

CITY OF HAMILTON

BY-LAW NO. 14-204

SALE OF LAND POLICY BY-LAW

**A BY-LAW TO ADOPT AND MAINTAIN A POLICY WITH
RESPECT TO THE SALE AND OTHER DISPOSITION OF LAND
OWNED BY THE CITY OF HAMILTON**

WHEREAS paragraph 270(1)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 its sale and other disposition of land;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Definitions

In this by-law,

- (a) **“Council”** means the municipal council of the City of Hamilton and/or the City Manager and/or the General Manager that has been delegated the authority by Council to approve the disposition or lease of designated classes of, or interests in land, pursuant to a resolution by Council;
- (b) **“Committee”** means a committee of the municipal council of the City of Hamilton;
- (c) **“General Manager”** means the General Manager of Planning and Economic Development and includes his or her designate;
- (d) **“sale”** includes the sale, transfer or conveyance of land by the City and includes leases by the City as landlord of land for a term of 21 years or longer. Sale does not include a Quit Claim Deed made by the City for the purpose of correcting or clarifying title or boundaries of its land or of land not owned by the municipality.
- (e) **“land”, “property” or “real property”** means lands and premises or any proprietary interest in land which is owned or held by the City in fee simple or otherwise, including, without limiting the generality of the foregoing, all easements, rights-of-way and leasehold interests of the City, and lands

owned under agreement of purchase and sale. Land does not include personal property of the City. For greater certainty and not to restrict the generality of the foregoing definition, land includes those lands of the City which are parks, parking lots, water lots, open space, buildings, lands occupied by the Parking Authority and by the Hamilton Entertainment Facilities Centre Inc. and lands laid out or intended to be laid out as highways.

2. Application

Land owned by the City of Hamilton and intended to be sold by the City of Hamilton shall be sold in accordance with the requirements of the *Municipal Act, 2001*, and the provisions of this by-law.

3. Conditions

Before selling any land owned by the City, Council shall;

- (a) by by-law or resolution declare the land to be surplus;
- (b) obtain at least one appraisal of the fair market value of the land, unless an appraisal is not required; and
- (c) give notice to the public of the proposed sale.

4. Surplus Lands

The following classes of land are hereby declared to be surplus to the needs of the City, and no further declaration under section 3(a) above is required:

- (a) Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*;
- (b) Land acquired by the City for temporary road purposes in connection with an approval or decision under the *Planning Act*;
- (c) Land acquired by the City pursuant to Part XI of the *Municipal Act, 2001, Sale Of Land For Tax Arrears*, which is to be resold within the one year period as set out in the *Municipal Act, 2001*;
- (d) Closed highways and walkways and/or highways and walkways intended to be closed by by-law and/or Judge's Order;
- (e) Land that does not have direct access to a highway if sold to the owner of land abutting that land;
- (f) Land formerly used for railway lines if sold to an owner of land abutting the former railway land;

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- (g) Land acquired by the City pursuant to the *Expropriations Act*, if the land is being sold to an owner from whom the land was taken under Section 42 of the *Expropriations Act*;
- (h) Abandoned cemeteries;
- (i) Land being sold to public bodies such as Boards of Education, Municipal, Provincial and Federal Government, Conservation Authorities, Ontario Hydro, public utilities and other recognized Authorities;
- (j) Land being sold to private bodies where the deemed value of the surplus property does not exceed \$250,000.00.

5. Appraisals

An appraisal required under section 3. (b) above includes a written opinion on the appraised fair market value of the land as of a date which is within one year of the date of approval of an intended land sale (or within such other time as is expressly accepted for a particular appraisal, by resolution, by Council), that is prepared by or is an appraisal satisfactory to, the General Manager.

6. Notice

- (a) Notice to the public of the proposed sale of land, required under section 3.(c) above, may consist of one or more of the following types:
 - 1. by publication of the notice once in a newspaper having general circulation within the municipality in which the land is located;
 - 2. by listing the land with a broker and/or directly with the Multiple Listing Service of the Metropolitan Hamilton Real Estate Board;
 - 3. by posting on the land proposed to be sold, a "For Sale" sign, for not less than seven (7) days, which sign includes the City's name and telephone number for inquiries;
 - 4. by inclusion of the land sale in a report of a Committee recommending to Council the sale of the land;
 - 5. by inclusion of the land sale on the agenda of the Council meeting at which the intended sale is to be considered by Council;
 - 6. by inclusion of the land sale in a report to the City Manager and/or the General Manager that has been delegated the authority by Council to approve the disposition or lease of designated classes of, or interests in land, pursuant a resolution by Council.

