

# Municipality of the District of Lunenburg

Policy Details	
<b>Name</b>	Divestiture of Surplus Land
<b>Number</b>	065
<b>Legislative Authority</b>	Municipal Government Act s. 50; 51; 51A; 218; 271; 273
<b>Effective Date</b>	March 28, 2023

## Purpose

- 1 To provide guidance to the Municipality of the District of Lunenburg Council when proposing to divest of surplus land that is no longer required for the purposes of the municipality and to ensure an open and transparent process.

## Definitions

- 2 In this Policy:
  - a) **Appraisal** means an opinion of the fair market value of the surplus land provided by an Accredited Land Appraiser or such other qualified person as council deems suitable.
  - b) **Divestiture** means the sale, exchange or transfer any portion of the Municipality's surplus land.
  - c) **Land Exchange** means the act of trading municipal land for private and/or public land that the Municipality deems to have value.
  - d) **Land** means the lands owned by the Municipality of the District of Lunenburg, whether vacant or not, or any other proprietary interest in lands owned by the Municipality, and, without limiting the generality of the foregoing, includes easement, rights-of-way, leaseholds, and an interest in lands under an agreement of purchase of sale.
  - e) **Market Value** means the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.
  - f) **Municipality** means the Municipality of the District of Lunenburg.

- g) **Notice** means the notification published in a local newspaper or on municipal social media circulating for at least fourteen days prior to council meeting at which a decision to divest will be made.
- h) **Surplus Land** means land declared surplus by the Council of the Municipality of the District of Lunenburg that is no longer required for the purposes of the Municipality.
- i) **Immediate Family Member** means the spouse of a council member or employee of the Municipality, and any son, daughter, father, mother, brother or sister of a council member or employee or the council members' or employee' spouse; or any other person who normally resides in the same home as a council member or employee of the Municipality.

### General

- 3 (1) If the provisions of this Policy are inconsistent with the provision of the **Municipal Government Act (the MGA)**, its Regulations or any other Act, the provisions of the Act or Regulations shall prevail.
- (2) This Policy shall be consistent with the Municipality's objectives, bylaws, and approved policies as well as all Provincial and Federal legislation governing the operation of the Municipality.
- (3) All reports to Committee(s) and/or Council dealing with the sale price and/or negotiations related to any Municipal property shall be dealt with in-camera in accordance with Section 22(2)a of the **MGA**.
- (4) The Municipality may refuse any offer of purchase that does not meet its previously established reserved bid.
- (5) The Municipality may refuse any offer of land exchange if they deem it not in the best interest of the Municipality.
- (6) Divesting of surplus land will be subject to any pre-existing benefits, burdens and/or interests including, but not limited to easements of title.

- (7) To avoid Conflict of Interest:
- a) a council member; or
  - b) an employee of the municipality; or
  - c) an immediate family member; or
  - d) a company in which a person referred to in clause (a), (b) or (c) has an interest are precluded from purchasing municipal surplus property.

### **Requests for Municipal Property**

- 4 (1) The Municipality may consider divesting of its surplus lands upon the Municipal Clerk's receipt of a written request prepared by a prospective purchaser or their agents.
- (2) There may be incidents whereby Council may deem properties surplus without a request if the property is no longer required for the purposes of the Municipality.

### **Determination of Surplus Land**

- 5 (1) Prior to divesting any land, Council shall, by resolution, declare the land to no longer be required for Municipal purposes and deemed surplus.
- (2) Before declaring a property to be surplus, a report and recommendation will be submitted for Council's consideration.
- (3) The evaluation criteria in Appendix A will be used to create a land profile prior to considering divesting of land and will form part of the report referred to in subsection 5(2).
- (4) Council determines the method of divestiture, as per Section 6 of this Policy.

