

THE CORPORATION OF THE CITY OF DRYDEN

BY-LAW NUMBER 4543-2018

BEING A BY-LAW TO DELETE AND REPLACE CHAPTER 183 DISPOSAL OF REAL PROPERTY.

WHEREAS subsection 238. of the Municipal Act, S.O. 2001, c.25, as amended provides that every municipality and local board shall pass a procedure by-law for governing the calling, place and proceedings of meetings.

WHEREAS subsection 9. of the Municipal Act, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, and powers of a natural person for the purpose of exercising its authority under this or any other Act; and,

WHEREAS subsection 5 (1) of the Municipal Act, S.O. 2001, c. 25, as amended, provides that the powers of a municipality shall be exercised by Council; and,

WHEREAS subsection 5 (3) of the Municipal Act, S.O. 2001, c. 25, as amended, provides that a municipal power, including a municipality's capacity, rights, powers and privileges under section 9. shall be exercised by by-law unless the municipality is specifically authorized to do otherwise.

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

1. THAT Chapter 183 – Disposal of Real Property, be deleted and replaced by a new Chapter 183 Acquisition and Disposition of Land as follows:

§183-1. Title.

This chapter shall be referred to as "Land Acquisition and Disposition By-law".

§ 183-2. Definitions:

For the purposes of this chapter, the following terms shall have the meanings indicated:

Appraisal: a valuation of the market value of Land that is satisfactory to the CAO as per this policy.

Act: The Municipal Act, 2001, S.O. 2001, Chapter 25, as amended.

Acquisition: means a transaction that adds new real property by purchase, lease, exchange, gift, trust, or any other means.

CAO: The City of Dryden's Chief Administrative Officer.

City: The Corporation of The City of Dryden.

Council: The Council of The Corporation of The City of Dryden.

Disposal: disposal" and "dispose" means the sale, transfer, conveyance or exchange of the fee simple interest in Land or the granting of a lease for a term of twenty-one (21) years or longer, but does not include the granting of an easement or right-of-way;

Land(s): real property owned by the Corporation including buildings and other improvements thereon.

§ 183-2. Definitions: (Cont’d)

Land Development Committee:	an internal staff committee including the CAO, Economic Development Manager, Public Works Manager, Facilities and Building Manager, and City Clerk.
Lease:	the lease of Land for a period no more than 20 years.
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.
MLS:	multiple listing service of the local real estate board.
Notice:	a written, printed, published, verbal, electronic or posted notification.
Official Plan:	the Official Plan of The Corporation of The City of Dryden.
Sale or Sell:	the sale, transfer, conveyance or exchange of the interest in Land.
Road/Highway:	all original road allowances, road allowances, street, highways, laneways, access roads, or any other road or highway as defined by the Act or other relevant legislation that is owned by the City.
Surplus:	any Land the City declared surplus by resolution of Council.
Viable Land:	a parcel of Land, which, on its own, would be eligible for a building permit.

§ 183-3. Scope.

- A. This policy is applicable to all City operations involving the acquisition and disposition of Lands, including any agencies, boards or commissions whose financial operations are accounted for within the City’s financial statements.
- B. The primary purpose of this Policy is to ensure compliance by the City with section 270(1) of the Municipal Act, 2001, as amended, which requires municipalities to adopt policies regarding the sale, acquisition and other disposition of municipally owned Land. The secondary purpose is to establish a consistent, transparent and accountable procedure to be followed in the disposition of real property assets by the City.

§ 183-4. Application and Administration.

- A. All acquisitions and dispositions of Land will be in accordance with accepted conveyance practices and in accordance with all applicable federal and provincial legislation and municipal by-laws and policies.

§ 183-5. Exclusions.

- A. This by-law shall not apply to:
- (1) The transaction is governed by any federal legislation or legislation of the Province of Ontario such as the sale of Land under Part XI (Sale of Land for Tax Arrears) of the Act and any related Ontario Regulation made by the Minister;
 - (2) Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act;
 - (3) The sale of Land under Section 110 (Agreement for Municipal Capital Facilities) of the Municipal Act;
 - (4) The City 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.
 - (5) Land transferred to the City for security or for temporary roads or other works in connection with any agreement to which the City is part under the Planning Act;
 - (6) Land transferred to, or vested in, the City which neither the City nor the true owner intended to vest or be transferred;
 - (7) Cemetery plots owned by the City; or,
 - (8) Lake access points owned the City.
- B. There will be no disposal of parkland and natural environment areas without Council approval. Disposal of parkland and other Lands having significant natural features requires satisfaction of Official Plan requirements and, if applicable, the implementation of appropriate measures to protect the significant natural features.

§ 183-6. Responsibility.

- A. Acquiring and disposing of Land requires Council approval unless the transaction meets the criteria of delegated authority to the CAO and other City staff under Schedule "R", Acquisition and Disposition of Land of By-law 4446-2017.

§ 183-7. Surplus Lands.

- A. Prior to the disposal of any Land, the Council shall by resolution passed at an open meeting declare the Land to be surplus and may be sold.
- B. Land does not have to be declared surplus prior to being marketed for sale. However, before a property is sold, it must comply with this policy.

