

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2007 - 33

Being a By-law to establish a property disposal policy for the sale and disposition of land in the Municipality of Magnetawan

WHEREAS the Municipal Act, 2001, S.O. 2001, c. 25, Section 270 (2) as amended, requires a municipality to adopt and maintain policies regarding the sale and other disposition of land;

NOW THEREFORE the Council of the Corporation of the Municipality of Magnetawan enacts as follows:

1 BACKGROUND

Purpose of Policy

This policy is intended to govern the sale and disposal of property by the Municipality of Magnetawan and related matters. Property disposal may be initiated in response to inquiries from public or as a result of internal municipal actions.

Directive and Effect

The Municipality shall follow the policies and procedures set out when disposing of property.

2 DEFINITIONS

- 2.1 "Buildable lot" shall mean lands of sufficient size (including frontage and area) to permit the lands to be utilized as an individual parcel of land.
- 2.2 "Disposal" shall mean the sale of real property or the lease of real property for a period exceeding 21 years.

3 COMMENCEMENT OF DISPOSAL PROCEEDINGS

- 3.1 The Municipality may dispose of property at its own initiative or upon the receipt of a written request or inquiry from an applicant.
- 3.2 A written request from an applicant shall be submitted on the form attached as Schedule "D", and shall include all required fees and deposits.
- 3.3 Upon receipt of a written request or inquiry from an applicant about the disposal of municipal property or at the initiation of municipal staff (by report to Council), the CAO/Clerk shall include in a Council report the opinion of each involved municipal department head regarding the potential sale of the property.
- 3.4 When it has been established under section 3.3 that a property is surplus to the Municipality's requirements and:
 - 3.4.1 it is determined that the lands should be incorporated with abutting lands, the sale price shall be determined in accordance with Schedule "A"; or
 - 3.4.2 it is determined that the property could be or is a buildable lot, the sale price shall be determined in accordance with Schedule "B".

- 3.5 The CAO/Clerk shall place the proposed sale on the Council meeting agenda for the purpose of declaring the property surplus and to receive direction and authorization for the manner of sale and any special conditions imposed by Council on the sale. Any special conditions may include modification of the proposed sale price.

4 PROCEDURES AND ADMINISTRATION

4.1 Declaration of Surplus Lands

Council may declare lands to be surplus to the Municipality's needs by resolution and such resolution may be made without notice.

4.2 No Obligation to Dispose

The adoption of a resolution pursuant to section 4.1 does not obligate the Municipality to dispose of the property. The declaration may be rescinded by resolution at any time before a binding agreement of purchase and sale has been entered into by the Municipality. If no formal agreement of purchase and sale is required, the declaration may be rescinded at anytime prior to completion of the sale.

4.3 Notice of Surplus Land

Within five (5) days of the adoption of a resolution under section 4.1, the Municipality shall give notice of the declaration of surplus lands in the prescribed manner.

4.4 Timing of Sale Proceedings

No sooner than fourteen (14) days following the giving of notice under section 4.3, the Municipality may complete the sale proceedings or enter into an agreement of purchase and sale concerning the lands where such agreement is required.

4.5 Notice

The "prescribed notice" required under section 4.3 of this policy shall be given by posting the required information on the Municipality's website. In addition to this required notice, the Municipality may also give "discretionary notice" by:

- 4.5.1 placing or publishing the required information in a newspaper or a regular publication that is available to the public at no charge; or
- 4.5.2 posting notice on the subject lands.

4.6 Prescribed Information

The following is required information for the notice required under 4.3:

- 4.6.1 a legal description of the lands, municipal address and/or location map that the CAO/Clerk deems sufficient to identify the lands;
- 4.6.2 the proposed price of the lands;
- 4.6.3 the purpose of the proposed disposal;
- 4.6.4 information advising the public as to where and when comments may be submitted including whether any such comments may be made at a Council meeting;
- 4.6.5 the identification of the purchaser if known on the date the resolution declaring the lands to be surplus was passed.

4.7 Public Input

At any time following the adoption of a resolution declaring lands surplus, the public may submit written comments to the Municipality concerning the proposed sale.

