

HALDIMAND COUNTY

POLICY No. 2002-06

Subject: DISPOSAL OF SURPLUS LANDS

Purpose:

Since the creation of Haldimand County, staff has had to utilize three different by-laws governing the disposal of surplus properties within the County. Staff has reviewed the by-laws of the former municipalities and has developed a comprehensive by-law that encompasses both the legislative requirements and subtle nuances contained in the local by-laws.

Policy:

Attached eight pages of By-law Number 269/02 being a by-law to govern the disposal of surplus properties, form Haldimand County Policy No. 2002-06.

Topical Index	Administration
Policy Number	2002-06
Short Title	Disposal of Surplus Lands Policy
SMT Approval Date	
Council in Committee	General - September 16, 2002 Recommendation # 9
Council Approval Date	September 23, 2002 Resolution 339-02
Originating Department	CS-SS-09-2002
Revisions	

THE CORPORATION OF HALDIMAND COUNTY

By-law No. 269/02

Being a By-law to prescribe procedures for the disposal of real property owned by the municipality.

WHEREAS Section 193 of the *Municipal Act*, R.S.O. 1990, c.M.45, as amended, provides that every Council and local board with authority to sell or otherwise dispose of real property shall, by by-law, establish procedures governing the sale of real property;

AND WHEREAS the Council of the Corporation of Haldimand County deems it expedient to enact a procedure by-law governing the disposal of real property;

NOW THEREFORE the Council of the Corporation of Haldimand County enacts as follows:

- 1) THAT in this by-law,
 - (a) "Act" shall mean the *Municipal Act*, R.S.O. 1990, chapter M.45, as amended and includes any regulations made under it.
 - (b) "Appraisal" shall mean a written opinion of value providing information sufficient to satisfy the Clerk that the opinion is reasonable;
 - (c) "Clerk" shall mean the Clerk of the Corporation of Haldimand County and includes his or her designate;
 - (d) "Council" shall mean the Council of the Corporation of Haldimand County;
 - (e) "Land" shall mean land as defined in the *Municipal Act*;
 - (f) "Manager of Support Services" shall mean the Manager of Support Services of the Corporation of Haldimand County and includes his or her designate;
 - (g) "Public Land Register" shall mean the public register of Real Property owned or leased by Haldimand County and maintained in accordance with this By-law and the Act and as subject to all exceptions in the Act;
 - (h) "Purchaser" shall mean any person who enters into an agreement with Haldimand County to acquire Real Property by way of a sale;
 - (i) "Real Property" shall mean land shown in a Land Registry Office of the Province of Ontario as being owned by Haldimand County and shall also include land leased by Haldimand County for municipal purposes and shall exclude buildings or structures sold separately from lands but shall not include any land that is a municipal road allowance.
 - (j) "Sale" shall mean any agreement to sell Real Property, including a disposal by way of a lease of 21 years or longer;

- (k) "Site" shall mean an identified or identifiable parcel of Real Property;
 - (l) "Surplus" shall mean Real Property which is no longer required by the Corporation of Haldimand County for municipal purposes.
- 2) The Manager of Support Services shall maintain a Public Land Register including a listing of all Real Property owned or leased by Haldimand County but not including those classes of Real Property not required to be listed by the Act, as listed in Schedule "A", attached hereto and forming part of this By-law.
 - 3) The Public Land Register shall contain the following information with respect to each Site listed therein:
 - (a) The municipal address or a description of the location by reference to public highways within Haldimand County;
 - (b) The approximate size by reference to dimensions or area or both; and
 - (c) Whether the Site is owned by the County or leased to the County.
 - 4) The Public Land Register may, for any Site, contain any information additional to that described in section 3 which the Manager of Support Services considers relevant including, but not limited to:
 - (a) A legal description of the Site;
 - (b) A description of any improvements thereto;
 - (c) Whether Council has declared the Site to be surplus; and
 - (d) Whether the County, as owner, has granted a long-term lease or other right to occupy the Site and, if so, the duration thereof.
 - 5) The Manager of Support Services shall cause, on an annual basis, a review and update of the Public Land Register to be undertaken.
 - 6) The Manager of Support Services shall report to Council on any Site that may be Surplus.
 - 7) The Manager of Support Services shall present to Council, at an open meeting, any unsolicited offers for the purchase of any Site.
 - 8) Before selling any Site, Council shall, by resolution, declare the Site to be Surplus in accordance with this By-law and the Municipal Act and provide for the manner or process by which the Sale of the Site will be carried out.
 - 9) The manner or process established by Council for the Sale of a Site may include:
 - (a) Tender according to the Purchasing Policies of the Corporation of Haldimand County;

