

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. 07-87

A BY-LAW TO ESTABLISH POLICIES AND
PROCEDURES GOVERNING THE SALE OF
MUNICIPAL LAND

WHEREAS Section 270.(1) of the Municipal Act, 2001, S.O. 2001, c.25, as amended, requires municipalities 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 Lincoln deems it necessary and expedient to enact a by-law to establish such policies and procedures governing the sale and other disposition of land;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN HEREBY ENACTS AS FOLLOWS:

DEFINITIONS

1. For the purposes of this By-law:
 - (a) Municipal Act means the Municipal Act, 2001, S.O. 2001, c.25, as amended.
 - (b) Appraisal means a written evaluation of the Fair Market Value of the real property proposed to be sold and includes but is not limited to:
 - (i) an Opinion of Value from a Real Estate Agent;
 - (ii) a self-contained appraisal report, summary appraisal report or restricted appraisal report prepared by an accredited appraiser of the Appraisal Institute of Canada;
 - (iii) an appraisal report prepared by a designated member of the International Right of Way Association; or
 - (iv) an appraisal report prepared by a qualified member of another recognized appraisal organization.
 - (c) Council means the lawfully elected Council of the Corporation of the Town of Lincoln.
 - (d) Expropriations Act means the Expropriations Act, R.S.O. 1990, c.E.26, as amended.
 - (e) Planning Act means the Planning Act, R.S.O. 1990, c.P.13, as amended.
 - (f) Sale includes a lease of 21 years or longer.
 - (g) Town means the Corporation of the Town of Lincoln.

SHORT TITLE

2. The short title of this By-law shall be "Sale of Municipal Land By-law".

SCOPE OF BY-LAW

3. This by-law does not apply to land sold pursuant to Section 110 of the Municipal Act nor to land sold by the municipality to be used for establishing and carrying on of industries and industrial operations and incidental uses.
4. This By-law does not apply to the sale of land by the municipality pursuant to Part XI of the Municipal Act – Sale of Land for Tax Arrears.
5. The provisions of this By-law do not apply to the sale of land by the municipality undertaken pursuant to the Town's "Road Allowance Closing and Sale Policy".
6. The provisions of this By-law are subject to the requirements of Sections 41 and 42 of the Expropriations Act.
7. The manner in which the Town carries out the sale of its land, if consistent with the principles of this by-law, shall not be vitiated by virtue of deviations therefrom not affecting the substance or calculated to mislead.

DECLARE SURPLUS

8. Before selling any land owned by the Town, Council shall by by-law or resolution passed at a meeting open to the public, declare the land to be surplus to the Town's needs.

APPRAISAL

9. Before selling any land owned by the Town, Council shall obtain at least one Appraisal of the land, unless an Appraisal is not required as set out in Schedule "A", forming part of this By-law.

NOTICE

10. Before selling any land owned by the Town, Council shall give public notice of the proposed sale.
11. Public notice may consist of one or more of the following, as may be prescribed by Council from time to time:
- (a) by advertisement in a newspaper having general circulation in the Town;
 - (b) by listing with a real estate broker or by direct multiple listing;
 - (c) by posting a "For Sale" sign on the property;
 - (d) by advertisement on local cable television, Internet or other telecommunications medium;
 - (e) by personal service, registered mail, certified mail, courier or fax; or
 - (f) by announcement by Council at an open meeting of Council.
12. Notice may be given to any or all of the following, as may be prescribed by Council from time to time:
- (a) the general public;
 - (b) the Government of Canada or any of its ministries or agencies;
 - (c) the Government of Ontario or any of its ministries or agencies;
 - (d) the Regional Municipality of Niagara;
 - (e) the District School Board of Niagara, the Niagara District Catholic School Board, Le Conseil Scolaire de District du centre-sud-Ouest and Le Conseil Scolaire de District Catholique Centre-Sud;
 - (f) Peninsula West Utilities Inc.
 - (g) Niagara Peninsula Conservation Authority.
 - (h) Adjacent landowners as determined by a search of title;
 - (i) Bell Canada;
 - (j) Enbridge Gas;
 - (k) such other persons, corporations, authorities, local board and bodies as determined.

METHOD OF SALE

13. The method of sale of land may be by one or more of the following, as may be prescribed by Council from time to time:
- (a) direct sale by the Town;
 - (b) sale by real estate agent;
 - (c) land exchange;
 - (d) public tender;
 - (e) call for proposals; or
 - (f) public auction.

REPORT TO COUNCIL

14. Prior to consideration by Council of any proposed sale of land, a report shall be presented for approval to Council, directly or through one of its standing committees and in accordance with Council's procedures, respecting the following matters:
- (a) a description and location sketch of the land proposed to be sold;
 - (b) whether the land is surplus to the Town's needs and the reason why it should be declared surplus;

- (c) unless an appraisal is not required, what type of appraisal pursuant to Section 9 should be obtained to determine its fair market value;
- (d) what type of Public Notice pursuant to Section 11 of this By-law should be given;
- (e) persons, corporations, authorities, local boards and bodies to whom notice pursuant to Section 12 of this By-law should be given;
- (f) recommendation as to method of sale pursuant to Section 13 of this By-law;
- (g) recommendation as to any terms or conditions of sale that may be warranted; and
- (h) any other pertinent information or recommendations.

EXECUTION OF DOCUMENTS

15. Where the sale of land is approved by Council, all documents required to carry out the sale shall be executed on behalf of the Town by the Mayor and Clerk.

REGISTER

16. The Corporate Services Department of the Town shall establish and maintain a register listing and describing the land owned and leased by the Town, except for the land not required to be listed as set out in Schedule "B", forming part of this By-law.
17. The register shall be based upon the last revised assessment roll and may include the following:
- (a) assessment roll number;
 - (b) municipal address;
 - (c) legal description;
 - (d) property size or dimensions;
 - (e) whether the Town owns or leases the property;
 - (f) official/municipal plan designation and zoning category; and
 - (g) current use of the real property.
18. The register shall be made available for inspection by any person in the Corporate Services Department during regular office hours.

SEVERABILITY

19. If any section or sections of this By-law or parts thereof are found in any court of law to be illegal or beyond the power of the Council of the Corporation of the Town of Lincoln to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be enacted as such.

REPEAL

20. Town of Lincoln By-law No. 95-63 is hereby repealed.

EFFECTIVE

21. This By-law shall come into force and take effect on the date of passage.

BY-LAW read a FIRST time this 15th day of October, 2007.

BY-LAW read a SECOND time this 15th day of October, 2007.

BY-LAW read a THIRD time and FINALLY PASSED this 15th day of October, 2007.


MAYOR: BILL HODGSON


CLERK: WILLIAM J. KOLASA

SCHEDULE "A" – BY-LAW NO. 07-87

Situations where Appraisal not Required

1. The following types of land shall not require an Appraisal:
 - (a) Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act;
 - (b) Closed road allowances if sold to an owner of land abutting the closed road allowance;
 - (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 and 108 of the Municipal Act; or
 - (g) Easements granted to public utilities or telephone companies.
 - (h) Land that is being sold to one of the following public bodies:
 - (i) A municipality;
 - (ii) A local board, including but not limited to a school board and a conservation authority; or
 - (iii) The Crown in the right of Ontario or Canada and their agencies.

SCHEDULE "B" TO BY-LAW NO.07-87

Municipal Land not Listed in Register

1. The following classes of land are exempted from the Registry requirements:
 - (a) Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act;
 - (b) Road Allowances;
 - (c) Land formerly used for railway lines.