4.8 ***Advertising and Conducting Sale***

The following method or methods of advertising and/or conducting a sale may be utilized by the Municipality:

- 4.8.1 direct negotiation with abutting landowner(s)
- 4.8.2 invitations for tender
- 4.8.3 placement with real estate broker
- 4.8.4 advertising on municipal website

Where the process under section 4.8.2 is selected by Council, Offers of Purchase on the Municipality's standard agreement of purchase and sale form must be submitted by the date specified by Council and will be opened at the appointed time. Council retains the sole discretion to accept or decline any offer under section 4.8.2, 4.8.3 and 4.8.4 and the highest offer may not necessarily be accepted.

4.9 ***Agreements of Purchase and Sale***

All agreements of purchase and sale (where required) shall be on the Municipality's standard agreement of purchase and sale form, attached as Schedule "A", unless otherwise stated in Council's directions. Offers submitted by prospective purchasers shall be returned to the purchaser where the offer contains provisions or conditions that are not permitted or where required information is not provided.

4.10 ***Surveys***

Where a sale is initiated by application of the public, the applicant may be required to obtain a reference plan of the subject lands (and any other lands specified by the Municipality), prepared by an Ontario Land Surveyor (O.L.S) and submit six (6) copies of the draft plan to the Municipality for approval. Upon municipal approval, the plan may be deposited by the surveyor.

4.11 ***Restriction: Sale that Deprives Access***

The Municipality shall not dispose of property which would have the effect of depriving a landowner from the sole means of motor vehicle access unless such lands benefit from a right of way to a municipally maintained road allowance or unopened road allowance.

4.12 ***By-law***

Prior to completion of the sale of lands, the Municipality shall pass a by-law that includes the following information:

- 4.12.1 date the resolution declaring lands surplus was passed;
- 4.12.2 the final sale price;
- 4.12.3 the purchaser;
- 4.12.4 road closing requirements.

5 ***SPECIAL PROVISIONS***

5.1 ***Applicant is Abutting Owner***

Where an applicant is an abutting property owner, Council may direct staff to contact in writing other abutting property owners to determine whether such property owners are interested in purchasing all or part of the lands. Where more than one abutting owner expresses interest in the lands, and a satisfactory apportioning between or among such property owners cannot be negotiated, the sale may, in Council's sole discretion, be:

- 5.1.1 conducted by way of inviting tenders from abutting owners only;
- 5.1.2 subjected to the procedure outlined in section 4; or
- 5.1.3 terminated.

5.2 ***Application from Public: Buildable Lot***

Where it is determined that the surplus land is a buildable lot, notwithstanding that the sale was initiated by an application from the public, Council may direct that the lands be offered for public sale in accordance with one or more of the procedures set out in section 3.8. Any application fees submitted shall be refunded to the applicant if the applicant does not purchase the subject lands.

6 EXEMPTIONS

6.1 The following classes of property disposal are exempt from this policy:

6.1.1 Disposals conducted in connection with a Planning Act application or approval which disposal may be addressed and dealt with in a consent agreement, a subdivision agreement or site plan agreement;

6.1.2 Disposal to the District Municipality or the Crown in the Right of the Ontario or Canada or any government agency;

6.1.3 Disposal of an easement to a public utility;

6.1.4 Municipal tax sales (Part XI of the Municipal Act, 2001);

6.1.5 Sales pursuant to section 106 of the Municipal Act, 2001;

6.1.6 Sales pursuant to section 110 of the Municipal Act, 2001;

6.2 By resolution, Council may direct, on a case by case basis, that any exempted disposal be conducted in accordance with this policy.

7 ERRORS AND OMISSIONS

It is acknowledged that any error or omission in following the procedures and policies, which error or omission was not the result of bad faith on behalf of the Municipality, will not necessarily render such disposal invalid or void.

**READ A FIRST, SECOND AND THIRD TIME,
AND PASSED THIS 12TH DAY OF DECEMBER, 2007**



Dick Smith, Mayor



Earl D. Evans, CAO/Clerk

Schedule A
Determining Sale Price of Lands Sold to Abutting Owners (Non-Buildable Lot)

Schedule B
Sale Price of Buildable Lots

Schedule C
Standard Agreement of Purchase and Sale

Schedule D
Application Form

Schedule E
Procedural Summary (Request by the Public)