

Township of Brock Corporate Policy



Policy Name: Sale and Other Disposition of Land Policy

Policy Type: Finance

Policy Number: F21

Reference:

Date Approved: XXX

Date Revised: N/A

Approval By:

1. Purpose

1.1. The primary purpose of this Policy is to ensure compliance by the Township with section 270(1) of the *Municipal Act, 2001*, as amended, which requires municipalities to adopt policies regarding the sale and other disposition of municipally owned land. The secondary purpose is to establish a consistent, transparent and accountable procedure to be followed in the disposition of real property assets by the Township.

2. Policy Statement

- 2.1. This policy establishes the procedures regarding the disposal of surplus assets and is intended to ensure that the sale or transfers of surplus assets provide:
- Efficiency, equity and transparency in transactions; and
 - The best value to the taxpayer.
- 2.2. This policy shall apply to all Township employees, committees, elected officials and all agents acting on behalf of the Township of Brock on real property matters, including any real estate brokers authorized to dispose of real property on behalf of the Township.

3. Definitions

- 3.1. **Appraisal:** Written valuation of the fair market value of land, performed by an independent, certified appraiser.
- 3.2. **Sale:** The transfer or conveyance of land including a disposal by way of a lease of 21 years or longer.
- 3.3. **Land:** Real property owned by the Township and includes any building located thereon.

3.4 Surplus: Property that the Township does not require to meet its present or anticipated future needs.

3.5 Disposition: The sale, transfer, conveyance or exchange of fees

3.6 Township: The Corporation of the Township of Brock.

4. Procedures:

4.1 Council reserves the right to undertake activities to increase the value of lands prior to appraisal(s) and/or sale.

4.2 The Township at all times makes no representations or warranties regarding title or any other matters relating to the land to be sold. Surplus land is sold on an “as is” basis.

5. General Conditions Governing the Disposition of Land:

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

5.1.1. The land shall be declared surplus by resolution of Council;

5.1.2. At least one appraiser shall be obtained, if required under this Policy;

5.1.3. The method by which the land is to be disposed of shall be approved by Council; and

5.1.4. Notice of the proposed disposition shall be provided to the public.

6. Expression of Interest

6.1. Identification of property by staff

6.1.1. Report brought forward to Council for consideration

6.2. Application submitted by a member of the public

6.2.1. Member of public to submit an application with non-refundable fee

6.2.2. The Application fee, as per the fee and charges bylaw, is non-refundable in all circumstances including but not limited to whether the application is approved or denied, whether a sale is completed or not, or whether the applicant withdraws their application;

6.2.3. All costs associated with the sale of land will be incorporated into the final sale price.

7. Declare Land Surplus

7.1 Prior to the disposal of land by the Township, Council shall declare the land surplus in the following manner:

7.1.1 The Clerk shall circulate for review and comment to all Township Departments and other such agencies or governments as the Clerk deems appropriate or as may be required by law.

7.1.1.1 Once comments have been received, a report shall be submitted to Council in a Closed session presenting:

7.1.1.1.1 information on the property in question

7.1.1.1.2 Estimated costs i.e. survey, appraisal, legal etc.

7.1.1.1.3 Estimated sale price

7.1.2 Pending Council direction to proceed, a public meeting shall be held (in accordance with the Municipal Notice Policy) to obtain input on the proposed disposition or sale of land.

7.1.3 At a subsequent Council meeting, a staff report is presented which includes:

7.1.3.1.1 The suggested method of disposing of the land (as set out in Section Five of this policy).

7.1.3.1.2 Requesting authority for staff to negotiate the terms and conditions of the proposed disposition.

7.1.3.1.3 Discussions the sale price of land must be conducted within a closed session.

7.1.3.1.4 Meeting agenda to include a draft bylaw to declare the lands as surplus.

7.1.4 If a draft by-law is enacted by Council, staff will proceed with the required steps to sell the land.

7.2 The following classes of land shall be exempt from the requirement to be declared surplus prior to sale.

7.2.1 Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act including:

- 7.2.1.1 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 Brock.
- 7.2.1.2 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.
- 7.2.1.3 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.
- 7.2.1.4 Land being expropriated from the Township by another governmental body pursuant to the *Expropriations Act* or any other legislation.
- 7.2.1.5 Closed highways, roads and road allowances, if sold to an owner(s) of land abutting that land.
- 7.2.1.6 Land formerly used for railway lines if sold to an owner of land abutting the former railway land.
- 7.2.1.7 Land that does not have direct access to a highway if sold to the owner of the land abutting that land.