- (b) Listing the Site with a licensed Real estate agent practicing in Haldimand County;
 - (c) Negotiation between staff and potential purchasers with ratification by Council;
 - (d) Auction;
 - (e) Land exchange; or
 - (f) Any other method established by Council satisfying the requirements of this By-law and provincial legislation.
- 10) Where Council has declared a Site to be Surplus and approved the manner or process by which the Sale of the Site will be carried out, the Manager of Support Services shall give notice to the public of the proposed Sale in accordance with this section prior to Council giving final consideration to the Sale of the Site.
- (a) Notice to the public of a proposed Sale of a Site shall be given by at least one of the following methods, as the Manager of Support Services may deem reasonable in the circumstances:
 - (i) By posting a clearly visible sign on the Site for a period of not less than seven days;
 - (ii) By distribution, by regular mail or hand delivery, of a communication in writing to owners and tenants, as shown on the latest revised assessment roll, of properties within 100 metres of the Site;
 - (iii) By publication in a newspaper having general circulation in the area of the Site; or
 - (iv) By listing for Sale with a real estate agency situate in the area of the Site for a maximum period of six months.
 - (b) The requirements of subsection 10.(a) are minimum requirements and the Manager of Support Services is authorized to give notice to the public of a proposed Sale in any extended manner if, in the opinion of the Manager of Support Services, such extended manner is reasonable and necessary in the circumstances;
 - (c) In addition the notice required by subsection 10.(a), notice to the public of a proposed Sale shall be caused to be posted in the office where the Public Land Register is maintained.
 - (d) A notice of a proposed Sale given under subsection 10.(a)(ii) or 10.(a)(iii) shall contain at least the following information:
 - (i) A general description of the manner by which the sale will be carried out;
 - (ii) A location of the Site by reference to a municipal address or legal description or both;

- (iii) An approximate size of the Site by reference to dimensions and area, or both, and a brief description of any buildings or improvements situate thereon;
 - (iv) The date the Site was declared Surplus;
 - (v) The name, title, address and telephone number of the Haldimand County official(s) having information about the proposed Sale;
 - (vi) The latest date by which enquiries may be made of any official described in subsection 10.(d)(v).
- (e) A notice of a proposed Sale given under subsection 10.(a)(i) shall contain at least the information described in subsections 10.(d)(i) and 10.(d)(v).
- 11) The Manager of Support Services shall have an Appraisal prepared for the Surplus Site prior to the consideration by Council of the final authorization of the Sale of the Site except in those cases where an appraisal is not required by the Act.
- 12) The appraisal required by Section 11 of this By-law may be conducted by:
- (a) An accredited appraiser (Accredited Appraiser Canadian Institute-AACI);
 - (b) A qualified appraiser (Canadian Residential Appraiser-CRA); or
 - (c) A realtor;
- and the form of the appraisal shall be stipulated by Council at the time the Site is declared Surplus.
- 13) Upon final authorization of the Sale of a Site by Council, the Clerk may issue a certificate with respect of the Sale in accordance with subsection 193.(9) of the Act in the form described in Schedule "B", attached hereto and forming part of this By-law.
- 14) Upon the completion of a Sale, where the County retains no further ownership or interest in a Site, the Manager of Support Services shall forthwith delete reference to such Site from the Public Land Register.
- 15) All monies realized from the Sale of Real Property shall be placed in a Land Sales Reserve.
- 16) Notwithstanding any of the provisions of this By-law, none of the provisions of this By-law shall apply to lands that are municipal capital facilities in accordance with subsection 210.1 of the Act.

