

THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NUMBER 013-2008

A BY-LAW TO ESTABLISH PROCEDURES FOR THE SALE OF LAND BY THE CORPORATION OF THE TOWN OF COBOURG.

WHEREAS Section 270 of the Municipal Act, 2001, requires every municipality to adopt and maintain policies with respect to the sale and other disposition of land;

AND WHEREAS the Corporation of the Town of Cobourg deems it necessary and advisable to pass this By-law to confirm such policies;

NOW THEREFORE the Council of the Corporation of the Town of Cobourg enacts as follows:

1. In this By-law:
 - (a) "Council" shall mean the Council for the Corporation of the Town of Cobourg.
 - (b) "Clerk" shall mean the Clerk for the Corporation of the Town of Cobourg as appointed from time to time by by-law of the Municipality.
 - (c) "Municipality" shall mean the Corporation of the Corporation of the Town of Cobourg.
 - (d) "Sale" includes a lease of 21 years or longer.
2.
 - (a) Where Council wishes to sell any land owned by the Municipality, Council shall, by by-law or resolution passed at a meeting open to the public, declare the land that Council wishes to sell to be surplus to the needs of the Municipality.
 - (b) Where Council has declared certain land or lands to be surplus to the needs of the Municipality, Council shall, subject to the provisions of Paragraphs 7 and 8 of this By-law, obtain at least one appraisal of the fair market value of the land that Council wishes to sell, which appraisal shall be prepared by an accredited estate appraiser.
 - (c) Where Council has declared land to be surplus, Council shall direct the Clerk to give notice to the public of the proposed sale of land by publishing notice of the proposed sale in a local newspaper intended for general circulation in the area in which the land is located at least ten (10) days prior to the proposed sale, including weekends and statutory holidays, and such notice shall include:
 - (i) the date of the meeting that the land was declared surplus to the needs of the Municipality by Council;

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- (ii) a brief legal description of the property so as to identify the land; and
 - (iii) the municipal address, if available, of the land.
- 3. Subject to compliance with the foregoing provisions of this By-law, Council may conduct the sale of land in such manner as Council in its sole and absolute discretion determines including without limitation:
 - (a) sale by way of public tender;
 - (b) sale by way of private sale;
 - (c) sale by way of listing the land with a licensed real estate agent; or
 - (d) in such other manner as will, in Council's opinion, obtain the highest sale price for the land.
- 4. Council, in its sole and absolute discretion, may sell land for less than the fair market value of the land as established by one or more appraisals where Council, in its sole and absolute discretion, determines such sale to be in the best interests of the Municipality or otherwise fair and reasonable.
- 5. The provisions of this By-law shall not apply to any reconveyance of land from the Municipality to the person who originally conveyed the land to the Municipality or their heirs, executors, administrators, successors and assigns, where the land was conveyed to the Municipality in trust or subject to a condition that required reconveyance or where such land was being held as security for the performance of an obligation pursuant to an agreement entered into with the Municipality.
- 6. Where the land to be disposed of is an unopened or closed highway, the land shall, unless the Municipality in its sole discretion determines same not to be practicable, advisable or in the best interest of the Municipality and subject to compliance with Sections 66 and 67 of the Municipal Act, 2001, be sold in accordance with the following:
 - (a) Council shall, by resolution, set the sale price at which the land is to be offered for sale and shall first offer it to the owner of the land abutting the land to be sold;
 - (b) Where there are parcels of land abutting on opposite sides of the land to be sold, the Municipality shall first offer the owner of each parcel the right to purchase the land to its middle line as determined by the Municipality;

