

THE CORPORATION OF THE TOWNSHIP OF SCUGOG

BY-LAW NUMBER 77-19

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**BEING A BY-LAW TO ADOPT AN ACQUISITION, SALE OR  
OTHER DISPOSITION OF LAND POLICY FOR THE  
TOWNSHIP OF SCUGOG**

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**WHEREAS** section 270 (1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, requires a municipality to adopt and maintain a policy on the sale and other disposition of land:

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE  
TOWNSHIP OF SCUGOG Enacts As Follows:**

1. **THAT** the Acquisition, Sale or Other Disposition of Land Policy attached as Schedule "A" to this By-Law is hereby adopted.
2. **THAT** By-Law 22-13 is hereby repealed.
3. **THAT** this By-Law shall come into full force and effect on the date of passing.

READ a First, Second and Third time and finally passed this 25<sup>th</sup> day of November, 2019.



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**MAYOR, Roberta A. Drew**



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**CLERK, John Paul Newman**

**Schedule “A” to By-Law 77-19  
Council Policy**



**Acquisition, Sale or Other Disposition  
of Land Policy**

Effective: November 25, 2019

Approved By Council: November 25, 2019

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**1. Purpose**

- 1.1. Section 270(1)1 of the Municipal Act requires the Township to adopt and maintain a policy on the sale and other disposition of land.
- 1.2. To provide a framework for the Township's real estate transactions and to delegate and define the responsibilities of Council, Chief Administrative Officer and Township Staff with regard to the Acquisition, Sale and other Disposition of Lands.
- 1.3. No disposition of lands owned by the Township or acquisition of land shall be authorized unless it is in compliance with this policy.
- 1.4. Where this policy is in conflict with the requirements of legislation, the legislation shall supersede the provisions of this policy and any acquisition or disposition of land shall proceed in accordance with the legislated requirements.

**2. Objective**

- 2.1. To manage the real estate interests of the Corporation of the Township of Scugog in a manner that is fiscally responsible, transparent, accountable and consistent.

**3. Scope**

- 3.1. This policy shall apply to all Departments of the Township and in absence of a Local Board of the Township adopting its own policy respecting the Acquisition, Sale or Other Disposition of Land, this policy shall apply to the Local Board.
- 3.2. Disposal of Township land may be initiated by a Township Department or through a written application received from an external party.

**4. Definitions**

- 4.1. “**Abutting**” shall mean a parcel of land adjoining another parcel of land having one (1) or more lot lines in common;
- 4.2. “**Acquisition**” means the act of purchasing or otherwise acquiring an interest in Land, including acquiring an interest in Land by way of a Lease.
- 4.3. “**Act**” means the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 4.4. “**Appraisal**” means the written opinion of fair market value, prepared in accordance with this policy and by an independent person holding the designation of “Accredited Appraiser Canadian Institute” (AACI) with the Appraisal Institute of Canada or such comparable designation to

the satisfaction of the CAO and shall be valid for 1 year from the date of the appraisal.

- 4.5. **"As is"** means without regard for state of repair, location of any and all structures, walls, retaining walls or fences (freestanding or otherwise) or encroachment by buildings or fences or otherwise, on the land or adjoining properties or streets, and without warranty or representation as to use, environmental contamination, hazards or risks.
- 4.6. **"CAO"** means the Chief Administrative Officer of the Township appointed in accordance with Section 229 of the Act, or their designate.
- 4.7. **"Clerk"** means the Township Clerk appointed in accordance with Section 228 of the Act, or their designate.
- 4.8. **"Council"** means the Council of the Corporation of the Township of Scugog.
- 4.9. **"Department Head"** means an officer or employee of the Township who will generally hold the title of 'Director', appointed by the Chief Administrative Officer or Council, as required, to oversee a department, or a person appointed or designated to act in place of the Department Head when the Department Head is absent or is unable to act.
- 4.10. **"Disposition"** means the act of selling, transferring, conveying or otherwise disposing of an interest in Land, whether or not such disposition or sale involves the exchange of money or another form of consideration.
- 4.11. **"Easement(s)"** means an interest in land that is owned by a third party, consisting of the right to use or control such land, or an area above or below it, for a purpose to be defined in a document setting out the permitted use of such land.
- 4.12. **"Employee"** means a person employed by the Township including those on contract, but does not include the Mayor and Members of Council.
- 4.13. **"Highway(s)"** has the same meaning as set out in the Act.
- 4.14. **"Land(s)"** means real property and real estate and shall include all buildings or any part of any building and all structures, machinery, fixtures erected or placed upon, in, over, under or affixed to Land and highways which have been or may be stopped up and closed, but does not include Personal Property.
- 4.15. **"Lease"** means a contractual agreement by which a person conveys to a third party the right to use the person's property for a limited period of time subject to various conditions, but the owner of the property retains legal ownership of the property.
- 4.16. **"Local Board"** means a municipal service board, public library board, planning board or any other board, commission, committee, body or local authority established or exercising any power under any statute with respect to the affairs or purposes of the Township.

