

The Corporation of the City of North Bay

By-Law No. 2019-81

**Being A By-Law to Adopt the City of North Bay's
Real Estate Policy**

Whereas section 270(1) of the *Municipal Act, 2001*, as amended, provides that a municipality shall adopt and maintain policies with respect to the sale and other disposition of municipally owned lands;

And Whereas Council passed Resolution 2019-392(a) and (b) at its Meeting held on Tuesday, October 8, 2019 authorizing that the City of North Bay's Real Estate Policy be adopted.

Now Therefore the Council of the Corporation of the City of North Bay
Hereby Enacts as Follows:

1. That the City of North Bay's Real Estate Policy attached as Schedule "A" hereto is hereby adopted.
2. This By-Law shall take force and effect on January 1, 2020.

Read a First Time in Open Council this 22nd day of October, 2019.

Read a Second Time in Open Council this 22nd day of October, 2019.

Read a Third Time in Open Council and Enacted and Passed this 22nd day of October, 2019.

Mayor Allan McDonald
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City Clerk Karen McIsaac

Real Estate Policy

Issued: January 1, 2020	Revision Dates:	Approved by Council Resolution: 2019-392(a) and (b)
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Policy

The primary purpose of this policy is to ensure compliance with section 270(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, which requires municipalities to adopt policies regarding the sale and other disposition of municipally owned land.

The secondary purpose of this policy is to establish a consistent, transparent and accountable procedure to be followed when disposing of real property.

Part I – Definitions

In this policy, the following terms shall have the following meanings:

- 1.1 “Appraisal” shall mean an appraisal in writing by someone who is a member in good standing with the Appraisal Institute of Canada, with a designation as a Canadian Residential Appraiser (C.R.A) or Accredited Appraiser Canadian Institute (A.A.C.I), unless the Council agrees to deem the assessed value to be the appraised value on the recommendation of the Chief Administrative Officer.
- 1.2 “City” shall mean The Corporation of the City of North Bay.
- 1.3 “Council” shall mean the Council of the City.
- 1.4 “Disposition” shall mean the sale, transfer, conveyance or exchange of the fee simple interest in Land or the granting of a lease or license by the City.
- 1.5 “Land” shall mean real property owned by the City and includes any building located thereon.
- 1.6 “Surplus” shall mean property that the City does not require to meet its present or anticipated future needs.

Part II - Procedures

The following procedures shall apply to the disposition of Land by the City:

2.1 General Disposition of Lands Pursuant to Offers to Purchase:

- 2.1.1 When the City Solicitor receives an Offer to Purchase for the purchase of Land, the City Solicitor shall prepare and bring forward a confidential Report to Council in closed session requesting direction for the Chief Administrative Officer and such other City staff to negotiate the terms and conditions of the Offer to Purchase or, in the alternative, direction not to enter into any such negotiations.
- 2.1.2 Where Council has given direction to negotiate the terms and conditions of an unsolicited Offer to Purchase and where negotiations have been completed with the proposed buyer, the City Solicitor shall prepare and bring forward a confidential Report to Council in closed session seeking:

- (a) Council approval of the sale of the Land as described in the confidential Report to Council;
 - (b) where applicable, that Council declare the Land Surplus;
 - (c) that Council authorize the Mayor, City Clerk, and City Solicitor, or their respective delegates, to execute the Offer to Purchase and all appropriate sale documents as may be required;
 - (d) that Council authorize the net proceeds of the sale be placed in the appropriate account as identified by the Chief Financial Officer; and
 - (e) that Council authorize the by-law of the sale of the Land be given three (3) readings at the earliest opportunity;
- or,

in the alternative to subparagraphs (a) to (e) above, that Council provide further direction to the Chief Administrative Officer and such other City staff to negotiate different terms and conditions of the Offer to Purchase;

or,

in the further alternative, that Council directs the Chief Administrative Officer or such other staff as necessary to cease negotiations.

2.2 **Disposition of Road Allowances:**

2.2.1 *Right of First Refusal*

In the event that:

- (a) both sides of a road allowance are not acquired by each of the abutting owners within sixty (60) days; or
- (b) one of the abutting owners is not prepared to acquire all of the road allowance lot within sixty (60) days,

then the road allowance shall be sold by tender as a single lot.

2.2.2 *Surplus*

When Council has declared its intention to return Surplus road allowance lands received within the previous ten (10) years by way of a registered plan to the original dedicating owner, then Council may transfer such lands to the original dedicating owner for \$1.00.

2.3 **Disposition of Parkland:**

2.3.1 *Right of First Refusal*

In the event that parkland previously dedicated to the City within the previous ten (10) years is deemed Surplus, then such parkland shall be offered first to the developer from which the parkland was dedicated based on the current appraised value thereof. In the event such developer does not acquire the lands within sixty (60) days then the parkland may be offered for sale as provided for in this policy.

2.4. **Disposition of Laneways:**

- 2.4.1 The sale of the whole of a laneway to one (1) abutting owner shall be permitted at the discretion of the Council.

2.4.2 The transfer of lands for the purpose of a road widening along an arterial or collector road shall be required prior to, or at the same time as, the transfer of the whole or part of the laneway being transferred to the abutting property owner.

2.4.3 The Mayor, City Clerk and City Solicitor, or their respective delegates, are authorized to execute such documents as may be reasonably required to complete the transfer of the laneway. The City Solicitor has the authority to electronically sign for completeness and release any documents required to be registered on title.

