



BY-LAW NO. 2012-195

"A BY-LAW TO ESTABLISH A POLICY GOVERNING THE SALE OR OTHER DISPOSITION OF LAND OWNED BY THE CITY OF OWEN SOUND"

Originally Passed and Enacted November 5, 2012

Amended By By-law:	Passed On:
Not Amended	

Consolidated Version
Revised and Verified September 3, 2013

Consolidated for Convenience Only

This is a consolidation copy of a City of Owen Sound By-law for convenience and information. While every effort is made to ensure the accuracies of these by-laws, they are not official versions or legal documents. The original by-laws should be consulted for all interpretations and applications on this subject. For more information or original signed copies of by-laws please contact the City Clerk's Department.

BY-LAW NO. 2012-195

THE CORPORATION OF THE CITY OF OWEN SOUND

**A BY-LAW TO ESTABLISH A POLICY GOVERNING THE
SALE OR OTHER DISPOSITION OF LAND OWNED BY
THE CITY OF OWEN SOUND**

WHEREAS Section 270 of the *Municipal Act, 2001* provides that every municipality shall adopt and maintain a policy with respect to the sale and other disposition of land;

WHEREAS the Council of the Corporation of the City of Owen Sound passed By-law No. 2007-230 to establish procedures with respect to the sale and other disposition of land owned by the municipality on December 3, 2007; and

WHEREAS the Council of The Corporation of the City of Owen Sound deems it necessary and expedient to rescind By-law No. 2007-230 and pass the subject by-law to establish a revised policy governing the sale and other disposition of land owned by the City;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

Part 1. Preamble and Defined Terms

Short Title

- 1) This by-law may be referred to as the "Disposition of Land By-law."

Purpose

- 2) This by-law is enacted for the purposes of establishing a policy and procedures for the Disposition of Land owned by the City of Owen Sound to foster the following principles in order that the best interests of the City are advanced and maintained:
 - a) consistency and due process,
 - b) transparency and accountability, and
 - c) flexibility and responsiveness.

Headings

- 3) The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect interpretation of the by-law.

Definitions

- 4) For the purposes of this by-law:
 - a) "City" means the Corporation of the City of Owen Sound;
 - b) "Council" means the Council of the City;
 - c) "Disposition" means the Sale, transfer, conveyance or exchange of the fee simple interest in Land or the granting of a lease for a term of 21 years or longer, and "Dispose" and "Disposal" shall have the same meaning;
 - d) "Land" means real property owned by the City;
 - e) "Market Value" means a determination of the most probable price which Land should bring in a competitive and open market at the time of Sale or listing under all conditions requisite to a fair Sale, the buyer and seller each acting prudently, knowledgeably and in their own best interests;
 - f) "Municipal Act" means the *Municipal Act, 2001, S.O. 2001, C. 25*, as supplemented, amended or replaced from time to time;
 - g) "Planning Act" means the *Planning Act, R.S.O. 1990, c P.13*, as supplemented, amended or replaced from time to time;

- h) "Sale" and "Sold" means the Sale and other Disposition of Land; and
- i) "Valuation" means a determination of Market Value by independent appraisal or written letter of opinion satisfactory to the City Manager.

Scope

- 5) This by-law shall apply to Disposal of all Lands by the City, save and except:
 - a) Cemetery plots owned by the City;
 - b) Land transferred to the City for security or for temporary roads or other works in connection with any agreement to which the City is a party under the *Planning Act*;
 - c) Land which is 0.3 metres or less in width and acquired by the City in connection with an approval or decision under the *Planning Act*;
 - d) Land Sold for the arrears of taxes, which shall be subject to the procedures set out in Part XI of the *Municipal Act*;
 - e) Lands disposed of pursuant to sections 107, 108 or 110 of the *Municipal Act*;
 - f) Land transferred to another municipality or the Crown in right of Ontario or Canada including their local boards and agencies; and
 - g) Land transferred to, or vested in the City which neither the City nor the registered owner intended to vest or be transferred.

Part 2. Procedures Prior to Disposal of Land

Declaration of Intent to Sell Land

- 6) Before Disposal of Land by the City, Council shall, by a resolution or by-law declare the Land to be surplus to the needs of the City.

