

THE CORPORATION OF THE MUNICIPALITY OF POWASSAN

BY-LAW NO. 2017-05

Being a By-Law to establish Policies for the Sale and Disposition of Land by
The Corporation of the Municipality of Powassan.

WHEREAS Section 270(1) of the Municipal Act, 2001, as amended, requires the Council of a municipality to adopt and maintain policies governing the sale and disposition of land;

AND WHEREAS the Council of the Corporation of the Municipality of Powassan deems it expedient to enact a by-law to amend the Policies for the Sale and Disposition of Land;

NOW THEREFORE the Council of the Corporation of the Municipality of Powassan does hereby adopt the policy entitled "Policy for the Sale and Disposition of Land" attached hereto as Schedule "A";

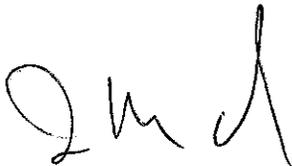
AND THAT the Council of the Corporation of the Municipality of Powassan does hereby adopt the "Policy for Closing and Sale of Municipal Road Allowances" attached hereto as Schedule "B";

AND THAT all resolutions, by-laws or parts of by-laws, which are contrary to or inconsistent with this by-law are hereby repealed.

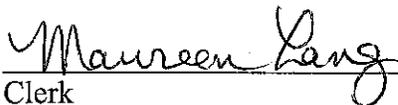
AND THAT this By-Law shall come into force and effect on the date of its passing,

READ a **FIRST** and **SECOND** time this 2nd day of May, 2017.

To be **READ** a **THIRD** and **FINAL** time and considered passed on May 16th, 2017.



Mayor



Clerk

**MUNICIPALITY OF POWASSAN
POLICY FOR
THE SALE AND DISPOSITION OF LAND
SCHEDULE "A" TO BYLAW 2017-05**

SCOPE:

This policy applies to the sale and disposal of land by the Corporation of the Municipality of Powassan.

POLICY:

The Municipality will dispose of surplus land in an open and transparent process to ensure that the consideration for such disposal is fair, reasonable and in the best interest of the Municipality. Policy disposal procedures may be initiated in response to inquiries from the public, unsolicited offers or as a result of internal municipal actions.

This policy does not apply to the sale of land under Part XI of the Municipal Act – Sale of land for Tax Arrears.

This policy does not apply to the sale of Municipal Road Allowances (See Policy for the Closing and Sale of Municipal Road Allowances – Schedule B to Bylaw 2017-05).

DEFINITIONS:

In this policy:

- a) "Appraisal" means a written opinion from a person/company certified by the Appraisal Institute of Canada as to the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.
- b) "Clerk" means the Clerk-Treasurer of the Corporation of the Municipality of Powassan.
- c) "Council" means the Council of the Corporation of the Municipality of Powassan.
- d) "Municipality" means the Corporation of the Municipality of Powassan.
- e) "Notice" means the notice of the proposed sale in an approved local newspaper of the intention to dispose of the lands in question.
- f) "Real Property" means lands owned by the Corporation of the Municipality of Powassan, whether vacant or not, or any other proprietary interest in lands owned by the Corporation of the Municipality of Powassan, and without limiting the generality of the foregoing, includes easements, right of ways, leaseholds exceeding 21 years, and any interest in the lands under an agreement of purchase and sale.
- g) "Sale" means a transfer of municipal real property.

- h) "Surplus Land" means real property owned by the municipality and declared surplus by resolution of Council.
- i) "Tender" means a completed tender document sealed in an envelope. The required tender form is attached as Appendix "1" forming part of this By-Law.

PROCEDURE:

1. COMMENCEMENT OF DISPOSAL PROCEEDINGS –

- 1.1 The Municipality may commence the proceedings to dispose of Real Property at its own initiative or upon the receipt of a written request or inquiry from an applicant.

2. DECLARATION OF SURPLUS PROPERTY –

- 2.1 Before selling land or advertising the lands for sale, Council shall by resolution during an open meeting, declare the property to be Surplus Land.

3. APPRAISAL –

- 3.1 Council shall before selling any land obtain at least one (1) appraisal from someone/a company certified by the Appraisal Institute of Canada, of the fair market value of the land by a person or body qualified to do so.
- 3.2 The list price of surplus land for sale shall be the appraised value determined by a qualified appraiser unless a majority of Council sets a different price by way of motion of Council.