2.5. **Declaration of Surplus Land:**

2.5.1 Prior to the disposal of Land by the City, Council shall declare the Land to be Surplus in the following manner:

- (a) notice of Lands considered to be Surplus shall be circulated to all internal City departments and external agencies and boards as deemed necessary by the City Solicitor for comment; and
- (b) once all comments have been received, the City Solicitor shall prepare a confidential Report to Council which shall be submitted to Council in closed session recommending:
 - (i) whether the Land should be declared Surplus; and
 - (ii) the suggested method of disposition of the Land.

2.5.2 Upon declaring the Land Surplus, a Resolution with respect thereto will be presented to Council.

2.5.3 The following classes of Land shall be exempt from the requirement to be declared Surplus prior to sale:

- (a) Land that is transferred to another government body or public utility in exchange for other land for road allowance or road widening purposes within the geographic limits of the City;
- (b) Land that is transferred by the City to a developer through the site plan or subdivision development process in exchange for land of equal or greater value;
- (c) land that has been acquired as a road widening or part of a road widening in connection with an approval or decision under the *Planning Act*, R.S.O. 1990, c.P.13, as amended, including road widening Lands being conveyed, in whole or in part, back to the original owner of the land or their successor in title;
- (d) Land being expropriated from the City by another governmental body pursuant to the *Expropriations Act* R.S.O., 1990, c. E.26, as amended, or any other successor legislation;
- (e) closed highways, if sold to an owner(s) of land abutting the closed highways;
- (f) Land that does not have direct access to a highway if sold to the owner(s) abutting land;
- (g) Land conveyed to a person by the City as part of the settlement of litigation proceedings; and
- (h) Land formerly used as railway lands, if sold to an abutting owner.

2.6. **Obtaining an Appraisal:**

2.6.1 Prior to the disposal of Land by the City, at least one Appraisal of the fair market value of the Land shall be obtained by the City's Legal Department.

2.6.2 The following classes of Land shall be exempt from the requirement of obtaining an Appraisal:

- (a) Land 0.3 meters or less in width acquired in connection with an approval or decision under the *Planning Act*, R.S.O. 1990, c.P.14, as amended and any successor legislation thereto;
- (b) closed lanes if sold to an owner of land abutting the closed lanes;
- (c) Land assessed with a current value of less than Ten Thousand Dollars (\$10,000.00), upon the recommendation of the Chief Administrative Officer;
- (d) an easement granted to a public utility or telephone company;
- (e) land being sold to a municipality;
- (f) Land being sold to a local board, including a school board or a conservation authority; and
- (g) Land being sold to the Crown in Right of Ontario or Canada and their agencies.

2.6.3 If it would not be practical or economical to obtain an Appraisal as determined by the Chief Administrative Officer and the City Solicitor, or a minimum sale price has been approved by Council, then an Appraisal will not be required.

2.6.4 Circumstances in which it would not be practical or economical to obtain an Appraisal include, but are not limited to,

- (i) when the estimated value of the Land to be disposed of is less than Five Thousand Dollars (\$5,000.00), or
- (ii) when the cost of obtaining the appraisal would be more than Fifty Percent (50%) of the estimated value of the Land.

2.7. **Methods of Sale:**

2.7.1 Land shall be sold by public tender, save and except where:

- (a) the Land is being sold to the abutting or adjacent landowner to a road allowance or lane;
- (b) the Land cannot be built on as a separate parcel and is being sold to the abutting landowner;
- (c) the Land is industrial land in an industrial park;
- (d) for economic development reasons the Council deems it desirable to proceed by way of another method of sale;
- (e) more than one qualified Appraisal is obtained or where a qualified Appraisal is peer reviewed by another appraiser and the sale price meets or exceeds the appraised value;
- (f) where there is a direct exchange of Land either:
 - (i) for land of similar size, value and zoning, or
 - (ii) where the land to be exchanged is included as all or part of a bid in response to a tender call, is accompanied by an qualified Appraisal satisfactory to the Council and the exchanged land is required for municipal purposes.

2.7.2 Council has approved an alternate public competitive process including, but not limited to:

- (a) a public request for proposals, seeking to optimize development concepts as well as price (within the context of the development);
- (b) sale by public auction;
- (c) sale through listing with a registered real estate broker on the multiple listing system (MLS);
- (d) direct sale through advertisement of the Land (by posting of signs or otherwise) soliciting offers to the City's Manager of Purchasing; and
- (e) direct sale through approach to the City by interested or potential purchasers.

2.8 **Real Property Being Sold for Tax Arrears:**

Please refer to City of North Bay By-Law 2019-82.

2.9 **Provision of Public Notice:**

2.9.1 If required, prior to the sale of Land, the City shall give notice to the public of the location of the Surplus Land in accordance with the City of North Bay's Notice By-Law No. 2007-190, as may be amended from time to time.

2.9.2 A notice of the proposed disposition shall contain the following information:

- (a) the location of the Land by reference to the municipal address or legal description, or both; and
- (b) the name and telephone number of the City Solicitor having information about the proposed disposition.

2.10 **Proceeds of Disposition:**

All funds paid to the City in transactions for the disposition of Land shall be managed and accounted for by the City's Chief Financial Officer, or their delegate.

2.11 **Compliance with Provincial Legislation:**

The City shall adhere to any applicable legislative requirements regarding the disposition of Land at all times and, where this policy is in conflict with the requirements of such legislation, the legislation shall supersede the provisions of this policy and any disposition of land will proceed in accordance with the legislated requirements.