

THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE

BY-LAW NO. 65-2022

Being a By-law to adopt a policy to govern the sale or other disposition of surplus lands and closing of highways and road allowances.

WHEREAS section 270 (1) of the *Municipal Act, 2001*, as amended, requires every municipality to establish and maintain policies governing the sale or other disposition of its land;

AND WHEREAS Section 5(3) of the *Municipal Act, 2001*, as amended, provides that the powers of The Corporation of The Municipality of Thames Centre, shall be exercised by by-law;

AND WHEREAS pursuant to the provisions of the *Municipal Act, 2001*, the municipality is authorized to pass bylaws relating to the establishment, maintenance, or closing of a highway, including a road allowance;

AND WHEREAS the Council of the Corporation of the Municipality of Thames Centre deems it expedient to establish and adopt a policy with respect to the sale or other disposition of surplus lands and the closing of highways and road allowances;

NOW THEREFORE be it enacted and it is hereby enacted by the Council as a by-law of the Corporation of the Municipality of Thames Centre as follows:

1. **THAT** the Mayor and Members of Council of the Municipality of Thames Centre hereby adopts the Sale or Other Disposition of Surplus Lands and Closing of Highways and Road Allowances Policy, Policy No. CP-A-7.2 attached hereto and marked as Schedule "A".
2. **THAT** By-law No. 48-2008, is hereby repealed.
3. **THAT** By-law No. 56-2018, is hereby repealed.
4. **THAT** this By-law shall come into force and take effect upon final passing.

READ a **FIRST** and **SECOND** time this 11 day of July, 2022.

READ a **THIRD** time and **FINALLY PASSED** this 11 day of July, 2022.



Mayor, A. Warwick



Clerk, T. Michiels



Policy: Sale or Other Disposition of Surplus Lands and Closing of Highways and Road Allowances Policy

Policy Number: CP-A-7.2 – **By-law 65-2022**

Effective Date: June 25, 2018

Revised Date: July 11, 2022

PURPOSE:

Section 270(1) of the Municipal Act, 2001, as amended, requires municipalities adopt policies regarding the sale and other disposition of municipally-owned land.

The purposes, goals and objectives of this policy are to:

- Adhere to Municipal Act requirements by creating a policy to oversee the sale and disposition of municipally owned land;
- Create a policy that is inclusive of disposition of real property assets, and closing of highways and road allowances;
- Establish a consistent, transparent and accountable procedure to be followed;

POLICY:

DEFINITIONS

In this By-law, the following terms shall have the following meanings:

Act: means the *Municipal Act, 2001* as amended from time to time.

Appraisal: means a written valuation of the fair market value of land, performed by an independent, certified appraiser that is satisfactory to the CAO.

Chief Administrative Officer (CAO): means the Chief Administrative Officer of the Municipality of Thames Centre.

Clerk: means the Clerk of the Municipality of Thames Centre.

Council: means the Council of the Municipality of Thames Centre.

Highway: has the meaning ascribed to it under the *Municipal Act, 2001*, and applies to any highway in respect of which the Municipality has sole or joint jurisdiction pursuant to the provisions of the Act.

Land: means real property owned by the Municipality and includes any building located thereon;

Meeting: means any regular or special meeting of Council open to the public.

Municipality: means the Corporation of the Municipality of Thames Centre.

Road Allowance: includes all road allowances located within the Municipality over which the Municipality has sole or joint jurisdiction, whether created by the Crown surveyors or shown on a registered plan of subdivision, and whether or not opened, unopened, closed or stopped up.

Surplus: means property that the Municipality does not require to meet its present or anticipated future needs.

APPLICATION

This policy shall not apply to the sale of Surplus Land to:

- (a) a municipality;
- (b) a local board including a school board;
- (c) the Crown in right of Ontario or Canada and their agencies.

PROCEDURES

General Conditions Governing the Disposition of Land

Before any disposition of land by the Municipality, the following actions shall occur, unless an exemption applies:

- (a) The land shall be declared surplus by a resolution of Council;
- (b) At least one appraisal shall be obtained, if required under this Policy;
- (c) The method by which the land is to be disposed of shall be approved by Council;
and
- (d) Notice of the proposed disposition shall be provided to the public.

The following procedures shall apply to the disposition of land by:

Step One: Declaration of Surplus Land

- 1) Council shall declare the land to be surplus by resolution in the following manner:
 - (a) Notice of lands to be considered surplus shall be circulated to all Directors for comment.
 - (b) Once departmental comments have been received, a report shall be submitted to Council recommending: (1) whether the land should be declared surplus (2) the suggested method of disposing of the land, and (3) whether staff is requesting authority to negotiate the terms and conditions of the proposed disposition.
- 2) 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 Municipality of Thames Centre.
 - (b) Land that is transferred by the Municipality 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 Municipality by another governmental body pursuant to the *Expropriations Act* or any other legislation.
 - (e) Closed highways, if sold to an owner(s) of land abutting the closed highways.
 - (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 to a person by the Municipality as part of the settlement of litigation proceedings.
 - (h) Lands formerly used for railway lands, if sold to an abutting owner.

