

THE CORPORATION OF THE COUNTY OF PERTH

BY-LAW NO. 3180-2010

Being a By-law to establish policies governing the Sale or Disposition of Surplus Land.

RECITALS

1. Section 270 (1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorizes every municipality to establish and maintain policies governing the Sale or other disposition of its Land.
2. By-law 2601 governing Sale of Land was adopted on January 6, 2000 but was not repealed by By-law 2970.
3. The policy for the Sale of Land was contained in By-law 2970 enacted on June 15, 2006 and subsequently repealed by By-law 3174-2010 on January 21, 2010.
4. The Council of The Corporation of the County of Perth deems it expedient to establish and adopt a policy with respect to the Sale and disposition of Land to comply with the new legislative requirements.

The Council of The Corporation of the County of Perth HEREBY ENACTS AS FOLLOWS:

1. INTERPRETATIONS

1.1 SHORT TITLE

This By-law will be known and may be cited as the Sale of Land By-law.

1.2 HEADINGS

The headings inserted in this By-law are inserted for convenience only and will not be used as a means of interpretation.

1.3 SCHEDULES

Schedules attached to this By-law form part of this By-law and have the same force and effect as if the information in them was contained in the body of this By-law.

1.4 SINGULAR, ETC

The necessary grammatical changes required to make the provisions hereof apply to corporations, partnerships, trusts, and individuals, male or female, and to

include the singular, plural meaning where the context so requires, will in all cases be assumed as though fully expressed.

1.5 VALIDITY AND SEVERABILITY

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 provision of this By-law or of the By-law as a whole.

1.6 DEFINITIONS

“Act” means the Municipal Act, 2001, S.O. 2001, c.25, as amended from time to time;

“Appraisal” means a written opinion/letter of opinion by an individual with training and experience in valuing real property and the fixed improvements thereon, as the amount that the real property or any right, title or interest in the real property might be expected to realize if sold in the open market;

"Chief Administrative Officer" means the Chief Administrative Officer of the County of Perth;

“Clerk” means the Clerk of the County of Perth;

“Council” means the Council of The Corporation of the County of Perth;

“County” means The Corporation of the County of Perth.

“Land” means any right, title, interest or estate the County has in real property and the fixed improvements situated thereon and appurtenances thereto including without limitation a leasehold interest or estate therein;

"Meeting" means any regular, special Committee or other meeting of the Council or one of the Committees of Council open to the public;

“Newspaper” means a printed publication in sheet form intended for general circulation published regularly at intervals of not longer than a week consisting in great part of news of current events of general interest and sold or distributed to the public and to regular subscribers that in the opinion of the Clerk has such circulation within the County of Perth as to provide reasonable notice to those affected by or interested in the subject Land Sale;

“Sale” means the Sale or other disposal of Surplus Land by the County under this By-law and includes a lease of 21 years or longer; and

“Surplus Land” means any Land declared surplus under Section 5.1 of this By-law.

“Value” and “Valuation” means the Valuation of the fair market value of the Land in accordance and includes the Value assigned by the Municipal Property Assessment Corporation, opinion of Value by a licensed real estate agent or such other means as

may be specifically determined as appropriate by Council or the Chief Administrative Officer in the circumstances.

2. **SCHEDULE 'A'**

2.1 Schedule 'A' entitled 'Procedures for the Sale of Surplus Land' contains the procedures in respect of the Sale of Surplus Land including, without limitation, the requirements with respect to obtaining an Appraisal and giving of notice to the public and methods of Sale.

3. **APPLICATION**

3.1 This By-law, including Schedule 'A', shall apply to all classes of Land owned by the Municipality, save and except:

- a) Land sold under Section 110 of the Act being Municipal Capital Facilities;
- b) Land to be used for the establishment and carrying on of industries and industrial operations and incidental uses;
- c) Land sold under Part XI (Tax arrears) of the Act;
- d) Easements over municipally owned Lands, as approved by Council; and
- e) Road allowances, whether or not opened, unopened, closed or stopped up.

3.2 Notwithstanding Section 3.1 above, Schedule 'A' shall not apply to the Sale of Surplus Land to:

- a) A municipality;
- b) A local board, including a school board and a conservation authority;
- c) The Crown, in right of Ontario or Canada, and their agencies; and
- d) Land being exchanged with a land owner as a part of a procedure that requires the acquisition of that owner's lands for municipal purposes.