§ 183-8. Appraisals/Market Valuation.

- A. Prior to the sale of any Land, City staff shall obtain an appraisal or market valuation of the Land, at its own expense.

- B. An appraisal of market valuation shall include one of the following:
- (1) An estimate of value prepared by a licenses appraiser in the form of a Letter of Opinion;
 - (2) An estimate of value prepared by an employee of the City, based on raw Land costs, development costs, overhead, and carrying costs, and may include an allowance for profit.
 - (3) In special circumstances, at the discretion of staff or upon the direction of Council, by resolution a formal appraisal.
- C. Prior to obtaining an Appraisal or Market Valuation City staff shall request a quote for conducting these services.
- D. Any appraisal or market valuation shall be used solely as a guide and shall not be determinative of the terms or price upon which the City may agree to sell any piece of Land as other factors may determine the sale price of the Land.

§ 183-9. Notice.

- A. The methods of providing notice that the City intends to declare Land surplus and may be sold may include, at least one of the following:
- (1) Publication at least once in a weekly newspaper having general circulation in the municipality;
 - (2) Posting on the municipal website. This may include social media but cannot be social media only;
 - (3) Listing on a Council Agenda as Land which may be declared surplus and which is to be disposed of;
 - (4) Any other means of communication that is deemed appropriate in the circumstances to give notice to the public;
 - (5) Any combination of the above.

§ 183-10. Method of Disposal.

- A. All surplus Land will be disposed of utilizing one or more of the following methods of sale:
- (1) Direct sales for non-viable properties, Land exchanges or disposals to government/quasi-government agencies
 - (2) Listing on City of Dryden's website and/or MLS of the local Real Estate Board;
 - (3) Tender process;
 - (4) Public Auction;
 - (5) Land exchange;

- (6) Direct negotiations with prospective purchasers; or,
- (7) Listing agreement with a licensed realtor.

B. Exceptions:

- (1) Land, which has a market value as determined by the CAO of less than \$10,000 in which case City staff will offer the Land for disposal on the City website and place a For Sale sign on the Land, if feasible, and advertise as deemed appropriate by the CAO.
- (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. If more than one abutting property owner wished to acquire the Landlocked Land, City staff will contact the abutting owners to determine whether a consensus can be arrived at in splitting the Land amongst interested abutting Land owners. If a consensus cannot be arrived at, all interested abutting property owners will be requested to provide City staff with an offer for the whole Landlocked parcel.
- (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 stabled by the CAO taking into consideration all relevant factors, but no less than cost recovery basis. If more than one abutting property owner wished to acquire the Landlocked Land, City staff will contact the abutting owners to determine whether a consensus can be arrived at in splitting the Land amongst interested abutting Land owners. If a consensus cannot be arrived at, all interested abutting property owners will be requested to provide City staff with an offer for the whole parcel.
- (4) Land located in areas lacking municipal services will be retained by the City until services are available except as provided in special circumstances. In the event of a special circumstance involving the potential disposal of un-serviced Lands, City staff will bring the issue to Council for consideration.
- (5) Any survey and/or reference plan required shall be obtained at the expense of the purchaser unless Council, by resolution, determines otherwise.

§ 183-11. Responsibilities.

- A. The CAO shall be responsible for developing and implementing forms and procedures for the administration of this policy by City staff.
- B. The CAO and the Land Development Committee shall recommend to Council Lands that may be considered Surplus and seek Council's authority to offer the Land for sale.
- C. The CAO shall retain qualified MLS brokers or agents to assist, as appropriate with acquisition or disposal of Land.

- D. The City Clerk shall be responsible for the closing of acquisition and sale transactions and reporting of any acquisition and disposal to the appropriate City departments and to the Treasurer for the purposes of maintaining corporate records.
- E. The Treasurer shall prepare and maintain all databases and records with respect to City Land assets.
- F. The Land Development Committee shall receive and review proposed acquisitions of Land and disposals of City Land circulated by Community Development Staff and provide comments, information and input of the acquisition or disposal of the Land and as to whether the Land being proposed for disposal should be declared surplus.
- G. The CAO shall ensure that 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 CAO but in case not less ten percent (10%).
- H. Unless otherwise directed by Council, all disposals of Land will be on a cash basis. If the CAO determines that exceptional and specific circumstances exist that would warrant consideration of a disposal on something other than a cash basis, the CAO will present the exceptional and specific situation to Council for determination.
- I. All City staff shall ensure that filing and retention of records related to the acquisition and disposition of Land will be in accordance with legislative requirements, guidelines of governing professional bodies and City Records Management policies.

ENACTED AND PASSED THIS 16th DAY OF APRIL 2018 A.D. as witnessed by the Corporate Seal of The Corporation of The City of Dryden and the hands of its proper Officers duly authorized in that behalf.

THE CORPORATION OF THE CITY OF DRYDEN

Mayor

Clerk

READ A FIRST AND SECOND TIME THIS 16th DAY OF APRIL 2018 A.D.

READ A THIRD TIME AND PASSED AS READ THIS 16th DAY OF APRIL 2018 A.D.