

THE CORPORATION OF THE TOWNSHIP OF TINY

BY-LAW NO. 22-080

A By-law to Establish a Policy Governing the Sale of Real Property and to Repeal By-law 17-016

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

AND WHEREAS it is deemed expedient to establish current procedures for the sale of land by the municipality;

NOW THEREFORE the Council of The Corporation of the Township of Tiny enacts as follows:

1. Definitions

THAT in this by-law,

- a) "Act" means the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended.
- b) "Added Value" means the incremental increased value of the original property once merged with the purchased property based on the appraised value.
- c) "Appraisal" means a written opinion of the fair market value of the surplus land provided by a land appraiser or such other qualified person as Council may provide in this By-law. Appraisals will be based on an added value basis, if applicable.
- d) "Council" means the Council of the Corporation of the Township of Tiny.
- e) "Publish" means published in a newspaper that, in the opinion of the Clerk, has such circulation within the Township of Tiny as to provide reasonable notice to those affected by, or interested in the land sale and/or posting of the notice on the Township of Tiny's website.
- f) "Senior Management Team" means the Township of Tiny employees holding the following positions: Chief Administrative Officer (C.A.O.), Director of Legislative Services/Clerk, Director of Finance and Administration, Director of Planning and Development, Director of Public Works, Director of Recreation, Director of Fire and Emergency Services.
- g) "Surplus Lands" means any land of the Township of Tiny declared surplus under this by-law.
- h) "Township" means The Corporation of the Township of Tiny.

2. Application of Policy

THAT this policy shall apply to all classes of land owned by the Township, save and except:

- a) the sale of land under Part XI of the Act (sale of land for tax arrears).
- b) the sale of lands under the Expropriations Act.
- c) the sale of these classes of land exempt under the Act as follows:
 - i) lands under Section 110 of the Act (municipal capital facilities).
 - ii) land to be used for the establishment and carrying on of industries and industrial operations and incidental uses subject to Section 106 of the Act.

3. Evaluation of Proposals to Purchase Municipal Land

THAT the following process shall be followed when evaluating proposals to purchase municipal land:

- a) The Senior Management Team shall evaluate proposals to purchase municipal land as per Schedule "A," forming part of this by-law.

4. Procedure for Sale of Municipal Land

THAT the following procedure shall be followed for the sale of municipal land:

Report to Council:

- a) If the Senior Management Team determines there is no significant current or future municipal use for the land, a confidential report shall be prepared for Council, to be considered in closed session, pursuant to the Act.

Deeming Land Surplus:

- b) Prior to the sale of municipal land Council shall, by resolution at a meeting open to the public, declare the subject lands to be surplus to the needs of the municipality. The resolution shall indicate the specific parcel of land to be deemed surplus and will be included on the Township's webpage for land sales.
- c) Council shall have no obligation to sell land which has been declared surplus.

Appraisal:

- d) Prior to the sale of surplus land, the C.A.O. or designate shall obtain an appraisal of the fair market value of the land from:
 - i. an independent qualified appraiser who shall be a registered member in good standing of the Appraisal Institute of Canada, or
 - ii. a real estate brokerage firm or independent real estate agent, or
 - iii. the C.A.O. in his/her opinion sufficient applicable information is on file to determine a fair market value, or
 - iv. any other person deemed by the Township to be qualified for this purpose, including a qualified land assessor in the Province of Ontario.

Township land will be appraised based on the Added Value basis, if applicable. The Township's appraisal of land will be considered nonnegotiable by the purchaser. The Township reserves the right to adjust appraised values at its own discretion.

Survey

- e) Before selling any surplus land, the Township shall obtain a survey of the land from an independent surveyor in accordance with the laws of the Province of Ontario. Council may, by resolution, waive the requirement for a survey if an existing survey is available.

Other Approvals

- f) Before selling any surplus land, the Township shall obtain approval from any other agencies, as required by law.