4. **Register of Real Property Owned or Leased**

4.1 The Public Works Department shall establish and maintain a register, open to the public, listing and describing the real property owned or leased by the County.

- 4.2 The County is not required to list the following classes of real property in the public register:
- a) Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act; and
 - b) All highways, roads and road allowances, whether or not opened, unopened, closed or stopped up.

5. **Sale of Land**

- 5.1 When the Council has deemed it desirable to dispose of Land, the Council shall, in a Meeting, pass a resolution declaring any such real property surplus to its needs.
- 5.2 Council shall proceed with the Sale of Surplus Land in accordance with the procedures set out in Schedule 'A' to this By-law.
- 5.3 Appraisals or Valuations shall be used solely as a guide and shall not be determinative of the terms of price upon which the Council may sell the Surplus Land. The Council may consider all relevant factors to determine an acceptable price for the Surplus Lands, including without limitation the history of the real estate or related properties.
- 5.4 Following the completion of the applicable steps in Clauses 1 to 3 inclusive in Schedule 'A' to this By-law, the Council shall consider its intent to sell Surplus Land and if confirmed, shall determine the most appropriate method of Sale, as set out in Clause 4 of Schedule 'A' to this By-law, having regard to the best interest of the County.
- 5.5 The Council shall take all such action as is required to carry out the Sale of Surplus Land in accordance with its agreement of sale with the purchaser.
- 5.6 The Council shall have the absolute discretion to select the particular method of Sale of Surplus Land or to change the proposed method of Sale provided that this discretion is exercised in compliance with Schedule 'A'.
- 5.7 The Council shall have the absolute discretion to accept any proposal to purchase Surplus Land, to judge the acceptability of any terms or conditions of the Sale and to judge the sufficiency or acceptability of any price proposed by any purchaser.
- 5.8 In the event that there is no apparent party expressing an immediate interest in acquiring Surplus Land, the County may take the necessary steps required to identify a party interested in acquiring Surplus Land. These steps may include, but are not limited to, listing Surplus Land for Sale with a real estate company and/or posting an advertisement offering the Surplus Land for Sale, with any information necessary for the successful disposal of the Surplus Land.

6. By-law 2601 is hereby repealed.
7. This By-law shall come into force and take effect on the date of its final passing thereof.

READ a **FIRST** and **SECOND** time this 18th day of February, 2010.

READ a **THIRD** time and **FINALLY PASSED** this 18th day of February, 2010.

“Julie Behrns”

Warden, Julie Behrns

“R. William Arthur”

Clerk, R. William Arthur

SCHEDULE 'A'
TO BY-LAW NO. 3180-2010

PROCEDURES FOR THE SALE OF SURPLUS LAND

1. Survey of Land

The Council, if it deems necessary, may obtain a survey of the Surplus Land proposed to be sold from a Registered Ontario Land Surveyor.

2. Appraisal

2.1 The Council shall obtain an Appraisal or Valuation of the Surplus Land proposed to be sold except for any class of Land as follows:

2.1.1 Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act;

2.1.2 Land formerly used for railway lines if sold to an owner of land abutting the former railway land;

2.1.3 Land that does not have direct access to a highway if sold to the owner of land abutting the Land;

2.1.4 Land repurchased by an owner in accordance with section 42 of the *Expropriations Act*;

2.1.5 Closed highways or portion thereof sold to abutting land owners;

2.1.6 Land sold to public bodies including:

- i. A municipality;
- ii. A local board, including a school board and a conservation authority;
- iii. The Crown in Right of Ontario or Canada and their agencies.

2.1.7 Land sold under Sections 107, 108 and 110 of the Act;

2.1.8 Land sold under Part XI (tax arrears) of the Act.

3. Notice

3.1 The Clerk shall publish a notice of the intended Sale of the Surplus Land at least once in a Newspaper or other appropriate media and posted on the County's website at www.perthcounty.ca under Public Notices;

3.2 The notice shall specify that anyone wishing to comment on the proposed Sale may do so by delivering such comment in writing to the Clerk at the County Office; and

- 3.3 The final date for submitting such comments shall be specified in the notice. Any comments received shall be considered by the Council which in its sole discretion shall decide if any further action shall be taken on same.
4. The Council shall determine in its sole discretion by resolution the method of Sale of the Surplus Land which include: Sale by public tender, Sale by real estate firm or broker, direct Sale to a landowner, or direct Sale to the public.