4. NOTICE TO PUBLIC –

- 4.1 Prior to selling any Real Property, the municipality shall give notice to the public of the proposed sale.
- 4.2 An advertisement shall be placed in at least one newspaper having general circulation within the local area, for a minimum of one insertion, **at least fourteen (14) days prior to the Tender closing date.**
- 4.3 The Notice shall also be posted on the municipal website and at the municipal office **for a minimum period of fourteen (14) days prior to the Tender closing date.**
- 4.4 The Notice shall include a brief description of the property and a sketch if at all possible.
- 4.5 The Notice will make clear the closing date of the sale(s) and the date and time to which the sealed Tenders will be opened.
- 4.6 The Notice shall state the highest or any Tender not necessarily accepted.

5. METHOD OF SALE -

- 5.1 The method of sale for surplus land shall be by sealed Tender.

- 5.2 Tenders received after the original advertised date and time will not be accepted.
- 5.3 Tenders must be delivered to the Municipality of Powassan municipal office in a settled envelope cleared marked "Tender for Surplus Lands" and include the address and name of the applicant.
- 5.4 Sale tenders will be opened in public and on the same day shortly after the deadline for the submission of tenders at the Municipal Office, Council Chambers, Powassan, Ontario.
- 5.5 The required tender document to be completed by the applicant is attached as Appendix "1". The tender document attached as Appendix "1" must be accompanied by a certified cheque, bank draft or money order worth no less than twenty percent (20%) of the asking price of the Surplus Lands for sale.
- 5.6 By submitted a completed application accompanied by the required monetary deposit established in Section 5.5, applicants are accepting the terms and conditions of the Sale and Disposition of Land policy.
- 5.7 Council, at the next regular or special meeting of Council following the opening of the Tenders, may choose to make a final decision to accept or decline the Tender.
- 5.8 Council reserves the right to accept or decline any tender for Surplus Land. The highest or any tender will not necessarily be accepted.

6. SURPLUS LAND SALES BY BEST OFFER -

- 6.1 Sections 3.2 and 5.6 notwithstanding, if there are no Tenders received for properties for sale by the original deadline, Council may pass a resolution to re-advertise any Surplus Lands for 'best offer'.
- 6.2 A decision to dispose of Surplus Lands by best offer must be made within 3 calendar years of the original method of disposing of the land for appraised value. If this decision has not been made within 3 calendar years, the next time the Surplus Land is put up for sale it will be for appraised value.
- 6.3 Sections 3.2 and 5.6 of this policy notwithstanding, the procedures for re-advertised sales by best offer remains the same, with the further exception of procedures listed under Section 6 of this policy.
- 6.4 Tenders submitted for Surplus Land sales by best offer will require a certified cheque, bank draft or money order worth twenty percent (20%) of the offer to be accompanied by the completed tender forms.
- 6.5 For sales by best offer, Council will determine whether or not a tendered amount will be accepted. Highest or any Tender not necessarily accepted.
- 6.6 Sales by best offer are intended to provide some revenue from Surplus Lands that have historically not received any tendered offers during the same process.

7. EXEMPTIONS -

- 7.1 The following classes of property disposal are exempt from the provisions of this policy:
 - 7.1.1 Disposal of an easement to a public utility;
 - 7.1.2 Municipal tax sales as per Part XI of the Municipal Act, 2001;

7.1.3 Sales pursuant to Section 110 of the Municipal Act, 2001.

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

8. ASSOCIATED COSTS -

8.1 The purchaser of such lands determined to be surplus by the municipality shall be responsible for all costs incurred or required to dispose of the property with the exception of advertising and appraisal costs. These include, but are not limited to encumbrances and legal fees.

8.2 The municipality makes no representation regarding the title or any other matters relating to the land to be sold. Surplus land is sold 'as is'.

ERRORS AND OMISSIONS:

It is acknowledged that any error or omission in following the procedures, in 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.

PRIVACY:

The disclosure of information relevant to the sale of Surplus Lands shall be in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990; c. M.56, as amended.

FORMS:

Appendix "1" – Tender to Purchase Surplus Land

APPENDIX "1"
TENDER TO PURCHASE SURPLUS LAND

TO: NAME: The Corporation of the Municipality of Powassan
ADDRESS: Box 250, Powassan, ON P0H 1Z0
Telephone: 705 724 2813
Website: www.powassan.net

RE: SALE OF: (Description and roll number)

A minimum bid of \$ _____ has been set.