Notice

- g) Before selling/listing of any land, including the posting of real estate signage, notice of the intended sale of land shall be posted a minimum of ten (10) days on the Township website and published in at least one (1) newspaper before consideration by Council of the by-law to authorize the proposed sale and shall include the following:
 - i. A brief description of the purpose of the land sale.
 - ii. A legal description, municipal address and/or key map which, is sufficient to identify the lands to be sold.
 - iii. The proposed date of the land sale and/or date, time and location of the meeting where Council will consider the land sale.
 - iv. That any person who claims their land will be prejudicially affected by the proposed sale may comment on the proposed sale by delivering such comment in writing to the Clerk at the Township offices including a deadline for submissions.
 - v. Name and contact information of the person handling the land sale.

5. Methods of Sale

THAT Council shall determine the appropriate method of sale and based on such method, the following procedures shall be followed:

By Tender or Request for Proposals

- a) Estimated costs incurred or required to dispose of the proposed surplus land including legal fees, survey, appraisal, encumbrances, advertising, improvements, or other such costs shall be established.
- b) An estimated bid amount shall be established based on the appraised value plus estimated costs above.
- c) An Invitation to Tender or Request for Proposals shall be prepared and reviewed by the C.A.O. prior to publication and shall include the statement that "the highest or any offer may not necessarily be accepted."
- d) The Tender or Proposals shall be submitted to the Clerk.
- e) Notice shall be given by way of posting on the Township website and publishing in at least one (1) newspaper at least ten (10) days prior to the date when the Tenders or Proposals will be considered by Council.

Council reserves the right to accept a Tender or Proposal less than the established bid amount where, in the opinion of Council, it is in the best interest of the Township to do so.

By Real Estate Firm or Broker

- a) Proposals from not less than three (3) Real Estate Firms or Brokers operating in the Township or surrounding area shall be obtained. Said proposals shall include a recommendation to Council on the listing price based on the evaluation of the fair market value of the surplus land, the proposed terms of the listing agreement, services to be provided and the real estate commission payable by the Township.
- b) The selected real estate agent shall post at least one (1) "For Sale" sign at the subject property including the name of the firm or broker and telephone number.
- c) The selected real estate agent shall list the land for sale on the Multiple Listing Service.
- d) Notice shall be given by way of posting on the Township website and publishing in at least one (1) newspaper at least ten (10) days prior to the date when the Offers to Purchase will be considered by Council.
- e) Ensure that all prospective purchasers are made aware that the highest or any offer may not necessarily be accepted.
- f) All Offers to Purchase shall be submitted to the Clerk.

Council reserves the right to adjust the listing price in consultation with the listing agent and/or accept an offer to purchase less than the listing price where, in the opinion of Council, it is in the best interest of the Township to do so.

Alternative Method

If an alternative method is determined by Council, the following shall be provided for:

- a) A determination of the sale price based on the appraisal of the land value and any costs associated with the proposed method of sale.
- b) Any terms and conditions of the sale.
- c) Notice shall be given by way of posting on the Township website and publishing in at least one (1) newspaper at least ten (10) days prior to the date when the final sale is to be considered by Council.

Council may reserve the right to adjust the sale price where, in the opinion of Council, it is in the best interest of the Township to do so.

6. Closed Session

THAT all tenders, proposals or offers shall be presented to Council in Closed Session for deliberation, pursuant to the Act.

7. No Further Notice Required

THAT if a final decision is not made at the Council meeting specified in a notice given under this By-law and Council defers consideration of the matter to a future meeting or refers the matter to future Council or Committee meeting for discussion, no further notice is required provided that a resolution is passed to defer or refer the matter to a later meeting as specified. The provisions of this section shall also apply to any further deferrals or referrals of the matter, including a Committee recommendation to pass the by-law.

Notwithstanding the above, a land sale shall not be invalidated on the basis that Council or Committee failed to pass a resolution or a resolution failed to specify to which meeting the matter was referred or deferred provided that a public statement was made of the Township's intent to continue its deliberations on the matter.

8. Authorizing By-law

THAT any sale of land by the Township shall be ratified by a by-law authorizing the sale.

9. Certificate of Compliance

THAT the Clerk may issue a certificate with respect to a sale of land by the Township verifying that to the best of his or her knowledge the requirements of the Act and this By-law which applies to the sale of the land has been complied with.