- 4.17. **"Newspaper"** means a printed publication in sheet form, intended for general circulation, published at regular intervals, consisting in part of news or articles of general interest to the public.
- 4.18. **"Non-Viable Land"** means Land, which, on its own, would not be eligible for a building permit or Land, which, sold and combined with an adjoining parcel, cannot be rendered as a viable parcel for a building permit by means of consent under the Planning Act.
- 4.19. **"Official Plan"** means the Official Plan of the Township of Scugog, as amended or replaced from time to time.
- 4.20. **"Park Land"** means any Land that is used by the Township for active or passive recreational purposes or for any purpose ancillary thereto.
- 4.21. **"Personal Property"** means tangible or intangible property, other than Land and includes moveable property subject to ownership, with exchange value. May also be referred to as "surplus stock / assets."
- 4.22. **"Real Estate Broker"** means a Real Estate Broker registered under the Real Estate and Business Brokers Act, 2002, as amended and Regulations thereto.
- 4.23. **"Reference Plan"** means a plan prepared by an Ontario Land Surveyor which pictorially details the dimensions of a parcel of land or easement and which provides a legal description for registration purposes. May also be referred to as a "survey".
- 4.24. **"Sale"** means a commitment to see or otherwise dispose of land and includes a lease of 21 years or longer, without any renewals of the lease within 21 years and "sold" has a corresponding meaning.
- 4.25. **"Surplus"** means land which is no longer required by the Township and is therefore available for sale or may be otherwise disposed of and which has been declared surplus through Council resolution.
- 4.26. **"Treasurer"** means the Treasurer of the Township appointed in accordance with Section 286 of the Act, or his / her designate.
- 4.27. **"Township"** means the Corporation of the Township of Scugog.

## 5. Council Authority

- 5.1. Council shall approve the disposition of Township owned lands and the acquisition of lands through the passing of a by-law, resolution or enactment of a policy, unless the authority for the acquisition or disposition has been delegated by Council.

## 6. Declare Surplus

- 6.1. Prior to selling any land, Council shall, by resolution, declare the land to be surplus to the needs of the Township.
- 6.2. To determine that the lands are surplus to the needs of the Township and prior to considering a resolution declaring the lands to be surplus, the CAO shall undertake a circulation to all Township Departments and other such agencies or governments as the CAO deems appropriate or as may be required by law.

- 6.3. Council may declare lands to be surplus for any reason, including but not limited to, for economic growth, income, job creation, community development etc.

## **7. Notice Requirements**

- 7.1. After declaring the lands to be surplus and again when the sale of land is to be considered by Council, notice shall be provided in accordance with the Township's Notice Policy.
- 7.2. The notice shall identify:
  - 7.2.1. That the lands have been declared surplus to the Township's needs;
  - 7.2.2. The municipal address, legal description and / or key map which in the opinion of the CAO is sufficient to identify the lands to be sold;
  - 7.2.3. The name and contact of a person at the Township who can respond to any questions;
  - 7.2.4. The proposed date, time and location of the meeting where the sale of land will be considered by Council, once known. For further clarification, this date may not be in the notice released after the land is declared surplus but shall be in the notice when Council is going to consider the sale of the land.
- 7.3. If a final decision is not made at the Council meeting specified in a notice given under this policy and Council refers consideration of the matter to a future Council or Committee meeting for discussion, no further notice is required provided that a resolution is passed indicating Council's decision. This shall also apply to any further referrals of the matter, including a Committee recommendation to pass the authorizing by-law. Notwithstanding this section, a land sale may not be invalidated on the basis that Council or Committee failed to pass a resolution or that a resolution failed to specify to which meeting the matter was referred or failure to provide notice at all.
- 7.4. Notice may be dispensed with by the CAO for non-viable lands where such interest in the land is generally limited to the abutting property owner(s), but at the discretion of the CAO written notice by regular mail to any other abutting property owners may be provided.
- 7.5. Any person may submit an objection to the Clerk and the objection shall be in writing and include the person's name, address and reason(s) for objecting. If no objections are received, Council's decision to declare the lands surplus shall be final. Council may revoke the surplus declaration at any time for any reason or may choose not to sell even though the land has been declared surplus.
- 7.6. Upon receiving an objection in accordance with section 7.5 of this policy, the CAO shall prepare a report to Council outlining the objection(s) received and provide a recommendation to Council regarding the subject land.
- 7.7. The CAO shall consult the Scugog Accessibility Advisory Committee for the acquisition of land where such land transaction is governed by this policy as required in accordance with subsection 29(5) of the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11, as amended when purchasing a building, structure or premise or when Council enters into a new lease.

