02-01-08

Town of Saugeen Shores
Corporate Policy

Sale and Other Disposition of Land Policy	
Department: Corporate Services	**Prepared By:** Legislative Services
Date of Passage: April 11, 2023	**Resolution Number:** 71-2023

References and Related Documents:

Municipal Act, 2001, S.O. 2001, c.25, as amended
Planning Act, R.S.O. 1990, c. P. 13
By-law 109-2002, the Town's By-law to Prescribe the Form and Manner and Times for the Provision of Notice

Purpose

This Policy is made pursuant to Section 270 of the *Municipal Act, 2001* which requires municipalities to adopt and maintain a policy with respect to its sale and other disposition of land. The purpose of this policy is to set out the process to declare lands surplus and the method of sale or disposition of land owned by the Town of Saugeen Shores ("Town"). It is the desire of the Town to ensure that its policy provides for openness and transparency in the sale and other disposition process of its land and to ensure that the consideration for such disposal is fair, reasonable and in the best interest of the Town.

Scope

This policy applies to all sales and other dispositions of land by the Town unless exempt as per this policy. This policy does not apply to leases with terms of less than 21 years.

This policy sets out the process of appraisal and valuation, the method of sale, and the manner in which notice will be given to the public, in an effort to provide transparency and ensure accountability.

This policy shall be read in accordance with the procedures and guidelines referenced herein as well as referred to in any associated procedures, as applicable.

Definitions

For the purpose of this policy and associated procedures, the following words shall have the meaning ascribed herein, unless the context otherwise requires:

"CAO" means the Chief Administrative Officer of the Corporation of the Town of Saugeen Shores.

"Clerk" means the Clerk of the Corporation of the Town of Saugeen Shores.

"Council" means the Council of the Corporation of the Town of Saugeen Shores.

"**Disposition**" means the sale, transfer, conveyance or exchange of the fee simple interest in land or the granting of a lease by the Town for a term of more than 21 years, and "**disposal**" shall have a similar meaning.

"**Expropriations Act**" means the *Expropriation Act,* R.S.O. 1990, c. E26, as amended or any successor legislation.

"Fair Market Value" means the amount the land might be expected to realize if sold in the open market with the parties acting at arm's length.

"Fee Simple" means the permanent and absolute ownership of land with the freedom to dispose of it at will.

"**Highway**" means a common and public highway, street, avenue, public lane, parkway, driveway, square, place, bridge, viaduct, or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

"Land" means real property owned by the Town.

"Lease" or **"leased**" means to enter into a contract in which the Town agrees to rent Town Land to another party for a term of 21 years or more.

"**Local Board**" means a municipal service board, transportation commission, public library board, board of health, police services board, planning board or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding school boards and conservation authorities.

"**Meeting**" means any regular, special or other meeting of Council.

"MPAC" means the Municipal Property Assessment Corporation or any

successor thereto.

"**Municipal Act, 2001**" means *Municipal Act, 2001*, S.O. 2001, c.25, as amended or any successor legislation.

"Notice By-law" means the By-law adopted by Council pursuant to the *Municipal Act, 2001*, Section 270 (1) 4.

"**Sale**", "**sell**", "**selling**" and "**sold**" means any transaction where an interest in Land is transferred or disposed of with or without consideration.

"**Surplus**" means Land that the Town no longer requires to meet its current or anticipated future needs.

"Town" means the Corporation of the Town of Saugeen Shores.

"Unopened Road Allowance" and "URA" means a road allowance delineated in a reference plan or survey that has not been assumed or established by the passing of a by-law for public use by the Town nor has the Town expended any money towards the maintenance of the said road allowance.

"Value" and "**Valuation"** means the valuation of the Land as determined by the methods outlined in Section 2.

