

## Sale of Surplus Land Policy The Township of Springwater

Approved: April 2009  
Effective: April 2009  
Next Review: 2015

Department: Administration  
Subject: Sale of Land  
Policy Number: A09 SA

### 1. Authority

Section 270(1) of the *Municipal Act*, 2001, S.O.2001 25, as amended, requires all municipalities to adopt and maintain policies governing the sale of surplus land. This policy will include providing proper notice to the public.

### 2. Policy Statement

The Corporation of The Township of Springwater and its management recognize the following principles for the sale of surplus land, the declaration of land as surplus, and for giving notice of any such proposed sale.

### 3. Definitions

**Act** means the *Municipal Act*, 2001, S.O. 2001 as amended.

**Appraisal** means an 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 policy.

**Certificate** means the Clerk's Certificate verifying that, to the best of his/her knowledge, the requirements of the *Municipal Act*, 2001 and a policy which applies to the sale of surplus land have been complied with.

**Clerk** means the Clerk of The Township of Springwater, as appointed by by-law.

**Council** means the Council of the Corporation of The Township of Springwater or a responsibility delegated to a Standing Committee of Council for municipal property matters.

**Land** means lands owned by The Township of Springwater, whether vacant or not, or any other proprietary interest in lands owned by the Township, and, without limiting the generality of the foregoing, includes easement, rights-of-way, leaseholds exceeding twenty-one (21) years, and an interest in lands under an agreement of purchase and sale.

**Newspaper** means a printed publication in sheet form, intended for general circulation within The Township of Springwater, published at regular intervals, consisting in part of news or articles of general interest to the public.

**Notice** means notification provided to the public in accordance with The Township of Springwater Procedure By-law, or any such By-law that shall follow thereafter, and/or in accordance with the Township's Provision of Notice policy.

**Published** means published in a newspaper that, in the opinion of the Clerk, has general circulation within The Township of Springwater to provide reasonable notice to those affected by, or interested in the surplus land sale, and 'publication' has a corresponding meaning.

**Sale** means an unconditional agreement of purchase of municipal surplus property has been accepted by The Township of Springwater, and without limiting the generality of the foregoing, excluding lands temporarily conveyed to the Township of Springwater for municipal purposes intended to be reconveyed to the grantor, and any land or interest in land Quit Claimed or released by The Township of Springwater.

**Surplus land** means any land declared surplus by the Council of The Township of Springwater.

**Township** – shall mean The Corporation of The Township of Springwater.

#### 4. Procedures for the Sale of Surplus Land

##### 1. Declaration of Surplus Land

Prior to selling any land, Council shall, by a resolution or by-law, declare the land to be surplus to the needs of the Township.

##### 2. Prerequisites for Sale of Surplus Land

- a. Before selling any surplus land, the Township may obtain or require an **Appraisal** or Letter of Opinion of the fair market value of the land from:
  - i. an independent qualified appraiser who may be a registered member in good standing of the Appraisal Institute of Canada; or
  - ii. a real estate brokerage firm or an independent real estate agent; or
  - iii. any other person deemed by the Township to be qualified for this purpose, including a qualified land assessor in the Province of Ontario.
- b. Before selling any surplus land, the Township may publish a **Notice** in at least one (1) newspaper and on the Township website. Additional notice, including publication in newspapers which provide general distribution

within or beyond the geographic area of The Township of Springwater, shall be at the discretion of the Clerk.

The Township may give Notice no later than twenty (20) days prior to the selling of the land and may include the following:

- i. a brief description of the reason for the sale of the land;
  - ii. the proposed date of the land sale and/or the date, time and location of the meeting where Council will consider the land sale;
  - iii. legal description, municipal address and/or key map which in the opinion of the Clerk is sufficient to identify the lands to be sold;
  - iv. when and where information pertaining to the surplus land sale will be available for public viewing; and
  - v. name and contact information of the person handling the surplus land sale and/or the deadline for any written submissions to the Township.
- c. Before selling any surplus land, the Township may obtain or require a survey of the land from an independent surveyor in accordance with the laws of the Province of Ontario. Council may, by resolution, waive this requirement if an existing survey is available.
  - d. Before selling any surplus land, the Township may obtain approval from any other agencies, as may be required by law.

