natural environment areas without Council approval.
- 5.10.2 Disposal of parkland and other Real Property having significant natural features requires compliance with the Official Plan requirements and, if applicable, the implementation of appropriate measures to protect the significant natural features.

5.11 Heritage Properties

- 5.11.1 There will be no Disposal of Real Property under Part IV or Part V of the *Ontario Heritage Act* (a "**Heritage Property**") without first a

report with recommendation from the Director, Development Services. Council can, after receipt of said report, decide to sell or dispose of the subject property with Council approval.

5.12 Disposal Price

- 5.12.1 A minimum Disposal price shall be determined by the Director Legislative Services and Clerk or designate based on either \$1.00 plus the estimated costs or the appraised value plus estimated costs incurred by the Town to dispose of the surplus Real Property. Costs may include, but are not limited to, the cost of; an Appraisal, Survey, plans, studies, reports, legal fees, disbursements, consulting fees, advertising, improvements, and administrative fees.
- 5.12.2 Where there is a variance of greater than 10% between the minimum Disposal price and the proposed sale price of the land, and the proposed sale price is less than the minimum Disposal price, the variance shall be approved by Council. Where there is a variance of 10% or less, and the proposed sale price is less than the minimum Disposal price, the variance shall be delegated to and approved by the CAO and reported to Council.

5.13 Offers of Purchase

- 5.13.1 All offers to purchase Real Property from the Town by means of an Agreement of Purchase and Sale must be accompanied by a deposit in an amount that is at least the greater of \$1,000 or 10% of the offered purchase price.
- 5.13.2 Unless otherwise directed by Council, all Disposals will be on a cash basis. If the CAO is of the opinion that exceptional and specific circumstances exist that would warrant consideration of disposal on something other than a cash basis, this will be presented to Council for consideration.

5.14 Financial Responsibilities

- 5.14.1 Unless otherwise negotiated in the Offer to Purchase, the purchaser shall be responsible for all costs incurred by the Town attributable to the sale or disposal of the subject property. These costs include, but are not limited to, the costs of; surveys, plans, studies, report costs, Appraisals, consulting fees, legal fees, disbursements, advertising, improvements, and administrative fees.

- 5.14.2 Should expenses be incurred by the Town as part of the sale or disposal of the subject property or if the Town incurs expenses for the intention of the Disposal of Real Property, but efforts do not result in a sale, the expenses shall be paid from such reserve or account as determined by the Town Treasurer.
- 5.14.3 All proceeds from the disposition of Real Property shall be deposited into the applicable reserve or fund in accordance with Town Policy, third party agreements, legislation or as otherwise determined by the Town Treasurer.

5.15 Reporting

- 5.15.1 When Council is presented with a report considering the declaration of Real Property to be surplus, the report shall include at a minimum:
 - a. A description, location and sketch of the subject Real Property and its current uses.
 - b. The reason the Real Property should be declared surplus to the Town's needs.
 - c. Associated risk with selling/not selling the Real Property.
 - d. Persons, corporations, authorities, local boards, and bodies that should be contacted and notice given (other than general public notice).
 - e. Whether an Expression of Interest has been provided for the subject Real Property and details provided therein.
 - f. Recommendations as to the method of Sale.
 - g. Recommendations to terms and conditions of a potential Sale.
- 5.15.2 When Council is presented with a report to consider an offer to purchase, the report shall include at a minimum:
 - a. A summary of the process used to offer the Real Property for Sale and results thereof.
 - b. The potential purchaser and offered price for the subject Real Property.
 - c. Proposed future use of Real Property.

5.15.3 Discussions regarding the Disposal of Real Property may, as appropriate, be held in a closed in-camera session of Council as defined in the *Municipal Act, 2001*.

5.15.4 Any decisions to be made by Council as a result of discussions regarding the Disposal of Real Property in a closed session shall be reported in a public session by official resolution.

5.16 Authorizing By-Law

5.16.1 Any Disposal of Real Property shall be ratified by a by-law authorizing the sale at a regular meeting of Council.

5.17 Closed Session

5.17.1 All tenders, quotations, or offers may be presented to Council in Closed Session for discussion, in accordance with the closed meeting provisions of Section 239 of the *Municipal Act* (as amended), unless Council direction has been given to staff to negotiate the sale within certain terms or an alternate method of sale is approved by Council.

6. Responsibilities

6.1 **Council** has the authority and responsibility to:

6.1.1 Refuse any submission to purchase any Real Property or part thereof.

6.1.2 Delegate their authority, by way of resolution, to the CAO in regard to this Policy as they see fit.

6.1.3 Declare Real Property surplus Property by official resolution at a public meeting of Council prior to the disposal of Real Property.

6.1.4 Approve offers of purchase and sale.

6.1.5 Consider the potential Disposal of un-serviced Real Property as recommended.

6.1.6 Consider the potential Disposal of parkland or natural environment areas as recommended.

6.1.7 Consult with Development Services regarding the Disposal of Heritage Property and approve or disallow the same.

6.1.8 Waive any section of this Policy.

6.2 The **CAO** has the authority and responsibility to:

6.2.1 Act in a manner in which Council is responsible in regard to this Policy if said authority has been officially delegated by Council.

6.2.2 Determine if public notice of the intent to sell Real Property is required on a case-by-case basis.

6.3 The **Director Legislative Services and Clerk** has the authority and responsibility to:

6.3.1 Periodically review listings of all Real Property to determine which property may be surplus to the Town's needs.

6.3.2 Circulate notice of potential surplus Real Property to the appropriate Town departments or designates for comment and input, prior to Council deeming the property surplus.

6.3.3 Circulate notice of potential surplus Real Property to utilities and/or any other third-party having infrastructure or other assets located on the subject Real Property for comment and input, prior to Council deeming the Real Property surplus.

6.3.4 Make recommendations to Council about declaring Real Property surplus and seek Council's authority to offer the Real Property for disposal.

6.3.5 Ensure property Disposals are in keeping with this Policy and make recommendations to Council.

6.3.6 Obtain qualified real estate brokers or agents to assist, as appropriate, in the Disposal of Real Property in accordance with the Town's Procurement By-Law or policies as may be applicable.

6.3.7 Obtain independent property Appraisals for Real Property as necessary in keeping with any requirements imposed by any applicable legislation, by-law, or this Policy, and in accordance with the Town's Procurement By-Law or policies as may be applicable.

6.3.8 Contact owners abutting Viable and Non-Viable Real Property if more than one abutting property owner wishes to acquire said property to determine whether a consensus can be arrived at in splitting the Real Property and costs among interested abutting owners. If a consensus cannot be reached, the Director Legislative

Services and Clerk will request offers from all interested abutting owners for the entire subject Real Property.

- 6.3.9 Determine the appropriate amount of the deposit that shall accompany an Agreement of Purchase and Sale. The amount shall be no less than One Thousand Dollars (\$1,000.00).
 - 6.3.10 Consult with the CAO if exceptional and specific circumstances exist that would warrant contemplation of a Disposal on something other than a cash basis and present a recommendation to Council for consideration.
 - 6.3.11 Report the details of any Real Property Disposal to the appropriate departments and to the Treasurer for the purpose of maintaining accurate corporate asset records.
 - 6.3.12 Provide the Director Legislative Services and Clerk with final copies of any and all agreements in regard to Real Property and the Disposal of Surplus Real Property.
- 6.4 **Staff** have the authority and responsibility to:
- 6.4.1 Abide by the Sale of Surplus Land Policy.

7. References and Related Documents

- *Municipal Act, 2001*
- *Expropriations Act, 1990*
- *Planning Act, 1990*