- 17) By-law 16-95 of the former Town of Dunnville, By-law 1190/95 of the former Town of Haldimand, By-law 17-95 of the former City of Nanticoke as it applies to Land within the jurisdiction of the Corporation of Haldimand County and By-law 131-95 of the former Regional Municipality of Haldimand-Norfolk as it applies to Land within the jurisdiction of the Corporation of Haldimand County and any other by-law or provision of any by-law of the Corporation of Haldimand County inconsistent with this by-law be and are hereby repealed.
- 18) For the purpose of this By-law, unless the context requires otherwise, words importing the singular shall include the plural and words importing the masculine gender shall include the feminine and vice versa.
- 19) Where a form of words or expression are prescribed in this By-law, deviations therefrom not affecting the substance or calculated to mislead do not vitiate them.
- 20) In the event that any section, sub-section, clause, paragraph or provision of this by-law is declared by a Court of competent jurisdiction to be invalid, the remainder of this By-law shall not be affected thereby and each section, sub-section, clause, paragraph and provision of this By-law shall be separately valid and enforceable.
- 21) This by-law shall come into force and take effect on the date of passing.

READ a first and second time this 23rd day of September, 2002.

READ a third time and finally passed this 23rd day of September, 2002.

MAYOR

CLERK

Schedule "A" to By-law 269 /02

Municipal Act

ONTARIO REGULATION 815/94

Amended to O. Reg. 31/95

DISPOSAL OF PROPERTY

1. A municipality or local board may sell the following classes of real property without obtaining an appraisal under subsection 193 (4) of the Act:

1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*.
2. Highways, roads and road allowances.
3. Land formerly used for railway branch lines if sold to an owner of land abutting the former railway land.
4. Land that does not have direct access to a highway if sold to the owner of land abutting that land.
5. Land repurchased by an owner in accordance with section 42 of the *Expropriations Act*.
6. Land to be used for sites for the establishment and carrying on of industries and of industrial operations and incidental uses.
7. Land sold under sections 112, 112.1, 112.2 and 113 of the *Municipal Act*.
8. Easements granted to public utilities or to telephone companies.
9. Land sold under the *Municipal Tax Sales Act*. O. Reg. 815/94, s. 1.

2. A municipality or local board may sell real property to the following classes of public bodies without obtaining an appraisal under subsection 193 (4) of the Act:

1. Any municipality, including a metropolitan, regional or district municipality and the County of Oxford.
2. A local board as defined in the *Municipal Affairs Act*.
3. An authority under the *Conservation Authorities Act*.

4. The Crown in Right of Ontario or of Canada and their agencies. O. Reg. 815/94, s. 2.

3. A municipality or local board is not required to list the following classes of real property in the public register established under subsection 193 (7) of the Act:

1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*.
2. All highways, roads and road allowances, whether or not opened, unopened, closed or stopped up.
3. Land formerly used for railway branch lines. O. Reg. 815/94, s. 3.

Schedule "B" to By-law 269/02

**The Corporation of Haldimand County
Certificate of Compliance**

Form for Use with Section 193 of the Municipal Act

Certificate of Compliance with section 193 of the Municipal Act in the sale or disposition of the real property of the Corporation of Haldimand County described as:

(Description may be attached)

I hereby certify that:

1. The Council of the Corporation of Haldimand County enacted By-law No. 269/02, being a By-law to prescribe procedures for the disposal of real property owned by the municipality, on _____.
2. The property described above was declared surplus by the Council of the Corporation of Haldimand County under By-law or Resolution _____ enacted or passed on _____.
3. An appraisal of the fair market value was obtained on _____ and considered by Council on _____.
4. The property sale or disposition is exempt from the requirement to obtain an appraisal of its fair market value under the following exemption:

5. Public notice of intent to sell or dispose of the property was given by the following methods:

On the following date(s):

Signature of Clerk

Date