10. Validity and Severability

THAT if any section, subsection, clause, paragraph or provision of this By-law is declared by a court of competent jurisdiction to be invalid or unenforceable, the same will not affect the validity or enforceability of any other provisions of this By-law or of the By-law as a whole.

11. Conflict with Acts and Regulations

THAT in the event the provisions of this By-law are inconsistent with the provisions of the Act, its Regulations of any other Act, the provisions of the Act or Regulation shall prevail.

12. Repeal

THAT By-law 17-016 is hereby repealed.

13. Enactment

That this By-law shall come into force and take effect on the date of its final passing.

READ A FIRST AND SECOND TIME THIS 9th DAY OF NOVEMBER 2022

READ A THIRD TIME AND FINALLY PASSED THIS 9th DAY OF NOVEMBER 2022.

THE CORPORATION OF THE TOWNSHIP OF TINY



MAYOR, George Cornell



CLERK, Sue Walton

Evaluation of Proposals to Purchase Municipal Land

Any sale of Municipal land will be in accordance with By-law 22-080.

Step 1

- a) Staff shall require a written request from the applicant identifying the property in question (including a detailed description of the property). The applicant must indicate, in writing, if it is their intention to merge the Township land in question with private property.
- b) Staff shall identify any current municipal use or future municipal use of the land or if there is a significant and quantifiable benefit to the Township resulting from a sale.
- c) If staff determine there is a significant current or future municipal use for the land and or/ no significant and quantifiable benefit resulting from a sale no further action will be taken.
- d) The applicant will be notified, in writing that the land is **not** for sale.
- e) No further action shall be taken by staff.
- f) Should the applicant disagree with staff's determination, they may delegate to Council in a public forum.
- g) Township Council may, at their discretion, make an alternative finding through a Council resolution, following a Staff Report outlining staff's recommendation/position.

Step 2

If staff or Council determines there is no significant current or future municipal use for the land or there is a significant and quantifiable benefit to the Township realized through a sale, the following process may be initiated:

- a) Staff to engage legal counsel to ensure Township ownership of the proposed property and to determine if any property title issues exist at the Township's expense.
- b) Upon clearance by legal counsel, staff to request a non-refundable deposit in the amount of \$500 from the potential purchaser.
- c) Upon clearance by legal counsel, Staff shall prepare a confidential report to Council recommending the sale of land and to deem the land surplus. If the sale is approved by Council, Section 4 of By-law 22-080, Procedure for Sale of Municipal Land, shall be followed.
- d) Once deemed surplus by Council by resolution, at a meeting open to the public, a public notice shall be prepared in accordance with the Notice provisions of this by-law.
- e) In the event comments are received from a member of the public that claims their land will be prejudicially affected by the proposed sale, a subsequent staff report shall be prepared for Council's consideration to address the concerns and obtain direction.
- f) In the event no public comments are received that require specific direction of Council, no further report is required at this time.
- g) Once any issues have been resolved and prior to further action, the potential purchaser shall through written agreement:
 - i. Agree to assume all costs, as determined by the Township, related to the transaction including but not limited to legal fees, surveying fees, appraisal fees, and administrative fees (internal staff resources or external contracted resources).
 - ii. Deposit a \$5,000.00 retainer for costs associated with the transaction prior to the Declaration of Surplus Land by Council. A portion of the retainer in

the amount of \$1,500.00 shall be considered a non-refundable deposit to cover administrative fees.

