

THE CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC

BY-LAW NO. 64-20

BEING A BY-LAW TO ESTABLISH A POLICY FOR THE SALE AND DISPOSITION OF LAND

WHEREAS Strathroy-Caradoc is a municipality and a lower-tier municipality as defined by the *Municipal Act*;

WHEREAS pursuant to section 9 of the *Municipal Act*, municipalities have the capacity, rights, powers and privileges of natural persons, which includes the power to do things that natural persons can do, such as, *inter alia*, making decisions with respect to the management, investment, purchase, and sale of land;

WHEREAS land is unique and is not a good or a service;

WHEREAS Subsections 11(1-2) of the *Municipal Act* provide broad authority for lower tier municipalities to pass by-laws which relate to the management of its financial affairs and the economic, social and environmental wellbeing of the municipality (as this By-law does);

WHEREAS Section 8 of the *Municipal Act* provides that powers of municipalities shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

WHEREAS Subsection 270 (1) of the *Municipal Act* requires municipalities to adopt and maintain a policy with respect to the sale and other disposition of land;

WHEREAS Subsection 5(3) of the *Municipal Act* provides that municipal power be exercised by by-law.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC HEREBY ENACTS AS FOLLOWS:

Short Title

1. This by-law may be referred to as the "Sale and Disposition of Land By-law"

Purpose

2. This by-law is enacted to further the following principles when the Municipality engages in the sale and disposition of land:
 - a. Adequate forethought and information gathering;
 - b. Consistency and due process;

- c. Transparency and accountability; and
- d. Flexibility and responsiveness.

Definitions

3. In this by-law:

- a. **“Appraisal”** means an independent, written, fair market valuation of Land that is satisfactory to the Clerk or their delegate;
- b. **“Clerk”** means the Clerk of the Municipality
- c. **“CAO”** means the Chief Administrative Officer of the Municipality
- d. **“Council”** means the Municipal Council of the Municipality
- e. **“Disposal”, “Dispose”, “Disposed”, “Disposing”, “Dispossesses”** and/or **“Dispossession”** 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 it does not include the granting of an easement or right of way;
- f. **“Expropriations Act”** means the *Expropriations Act*, RSO 1990, c E.26, as amended or replaced;
- g. **“Land”** means real property owned by the Municipality;
- h. **“Municipal Act”** means the *Municipal Act*, 2001, S.O. 2001, c.25, as amended or replaced;
- i. **“Municipality”** means the Municipality of Strathroy-Caradoc;
- j. **“Notice”** means the process set out in Section 6 of this By-law;
- k. **“Planning Act”** means the *Planning Act*, RSO 1990, c P.13, as amended or replaced;
- l. **“Sale and Disposition of Land By-law”** means this by-law, duly passed by the Council.

Decision to Dispose of Land

4. The Municipality shall decide to dispose of land as follows:

- a. The CAO or Clerk shall identify the particular land to be disposed;
 - b. The CAO or Clerk shall obtain an appraisal of the land either before or after the Council has decided to dispose of the land;
 - c. The CAO or Clerk shall obtain the legal description of the Lands to be disposed, the Appraisal, and any other information determined to be pertinent;
 - d. The CAO or Clerk may make a recommendation to Council to dispose of the land with or without conditions, including but not limited to a minimum price or certain intended use by a potential purchaser; and
 - e. Council may declare land available for disposal by resolution with or without conditions, including but not limited to a minimum price or intended use by a potential purchaser.
5. Council, in its sole discretion and by resolution, may dispense with any of the requirements of section 4.
 6. After the Land has been declared available for Disposal, Council may, at any time where there is no legally binding transaction in place, and by resolution in accordance with the Municipality's Procedural By-law, declare that the land is no longer available for disposal.

