

BY - LAW NUMBER 52-2014

A BY-LAW TO ESTABLISH A POLICY FOR
THE DISPOSAL OF LAND

Passed the 7th day of April, 2014.

WHEREAS Section 270. (1) of the *Municipal Act, 2001* provides that “a municipality shall adopt and maintain policies with respect to the following matters: 1. Its sale and other disposition of land.”;

AND WHEREAS City Council adopted By-law 247-2007 in December of 2007, which By-law related to “Dealings With Real Property Policy” and was a consolidation of various by-laws, resolutions and policies which governed the methods in which the municipality dealt with its real property;

AND WHEREAS the Council for The Corporation of the City of Windsor considers it desirable and necessary to repeal By-Law 247-2007 and adopt the Policy for the Disposal of Land, attached hereto as Schedule “A”.

NOW THEREFORE the Council of The Corporation of the City of Windsor hereby enacts as follows:

1. That the Disposal of Land Policy attached hereto as Schedule “A”, be adopted.
2. That By-law 247-2007 be repealed.
3. This By-law shall come into force and take effect on the day of the final passing thereof.

EDDIE FRANCIS, MAYOR

CLERK

First Reading - April 7, 2014
Second Reading - April 7, 2014
Third Reading - April 7, 2014

SCHEDULE “A” to By-Law 52-2014

**THE CORPORATION OF THE CITY OF WINDSOR
DISPOSAL OF LAND POLICY**

Service Area:	Office of the City Solicitor	Policy No.:	
Department:	Legal	Approval Date:	
Division:	Real Estate	Approved By:	City Council
		Effective Date:	
Subject:	DISPOSAL OF LAND	Procedure Ref.:	Municipal Act 2001, c. M. 25, s. 270. (1)
		<i>Pages:</i>	Replaces: Dealings With Real Property Policy
Prepared by	Mike Stamp		Date: December 17, 2007

DEFINITIONS

Appraisal: a valuation of the Market Value of Land that is satisfactory to the Manager of Real Estate Services.

CAO is the City’s Chief Administrative Officer

CITY: The Corporation Of The City Of Windsor

Disposal: the sale, transfer, conveyance or exchange of the fee simple interest in Land.

Land: includes buildings and other improvements thereon.

Market Value: the most probable price which Land 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 and assuming the price is not affected by undue stimulus.

Other Land Interests: a granting of an interest in Land that is not a Disposal, such as easement, leases, encroachments etc.

Special Project: Land to be used for development or other opportunity, as determined by Council.

Surplus: Land which is not required for municipal purposes, as determined by Council.

Viable Land: a parcel of Land, which, on its own, would be eligible for a building permit.

1. POLICY

1.1 Surplus Land will be considered for Disposal so as to achieve the best interest of the City.

2. PURPOSE

2.1 To abide by section 270. (1) of the *Municipal Act, 2001* requiring municipalities to “adopt and maintain policies with respect to... sale and other disposition of land.”

2.2 To promote consistent, transparent and equitable processes in Disposals in a manner consistent with the best interest of the City.

3. SCOPE

3.1 Subject to section 3.2, this Policy is applicable to all City operations involving Disposals, including any agencies, boards or commissions whose financial operations are accounted for within the City's financial statements.

3.2 This Policy is not applicable to any Disposals where:

3.2.1 The transaction is governed by any federal legislation or legislation of the Province of Ontario (examples include tax sales and expropriation by the province);

3.2.2 The transaction is completed in accordance with Council direction, or the approval of the CAO as authorized through delegation AND the legal entity obtaining ownership or interest in the Land is any government authority including but not limited to the federal government, Ontario provincial government, crown agencies, school boards having jurisdiction within the City limits and the Essex Region Conservation Authority;

3.2.3 The Disposal is being done by a corporation AND the City is the sole shareholder of that corporation;

3.2.4 The City is transferring Land to a corporation, in which the City is the sole shareholder AND the transaction is completed in accordance with Council direction or CAO approval as authorized through delegation;

3.2.5 The property is deemed to be a Special Project AND the transaction is completed in accordance with Council direction or CAO approval as authorized through delegation as applicable;

3.2.6 Any other City policy that may supersede this policy;

3.2.7 A closed street or alley is conveyed to an abutting property owner AND the transaction is completed in accordance with Council direction or CAO approval as authorized through delegation, as applicable, or the Street and Alley Closing policy; or,

3.2.8 The transaction involves Other Land Interests AND it is completed in accordance with Council direction or CAO approval as authorized through delegation, as applicable, or other approved by-laws or policies.

3.2.9 Other agreements authorized by Council such as a development agreement.

4. RESPONSIBILITY

4.1 City Real Estate Staff will:

4.1.1 periodically review listings of all City-owned Land to determine which Land may be considered Surplus;

4.1.2 circulate potentially Surplus Land to City staff for comment and input;

4.1.3 make recommendations to Council about declaring Lands surplus and seek Council's authority to offer the Land for sale;

4.1.4 pursue Disposals per this policy and make recommendations to Council, or the CAO as authorized through delegation;

- 4.1.5 retain qualified Multiple Listing Services (“MLS”) brokers or agents to assist, as appropriate, with the Disposal;
- 4.1.6 obtain independent property Appraisals for Land in keeping with any requirements imposed by any applicable legislation, by-law, or this policy;
- 4.1.7 report the details of any Disposal to the appropriate departments and to the Chief Financial Officer and City Treasurer or as he or she may further delegate for the purposes of maintaining accurate corporate records; and
- 4.1.8 in consultation with other City staff and departments, initiate any changes to existing policies, procedures or recommendations addressing Disposals.