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- (b) Where land proposed to be sold is within one of the categories listed below, notice to the public, under section 3.(c), above, shall be deemed sufficiently given by following either one of notice type (a) 4., 5., or 6., herein:
1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*;
 2. Land acquired by the City for temporary road purposes, in connection with an approval or decision under the *Planning Act* if sold back to the developer;
 3. Land acquired by the City pursuant to *Part XI Sale of Land For Tax Arrears of the Municipal Act, 2001*, but sold within the one year time period as set out in the *Municipal Act, 2001*.
 4. Closed highways and/or walkways if sold to an owner of land abutting the closed highways and/or walkways;
 5. Land formerly used for railway lines if sold to an owner of land abutting the former railway land;
 6. Land that does not have direct access to a highway if sold to the owner of land abutting that land;
 7. Land repurchased by an owner in accordance with section 42 of the *Expropriations Act*;
 8. Abandoned cemeteries;
 9. Land sold under sections 107 General power to make grants, and 108 Small business counselling, of the *Municipal Act, 2001*;
 10. Easements granted to public utilities or to telephone companies;
- (c) Where land is proposed to be sold to the following public bodies, notice to the public, under section 3.(c), above, shall be deemed sufficiently given by following either one of notice type (a) 4., 5., or 6., herein:
1. A municipality.
 2. A local board, including a school board and a conservation authority.
 3. The Crown in right of Ontario or Canada and their agencies.
 4. A public utility.

- (d) Notice may be given in one or more of the methods permitted in this by-law, or any other means of communication which in the opinion of Council, acting reasonably and in good faith, is deemed to be appropriate in the circumstances in order to give notice to the public.
- (e) Where land is proposed to be sold by public tender, call for proposals or public auction; advertisement(s) of notice of them shall be deemed to be notice to the public for purposes of this by-law.

7. Exclusion – Certain Classes of Land

Section 3. (b) does not apply (and therefore an appraisal is not required) to the sale of the following classes of land:

- (a) Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*;
- (b) Closed highways or walkways if sold to an owner of land abutting the closed highway or walkway;
- (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 section 42 of the *Expropriations Act*;
- (f) Land sold under sections 107 General power to make grants and 108 Small business counselling, of the *Municipal Act, 2001*;
- (g) Easements granted to public utilities or to telephone companies.

8. Exclusion – Sales to Public Bodies

Section 3. (b) does not apply (and therefore an appraisal is not required) to the sale of land to the following public bodies:

- (a) A municipality.
- (b) A local board, including a school board and a conservation authority.
- (c) The Crown in right of Ontario or Canada and their agencies.

9. Exclusion from Conditions

Section 3., does not apply to the sale of the following classes of land:

- (a) Land sold under section 110 Agreements for municipal capital facilities, of the *Municipal Act, 2001*;
- (b) Land to be used for the establishment and carrying on of industries and industrial operations and incidental uses.

10. Exemptions

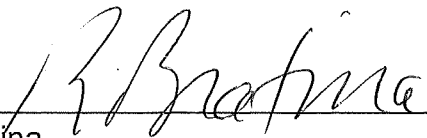
This By-law does not apply to the sale of land under Part XI of the *Municipal Act, 2001, Sale Of Land For Tax Arrears*.

11. General

- (a) By-law No. 04-299 respecting procedures for the sales of real property owned by the City of Hamilton, and all amendments thereto, is hereby repealed.
- (b) This By-law shall be administered by the General Manager.
- (c) Where the land intended to be sold is owned by the City on behalf of the Hamilton Civic Hospitals, the requirements of this by-law prior to Council's consideration of the intended sale of such land, may be administered by the Hamilton Civic Hospitals.
- (d) The short title of this By-law is "Sale of Land Policy By-law".
- (e) This by-law shall come into force and effect on the day of its enactment.

PASSED this 15th day of August A.D. 2014

R. Bratina
Mayor



M. Gallagher
Acting City Clerk