Notice

7. Following a declaration by Council pursuant to Section 4.(e) that the land is available for disposal and subject to section 5, the CAO or Clerk shall give notice to the public of the land available for disposal by using at least one of the following methods;
 - a. Publication for a least one (1) week in a professional and regularly used realty website, such as, but not limited to www.realtor.ca;
 - b. Posting a "For Sale" sign on the Land for at least one (1) week;
 - c. Publication for a least one (1) week on the Municipality's website;
 - d. Publication for at least one (1) week on a local news website.
8. In addition to the Notice set out in Section 7, the CAO or Clerk may also, in his or her sole discretion, circulate a list or description of the land available for disposal by e-mail or other written notice to any of the following entities:
 - a. Crown in Right of Ontario;
 - b. Crown in Right of Canada;
 - c. Conservation Authorities with jurisdiction in the Municipality;
 - d. School Boards with jurisdiction in the Municipality;
 - e. Hospital Boards operating in the Municipality;
 - f. all commissions and boards of the Municipality;

- g. all corporations owned wholly or partly by the Municipality in which the Municipality owns at least fifty percent of the common or controlling shares of the corporation; and
 - h. any other public entity deemed appropriate.
9. Notwithstanding Sections 4, 7 and 8 of this by-law, Council at its discretion may dispense with the requirements of Sections 4, 7 and 8 of this by-law in such circumstances that it deems by resolution to be appropriate.

Disposal of Land

10. When selling land on behalf of the Municipality, the CAO or the Clerk may utilize one (1) or more of the following methods of sale:
- a. direct negotiation;
 - b. listing with a licensed realtor;
 - c. a tender process (not a tender process pursuant to the Municipality's Purchasing Policy, which is not applicable to land);
 - d. public auction.
11. Where the CAO or Clerk chooses or is directed to list with a licensed realtor, the CAO or Clerk will list the land for sale with a licensed realtor chosen in accordance with the Municipality's Purchasing Policy.
12. Where the CAO or Clerk receives an offer with respect to land, the CAO shall either:
- a. Take no action;
 - b. deem the offer unacceptable in his or her sole discretion and reject the offer;
 - c. make a recommendation to Council to accept or reject the offer and/or make or refrain from making certain binding counteroffer(s).
13. Council may, on its own initiative or on the recommendation of the CAO or Clerk, agree to dispose of land on any terms, at its sole discretion.
14. Where Council has resolved to enter into an Agreement of Purchase and Sale on particular terms, and even where such terms may be first discussed and resolved in closed session as permitted by the *Municipal Act*, Council shall convene in open session and pass a particularized by-law confirming the sale of the land that is the subject of the aforementioned Agreement of Purchase and Sale.

Exempt Classes of Land

15. The following classes of land are exempt from the requirements of Sections 4 to 14 inclusive:

- a. Any land transferred to the Municipality for security or for temporary roads or other works in connection with any agreement to which the Municipality is a party under the *Planning Act*.
- b. Land being purchased by an owner in accordance with Section 42 of the Expropriations Act.
- c. Lands disposed of in accordance with Sections 107, 108 and 110 of the *Municipal Act*.
- d. Closed highways, roads and road allowances shall be disposed of as set out in accordance with the applicable municipal policy, in force from time to time.

Potential Environmentally Impacted Land

16. The CAO, Clerk and Council shall ensure that the disposal of all land owned by the Municipality which, to their knowledge, has been used at any time in a manner which could have reasonably resulted in environmental impacts to the land, including but not limited to soil or ground water contamination, are disposed of with the following conditions being included:

- a. Disposal being on an “as is, where is” basis with release and indemnity provided by the purchaser;
- b. The purchaser accepting the current condition of the site and the cost of removal of topsoil from the site, if required;
- c. Any other condition recommended by the Municipal Barrister and Solicitor, whom shall be consulted for advice with respect to the dispossession of any such land.

Enactment

17. By-law 03-18 is hereby repealed.

18. This by-law shall come into full force and effect on November 02, 2020.

Enacted by Council of the Municipality of Strathroy-Caradoc on this 2nd day of November, 2020.



Joanne Vanderheyden, Mayor

F. Tranquilli

Fred W. Tranquilli, Municipal Clerk