### 3. Method of Sale:

Council shall determine the appropriate method of sale for each parcel of land declared surplus. Based on the method chosen, the following procedures may be followed:

- a. Where the method of sale is by **Tender** or **Quotation**, the Township may:
  - i. estimate the costs incurred or required to dispose of the surplus land including appraisal, public notice, survey, legal fees, realty fees, encumbrances, improvements or such other costs associated with the land sale;
  - ii. determine a reserve bid amount based on the appraised value plus estimated costs above;

- iii. prepare an Invitation to Tender or Request for Quotations which shall be reviewed by the Chief Administrative Officer before publication;
  - iv. include in all Invitations to Tender or Request for Quotations the statement that 'the highest or any offer may not necessarily be accepted'; and
  - v. give notice by way of posting on the Township Website and publishing in at least one (1) newspaper of general circulation at least twenty (20) days prior to the date when the Tenders or Quotations will be considered by Council.
- b. Where the method of sale is by way of a **Real Estate Firm** or **Broker**, the Township may:
- i. invite proposals from not less than three (3) Real Estate Firms or Brokers operating in the Township or part of the Township. Said proposals are to include a recommendation to Council 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;
  - ii. ensure that the real estate agent lists the land for sale on the Multiple Listing Service;
  - iii. ensure that all prospective purchasers are made aware that 'the highest or any offer may not be necessarily be accepted'; and
  - iv. have all Offers to Purchase submitted to the Clerk for presentation to Council prior to the sale being completed.
- c. Where the surplus of land is a **Closed Highway** or is **being Closed** under the provisions of the *Municipal Act*, the Township may:
- i. estimate the costs incurred or required to close and/or sell the highway including public notice, survey, legal fees, realty fees, encumbrances, improvements or such costs associated with the land sale;
  - ii. determine a sale price based on the value of the land plus estimated costs as noted above;
  - iii. the Township may, at its sole discretion, place a nominal value on land where the purpose of the road closure and sale is to resolve a

long standing encroachment on the highway or to bring a pre-existing building into compliance with the Township zoning by-law;

- iv. where the purpose of the proposed road closure and sale is to permit development of the lands either as part of an application under the *Planning Act* or the *Building Code Act*, the Township shall determine the value of the lands in a manner consistent with the 'Appraisal' section of this policy (2a);
  - v. give notice in the same time, form and method as set out herein, or in such other policy/procedure as Council may pass, for the purpose of giving notice of the permanent closure of a road under the *Municipal Act*,
  - vi. where the sale of the road is being carried out in conjunction with a road closure, the Notice of Intent may be issued for both purposes provided that the form of the notice references both the closure and sale of the highway;
  - vii. establish any special terms or conditions of the sale; and
  - viii. Council may reserve the right to adjust the sale price where, in the opinion of Council, it is in the best interests of the Township to do so.
- d. Where an **Alternate Method** of sale is used, Council may provide for:
- i. a determination of the sale price based on the appraisal of the land value and any costs associated with the proposed method of sale;
  - ii. the method of public notice;
  - iii. where, when and who will receive the offers or bids;
  - iv. any terms and conditions of the sale; and
  - v. 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.

#### 4. Closed Session

All tenders, quotations or offers may be presented to Council in Closed Session for deliberation, in accordance with Section 239 of the *Municipal Act*, unless Council direction has been given to staff to negotiate the sale within certain terms or an alternate method of sale is approved by Council.

## **5. No Further Notice Required**

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.

The provisions of this section shall also apply to any further referrals of the matter, including a Committee recommendation to pass the by-law.

Notwithstanding the above, 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 provided that a public statement was made of the Township's intent to continue its deliberations on the matter.

## **6. Classes of Property Exempt from Procedures**

The provisions set out in sections 2 to 5 (Prerequisites for the Sale of Surplus Land, Method of Sale, Alternate Method, Closed Session and No Further Notice Required) may apply to all classes of land owned by the Township, save and except:

- a. the Sale of Lands for Tax Arrears which shall be subject to the procedures set out in Part XI of the *Municipal Act*, and
- b. the sale of lands under the *Expropriation Act*.

## **7. Authorizing By-Law**

Any sale of land by the Township may be ratified by a by-law authorizing the sale.

## **8. Certificate of Compliance**

- a. The Clerk may issue a certificate with respect to a sale of land by the municipality verifying that, to the best of his or her knowledge, the requirements of the *Municipal Act* and this policy, which applies to the sale of surplus land, have been complied with.
- b. The Clerk's signature may be included in a deed or transfer of land and, unless a person to whom the land is sold has notice to the contrary, may be deemed to be sufficient proof that this section has been complied with.

## **9. General**

- a. This Policy shall be administered by the Clerk's office.

- b. This Policy shall be referred to as the 'Sale of Surplus Land Policy'.
- c. Upon approval of this Policy, By-Law 2003-016 and any other by-law heretofore in existence relating to the sale of land in The Township of Springwater are hereby repealed.
- d. In the event that the provisions of this Policy are inconsistent with the provisions of the *Municipal Act*, its Regulations or any other Act, the provisions of the Act or Regulation shall prevail.
- e. This Policy shall come into force and effect on the date of passing of the by-law.
- f. This Policy shall be reviewed every five (5) years, or as required under the *Municipal Act*.