

## Municipality of the District of Lunenburg POLICY

Title: <b>Divestiture of Surplus Land</b>	
Policy No. <b>MDL-65</b>	
Effective Date: March 24, 2015	Amended Date:

### 1.0 Purpose

This policy provides guidance for 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.

### 2.0 Authority

Municipal Government Act (MGA) – Sections 50; 51; 51A; 218; 271; 273

### 3.0 Definitions

- 1 "Appraisal" - 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.
- 2 "Divestiture" - the sale, exchange or transfer any portion of the Municipality's surplus land.
- 3 "Land Exchange" – the act of trading municipal land for private and/or public land that the Municipality deems to have value.
- 4 "Land" - 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.
- 5 "Market Value" - the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.
- 6 "Municipality" - the Municipality of the District of Lunenburg.
- 7 "Notice" – notification published in a newspaper circulating in the municipality at least fourteen days prior to council meeting at which a decision to divest will be made.
- 8 "Surplus Land" - 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.
9. "Immediate Family Member" – refers to 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.

#### 4.0 General

- 1 In the event that the provisions of this Policy are inconsistent with the provision of the Municipal Government Act, 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, by-laws 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 interestare precluded from purchasing municipal surplus property.

#### 5.0 Requests for Municipal Property

Consideration for the divesting of municipal lands will only occur upon receipt of a written request prepared by the prospective purchaser or their agents and submitted to the Municipal Clerk for processing.

There may be incidents whereby Council may deem properties surplus without a request if it is felt that the property is no longer required for the purposes of the municipality.

#### 6.0 Determination of Surplus Land

- 1 before declaring a property to be surplus, A report and recommendation will be submitted for council's consideration;
- 2 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 (1).

#### 7.0 Declaration of Surplus Land

Prior to divesting any land, Council shall, by resolution, declare the land to no longer be required for Municipal purposes and deemed surplus.

- 1 Properties that have been deemed surplus, as per the *MGA* may be divested through any of the following processes:
  - a. Selling to a non-profit organization at a price less than market value that Council considers to be carrying on an activity that is beneficial to the Municipality. For greater clarity, in order for the activity to be deemed beneficial to the municipality, the organization must ensure that the property remain accessible to the public at large.
  - b. Selling to an abutting landowner.
  - c. Land exchange.
- 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

### 8.0 Method of Divestiture

The standard practice for undertaking a public call will follow the procedure as set out in Municipal 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:

- 1 Land Exchange
- 2 Real Estate Firm or broker

### 9.0 Notice

For divestitures of surplus lands, the Municipality shall give notice as per Sections 51, 51A of the *MGA*.

### 10.0 No Further Notice Required

- 1 If a final decision is not made at the Council meeting specified in the notice given and Council refers consideration of the matter to a future Council or Committee meeting, no further notice is required if a resolution is passed indicating Council's referral.
- 2 If a resolution is not passed after 6 months of the date of the Notice council may choose to provide further public notice.

### 11.0 Property Exempt from Policy

There may be situations whereby the municipality may divest in land and therefore would be exempt from this policy, which may include, but is not limited to;

- 1 The sale of lands for tax arrears which are subject to the procedures set out in Section 134 of the *MGA*;
- 2 The sale of lands under the *Expropriation Act*;
- 3 Divesting land for economic development purposes.

### 13.0 Effective Date

This Policy shall come into force and effect on the date of its passing by Council.

Clerks Annotation for Official Policy Book	
Date of Adoption:	<u>March 24, 2015</u>
Date of Notice to Council Members of Intent to Consider (7 days minimum)	<u>March 17, 2015</u>
Date of Passage:	<u>March 24, 2015</u>
I certify that policy MDL-65 "Divestiture of Surplus Land" was adopted by Council as indicated above.	
<u>April Whyndt Johns</u> Municipal Clerk	<u>April 17, 2015</u> Date

## 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? Does the size inhibit development? Is there an abutting or adjacent landowner who may be interested in the property?
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. Type of acquisition (i.e. subdivision bylaw, gift)?
17. Is the land already in use? Is there a management agreement in place?
18. Is the current use a duplication of another type of service already provided 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. Is there possible future liability/gain (e.g. useful site in future, or site features such as erosion suggest that any development would result in a liability)?