## **8. Fair Market Value**

- 8.1. The disposition of Township owned land shall be for no less than the fair market value of the land determined through at least one independent appraisal completed by an accredited appraiser through the Appraisal Institute of Canada, or such other method of valuation as determined by the CAO.
- 8.2. An alternative method of valuation may include the value assigned by the Municipal Property Assessment Corporation or a letter of opinion of the fair market value of the land from a real estate brokerage firm or an independent real estate agent. Alternative methods may also be used for non-viable land or a lease.
- 8.3. Prior to the Acquisition of land by the Township, the Township shall obtain at least one independent appraisal completed by an accredited appraiser through the Appraisal Institute of Canada, or other such method of valuation as determined by the CAO.
- 8.4. Notwithstanding the sections above, where not prohibited by the Act from doing so (i.e. anti-bonusing provisions), the acquisition and disposition of land may be different than fair market value if, in Council's opinion it is in the best interest of the Township to do so.

## **9. Restrictions and Exceptions**

- 9.1. For lands, other than non-viable lands, where an expression of interest is received by the Township, the CAO shall prepare a report to Council recommending whether or not the land be declared surplus, if required and that a period of market exposure occur to ensure best use or value for the land.
- 9.2. This policy shall not apply to:
  - 9.2.1. Purchasing or selling personal property. Personal property interests of the Township shall be acquired or disposed of in accordance with the Procurement By-law / Policy, as may be amended or the successor thereof, together with any other applicable process or policy dealing with the purchase or sale of personal property, which are separate from this policy;
  - 9.2.2. Acquisition or disposition of land under the Expropriations Act, R.S.O. 1990, c. E.26, as amended;
  - 9.2.3. A land donation to the Township or a donation of land by the Township to a registered charity or not-for-profit organization;
  - 9.2.4. Lands pursuant to Part XI, Sale of Land for Tax Arrears, of the Act;
  - 9.2.5. The disposition of lands in accordance with sections 107, General Power to Make Grants and section 108, Small Business Counselling, of the Act;
  - 9.2.6. The disposition of lands which are subject to an agreement pursuant to section 110, Agreements for Municipal Capital Facilities, of the Act;
  - 9.2.7. Land being 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act;

- 9.2.8. 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 Township;
  - 9.2.9. 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;
  - 9.2.10. Land conveyed to a person by the Township as part of the settlement of litigation proceedings;
  - 9.2.11. The acquisition or disposition of land to or from a municipality, a corporation incorporated by a municipality, a municipal service board of a municipality, a local board, including a school board and a conservation authority, the Crown in right of Ontario or Canada and their agencies.
- 9.3. An employee who has an interest in land being acquired by the Township, or an employee who has an interest in acquiring land that the Township is attempting to dispose of, shall declare a conflict of interest to the CAO and their Department Head and such persons shall not participate in the Township's processes to which the conflict of interest relates.
  - 9.4. From the time that the lands are declared surplus or bid documents for lands are released until after the award by the Township, no solicitations or lobbying may be made to any Township Staff, Council member, Township consultant or to the news media by any director, officer, principal, employee, agent, family relation or other representative of a bidder (including any other parties that may be involved in a business relationship with the bidder) with respect to the merits or value of the bidder's bid. Any such communication in violation of this section will entitle the Township to disqualify the offending bidder from consideration for award. This subsection does not apply to presentations or delegations expressly requested by Township Staff or by Council, whether in the bid documents or otherwise.
  - 9.5. All requests for road allowance closings made between November 1<sup>st</sup> and March 31<sup>st</sup> may be placed on hold until a proper site inspection can be made.
  - 9.6. Applications will not be approved if other owners of land will be deprived of access to their property.
  - 9.7. In the case of a sale of a shore line road allowance, any land covered by water shall remain in Township ownership.

