

CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE

BY-LAW NO. 4356-10

A BY-LAW TO REPEAL POLICY NO.: CS-CL-010
AND TO ENACT A POLICY TO GOVERN THE
SALE AND OTHER DISPOSITION OF LAND

WHEREAS Section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under this or any other Act;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that Section 8 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

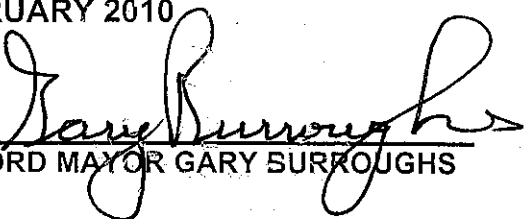
AND WHEREAS Section 270 of the *Municipal Act, 2001*, S.O. 2001, c. 25 requires a municipality to adopt and maintain policies with respect to the sale and other disposition of land;

AND WHEREAS the Council of the Corporation of the Town of Niagara-on-the-Lake deems it necessary to enact a new policy for the sale and other disposition of land;

THEREFORE be it enacted that the attached policy governing the sale and other disposition of land be adopted by the Council of the Town of Niagara-on-the-Lake:

This by-law and attached policy shall come into force and take effect on February 1, 2010.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 1st DAY OF
FEBRUARY 2010**


LORD MAYOR GARY BURROUGHS


TOWN CLERK HOLLY DOWD

TOWN OF NIAGARA-ON-THE-LAKE

POLICY

*POLICY NO. CS-CL-010A
SUPERSEDES NO. CS-CL-010*

TITLE: *Sale and other disposition of town-owned land*

APPROVAL DATE: **February 1, 2010**

EFFECTIVE DATE: **February 1, 2010**

PURPOSE:

The *Municipal Act, 2001*, S.O. 2001, c. 25 (the "Act") requires that the Town adopt and maintain a policy to govern the sale and other disposition of land. The purpose of this policy is to set out the principles governing these transactions and the procedures to be followed.

POLICY STATEMENT:

1. APPLICATION

This policy applies to the sale or other disposition of land by the Corporation of the Town of Niagara-on-the-Lake (the "Town").

2. DEFINITIONS

In this policy, the terms shall have the meaning ascribed to them:

"**Act**" means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;

"**Appraisal**" means the estimated fair market value of the land prepared by an accredited property appraiser in accordance with the current standards and requirements of the Appraisal Institute of Canada (Ontario Association);

"**Council**" means the Council of the Corporation of the Town of Niagara-on-the-Lake;

"**Land**" means real property owned by the Corporation of the Town of Niagara-on-the-Lake;

"**Nominal consideration**" means any price paid or any item exchanged in return for title to land which bears no reasonable resemblance to the fair market value of the real property;

"Other disposition" means a conveyance for nominal consideration, a quit claim to release any interest in land, a conveyance to effect a boundary adjustment, the granting of a licence, the granting of a lease for less than twenty-one (21) years, the granting or transfer of an easement or right of way, an exchange of land, or a conveyance of land as may be expected from time to time under the provisions of the Act, as amended;

"Sale" means the sale, transfer or conveyance of the fee simple interest in land or the granting of a lease for a term of twenty-one (21) years or longer;

"Town" means the Corporation of the Town of Niagara-on-the-Lake.

4. **PROCEDURE**

The following procedures shall apply to the sale and other disposition of real property by the Town.

a. **Sale Appraisal**

- i. Before entering into a sale of land, Council shall obtain at least one appraisal of the land.
- ii. Notwithstanding the foregoing, the following are exempt from the requirement to obtain an appraisal prior to a sale:
 - A. land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*, R.S.O. 1990, c. P. 13, as amended;
 - B. closed highways if sold to an abutting land owner [or more broadly: closed highways, road and road allowances];
 - C. land formerly used for railway lines if sold to an owner of land abutting the former railway land;
 - D. land that does not have direct access to a highway if sold to the owner of land abutting that land;
 - E. land repurchased by an owner in accordance with the *Expropriations Act*, R.S.O. 1990, c. E. 26, as amended;
 - F. disposal of land to a municipality or local board as defined in the *Municipal Affairs Act*, R.S.O. 1990, c. M.46, as amended;
 - G. disposal to an authority under the *Conservation Authorities Act*, R.S.O. 1990, c. C.27;
 - H. disposal to the Crown in Right of Ontario or of Canada and their agencies;
 - I. Land sold pursuant to the sale of land for tax arrears provisions under Part XI, of the Act; and
 - J. cemetery plots;

b. **Notice of Sale**

- i. Before proceeding with the sale of land, the Director of Corporate Services shall prepare an information circular which shall describe the land, and indicate that the land may be sold by the Town;

- ii. The information circular shall be sent to the Regional Municipality of Niagara ("Region"), the District School Board of Niagara ("DSBN") and the Niagara Catholic District School Board ("NCDSB"), requesting that they notify the Director of Corporate Services within the specified number of days set out in the information circular, if they have any interest in acquiring the property.
- iii. If an expression of interest is received from the Region, DSBN and/or NCDSB within the time stipulated in the notice, the Director of Corporate Services shall commence negotiations with the interested parties and shall make a recommendation to Council in respect of accepting an offer.
- iv. Should no agreement be concluded with the Region, DSBN or NCDSB, the property may be offered for sale to the public, and Council shall give notice to the public of the intention of the Town to sell the land in question.

c. Methods of Sale or Other Disposition

Council may enter into a sale or other disposition of land by any of the following methods:

- i. Direct negotiations;
- ii. Direct advertising;
- iii. Public tender;
- iv. Public auction;
- v. Land exchange;
- vi. Call for proposal;
- vii. Listing with a real estate agent; or
- viii. Any combination of the above.

5. DISCRETION OF COUNCIL

Notwithstanding any procedural irregularities, nothing shall fetter the discretion of Council to retain, sell or dispose of the land on such terms and conditions as may be considered desirable by Council.