

The Corporation of the Township of Whitewater Region

By-law Number 17-12-1012

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**Being a by-law to establish a Sale and Disposition of  
Surplus Land Policy**

**Whereas**, Section 270(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality shall adopt and maintain a policy with respect to the sale and other disposition of land; and

**Whereas**, the Council of the Township of Whitewater Region deems it expedient and necessary to establish a policy governing the sale and disposition of land;

**Now therefore Council of the Corporation of the Township of Whitewater Region enacts as follows:**

1. That the Sale and Disposition of Surplus Land Policy is hereby established to guide the selling of municipal surplus land.
2. That the corporate policy attached shall form a part of this by-law.
3. That any other by-law inconsistent with the provisions contained in this by-law are hereby repealed.
4. This by-law shall come into force and take effect upon the date of the final passing thereof.

**Read a first, second and third time and finally passed this 6th day of December, 2017.**

  
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**Hal Johnson, Mayor**

  
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**Robert H.A. Tremblay, Clerk**

**Policy:** Sale and Disposition of Surplus Land

**Main Contact:** CAO/Clerk

**Last Revision:** December 2017

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## Policy Statement

The sale and disposition of real property interests will be carried out in a consistent manner and with a level of diligence appropriate to the circumstances.

## Purpose

The purpose of this policy is to provide guidance for the sale and disposition of real property interests and to establish appropriate standards of diligence for the sale and disposition of real property interests.

## Definitions

“**Council**” means the Corporation of the Township of Whitewater Region.

“**Disposal**” means the sale of real property.

“**Generally Marketable**” means lands of a size, shape, location, and nature that can be, or hold the potential to be, developed independently and which would likely be attractive to more than one buyer if offered for sale in the open market.

“**Industrial Lands**” means lands classified as being Generally Marketable that are designated as Industrial Park in the Official Plan or that are designated for industrial use in the Township of Whitewater Region’s zoning by-laws.

**“Market Value”** means a written opinion of market value prepared by a person having appropriate credentials and experience.

**“Notice”** means notice to the public in accordance with this policy.

**“Person”** means an individual or a corporation and the successors, assigns, heirs, executors, administrators, or other legal representatives of a person to whom the context may apply according to law.

**“Real Property Interests”** means land in fee simple, a permanent easement, or a lease, but does not include a license, permission to enter, temporary or construction easements.

**“Sale”** includes a lease of 21 years or longer.

**“Surplus”** means land the municipality intends to sell or otherwise dispose of.

**“Township”** means the Corporation of the Township of Whitewater Region.

## Policy Requirements

### 1.0 Procedure

- 1.1 Surplus Real Property Interests shall be classified by staff as being Generally Marketable or Not Generally Marketable in accordance with the definition contained in this policy.
- 1.2 The procedure for disposition of Real Property Interests that are classified as being Generally Marketable shall be in accordance with Schedule “A” to this policy.
- 1.3 The procedure for disposition of Real Property Interests which are classified as being Not Generally Marketable shall be in accordance with Schedule “B” to this policy.
- 1.4 Exemptions to the sale or disposition of Real Property Interests shall be in accordance with Schedule “C” to this policy. Exemptions shall include the disposition of Industrial Lands as defined herein, encroachment agreements, license agreements, releases, certificates of compliance, or consents to use road allowances.

### 2.0 Notice

- 2.1 Notice to the public of a proposed sale or disposition of a Real Property Interest that is classified as being Generally Marketable shall be given by way of a publication in a newspaper that is in general circulation in the Township of Whitewater Region and not less than five (5) business days prior to Council considering the approval of such sale or disposition.



2.2 Notice to the public is not required for the proposed sale or disposition of Real Property Interests that are classified as being Not Generally Marketable or Exemptions.

### 3.0 General

3.1 Real Property Interests may be sold or disposed of by public tender, by call for proposal, by listing with a real estate firm or broker, by auction, by sole source, by land exchange agreement, by agreement of purchase and sale, or in such other manner as Council deems appropriate.

3.2 Subject to 3.3, Real Property Interests shall be sold or disposed of at market value.

3.3 Notwithstanding 3.2, Council may authorize the sale or other disposition of Real Property Interests at any price if, in the opinion of Council, it is in the best interests of the Township to do so.

3.4 The manner in which the Township carries out the sale or other disposition of Real Property Interests, if consistent with the *Municipal Act, 2001*, as amended from time to time, and this Policy, as applicable, is not open to review as the Township is deemed to have acted in good faith.

## Monitoring

The CAO/Clerk shall be responsible for receiving complaints and/or concerns related to this policy.

## Authority

Section 270(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality shall adopt and maintain a policy with respect to the sale and other disposition of land.

## Contact

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Township of Whitewater Region  
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## Change History

<b>Policy Name</b>	<b>Effective Date</b>	<b>Significant Changes</b>	<b>By-law No.</b>
Sale and Disposition of Surplus Land Policy	December, 2017	New policy	2017-12-1012

## Schedule "A"

Procedure for Disposition of Real Property interests that are classified as being Generally Marketable:

1. Staff shall:

- (a) confirm that the Township has no interest in the Real Property Interest being considered;
- (b) identify any terms or conditions of the sale or other disposition;
- (c) confirm with the utilities the existence or need for easements;
- (d) obtain at least one independent Market Value opinion;
- (e) report to Council with the results of the opinion and with recommendations directing staff to proceed to market and negotiate an appropriate form of agreement;
- (g) provide notice to the public of the proposed sale or disposition at least five (5) business days prior to the Council meeting at which a by-law approving the proposed agreement will be considered by Council.

## Schedule "B"

Procedure for Disposition of Real Property Interests that are classified as being Not Generally Marketable:

1. Staff shall:

- (a) confirm that the Township has no interest in the Real Property Interest being considered;
- (b) identify any terms or conditions of the sale or other disposition;
- (c) confirm with the utilities the existence or need for easements;
- (d) consider obtaining or preparing a Market Value opinion;
- (e) proceed to negotiate the appropriate form of agreement and bring forward a by-law for Council's consideration.



## Schedule "C"

### Exemptions from procedures:

1. The sale or other disposition of Real Property Interests under Section 110 of the *Municipal Act, 2001* (municipal capital facilities);
2. Classes of Real Property Interests described under Part XI of the *Municipal Act, 2001* (tax sales);
3. Real Property Interests of 0.3 metres in width or such other size which was acquired as a reserve relating to a road;
4. Permanent easements granted to any municipality, government authority, public utility, electricity distribution company, power generation company, telephone company, or similar entity;
5. Temporary easements, for a period of 21 years or less, granted to any Person for a specific purpose;
6. Real Property Interests being re-conveyed to the Person who originally conveyed it to the Township of Whitewater Region or such other Person designated in writing, where:
  - (a) the Real Property Interest is held by the Township in trust subject to a condition, obligation or legislation that requires a specific conveyance by the Township;
  - (b) the Real Property Interest is held by the Township as **security** for the performance of obligations of that entity pursuant to an agreement between the Person and the Township; or
  - (c) the Real Property Interest was **conveyed** to the Township for municipal purposes and is not, or is no longer, necessary for the Township purposes or was intended to be re-conveyed to the transferor;
7. A Real Property Interest that was transferred to, or vested in the Township of Whitewater Region by by-law, operation of law or otherwise which neither the Township or the registered owner intended to vest or be transferred.