- iii. All retainers will be required to be topped up or replenished, in an amount determined by the Township, if the account becomes exhausted. No additional work will proceed until the retainer is replenished. Any surplus funds remaining on account once all transaction costs have been paid will be returned to the purchaser, excluding the non-refundable \$1,500.00 administrative fee.
- c) Depending on the complexity of the request the Township may, at the full cost to the purchaser, outsource project management and administrative duties to a consultant as selected by the Township.
- d) All municipal land will be appraised pursuant to Section 4 Item d) of By-law 22-080. The Township's appraisal of the land will be considered nonnegotiable by the purchaser.
- e) The Township reserves the right to adjust appraised values at its own discretion.
- f) All Township land will be appraised based on an Added Value basis, if applicable. The Added Value basis will be used where the purchase of Township property is to be merged to an existing private property/lot. The purchase price of the Township property will be the incremental increased value of the whole property once merged with the purchased Township property, based on the new appraised value.
- g) Should unopened road allowances/pathways be considered for sale, it will be a requirement of the Township to merge these properties with the adjacent private property. See schedule B – Policy for Road Allowance Closure and Sale
- h) If beach property is considered for sale, it will be evaluated on an Added Value basis (including individual lots and/or beach blocks). Merging may not be required in the case of beach blocks.
- i) All land sales will be considered final.
- j) The municipal land may be rezoned prior to the sale if required by the Township. All costs associated with a Zoning By-law Amendment application shall be borne by the potential purchaser.
- k) A Lot Deeming By-law application may be required to be submitted by the potential purchaser in order to facilitate the merging of the properties if required by the Township. All costs associated with the Lot Deeming By-law application shall be borne by the potential purchaser.
- l) Should the purchaser decide at any time after the Declaration of Surplus Land not to proceed, they will be held responsible for all costs associated with the transaction as determined by the Township.

Policy for Road Allowance Closure and Sale

Preamble

Road allowances are one of a variety of roads that are defined as highways in the Municipal Act. Within a municipality, common and public highways are vested in the Council of the municipality having jurisdiction over them, in accordance with Section 28 the Municipal Act, except to the extent that they have been stopped up according to law and sold.

There are a variety of road allowances located within the municipal boundaries.

Consideration of the sale of a road allowance or a portion of a road allowance will be given if it is not used for public access, emergency access, or public waterfront activities. Adjoining landowners in the neighbourhood or the community must not be deprived of access to water in the case of a shoreline road allowance. The Township must also look to the future to ensure that the subject road allowance will not be required for Municipal purposes at some later date.

Shoreline Road Allowances:

Shoreline Road Allowances will be reviewed on a case by case basis by staff and Council.

Road Allowances Leading to Water:

In general, Council encourages the preservation of road allowances leading to water.

Council will consider very carefully applications for the disposition of road allowances leading to water. The focus of debate shall be based on the merits of the applicant's proposed use and need for the lands versus the preservation of the road allowance leading to water while considering any effects or outcomes that may result from the proposed disposition. The applicant must show compelling reasons why the Township should sell the road allowance.

Careful consideration shall be given to the sale of road allowances leading to the water to ensure that the sale will not have any negative effect on the neighbourhood emergency access, present or potential public access and public waterfront activities. Area land owners will not be deprived of access to water.

Unopened Road Allowances Not Leading to Water:

These would include road allowances made by crown surveyors and road allowances on a registered plan of subdivision. In some cases, a highway does not follow a boundary line and deviates so that parts of it, although declared as a public highway, do not constitute an open publicly maintained road. There are also road allowances that have not been constructed and assumed by the Township. From time to time requests to purchase portions of these road allowances are received. Careful consideration will be given to the future potential of these road allowances.

Rights of Ingress and Egress

A road allowance shall not be stopped up and sold that will deprive any person of the means of ingress and egress to and from the person's land or place of residence or another convenient road or way of access to the land is provided.

Offer to Abutting Owners

A road allowance that has been declared surplus shall be offered for sale to the owners of the land abutting the land to be sold. The owner of each parcel on opposite sides of the land to be sold has the right of first refusal to purchase the land to its middle line, unless otherwise determined by Council (for example, encroachments). If the person entitled to purchase the land does not exercise the right to purchase within a period of time as determined, the Township may sell the land to any other person as Council determines.

Notice & Procedure

Once a road allowance has been deemed surplus by Council by resolution, at a meeting open to the public, a notice to the abutting property owners shall be prepared offering first refusal to purchase the land to its middle line, unless otherwise determined by Council

The notice, sent by registered mail, shall include the following:

- i. A brief description of the purpose of the land sale.
- ii. A legal description, municipal address and/or key map which, is sufficient to identify the lands to be sold.
- iii. Deadline for expressing interest to purchase within 30 days from the date of the notice.
- iv. Name and contact information of the person handling the land sale.