1. The Policy - Sale or Other Disposal of Land ("the Policy")

1.1 Unless an exemption is provided for in this policy, before disposing of any Land, Council shall:

1.1.1 Pass a resolution at a meeting open to the public declaring the Land to be surplus.

1.1.2 Value the Land in accordance with Section 3 unless Council authorizes the disposition of Land without a valuation in a public meeting if it deems it in the best interest of the Town to do so.

1.1.3 Give notice to the public in accordance with Section 4.

2. Declaration of Surplus (See Section 1.1.1 above)

2.1 Prior to the disposal of Land by the Town, Council shall declare the land to be surplus in the following manner:

2.1.1 The Town Clerk, or their designate, will submit a report to Council recommending that the Land in question be declared surplus to the needs of the Town.

2.1.2 Where Council deems it advisable to adopt any recommendation with respect to declaring any Land owned by the Town surplus Council will, in a meeting open to the public, pass a resolution declaring any such land surplus to the needs of the Town.

2.2 Notwithstanding the foregoing, the following classes of land are exempt from the requirement to declare such land surplus prior to its disposal:

2.2.1 all land owned by the Town that is zoned for industrial uses;

2.2.2 all cemetery plots owned by the Town; and

2.2.3 any land transferred to the Town for security or for temporary roads or other works in connection with any agreement to which the Town is a party under the *Planning Act*, R.S.O. 1990, c. P. 13, as amended.

3. Value or Valuation (See Section 1.1.2 above)

3.1 Where the value of the Land needs to be determined, it will be valued by a method determined to be satisfactory to Council including but not limited to:

3.1.1 An appraisal or an opinion of an independent qualified appraiser who shall be a registered member in good standing of the Appraisal Institute of Canada;

3.1.2 The value assigned by the Municipal Property Assessment Corporation (MPAC);

3.1.3 An opinion of value by a licensed real estate agent;

3.1.4 The amount set out in an agreement of purchase of sale between a purchaser and vendor/seller who are at arm's length for fair market value;

3.1.5 The amount agreed to for rent in a lease entered into between a lessee and lessor who are at arm's length for fair market value; or

3.1.6 Such other means as may be specifically determined as appropriate by Council in the circumstances.

3.2 Notwithstanding Section 3.1 above, classes of Land or types of transactions as outlined in Section 6 herein may not require a valuation.

4. Notice (See Section 1.1.3 above)

4.1 Upon Council having declared the land surplus to the needs of the Town, but before any such land is disposed of by the Town, the Clerk shall give notice to the public of the intention to dispose of the land in a manner consistent with By-

law Number 109-2002, the Town's By-law to Prescribe the Form and Manner and Times for the Provision of Notice, or any of it's successors.

4.2 If Notice is required to be given, notice shall include sufficient information to identify the Land being declared surplus and may include the following:

- a municipal address, if available;
- the legal description of the land;
- the inclusion of a map or sketch of the land, if available;
- the date and time of the Council meeting when disposal of the land will be considered by Council, if applicable;
- the contact information of the staff person who will receive comments and the deadline for submission, if applicable.

4.3 If Land is to be sold by public tender, then Notice, in addition to those items outlined in Section 4.2, shall include the following:

- the date for submitting the tender;
- the notation "the highest or any tender may not necessarily be accepted";
- the land is being sold on an "as is, whereas basis"; and
- the date, time and location of opening tenders.

4.4 Notwithstanding the above, Land being disposed of under Section 5 of this policy is exempted from the Notice requirements in Section 1.1.3.