Notice

- 7) Before Disposal of Land by the City, Council shall direct that notice of intent to Dispose of Land be provided and invite public comment in accordance with this by-law. A notice that references the Disposition of an open highway shall also include notice of intent to permanently close the highway.
- 8) Notice of intent to Dispose of Land shall be provided by one or more of the following methods at least 10 days in advance of a decision by Council:
 - a) Advertisement published in a newspaper having general circulation in the City;
 - b) Listing the Land on the City website, Council agenda or in City facilities;
 - c) Posting a notice on the subject property;
 - d) Mailing to specified persons, businesses and organizations;
 - e) Posting the Land for Sale in a printed or digital listing of property Sales such as the Multiple Listing Service or other similar service.
- 9) Provision of notice of intent to Dispose of Land by one or more of the methods described in Section 8 of this by-law does not preclude Council from directing staff to provide notice by additional methods.
- 10) Notice of the City's intent to Dispose of Land shall include:
 - a) the method of Disposition,
 - b) a key map, address or legal description identifying the subject Lands,
 - c) where to obtain additional information,
 - d) name and contact information of the person handling the Disposition, and
 - e) details of how public comments will be received by Council.

Valuation

- 11) Before Disposal of Land by the City, the City shall obtain at least one Valuation.
- 12) Notwithstanding the above requirement, the City shall not be required to obtain a Valuation where Council directs, by resolution, that Valuation is not warranted for a particular parcel of Land.

Other Approvals

- 13) Before Disposal of Land by the City, the City shall obtain approval from any other agencies, as required by law.

Part 3. Disposition of Land**Methods of Disposition of Land**

- 14) Methods for the Disposition of Land by the City include:
 - a) Auction – a public and open auction;
 - b) Direct sale – receipt of a bona fide offer of purchase;
 - c) Land exchange – exchange in whole or in part, at the equivalent value, unless otherwise approved by Council;
 - d) Real estate listing – listing by City or its agent with one or more property listing services;
 - e) Request for proposals – application made in accordance with the terms of a City issued request for proposals;
 - f) Tender – bid made in accordance with the terms of a City issued public tender; or
 - g) Alternate Method – a method declared by Council by resolution, which resolution shall establish the terms of such method.

Costs of Disposal

- 15) All costs associated with the Disposition of Land, including the transfer for a nominal amount, shall be borne by the party or parties acquiring the land, unless otherwise directed by Council.

Disposition of Land to City Employees

- 16) Before Council considers the Disposal of Land, any employee considering the acquisition of the subject land shall advise the City Manager of their interest. The City Manager will determine what, if any, steps are necessary to remove the employee from decision making and administrative processes related to the Disposal.

Approval of Council

- 17) All bids, proposals and offers shall be presented to Council unless Council has given direction to staff to negotiate the Disposition by another method.
- 18) Nothing in this by-law precludes the application of the City's Purchasing By-law except as hereafter expressly provided for:

Notwithstanding that notice may have been given or one or more interested parties may have presented a bid, proposal or offer to purchase Land, nothing shall fetter the absolute discretion of Council to retain or Dispose of any Land on such terms and conditions as may be fixed by Council, which shall include the power to Sell Land for nominal consideration and to whomever Council wishes.

Part 4. Conflict and Transition

Review

- 19) The manner in which the City carries out the Disposition of Land, if consistent with the *Municipal Act*, and this By-law, as applicable, is not open to review as the City is deemed to have acted in good faith.

Conflict

- 20) In the event the provisions of this by-law are inconsistent with the provisions of the *Municipal Act*, its Regulations or any other Act, the provisions of the Act or Regulation shall prevail.

Severability

- 21) The terms and provisions of this by-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, inoperative or invalid, the remainder of the by-law shall continue to be in full force and effect.

Repeal

- 22) By-law No. 2007-230 is hereby repealed.

Enactment

- 23) This by-law shall come into force and take effect upon the final passing thereof.

FINALLY PASSED AND ENACTED this 5th day of November, 2012.

Mayor Deborah A. Haswell

Kristen M. Van Alphen, City Clerk