

**TOWNSHIP OF ESSA  
POLICY AND PROCEDURE MANUAL**

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<b>Department:</b>	<b>Clerks</b>	<b>Date: September 2007</b>
<b>Subject/Title:</b>	<b>Sale of Land</b>	<b>Effective: January 2008</b>
<b>Policy Number:</b>	<b>A07 – 04</b>	<b>Date Approved: Sept. 2007</b>

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**AUTHORITY**

Section 270 (1) of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended, requires all municipalities to adopt and maintain policies governing the sale and disposition of land, including the giving of notice to the public.

**POLICY STATEMENT AND RATIONALE**

The Corporation of The Township of Essa and its Management recognize the following principles for the sale or disposition of any land, the declaration of land as surplus, and for giving notice to the public of the proposed sale.

**PROCEDURE AND IMPLEMENTATION**

**1. DEFINITIONS**

- a) **"Agent"** means the Township Clerk or other designate of the Council as appointed by resolution or By-law
- b) **"Agreement"** means any form of agreement for the purchase, sale, disposition and/or lease of Township owned land, and any other agreement related to the sale or lease of land.
- c) **"Appraisal"** means a written opinion of the fair market value of land dated within one year of the date the Council declared such land to be surplus property (or within such other time as is expressed by Council by resolution), prepared by a qualified appraiser, or from the Municipal Property Assessment Corporation.
- d) **"Certificate"** means the Clerk's Certificate verifying that, to the best of his/her knowledge, the requirements of the *Municipal Act, 2001* and a policy which applies to the sale of land have been complied with.
- e) **"Council"** means the Council of the Corporation of the Township of Essa.

- f) **"Land"** means lands owned by the Township, whether vacant or not, or any other proprietary interest in lands owned by the Township, and, without limiting the generality of the foregoing, includes easements, rights-of-way, leaseholds exceeding 21 years, and any interest in lands under an agreement of purchase and sale.
- g) **"Notice"** means notification provided to the public in accordance with Section 270 (1) of the *Municipal Act 2001*, as amended, and with the Township of Essa Notice By-law 2002-69, or any such by-law that shall follow thereafter.
- h) **"Sale"** means an unconditional agreement of purchase of municipal surplus property has been accepted by the Township and without limiting the generality of the foregoing, excluding lands temporarily conveyed to the Township for municipal purposes intended to be reconveyed to the grantor and any land or interest in land Quit Claimed or released by the Township.
- i) **"Surplus Property"** means land owned by the Township, and declared surplus to the needs of the Township by by-law or resolution of Council.
- j) **"Township"** means the Corporation of the Township of Essa.

## 2. **PROCEDURES FOR THE SALE OF LAND**

Prior to selling any land, Council shall:

- a) declare the land to be surplus property at a meeting of Council open to the public, the declaration having been listed and posted on the meeting agenda and made public for a minimum of two business days prior to the meeting; and
- b) satisfy itself that notice to the public of the intended sale or surplus property has been given in accordance with the provisions of this policy; and,
- c) at Council's discretion, obtain at least one written appraisal or letter of opinion of the value of the surplus property, excepting those classes of land excluded from the requirement of obtaining an appraisal pursuant to Section 3.2 of this policy.

## 3. **NOTICE**

- 3.1 Prior to the sale of any surplus property, and after the property has been declared surplus at an open meeting of Council, the Clerk shall give notice to the public in one or more of the following manners, and by other means as directed by Council.

- a) by posting the notice on the Township website and including a legal description of the surplus property, and may also include an address, sketch, approximate dimensions and/or area, and any further information that Council deems pertinent; or
- b) by posting a "For Sale" sign on the subject property, which includes the name of the Township as Vendor, and a telephone number at which the Township or its agent may be contacted; or
- c) by listing the surplus property with a Real Estate Broker; or
- d) by publishing such notice in a newspaper having general circulation in the Township including a legal description of the surplus property. An address, sketch, and approximate dimensions may also be included.
- e) Any of the above notices may also include a statement as to how the surplus property is intended to be sold; and a statement that such notice is given pursuant to Section 270 (1) of the *Municipal Act, 2001*, as amended.

**3.2** Notice to the public of the intended sale of surplus property shall be deemed to have been adequately given if the Council Agenda for the Council meeting at which the intended sale is to be considered by Council includes a reference to the intended sale of such surplus property. Notice to the public shall not be required if the subject property is:

- a) a highway declared surplus and stopped up or intended to be stopped up, and which is intended to be sold in accordance with the provisions of Section 268 of the *Municipal Act*, and notice given pursuant to the *Municipal Act, 2001* shall be deemed to be sufficient notice to the public for the purposes of this By-law.
- b) intended to be sold by public tender, call for proposals or public auction, advertisement(s) of the notice of tender, the call for proposals or the notice of public auction shall be deemed to be sufficient notice to the public for the purposes of this policy.

#### **4. METHODS OF SALE**

**4.1** Surplus property may be sold by any of the following methods to be determined by Council, including:

- (1) public auction (no public notice required as per Sec. 3.2 (b) above)
- (2) public tender (no public notice required)
- (3) direct sale by the Township
- (4) land exchange
- (5) call for proposal (no public notice required)
- (6) listing with a real estate broker;

and such determination shall be expressed in a Resolution of Council which shall also set out

the terms and conditions of any method of sale as may be determined by Council.

**5. TERMS OF DISPOSITION**

- 5.1 Notwithstanding that public notice of the intended sale of surplus property has been given, and that one or more interested parties may present to Council or the Township Clerk, an Offer to Purchase or an Offer to Lease such surplus property, nothing shall fetter the absolute discretion of the Council to retain or dispose of such surplus property on such terms and conditions as may be fixed by Council, which shall include the power to sell the surplus property for nominal consideration and to whomever it wishes, regardless of whether the sale is to the party who has apparently presented the best offer, if it is deemed to be in the best interest of the municipality.
- 5.2 The Township of Essa reserves the right to accept or reject any or all offers, and the lowest or any offer shall not necessarily be accepted.

**6. APPRAISAL**

- 6.1 The Township shall not be required to obtain an appraisal, unless Council deems it desirable, where surplus property is intended to be sold.

**7. APPROVAL OF THE SALE OF LAND**

- 7.1 Where this policy and any other statutory or regulatory requirements have been complied with, and the Clerk or designate, as the case may be, have executed an Agreement of Purchase and Sale as the Township agent, subject to the condition of approval by Council:
- a) Council may approve the sale by resolution, and such resolution shall be sufficient authorization to complete such sale; and
  - b) The Mayor and the Clerk shall be authorized to execute all necessary documents to complete the sale of the surplus property in accordance with the terms and conditions of the Agreement of Purchase and Sale.

**8. GENERAL**

- 8.1 The Township shall not sell any land except in accordance with the provisions of the *Municipal Act, 2001*, as amended, and this policy.
- 8.2 The sale of properties for arrears of taxes will be governed by Ontario Regulation 181/03, Municipal Tax Sales Rules, O. Reg. 181/03.
- 8.3 This Policy shall be administered by the Clerk's Office.

- 8.4 This Policy shall be referred to as the "Policy for Sale and Disposition of Land".
- 8.5 Upon passing of this Policy, By-law 2004-46 and any other by-law heretofore in existence relating to the sale of land in the Township of Essa are hereby repealed.
- 8.6 This Policy shall come into force and effect on January 1, 2008, being the date proclaimed under the Municipal Act, 2001.