5. Exemptions from the Policy

5.1 The Policy does not apply to the following:

5.1.1 Land 0.3 metres or less in width acquired for road widening purposes or in connection with an approval or decision under the *Planning Act*, sold to any adjoining landowner or government or government related agency;

5.1.2 Easements granted to public utilities, an electricity distribution company, a power generation company, a telephone company or a similar entity;

5.1.3 Land leased or sold under Section110 – *Municipal Act*, 2001 – Municipal Capital Facilities;

5.1.4 Land sold under *Part XI* of the *Municipal Act, 2001,* Sale of Land for Tax Arrears;

5.1.5 Land being reconveyed to a Person that originally conveyed it to the Town where the Land is held by the Town in trust or subject to a condition, obligation or legislation that requires a specific conveyance by the Town;

5.1.6 Land being reconveyed to the Person who conveyed the Land to the Town where the Land is held by the Town as security for the performance of obligations for that Person pursuant to an agreement between the Person and the Town;

5.1.7 Real property that vested in the Town by by-law, operation of law or otherwise which neither the Town nor the registered owner intended to vest;

5.1.8 All cemetery plots owned by the Town;

5.1.9 Land sold or leased to the following:

a. Any municipality.
b. A local board, including a school board and a conservation authority.
c. A corporation that operates a public hospital.
d. The Crown in Right of Ontario or Canada and their agencies; or

5.1.10 Land that is subject to a settlement arising from potential or actual litigation against the Town.

6. Exemptions from Valuation

6.1 The valuation required in Section 1.1.2 of the Policy may not be required, at Council's sole discretion, for the following classes of Land or type of transaction:

6.1.1 Closed highways, roads and road allowances, including shore road allowances, of insufficient size to be undevelopable on their own sold to an owner of land abutting the said road;

6.1.2 Land formerly used for railway lines if sold to an owner of land abutting that land;

6.1.3 Land that does not have direct access to a highway if sold to the owner of land abutting that land;

6.1.4 Land repurchased by an owner in accordance with Section 42 of the *Expropriations Act;*

6.1.5 Land sold under Section 107 (General Power to Make Grants) of the *Municipal Act, 2001*;

6.1.6 Land leased under Section 108 (Small Business Assistance) of the *Municipal Act,* 2001*;* and

6.1.7 Any other Land which Council in its discretion determines a valuation is not necessary.

7. Methods of Sale or Disposition

7.1 Council has the discretion to select the method of sale or disposal of Land:

7.1.1 Sale by Public Tender;

7.1.2 Call for Proposal;

7.1.3 Listing with Real Estate Firm(s) or Broker(s);

7.1.4 Private Sale;

7.1.5 Land Exchange;

7.1.6 Auction; or

7.1.7 Such other method as Council deems appropriate.

8. Terms of Disposition

8.1 Town Staff shall negotiate the key terms and conditions of the disposition of land and bring a Report forward to Council. All bids, proposals and offers shall be presented to Council unless Council has given direction to Town staff to negotiate the disposition by another method.

8.2 Unless prohibited by Section 106 of the *Municipal Act, 2001*, Council may authorize the sale of Land for less than value, if in the opinion of Council, it is in the best interest of the Town to do so.

8.3 The Town, depending on the circumstance of the disposition, will seek recovery from the Purchaser of all costs incurred or anticipated to be incurred to dispose of the land, including but not limited to, legal fees, surveying costs, appraisal fees, encumbrances, advertising and improvements, environmental testing/remediation, demolition, land transfer and registration fees.

8.4 An Agreement of Purchase and Sale shall be prepared in accordance with the factors Council has deemed appropriate in the circumstances and in a by-law enacted by Council. Upon confirmation by the Clerk that the Agreement of Purchase and Sale is in accordance with Council's directions, the Mayor and Clerk or CAO shall be authorized to take all action and execute all documentation required to finalize the sale. The CAO or designate 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 are not substantial in nature to warrant Council's approval and shall have authority to approve such final terms and conditions and arrange for the execution of same on behalf of the Town.

8.5 Upon execution of the Agreement of Purchase and Sale, the Mayor and Clerk or CAO shall be authorized to take all actions and execute all documentation required to finalize the sale.

9. Certain Procedures for the Disposition of Land

9.1 In addition to the requirements set out in this Policy, the Town Clerk, or their delegate, is hereby authorized to establish the necessary guidelines, procedures, applications, forms, and processes and prepare draft by-laws to give effect to the procedures set out herein or other related legislation.