

CITY OF THOROLD POLICY AND PROCEDURE MANUAL

COUNCIL		
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POLICY STATEMENT:

The Corporation of the City of Thorold will dispose of surplus real property of the Corporation in an open and transparent process to ensure that returns are fair, reasonable and in the best interest of the City.

APPLICATION OF POLICY:

This policy applies to the disposition of real property of The Corporation of the City of Thorold.

This policy does NOT apply to any sale of real property by the City pursuant to the provisions of Part XIV of the *Municipal Act, 2001*, as amended (Sale of Land for Tax Arrears) and any regulations thereto.

DEFINITIONS:

Abutting – shall mean a parcel of land adjoining another parcel having one (1) or more lot lines in common.

Applicant – means a person who has inquired or requested to purchase the City land.

Appraisal – means a fair market valuation of land and may include, but not be limited, to a Real Estate Appraisers letter of opinion of value.

Appraiser – means a member in good standing of the Appraisal Institute of Canada, holding an Accredited Appraiser Canadian Institute or Canadian Residential Appraiser designation as appropriate.

As Is – means without regard for the 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 on streets, and without warranty or representation as to use, environmental contamination, hazards or risks.

Disposition and Disposal – means the sale, transfer, conveyance or exchange of the fee simple interest in real property, including highways, or granting of a lease for a term of 21 years or longer. Disposition or disposal does NOT include the granting of an easement or right of way or a quit claim made by the City for the purpose of correcting or clarifying title or boundaries of its land or of land not owned by the City.

Highway – means:

- i) All highways that existed on December 31, 2002,
- ii) All highways established by by-law on or after January 1, 2003,
- iii) All highways transferred to the municipality under the *Public Transportation and Highway Improvement Act*,
- iv) All road allowances made by the Crown surveyors located in the municipality,
- v) All road allowances, highways, streets and lanes shown on a registered plan of subdivision.

Market Value – means the most probable price which a property should bring in a competitive and open market as of a specified date under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably and in their own best interests.

Non-Viable Real Property – means surplus real property for which a building permit cannot be granted because it is either landlocked, or because it is of insufficient size and shape to permit development unless developed in conjunction with abutting land.

Official Plan – means the policy document that guides the short and long-term development of Thorold, as amended or replaced from time to time.

Real Property or Property – means land and/or buildings and all improvements thereon owned by the City. This includes land laid out or intended to be laid out as highways.

Surplus – means a property that the City no longer requires to meet its current or future needs.

Viable Property – a parcel of land which, on its own, would be eligible for a building permit.

PART 1 - GENERAL:

- 1.1 A by-law containing a legal description of the land and the identity of the purchaser shall be passed to approve the sale of land.
- 1.2 Land required for municipal purpose, including, but not limited, to present or future municipal facilities, infrastructure and parks, is not available for sale to the public.
- 1.3 Any survey and/or reference plan required shall be obtained at the expense of the purchaser(s) unless Council by resolution determines otherwise.
- 1.4 Council may impose conditions of sale if deemed appropriate.
- 1.5 All land, with or without improvements, shall be sold on an “as is” basis unless Council determines otherwise.
- 1.6 The City 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 land by the purchaser.
- 1.7 Any provisions for public notice provided for in this policy shall prevail over any other existing or future public notice by-law passed by Council.
- 1.8 The City shall maintain a public register listing and describing the land owned by the municipality.

PART 2 – APPRAISAL:

- 2.1 One (1) Appraisal of the fair market value of land to be sold, prepared by an Appraiser in accordance with the requirements of the Appraisal Institute of Canada, shall be obtained.
- 2.2 Appraisal Reports for viable property shall remain confidential until the disposition is completed.

- 2.3 Notwithstanding the foregoing, the following classes of real property are exempt from the requirement to obtain at least one appraisal of fair market value prior to its disposition:
- a) land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*.
 - b) land repurchased by an owner in accordance with Section 42 of the *Expropriations Act*.
 - c) land for which the City has obtained an appraisal within the preceding year.
- 2.4 The appraisal shall be completed in order to achieve the highest and best use for the property, in its current state.

PART 3 – LAND DEEMED TO BE NOT MARKETABLE:

- 3.1 In addition to any other provisions herein, or any resolution or by-law passed by Council, the following lands are deemed to be not marketable:
- a) Land situated in the Open Space or Environmental Protection designations of the Official Plan, as amended from time to time, in order to protect and promote the public enjoyment of natural features.
 - b) Any land which Council has by resolution or by-law declared shall not be sold.
- 3.2 City lands deemed to be not marketable are not available for sale to the public.