- (c) Where the land to be sold is abutted on one side by a highway that has not been closed or by a stream, river, or other body of water over which the public has rights of navigation or of floating timber, the Municipality shall first offer the land to the owner whose land abuts the land to be sold on the other side;
 - (d) Where the land to be sold does not include the whole width of the former highway, the owner whose land abuts the land to be sold shall be first offered all of the land to be sold;
 - (e) If any person entitled to purchase the land to be sold does not accept such offer to purchase within such period as is fixed by Council, the Municipality may sell the land that the person had the right to purchase to any other person at the price previously established by Council or at such greater price or lesser price as Council may determine;
 - (f) Where land is sold to an abutting owner pursuant to this Paragraph 6, the sidelines of the parcels abutting the land to be sold shall be extended to include the land to be sold in such manner as the Council considers fair and reasonable.
 - (g) The Municipality shall not convey the land forming the former highway, if it is covered with water without the consent of the Ministry of Natural Resources.
7. The requirements of Paragraph 2(b) of this By-law shall not apply to the following classes land:
- (a) land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act, R.S.O. 1990, c.P.13, as amended;
 - (b) closed highways if sold to an owner of land abutting the closed highways;
 - (c) land formerly used for railway lines if sold to an owner of land abutting the former railway land;
 - (d) land that does not have direct access to a highway if sold to the owner of land abutting the land;
 - (e) land repurchased by an owner in accordance with Section 42 of the Expropriations Act, R.S.O. 1990, c.E.26, as amended;

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- (f) lands sold under Sections 107 and 108 of the Municipal Act 2001, as amended;
 - (g) easements granted to public utilities or telephone companies.
8. The provisions of paragraph 2(b) of this By-law shall not apply to the sale of land to the following public bodies:
- (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.
9. The provisions of paragraph 2 of this by-law shall not apply to the sale of the following classes of Land:
- (a) land sold under s.110 of the Municipal Act, 2001;
 - (b) land to be used for the establishment and carrying on of industrial and industrial operations and incidental uses.
10. Where it is decided by Council to sell the land at auction:
- (a) Council shall advertise or otherwise negotiate for the services of a professional auctioneer or firm of professional auctioneers to act as the agent of the Municipality in such sale and shall execute a contract for these services satisfactory to it; and
 - (b) In advertising for such services an appropriate advertisement shall be placed in a newspaper having general circulation in the Town of Cobourg. Advertisements in newspapers or other publications outside of the Town of Cobourg shall be at the discretion of Council; and
 - (c) Following execution of a contract for services with the agent Council shall provide instructions and all requisite information to the agent including, in the discretion of Council, the amount of the fair market value appraisal or appraisals obtained by Council pursuant to Paragraph 2 of this By-law and the amount of such reserve bid or such other conditions of sale as may be determined by Council; and

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- (d) The interval of time from the advertisement by the agent of the auction until the date of the auction shall be such time period as Council may determine.
11. Where the land to be sold is located in any Industrial Park or where the Municipality has resolved to sell the land for industrial or commercial purposes:
 - (a) Offers to Purchase in such standard form as is deemed advisable by the Clerk from time to time, shall be submitted to the Clerk of the Municipality and shall first be approved by Council or the appropriate Committee of Council; and
 - (b) Upon approval of a sale by Council or the Committee, the Clerk of the Municipality shall, in a timely manner, provide public notice as deemed appropriate by the Clerk of the Municipality, a notice of the proposed sale of land in the said Industrial Park which shall include a brief description of the property and a copy of that portion of the relevant plan of survey which illustrates the land and shall set out the date and time of the meeting of Council at which a by-law authorizing the sale will be considered by Council.
 12. This By-law does not apply to the sale of land for tax arrears.
 13. If any term or provision of this By-law or the application thereof to any person shall to any extent be held to be invalid or unenforceable, the remainder of this By-law or the application of such term or provision of this By-law shall be separately valid and enforceable to the fullest extent permitted by law.
 14. In this By-law, words importing the neuter gender shall include the feminine gender and masculine gender and vice versa and words importing the singular shall include the plural where the context requires.
 15. By-law 35-95 shall be repealed upon the coming into force and effect of this By-law provided that any sale transactions commenced prior to the passage of this By-law shall be continued in accordance with the provisions of By-law 35-95.

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16. This By-law shall come into force and take effect upon the final passing hereof.

READ as first, second and third time and finally passed in Open Council this ^{3rd} day of March , 2008.


Mayor


Municipal Clerk