1. I/we hereby tender to purchase the land described above, for the amount of \$ _____, plus the Harmonized Sales Tax (HST), in accordance with the terms and conditions of the Sale and Disposition of Land Policy, Schedule "A" to By-law 2017-05.
2. I/we understand that this tender must be received by the above no later than 2:00 pm local time on _____ (date of closing).
3. I/we enclose a deposit in the form of a certified cheque/bank draft or money order for the sum of \$ _____ Dollars) in favour of the Corporation of the Municipality of Powassan representing 20 per cent or more of the tendered amount which will be forfeited if I/we are the successful tenderer(s) and I/we do not pay the balance of the tendered amount, any land transfer tax and the HST within 14 days of the municipality notifying me/us that I/we are the highest tenderer.
4. I/We shall be responsible for all costs incurred or required to acquire this property including, but not limited to legal fees, survey costs, encumbrances, improvements and administrative fees.

Dated at: _____, this _____ day of _____
(month/year)

| | |
|------------------------|------------------------|
| Name of Tenderer: | Name of Tenderer: |
| Signature of Tenderer: | Signature of Tenderer: |
| Address of Tenderer: | Address of Tenderer: |
| Telephone #: _____ | Telephone #: _____ |
| Fax #: _____ | Fax #: _____ |
| Email: _____ | Email: _____ |

Personal information contained in this form, collected pursuant to the Municipal Act, 2001 and Regulations there under, will be used for the purposes of that Act. Inquiries should be directed to the Freedom of Information and Privacy Coordinator at the organization responsible for the procedures under that Act.

**MUNICIPALITY OF POWASSAN
POLICY FOR
THE CLOSING AND SALE OF
MUNICIPAL ROAD ALLOWANCES
SCHEDULE "B" TO BYLAW 2017-05**

SCOPE:

This policy applies to the closure and sale of road allowances by the Corporation of the Municipality of Powassan.

The Municipal Act provides that a Council of a Municipality may pass by-laws for stopping up all or part of a highway and for selling the same. A highway includes any road under the municipality's jurisdiction.

POLICY:

The Municipality will consider requests to stop-up, close and sell municipally owned road allowances provided:

- a) The unopened road allowance is deemed to be not required for current or future municipal use;
- b) Council's policy is that where road allowances abut the shores of rivers and are not required for public access to the water, such road allowances may be closed by the municipality;
- c) All costs (survey costs, legal fees, etc.) are borne by the applicant and/or to those persons whom the lands are to be sold. There shall be no expense to the municipality;
- d) Section 34(7) of the Municipal Act, 2001 c.25, provides that a By-Law which has the effect of permanently closing or altering a highway is not valid if the result is a person having no motor vehicle access to and from the person's land over any highway, unless the person agrees to such by-law.

It is specifically noted that unopened road allowances which lead to waterbodies and of significant interest to not only the municipality but also other government and regulatory agencies. Although an application for closure may be submitted, the applicant should be aware that circulation to and approval from other agencies may be required, in addition to municipal approval.

Generally the municipality will consider applications for road allowance closings from abutting land owners. However, this is not a legislative requirement and in certain cases, an application to close and convey a road allowance may be accepted from a property owner that does not abut the road allowance.

This policy does not apply to the sale of land under Part XI of the Municipal Act – Sale of Land for Tax Arrears.

This policy does not apply to the Sale of Disposition of Surplus Lands (See Policy for the Sale and Disposition of Land – Schedule A to By-law 2017-05).

LEGISLATIVE REQUIREMENTS:

Section 11 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a lower-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public.

Section 391 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may impose fees or charges on persons:

- a) for services or activities provided or done by or on behalf of it;
- b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and
- c) for the use of its property including a property under its control.

PROCEDURE:

1. WRITTEN REQUEST – SUBMISSION REQUIREMENTS –

In order for Council to review the request, the applicant shall submit the following information:

- a) A letter of Request to stop-up and close a road allowance shall include an accurate description of the portion of the road allowance requesting to be closed, and a legal description of the applicant's lands.
- b) The letter shall also contain the reasons for the request of the closure of the road allowance.
- c) A map of the proposed road allowance to be stopped up and closed, including the identification of adjacent lands and the location of buildings on the lands.
- d) The Applicant(s) shall submit with the written request a non-refundable \$300 fee and a \$2,000 deposit to cover the administrative, legal and land value costs. **The applicant is responsible for ALL costs associated with this process and may be required to submit additional monies if the actual costs are higher than the \$2,000 deposit provided. The additional monies will be required to be provided prior to the land being transferred.**

2. COUNCIL ACCEPTANCE OR REJECTION OF THE APPLICATION –

Once all submission requirements are received, the Clerk will circulate to all departments for comments.