SALE OF VIABLE LAND

PART 4 – VIABLE LAND – POLICY STATEMENTS:

- 4.1 The following policy statement shall be applied to all Viable Land:
- i) Viable land shall only be sold if it creates a configuration which is acceptable to the Director of Planning & Development Services, or designate, in accordance with good planning principles.

- 4.2 Surplus public highway land shall be required to legally merge in title with an abutting property. Where necessary, Council shall pass a by-law deeming the City land and/or the abutting land not to be part of a registered plan of subdivision in order to effect the merger, and the by-law shall be registered on title by the City prior to the registration of the Transfer/Deed to the purchase.
- 4.3 In addition, the following restrictions shall apply to land in the Agricultural or Rural areas of the Official Plan or outside the Urban Area:
- i) If the total area of the combined City land and the abutting owner's property is less than 1 acre in size, the City land will be recommended for sale to the abutting owner, only if there is an existing dwelling or non-residential building on the abutting land; or
 - ii) If the total area of the combined City land and the abutting owner's property is greater than 1 acre in size, but less than 2.2 acres in size, the City land may be sold to the abutting owner notwithstanding that there is no existing dwelling.

PART 5 – PROCESS FOR SALE OF VIABLE LAND NOT INITIATED BY THE MUNICIPALITY

- 5.1 The initial enquiry by a prospective purchaser (Applicant) shall be made to the City Clerk's Department.
- 5.2 The request process for the sale of Viable Land shall be divided into phases, as follows:
- i) Phase 1 – Preliminary Review**

Part 3 of this policy shall be reviewed to determine its applicability, and the Applicant shall be advised accordingly.
 - ii) Phase 2 – Circulation**

Staff shall conduct a formal circulation to internal departments and any outside agencies as appropriate, to determine any objections to the sale or conditions which may be required. The Applicant shall be advised of the results of the circulation. In addition, a site visit may be conducted by Public Works &

Community Services and Planning & Development Services to determine any municipal requirements which may need to be addressed upon a sale.

iii) Phase 3 – Collection of Deposit and Appraisal

Should the Applicant wish to proceed with the request to purchase the land, the deposit provided for in Part 8 shall be required.

Following receipt of the deposit, an appraisal of land will be obtained in accordance with Part 2 of this Policy.

PART 6 – NOTICE TO ABUTTING OWNERS AND DISCLOSURE OF APPRAISAL

6.1 The Applicant shall be advised of the appraised value and be required to submit his/her written offer to purchase the land at the appraised value within three (3) weeks, failing which he/she shall be deemed to have declined to purchase the land.

6.2 A sign posted on the property and a municipal website posting will be posted for 20 days after receipt of a written offer to purchase the land. Comments or objections to the sale of the public highway lands will only be accepted by abutting owners and must be done in writing. In the event the public posting generates additional interest in the property, a deposit as provided in Part 8 together with their offer in writing to purchase the lands must be filed within three (3) weeks from the date of such notice, failing which, they shall be deemed to have no objection nor any interest in purchasing the land. Comments and objections will become part of the public record and included in any subsequent report to Council.

6.3 In the event that:

- i) An abutting owner submits their written offer to purchase the land at the appraised value, and
- ii) Provided dividing the land equally between the Applicant and the abutting owner would create a configuration acceptable to Provincial legislation and policies, Official Plan policies and Zoning By-law regulations as determined by the Director of Planning & Development Services, or designate in accordance with good planning principles,

then the Applicant and the abutting owner may agree to divide the lands equally between them with the purchase price and all survey/reference plan costs shared proportionately. If the Applicant and the abutting owner do not agree to divide the

land, the land will be offered to each through a tender process to the highest bidder (the appraised value being the Reserve Bid), subject to final approval by Council.

PART 7 – REPORT TO COUNCIL

Following receipt of the Applicant's and/or another abutting owner's written offer to purchase the land at the appraised value and payment of the deposit required in Part 8, a report shall be submitted to Council for approval, with staff's recommendations.

- 7.1 The Agreement of Purchase and Sale shall be prepared by the Applicant in a form satisfactory to the City's Legal Counsel, who shall have authority to determine and extend the time for closing real estate transactions.
- 7.2 All legal, survey, appraisal, advertising and any other expenses incurred as a result of this transaction will be borne by the Purchaser.
- 7.3 In the event that sale of land is not completed within one (1) year from the date on which Council passes the by-law authorizing the sale, subsequent requests shall be subject to the provisions of this Policy in all respects.