4.2 City Finance Division staff, under the direction of the Chief Financial Officer and City Treasurer or as he or she may further direct, will prepare and maintain all data bases and records with respect to City Land.

4.3 Other City staff will receive and review proposed Disposals of City Land circulated by City Real Estate Staff, and within twenty (20) business days of such circulation will provide comment, information and input as to whether the Land being proposed for Disposal may be considered Surplus.

5. DISPOSAL RULES

5.1 Notifications and Authority

- 5.1.1 Disposals require Council approval unless the transaction meets the criteria of delegated authority under Schedule “A”, Property Transactions in By-Law 2008-2008, in which case the transaction must comply with such criteria.
- 5.1.2 Notification of the intention to declare Land surplus and the authority to offer the Surplus Land for sale will be printed in the “Civic Corner” of the Windsor Star;

5.2 Property Values

- 5.2.1 For Land with an estimated Market Value of fifty thousand dollars (\$50,000) or more, at least one independent Appraisal will be obtained.
- 5.2.2 Disposal will be at Market Value, or equivalent consideration, unless Council or the CAO as authorized through delegation, directs otherwise.

5.3 Method of Disposal

- 5.3.1 Subject to direction from City Council all Surplus Land will either be listed on the MLS of the local Real Estate Board or offered for sale by City Real Estate staff, save and except:
 - 5.3.1.1 Land, which has a Market Value as determined by the Manager of Real Estate Services of less than \$25,000 in which case City Real Estate Staff will offer the Land for Disposal on the City web site and place a “for sale sign” on the Land if feasible and advertise in the Windsor Star as deemed appropriate by the Manager of Real Estate Services;

5.3.1.2 Landlocked Land of any size, which may be sold directly to the abutting property owner(s), provided the Land is sold at no less than the Market Value established by either City Real Estate Staff or by an independent Appraisal. If more than one abutting property owner wishes to acquire the landlocked Land, City Real Estate Staff will contact the abutting owners to determine whether a consensus can be arrived at in splitting the Land amongst interested abutting owners. In the event that a consensus cannot be arrived at, all interested abutting property owners will be requested to provide Administration with an offer for the whole landlocked parcel or

5.3.1.3 Land, which is not Viable Land and which cannot be rendered Viable Land by means of consent under the *Planning Act* may be sold directly to the abutting property owner(s) for lot consolidation purposes at the value established by City Real Estate Staff taking into consideration all relevant factors, but in any event for no less than on a cost-recovery basis. If more than one abutting property owner wishes to acquire the Land City Real Estate Staff will contact the abutting owners to determine whether a consensus can be arrived at in splitting the Land amongst interested abutting owners. In the event that a consensus cannot be arrived at, all interested abutting property owners will be requested to provide Administration with an offer for the whole parcel.

5.3.2 All Viable Land will be marketed for a period of at least ten (10) business days prior to the review and consideration of any offer to purchase except as otherwise provided in this policy.

5.3.3 City Real Estate Staff will confirm whether there is any right for a former owner to repurchase the Land under the *Expropriations Act* and advise Council of same in the report required under 5.1.1.

5.3.4 All offers to purchase Land from the City by means of an Agreement of Purchase and Sale must be accompanied by a deposit in an amount determined by the Manager of Real Estate Services but in any case not less than one thousand dollars (\$1,000).

5.3.5 Unless otherwise directed by Council, all Disposals will be on a cash basis. If the City Solicitor determines that exceptional and specific circumstances exist that would warrant consideration of a Disposal on something other than a cash basis, the City Solicitor will present the exceptional and specific situation to Council for determination.

5.4 Land Transactions

5.4.1 Disposals will be done in a manner consistent with accepted conveyancing practices, and in accordance with all applicable federal and provincial legislation and municipal by-laws and policies.

5.4.2 The City Solicitor or designate, has the authority to extend or abridge the closing date or extend or abridge the timeframes on any conditions previously approved by Council, or CAO as authorized through delegation, on any Disposal provided such extension or abridgement does not change the original intent of the approved Disposal.

5.5 Unserviced Land

5.5.1 Land located in areas lacking municipal services will be retained by the City until such time as services are available except as provided in 5.5.2.

5.5.2 In the event of a special circumstance involving the potential Disposal of unserviced Land, City Real Estate Staff will bring the issue to Council for consideration.

5.6 Parkland and Natural Environmental Areas

5.6.1 There will be no Disposal of Parkland without Council approval.

5.6.2 Subject to section 5.6.1, Disposal of Parkland and other Land having significant natural features requires satisfaction of Official Plan requirements and, if applicable, the implementation of appropriate measures to protect the significant natural features.

5.7 Heritage Properties

5.7.1 There will be no Disposal of Land designated under Part IV or Part V of the *Ontario Heritage Act* (a “Heritage Property”) without Council’s prior approval. The local Heritage Committee will be consulted of any Heritage Property being made available for Disposal.

6. RECORDS, FORMS AND ATTACHMENTS

6.1 Filing and retention of records related to Disposals will be in accordance with legislative requirements, guidelines of governing and professional bodies and City policy.