The application and Departmental comments will then be referred to Council for acceptance or rejection. If Council wishes to proceed with the closing and sale of the municipal road allowance, a resolution shall be prepared declaring the land surplus and available for sale. If the recommendation is to reject the application, the applicant(s) will be refunded the deposit less any costs incurred to date.

3. CIRCULATION TO ADJACENT LAND OWNERS -

The municipality will conduct a detailed search to ascertain the property names and addresses of all owners of lands abutting the portion of the unopened road allowance proposed to be closed and sold. A sketch will be prepared showing the holdings of any adjacent owners and the portion of the roadway to which they have a right of first refusal. The adjacent landowners will be contacted in writing to ascertain their interest in the purchase of abutting lands. Adjacent landowners will be afforded a minimum of three (3) weeks to respond to the letter. The name(s) and address(es) of all such persons will be noted in the file, as well as their decision whether or not to participate and acquire a portion of the unopened road allowance.

Should there be no interest shown in the purchase of the portion of the unopened road allowance, the applicant(s) and any other immediately adjacent land owner who has shown interest in acquiring the lands, will be given the opportunity to purchase the unclaimed portions of such land.

4. NOTICE TO PUBLIC -

4.1 Prior to selling any municipal road allowance the municipality shall provide notice to the public of the proposed closing and sale of the municipal road allowance, within a Council Agenda, and the meeting for which that agenda applies shall be considered to be the public meeting for this notice.

4.2 An advertisement shall also be placed in at least one newspaper having general circulation within the local area for a minimum of one insertion, advising the date, time and location of the Council meeting where this matter will be discussed.

This notice shall be placed in the newspaper at least fourteen (14) days prior to the meeting date.

4.3 The Notice shall also be posed on the municipal website and at the municipal office **for a minimum period of fourteen (14) days prior to the meeting date.**

4.4 A Notice (sign) will also be placed in the immediate vicinity of the portion of the unopened road allowance proposed to be closed and sold **for a minimum of fourteen (14) days before the meeting.** The Notice shall include a brief description of the road allowance and a sketch if at all possible, as well as the date, time and location of the Council meeting where this matter will be discussed.

4.5 After public consultation, a report will be submitted to Council at the next regular or special meeting for future consideration with respect to a final decision to close the road, and at this time a Council resolution is required to proceed to next steps, if applicable.

5. ROAD ALLOWANCE APPRAISAL -

The municipality will obtain an appraisal of the fair market value of the unopened road allowance from a person/company certified by the Appraisal Institute of Canada. A copy of the appraisal will be provided to the applicant(s) and a letter of intent to proceed must be subsequently received by the municipality within thirty (30) days, along with a further deposit of ten percent (10%) of the appraised value or at least \$500.00 to confirm the desire of the applicant to proceed.

If the applicant(s) decide to not proceed with the acquisition, the applicant(s) will be responsible for all costs associated with the advertisement and appraisal. The remainder of the deposit will be refunded.

Should the applicant(s) decide not to proceed with the purchase once the appraisal has been prepared, and does not exercise the option to purchase within thirty (30) days, the second party, if applicable can proceed to purchase both halves of the road allowance for the appraised value of each part.

Should neither applicant exercise their right to purchase the road allowance, the appraisal shall have a one-year validity and the process could be recommenced during this time period, with a further deposit of \$1,000.

Council reserves the right to adjust any appraisal if extenuating circumstances become apparent.

6. REFERENCE PLAN (SURVEY) OF ROAD ALLOWANCE -

The Applicant(s) shall obtain a reference plan (survey) prepared by an Ontario Land Surveyor, of the area proposed for closing and sale, and submit such to the municipality prior to the commencement of any legal work concerning the road closure.

7. CLOSING AND SALE OF MUNICIPAL ROAD ALLOWANCE BY-LAW -

Once a reference plan has been submitted to the municipality, the municipal solicitor shall be authorized to proceed with the preparation of the legal work concerning the road closure.

The Closing and Sale of Municipal Road Allowance By-Law will be brought to Council for formal approval.

The transfer of the land will only be completed once the legal work is completed and after receipt of total payment.

ERRORS AND OMISSIONS:

It is acknowledged that any error or omission in following the procedures, in 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.

PRIVACY:

The disclosure of information relevant to the sale of Surplus Lands shall be in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990 c. M.56, as amended.

FORMS:

N/A