PART 8 – VIABLE LAND – PAYMENT OF DEPOSIT

- 8.1 A deposit in the amount of \$2,000 payable to the City of Thorold by bank draft or certified cheque shall be required as follows:
 - i) If the sale of land to the Applicant will be recommended, payment of the deposit shall be required prior to ordering an Appraisal and submitting a Report to Council;
 - ii) Following notice, if another abutting owner provides his written offer to purchase the land at the appraised value, such owner shall be required to submit payment of the deposit with his written offer to purchase the land.
- 8.2 The deposit shall be refunded, applied to the purchase price or forfeited, at the times and in the circumstances set out below:

In the event that:

- i) The Applicant abandons the request before a report is submitted to Council, the deposit shall be forfeited without interest or deduction;

OR

the sale of land is:

- i) not recommended by staff, and Council denies the request, the deposit shall be forfeited without interest or deduction;
- ii) recommended by staff and Council denies the request, then the deposit shall be refunded without interest or deduction;
- iii) approved by Council and the Applicant does not complete the transaction for any reason other than one which may be contemplated in the Agreement of Purchase and Sale, the deposit shall be forfeited without interest or deduction.

8.3 Should a tendering process occur:

- i) The deposit paid by the successful bidder shall be applied towards the purchase price if the sale is approved and the transaction is completed;
- ii) The deposit paid by the unsuccessful bidder shall be refunded without interest or deduction;
- iii) If the successful bidder does not complete the transaction for any reason other than one which may be contemplated in the Agreement of Purchase of Sale, the deposit shall be forfeited without interest or deduction.

PART 9 – METHOD OF DISPOSITION CITY INITIATED

9.1 Subject to direction from Council, viable property will be listed by a real estate brokerage firm or independent real estate agent acquired by the City for real property transactions. The acquisition of real estate brokers or agents to dispose of real property shall be conducted in accordance with the City's Procurement Policy.

9.2 All viable land will be marketed for a period of at least ten business day prior to the review and consideration of any offer to purchase, except as otherwise provided in this policy.

- 9.3 The City reserves the right to dispose of real property by way of tender or request for quotation, if it has been deemed by the CAO to be in the best interests of the City to do so.

PART 10 – NON-APPLICATION OF POLICY

- 10.1 This by-law does not apply to any sale of land by the City pursuant to the provisions of Part XI of the *Municipal Act, 2001*, as amended (Sale of Land for Tax Arrears) and any Regulations thereto from time to time, which shall be effected in conformity with the said *Act* and Regulations.
- 10.2 This by-law does not apply to sale of land pursuant to other applicable legislation, including but not limited to:
- a) Section 107, 108, 110 and 203 of the Municipal Act, 2001 S.O. 2001, c. 25, as amended; and
 - b) Sections 28 and 60 of the Planning Act, R.S.O. 1990, c.P 13, as amended; and
 - c) Any approvals granted under the provisions of the Planning Act, R.S.O. 1990, c. P 13, as amended; and
 - d) Sections 11 and 42 of the Expropriations Act, R.S.O. 1990, c.E. 26, as amended;
- and any regulations thereunder.

SALE OF HIGHWAYS

PART 11 – DISPOSITION OF HIGHWAYS

The process as noted above for viable property sales will be adhered to for the disposition of highways, save and except the following, as applicable:

- 11.1 Prior to the disposition of a highway, or any part thereof, the City Clerk shall give notice to the public, pursuant to the City's Public Notice Policy, of the intention of the City to permanently close the highway, or part thereof, declare it to be surplus to the City's needs.

- 11.2 Where a highway, or any part thereof, has been identified as surplus, the parcel register shall be obtained to ensure there are no legal impediments to the closing and disposition.
- 11.3 Prior to the disposition of a highway, or any part thereof, municipal and external easement requirements shall be identified and protected by registration at the land registry office as part of the disposal of property transaction.
- 11.4 Prior to the disposition of a highway, or any part thereof, Council shall pass a by-law at a meeting, open to the public, permanently closing the highway, or part thereof, declaring the property surplus to the City's needs and method of disposition of the property.
- 11.5 No highway, or any part thereof, shall be disposed of by the Corporation that will result in the remainder of the highway being landlocked.
- 11.6 No highway shall be disposed of in part, so as to diminish the width of the highway, if the highway is viable real property.
- 11.7 A by-law permanently closing a highway shall not be passed without the consent of the Government of Canada if the highway:
- a) abuts on land, including land covered by water, owned by the Crown in Right of Canada; or
 - b) leads to or abuts on a bridge, wharf, dock, quay or other work owned by the Crown in Right of Canada.
- 11.8 No closed highway or any portion thereof, covered with water shall be disposed of without the consent of the Ministry of Natural Resources.

PART 12 – APPLICATION AND ADMINISTRATION OF POLICY

- 12.1.1 This policy shall be read and applied fairly with such variations as circumstances or the nature of the subject matter require provided the general purpose, intent, meaning and spirit of the policy are maintained.

Reference: Previously approved Nov 20/12

Reference: Report CC2019-72

General Committee: December 17/19