## **10. Public Land Register**

- 10.1. The Township may establish and maintain a Public Land Register listing and describing the land owned by the Township, save and except for the following classes of land:
  - 10.1.1. Land 0.3 metres or less in width which may have been acquired in connection with an approval or decision under the Planning Act;
  - 10.1.2. Public highways;
  - 10.1.3. Land formerly used for railway lines;
  - 10.1.4. Stormwater management facilities;

- 10.1.5. Unopened road allowances;
  - 10.1.6. Undedicated road widenings;
  - 10.1.7. Cemetery plots;
  - 10.1.8. Easements.
- 10.2. The Public Land Register may contain the following information:
- 10.2.1. Municipal Address;
  - 10.2.2. Legal description;
  - 10.2.3. Approximate size by reference to dimensions or area or both;
  - 10.2.4. Official plan designation and zoning category;
  - 10.2.5. Current use of the property;
  - 10.2.6. Whether lands have been declared surplus.
- 10.3. The Public Land Register shall be made available to the public upon request.

## **11. Disposition Methods**

- 11.1. In consideration of the disposition of Township owned lands, an appropriate market exposure technique will be selected by the CAO based on the unique requirements of the property and relative marketplace. Examples of appropriate market techniques include advertising surplus land, tender process, public auction, proposal calls, and listing with a licensed real estate broker.
- 11.2. Where the sale of Township owned lands is by way of a competitive process, the highest or any offer may not be accepted, which shall be at the sole discretion of Council.
- 11.3. Where the method of sale is by way of a Real Estate Firm or Broker, the Township may:
  - 11.3.1. Invite proposals from not less than 3 Real Estate Firms or Brokers operating in the Township or part of the Township. Sale proposals are to include a recommendation on the listing price based on an 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;
  - 11.3.2. Ensure that the real estate agent lists the land for sale on multiple listing services;
  - 11.3.3. Have all Offers to Purchase submitted to the CAO for presentation to Council prior to the sale being completed.
- 11.4. Notwithstanding section 11.1, a direct sale of Township owned land may occur for:
  - 11.4.1. Lands requested to be purchased by the abutting landowner;
  - 11.4.2. 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;



- 11.4.3. The disposition of Township owned land as part of an approved land development planning application;
  - 11.4.4. The disposition of land to other governments or public bodies such as the Crown, a school board, conservation authority;
  - 11.4.5. After an unsuccessful public offer, subject to the approval of Council;
  - 11.4.6. 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;
  - 11.4.7. Closed highways, if sold to an owner(s) of land abutting the closed highways;
  - 11.4.8. The land is needed to restore access or frontage to property cut off by realignment or closure;
  - 11.4.9. A purchaser has a statutory or legal right to acquire the lands;
  - 11.4.10. A land exchange; or
  - 11.4.11. For other lands deemed to be non-viable land save and except park land.
- 11.5. Prior to selling any surplus land, the Township may obtain or require a reference plan of the land from an independent surveyor in accordance with the laws of the Province of Ontario. This requirement may be waived if an existing reference plan (or PIN) is available. A reference plan shall be provided if a new lot is being created.
  - 11.6. A by-law that is required to be registered requires a proper legal description. Therefore the reference plan shall be registered by the purchaser at their expense and a copy provided to the Township for inclusion in the by-law.
  - 11.7. Nothing in this policy, including after Council has declared land to be surplus or one or more offers to purchase have been received, shall fetter the absolute discretion of Council to retain the land or to 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 wishes, regardless of whether the sale is to the party that apparently presented the best offer.
  - 11.8. All land, with or without improvements, shall be sold on an "as is" basis unless Council determines otherwise.
  - 11.9. 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 By-Law 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 any contemplated use of the land by the purchaser.

## **12. Forms and Fees**

- 12.1. All requests to purchase Township lands shall be submitted on the prescribed application form and accompanied by the application fee outlined in the Township's Fees and Charges By-law.

12.2. The application fee shall be 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.

12.3. In addition to the application fee, all costs associated with the disposition of Township owned lands shall be borne by the purchaser. These costs may include the appraisal, public notice, reference plan, legal fees, realty fees, encumbrances, improvements or such other costs associated with the land sale.

### **13. Transitional Matters**

13.1. For the purpose of transitioning to this policy, any acquisition or disposition of land that commenced (being the earlier of the date of Council approval or an offer or agreement executed by the Township) prior to approval of this policy shall be subject to the provisions specific to that transaction as defined by Council or otherwise.