8. Obtaining an Appraisal and/or Survey

8.1 Council shall have the absolute discretion to determine the sale price of the land.

- 8.1.1 The Township shall not be required to obtain an appraisal, unless Council deems it desirable to obtain an appraisal.
- 8.1.2 Any appraisals obtained shall be used solely as a guide and shall not be determinative of the terms of price upon which Council may sell any particular piece of real estate. Without limiting the generality of the foregoing, other factors including the history of the real estate or related properties may be determinative.
- 8.1.3 An appraisal shall remain current for a period of two years from the date of the appraisal. In the event that the 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 may be required if deemed necessary by Council.
- 8.1.4 Prior to the selling of any surplus land, the Township may obtain or require a survey or reference plan of the land from a Registered Ontario Land Surveyor in accordance with the laws of the Province of Ontario. This requirement may be waived if an existing survey or reference plan or Property Identification

This document is available in alternate formats upon request.
Please contact the Clerk's Department at 705-432-2355 or clerks@brock.ca.

Number (PIN) is available. A reference plan shall be provided if a new lot is being created.

9. Other Approvals

- 9.1** Nothing in this policy shall restrict the absolute discretion of Council to retain or dispose of the land on such terms and conditions as may be fixed by Council, which shall include the power to sell the land to whomever it directs.
- 9.2** All land, with or without improvements, shall be sold on an “as is” basis unless Council directs otherwise.
- 9.3** The Township is under no obligation by virtue of the sale of land to grant any approvals, including approvals for changes to the Official Plan or Zoning Bylaw or with respect to site plan control, minor variances and building permits or to support approvals required by any other approval authority, which may be necessary for the use of the land by the purchaser, express or otherwise.

10. Notice Requirements

- 10.1** Once the lands have been declared surplus by Council, notice shall be provided in accordance with the Township’s [Public Notice Policy](#).
- 10.2** The Notice shall identify:
 - 10.2.1** That the lands have been declared surplus under the Township’s needs;
 - 10.2.2** The municipal address, legal description and/or a key map to identify the lands to be sold;
 - 10.2.3** The name and contact person who will respond to questions;
 - 10.2.4** The proposed date, time and location of the meeting where the sale of land will be considered by Council.
- 10.3** If a decision is not made at the specified Council meeting, no further notice is required provided that a resolution is passed indicating Council’s decision. This shall also apply to any further referrals or deferrals of the matter.
- 10.4** Any person may submit an objection to the Clerk in writing and include the person’s name, address, and reason(s) for the objection. Council must consider all comments received prior to a sale commitment. Council may revoke any surplus declaration at any time prior to the conveyance of land for any reason and may choose not to sell the lands.

11. Methods of Sale

Council may delegate authority to Clerk and Mayor to execute all documentation to enact the sale of land for the following methods:

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11.1 Sale by Public Tender

- 11.1.1** Notice of sale by public tender will be circulated for a period of no less than two weeks. The Township may choose to advertise in local papers and/or on the Township of Brock's website and/or The Township's Bids and Tender's Website.
- 11.1.2** A tender package will be created. The Township reserves the right to edit the package how they see fit for each sale. The Packages will be made available to potential tenderers. There may be a fee associated with obtaining a tender package.
- 11.1.3** The package may include, but is not limited to, the property roll number, minimum sale/tender amount, location, brief legal description, annual taxes, assessed value, approximate property size and/or dimension, zoning; location map and photos, and direction as to how and to whom to submit the tender bid.
- 11.1.4** Tenders must be submitted electronically through the Township's Bids and Tenders website
- 11.1.5** A tender shall relate to only one parcel of land;
- 11.1.6** Tender opening procedures as set out in the Township's Procurement Policy shall be followed.