Step Two: Obtaining an Appraisal

- 3) Prior to the disposal of land by the Municipality, at least one appraisal of the fair market value of the land shall be obtained by staff.
- 4) An appraisal at the discretion of the CAO is current for a period of up to two years from the date of the appraisal. In the event that land is not disposed of by the Municipality within two years of the date of the most recent appraisal obtained by the Municipality, an updated appraisal will be required.

- 5) 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 \$10,000.00, or when the cost of obtaining the appraisal would be more than 50% of the estimated value of the land.
- 6) When an appraisal is obtained by staff, it shall state the criteria used to determine value within the appraisal.
- 7) Where there is a variance of greater than 10% between the appraised fair market value of land and the proposed sale price of the land, and the proposed sale price is less than the appraised fair market value of the land, the variance shall be approved by Council. Where there is a variance of 10% or less between the appraised fair market value of land and the proposed sale price of the land and the proposed sale price is less than the appraised fair market value of the land, the variance shall be approved by the CAO and reported to Council.
- 8) Notwithstanding that certain lands are exempted from the requirement for a declaration of surplus prior to disposition as set out in Paragraph 2 of this Policy, an appraisal shall be required for those lands prior to any disposition, with the exception of lands to which Paragraph 5 applies.

Step Three: Negotiation of Terms and Conditions and Agreement of Purchase and Sale

- 9) Once staff have negotiated the key terms and conditions of the disposition, a Report shall be brought forward to Council in line with the Notice By-law, for approval of the disposition, unless an exemption applies.
 - (a) Once Council has approved the key terms and conditions of the disposition, an Agreement of Purchase and Sale shall be prepared by staff. The Municipal Solicitor and the CAO shall have the authority to negotiate any additional 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 Municipality.
 - (b) The CAO shall have the authority to approve the final terms and conditions in the Agreement of Purchase and Sale on behalf of the Municipality.
- 10) The following minor land dispositions shall be exempt from the requirement to receive Council approval of the disposition:
 - (a) Agreements to convey lands originally transferred to the Municipality as a road widening(s) in connection with an approval or decision made under the *Planning Act* back to the original owner of the land, or their successor in title, either in whole or in part;
 - (b) 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 Municipality of Thames Centre;

- (c) Land that is transferred by the Municipality to a developer through the site plan or subdivision development process in exchange for land of equal or greater value.

11) In the event that an Agreement of Purchase and Sale is required for a disposition of land, and the disposition of land does not require the prior approval of Council under paragraph 10 herein, then the CAO shall have the authority to approve the terms and conditions of the Agreement of Purchase and Sale, and to execute same on behalf of the Municipality.

Items qualifying for disposition under this section are exempt from notice requirements.

Step Four: Provision of Public Notice

12) Where an Agreement of Purchase and Sale is pending consideration at a meeting of Council, notice of the proposed disposition shall be given to the public as set out below.

13) The notice of the proposed disposition shall be given and contain information in line with the Municipality's Notice By-Law.

14) In addition to the notice requirements in Paragraph 13, notice of the proposed disposition shall also be provided to the following groups regarding the following matters:

- (a) Notice of unopened road allowance dispositions shall also be provided to all local public utility and telecommunications companies.

- (b) Notice of submerged road allowance dispositions shall also be provided to the Ministry of Natural Resources and may not proceed without consent.

15) Notwithstanding Paragraph 13 of this Policy, 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.

16) Approved Methods of Disposition

- (a) Council may authorize staff to dispose of land by any of the following methods:

- (i) listing the land or using a real estate broker;

- (ii) direct advertising;

- (iii) direct negotiations with a purchaser;

(iv) tender/RFP process; or

(v) public auction.

17) Terms and Conditions of Disposition

Regardless of which of the methods of disposition as set out in Paragraph 16 of this Schedule is approved by Council, the resulting Agreement of Purchase and Sale and general disposition of land shall be on the terms and conditions and in a form satisfactory to the CAO.

18) Compliance with Provincial Legislation

The Municipality shall adhere to any applicable legislative requirements governing the disposition of land at all times and, where this By-law is in conflict with the requirements of such legislation, the legislation shall supersede the provisions of this By-law and any disposition will proceed in accordance with the legislated requirements.

19) Steps may be Concurrent

The steps and procedures required to close all or a stipulated portion of a highway or road allowance, to declare Lands to be Surplus Lands, and to authorize the sale of Surplus Lands, including provision of Notice, contents of Notice, and holding Meetings and passing by-laws pertaining to same, may be taken as one step or separately, and concurrently or at different times.

Proceeds of Disposition

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

Cross References:

Municipal Act, 2001

Notice By-law

Planning Act

Purchasing By-law