4.1 **Sale by Public Tender**

Should the Council determine to sell the Surplus Land by tender, the following shall apply:

- a) Costs incurred or anticipated for Sale of the Surplus Land such as legal fees, survey fees, Appraisal fees, encumbrances, advertising, and improvements, shall be established;
- b) An estimated bid price shall be established which shall not be less than the appraised Value or Valuation plus the additional costs referred to in Clause 4.1(a) above. Notwithstanding the foregoing, the Council may accept an amount less than the estimated bid amount;
- c) An advertisement shall be published for a minimum of two (2) consecutive weeks within a Newspaper or appropriate media and posted on the County's website at www.perthcounty.ca under Public Notices. The advertisement shall include a brief description of the property including a small location sketch and shall specify the final date that offers will be accepted and shall include the following statement "the highest or any offer may not necessarily be accepted";
- d) The tender documents shall be delivered in person to the Clerk by the date specified therein; and
- e) Any tender otherwise acceptable to the County shall be submitted to the Council for approval of the sale price.

4.2 **Sale by Real Estate Firm or Broker**

Should the Council determine to engage a real estate firm or broker to sell the Surplus Land, the following shall apply:

- a) Costs incurred or anticipated for Sale of the Surplus Land such as legal fees, survey fees, Appraisal fees, encumbrances, advertising and improvements shall be established;
- b) A listing price shall be established which shall not be less than the appraised Value plus the additional costs referred to in Clause 4.2(a) above;

- c) The Chief Administrative Officer, or designate, shall be authorized to sign the listing agreement or agreement of purchase and sale once approved by Council;
- d) The offers to purchase the Surplus Land shall be submitted to the Clerk, or designate, on a standard offer to purchase form or form drafted by a lawyer and shall provide for an irrevocable period of at least twenty one (21) days;
- e) The County may make a counter offer subject to the Council approving the sale price; and
- f) All offers otherwise acceptable to the Council shall be submitted to the Council for approval of the sale price.

4.3 **Direct Sale to a Landowner**

Should the Council determine to sell the Surplus Land directly to a landowner, (other than a mortgagee or chargee) who abuts the Surplus Land or an owner of other land in close proximity (other than a mortgagee or chargee) who claims legal interest in the property such as, but not limited to: an easement, a right-of-way, possessory title or a restrictive covenant. The following shall apply:

- a) Costs incurred or anticipated for Sale of the Surplus Land such as legal fees, survey fees, Appraisal fees, encumbrances, advertising and improvements shall be established;
- b) An estimated sale price shall be established which shall not be less than the appraised Value plus the additional costs referred to in Clause 4.3(a) above. Notwithstanding the foregoing, the Council may accept an amount less or higher than the estimated sale price;
- c) In the event Clause 2.1 applies to the Surplus Land and no Appraisal is obtained, the estimated sale price shall not be less than that referred to in Clause 4.3(a) above; and
- d) All agreements otherwise acceptable to the County shall be submitted to the Council for approval of the sale price.

4.4 **Direct Sale to the Public**

Should the Council determine to sell the Surplus Land directly to the public, the following shall apply:

- a) Costs incurred or anticipated for Sale of the Surplus Land such as legal fees, survey fees, Appraisal fees, encumbrances, advertising and improvements shall be established;

- b) An estimated sale price shall be established which shall not be less than the appraised Value plus the additional costs referred to in Clause 4.4(a) above. Notwithstanding the foregoing, the Council may accept an amount less or higher than the estimated sale price;
- c) An advertisement shall be published for a minimum of two (2) consecutive weeks within a Newspaper or appropriate media and posted on the County's website at www.perthcounty.ca under Public Notices. The advertisement shall include a brief description of the property including a small location sketch and shall specify the final date that offers will be accepted and shall include the following statement "the highest or any offer may not necessarily be accepted";
- d) The Chief Administrative Officer, or designate, shall be authorized to sign the agreement of purchase and sale once approved by Council.
- e) The County may make a counter offer subject to the Council approving the sale price; and
- f) All offers otherwise acceptable to the County shall be submitted to the Council for approval of the sale price.