11.2 Real Estate Firm or Broker

- 11.2.1** If not under current contract with a Real Estate broker, proposals shall be invited from a minimum of two (2) real estate firms or brokers operating in the Township. Sale proposals are to include a recommendation on the listing price based on the evaluation of the fair market value of the surplus land, the proposed term of the listing agreement, services to be provided and the real estate commission payable by the Township;
 - 11.2.1.1** Council to review real estate proposals and select preferred realtor.
- 11.2.2** Ensure that the real estate agent lists the land for sale on multiple listing services;
- 11.2.3** The Clerk has the authority to negotiate offers presented by the real estate agent to ensure that only viable offers are presented to Council;
- 11.2.4** Have all Offers to Purchase submitted to the Clerk prior to the sale being completed;

11.2.4.1 Clerk to present all offers received to Council in a Closed Session.

11.2.4.2 Council to select preferred offer and authorize staff to finalize the sale.

11.2.5 Finalization of sale of surplus lands by solicitor.

11.3 Direct Sale of Township owned land may occur if:

11.3.1 Lands requested to be purchased are by an abutting landowner;

11.3.2 Lands that do not have direct access to a highway (i.e. landlocked lands) if sold to the owner of land abutting the landlocked lands;

11.3.3 The disposition of Township owned lands as part of an approved planning application;

11.3.4 The disposition of land to other governments or public bodies such as the Crown, a school board, conservation authority;

11.3.5 After an unsuccessful public offer, subject to the approval of Council;

11.3.6 Land acquired as a road widening or part of a road widening in connection with an approval or decision under the Planning Act, including road widening lands being conveyed, in whole or in part, back to the original owner of the land or their successor in title;

11.3.7 Closing highways, if sold to an owner(s) of land abutting the closed highways;

11.3.8 The land is needed to restore access or frontage to property cut off by realignment or closure;

11.3.9 A purchaser has a statutory or legal right to acquire the lands;

11.3.10 A land exchange; or

11.3.11 For other lands deemed to be non-viable land save and except park land.

11.3.12 If method of direct sale is selected and the applicant withdraws at any particular time all associated costs incurred to date are the responsibility of the application.

12. Sale of Unopened Road Allowances (URA)

12.1 Council will consider requests to stop-up, close and sell Township owned unopened road allowances (URA) provided:

12.1.1.1. The URA is deemed to not be required for current or future municipal use;

12.1.1.2. The URA does not lead to waterbodies;

12.1.1.3. All costs (survey, legal, appraisal, advertising etc.) are to be paid by the purchaser and there is no expense to the Township;

12.1.1.4. The permanent closing or altering of a URA does not result in a person having no access to and from their land unless the person impacted agrees to such sale.

12.1.1.5. Notice of the sale of an unopened road allowance is subject to the provisions of the Municipal Notice Policy

13. Exemptions

13.1 The following classes of land disposal are exempt from the provisions of this policy.

13.1.1 Municipal tax sales as per XI of the *Municipal Act*, 2001;

13.1.2 Land sold under Section 110 of the *Municipal Act*, 2001;

13.1.3 Land to be used for the establishment and carrying on of industries and industrial operations and incidental uses.

13.2 This policy does not apply to the sale of the land to the following public bodies:

13.2.1 A municipality;

13.2.2 A local board, including a school board and a conservation authority;

13.2.3 The Crown in right of Ontario or Canada or their agencies;

13.3 By resolution, Council may direct, on a case-by-case basis, that any exempted disposal be conducted in accordance with this policy.

14. Proceeds of Disposition:

14.1 All funds paid to the Township of Brock in transactions for the disposition of land shall be managed and accounted for by the Director of Finance.

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14.2 All associated costs for the sale of land (including but not limited to survey, appraisal, legal etc.) are to be withdrawn from the revenue proceeds of the sale of land.

14.3 It is Council's discretion as to the allocation of proceeds from the sale of land.

15 Compliance with Provincial Legislation:

15.1 The Township of Brock 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.