### **Method of Divestiture**

- 6 (1) Council will decide on the method of divestiture. The standard practice for undertaking a public call will follow the procedure as set out in Policy MDL-33, Purchasing and Tendering. Only under special circumstances, Council may deviate as per the **MGA**, which may include, but is not limited to:
- a) Properties that have been deemed surplus, as per the **MGA** may be divested through any of the following processes:

- b) Selling to any member of the public per Section 50 and 51 of the **MGA**.
  - c) Notifying residents of the subdivision and selling to a member of the public per Section 273 of the **MGA**.
  - d) Selling to an abutting landowner per Section 51A of the **MGA** to consolidate the property with an existing, abutting lot.
  - e) Selling to a non-profit organization at a price less than market value that Council considers to be performing an activity that is beneficial to the Municipality. For an activity to be deemed beneficial to the municipality, the organization must ensure that the property remain accessible to the public at large.
  - f) Land exchange
  - g) Real Estate Firm or broker
- (2) Prior to divesting any surplus land, the Municipality may wish to obtain or require:
- a) an appraisal; or
  - b) letter of opinion of the fair market value; and
  - c) a legal survey plan of the land

### **Notice**

7. (1) For divestiture of lands that have been acquired outside of the open space provisions of the Subdivision By-law and later deemed surplus by Council, the Municipality shall give notice per Section 51 of the **MGA**.
- (2) For divestiture of surplus lands acquired through the open space provisions of the subdivision by-law, the Municipality shall give notice as per Section 273 (13) of the **MGA**.
- (3) For divestitures of lands of insufficient size or dimensions to be capable of any reasonable use as per Section 51A of the **MGA** no public notice is required.

### **Property Exempt from Policy**

8. (1) There may be situations whereby the Municipality may divest of land and therefore would be exempt from this Policy, which may include, but is not limited to;
- a) The sale of lands for tax arrears which are subject to the procedures set out in Section 134 of the **MGA**;


- b) The sale of lands under the **Exploration Act**;
- c) Divesting land for economic development purposes.

**Public Open Space Subdivision Acquisition Requirements**

- 9. Funds from open space provisions of the Subdivision Bylaw will return to the Municipality’s Public Open Space reserve, as per section 273 of the **MGA**.

**Repeal**

- 10. Policy MDL-65 approved on March 24, 2015 is hereby repealed and replaced with new MODL Policy 065.

Policy Adoption	
Date of Original Passage	March 24, 2015
Date of Notice of Intent to Repeal	March 21, 2023
Date of Council Approval	March 28, 2023
Date of Effective Date	March 28, 2023
I certify that this Policy 065 was adopted by Municipal Council as indicated above.	
Signature of Municipal Clerk 	Date March 28, 2023

Version	Amendment Description	Approval Date
Original V1	Divestiture of Surplus Land	March 24, 2015
Repeal & Replace	Updated for accessible formatting and a complete review of the policy.	March 28, 2023
V2	Divestiture of Surplus Land	

## Appendix A

### Surplus Land Policy Land Profile Evaluation Tool

1. Specify the location of the land (i.e., civic address, GPS Coordinates, survey)
2. Specify the monetary value of the land (assessed/appraised value)
3. Are there any restrictive covenants on the property?
4. Is the Municipality holding the property in trust?
5. What form of access is there to the property? (Public road, private road, easement)
6. Does the property have any contamination/environmental concerns based on previous environmental studies or does an environmental assessment need to be conducted?
7. What was the intended use of the property when acquired?
8. What is the size of the property?
  - a) Does the size inhibit development?
9. Does the property have any architectural, historical, or recreational interest?
10. Does the property have any ecological/conservation value?
11. Do stakeholders such as nearby landowners, subdivision lot owners, community associations, and/or members of the public need to be consulted?
12. Is expert knowledge required to provide an evaluation of the property?
13. Is the land adjacent or nearby water (river, lake, ocean)?
14. What is the current condition of the land?
15. Is or could there be a special purchaser for the property?
16. How was the municipal land acquired e.g., open space provisions of the Subdivision Bylaw, land donation, purchased?
17. Is the land already in use?
  - a) Is there a management agreement in place?
18. Does the current use duplicate an existing service already in the area?
19. What is the estimated cost associated with divesting?
20. Are staff aware of any public concerns relating to the divestiture of the property?
21. Is there development potential?
22. Might the property be useful to the municipality in the future?
23. Are there any known environmental hazards on the property that may inhibit development e.g., flood risk, erosion?