

The Corporation of The City of Kawartha Lakes

By-Law 2018-____

A By-Law to Regulate the Disposition of Municipal Real Property in and for The Corporation of the City of Kawartha Lakes

Recitals

1. Section 270(1) of the Municipal Act, 2001, s.o. 2001, c. 25, as amended, requires every municipal Council to adopt and maintain policies with respect to its sale and other disposition of land.
2. Council of The City of Kawartha Lakes has established procedures, including those regarding the giving of notice to the public, governing the sale or other disposition of real property. Those procedures are set out in this By-law.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2018-____.

Section 1.00: Definitions and Interpretation

1.01 Definitions: In this By-law:

- (a) **“Candidate Appraiser”** means members of the Appraisal Institute of Canada who have completed the admission requirements of Appraisal Institute of Canada and are working under the supervision of a “Cosignature” and also participate in the Professional Liability Insurance Program of the Appraisal Institute of Canada.
- (b) **“CAO”** means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council.
- (c) **“City”, “City of Kawartha Lakes” or “Kawartha Lakes”** means the Corporation of the City of Kawartha Lakes and includes its entire geographic area.
- (d) **“City Clerk”** means the person within the administration of the City which fulfils the function of the City Clerk as required by the *Municipal Act, 2001*.

- (e) **“Class”** is used in this By-law to denote a type of property for the purposes of assigning procedures required for Disposition. Section 2.01 outlines the Classes of property used by the City.
- (f) **“Cosignature”** means personalized evidence indicating authentication of work performed by members of the Appraisal Institute of Canada as joint authors, where each is responsible for inspection, content, analysis and the conclusions in the report.
- (g) **“Council”** or **“City Council”** means the elected municipal council for the City.
- (h) **“CUSPAP”** means the Canadian Uniform Standards of Professional Appraisal Practice of the Appraisal Institute of Canada.
- (i) **“Disposition”** means for the purposes of this By-law:
 - the completion of an at arm’s length transfer including leases with a term of 21 years or more;
- (j) **“Easement”** means a registered or unregistered formal right to use property belonging to someone else.
- (k) **“Encroachment”** means permitted occupancy of land by buildings or structures, or parts of buildings or structures, which would be trespassing but for the permission.
- (l) **“Full Cost Recovery”** means all labour, equipment, material and any related overhead costs incurred by the City
- (m) **“Manager Realty Services”** means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by the CAO.
- (n) **“Property Disposition Task Force”** means The City Property Disposition Task Force. The City Property Disposition Task Force is a volunteer committee appointed by City Council which identifies land assets to be recommended as surplus to municipal needs and marketed for sale to the general public.
- (o) **“Security”** involves the pledging of an asset in order to secure a positive obligation. As an example, real property is sometimes acquired by the City as Security for a developer’s performance in accordance with the terms and conditions of a development agreement.

- (p) **“Real Property”** means any and all rights, interests or benefits in land.
- (q) **“Reserves”** are parcels of land, one foot or less in width, acquired in conjunction with an approval or decision under the *Planning Act*.

1.02 Interpretation Rules:

- (a) The Schedules attached to this by-law form part of the by-law, and are enforceable as such.
- (b) The words “include” and “including” are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.
- (c) Wherever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.
- (d) References to items in the plural include the singular, as applicable.

1.03 Statutes: References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

1.04 Severability: If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

Section 2.00: Classes of Property or Property Dispositions

2.01 Classes: This section describes four classes of real property held by the City from time to time for the purposes of distinguishing procedures applicable in accordance with this By-law.

- (a) Class One: All real property which does not fall into any of the other classes set out in this section.
- (b) Class Two: Real property which is a highway or a road allowance, open or closed, travelled or un-travelled.
- (c) Class Three: Real property which, in the opinion of the Manager Realty Services, has no market value except as a lot addition to one or more abutting properties.
- (d) Class Four: Real property which is being held temporarily by the City as Security or a Reserve.

- 2.02 **Procedures:** Procedures for the Disposition of real property held by the City vary depending on the Class of property in question (as set out in Section 2.01)
- 2.03 **Exemption:** This By-law does not apply to the sale of property by the City pursuant to the Municipal Tax Sales Act.

Section 3.00: Procedures Concerning the Sale of Land in Class One

- 3.01 **Declaration as Surplus:** Prior to the disposition of any parcel of land in Class One, the Council of the City shall, at a meeting open to the public, declare the land to be surplus and no longer required by the City for municipal purposes. These declarations can be revoked by the City at any time prior to a disposition of the same land.
- 3.02 **Considerations:** In determining whether or not any property is surplus to municipal needs, the Council of the City may consider any relevant information available to it. This includes information that the proposed purchaser or lessee wishes to exchange land with the City, and the parcel to be acquired may be a substitute for the City's property (which would otherwise not be surplus to the City's needs).
- 3.03 **Appraisal:** Subject to Section 3.04, it is a requirement that, prior to the acquisition or disposition of any real property by the City of Kawartha Lakes, the Manager Realty Services shall obtain at least one appraisal of its fair market value. The appraisal shall carry the designation of 'AACI' being an Accredited Appraiser with the Canadian Institute or 'CRA' being a Certified Residential Appraiser. The Appraisal business or firm that is retained by the City of Kawartha Lakes through the Manager Realty Services or by an independent third party to complete an assignment as part of a negotiation with the City of Kawartha Lakes regarding real property, must supply to the City of Kawartha Lakes Land Management Department, in writing, notice that the appraisal will be completed by a "Candidate Appraiser" prior to the assignment being accepted by the business or firm.

Appraisals that are completed by a "Candidate" Appraiser must be co-signed by a designate Appraiser "Co-signature" in accordance with CUSPAP of the Appraisal Institute of Canada. Further, the "Co-signature" must provide proof in writing through an Appraisal Cosignature Form provided by the City of Kawartha Lakes through the Land Management Department that that the "Co-signature" for the "Candidate Appraiser" physically accompanied the "Candidate Appraiser" on the inspection of the real property at the same time on the same day. Each appraisal must include a consultation from a qualified land use planner addressing the

applicable Official Plan and Zoning By-law provisions, and including a list of all permitted uses.

- 3.04 **Exemptions:** The City may, at its discretion, dispose of surplus real property without obtaining an appraisal of fair market value if the circumstances of the disposition meet the criteria in this section.
- (a) The disposition involves a type of property listed in Schedule 'A'.
 - (b) The disposition is to one or more public bodies as set out in Schedule 'B'.
- 3.05 **Public Notice:** Subject to Section 3.06, prior to the declaration as surplus of any real property, the Manager Realty Services shall provide notice to the public of the proposed declaration for the purpose of Disposition in each of the manners described in this section.
- (a) An advertisement shall be placed in a newspaper once per week for three consecutive weeks which, in the City Clerk's opinion, is of sufficiently general circulation in Kawartha Lakes to provide members of the public with reasonable notice.
 - (b) The disposition shall be described in the public agenda for a City Council meeting.
 - (c) Notice shall be posted on the City of Kawartha Lakes website.
 - (d) Notice shall be posted on site (for viable properties only)".
- 3.06 **Exemption:** Where real property has been disposed of by the City through a tender process or a request for proposal process or a public auction, there is no requirement to provide public notice of the Disposition of the real property except in the manner provided in Section 3.05 (b) of this By-law.
- 3.07 **Contents of Notice:** The notice required by Section 3.05 shall contain a description of the real property declared to be surplus including the property's location and its approximate size.
- 3.08 **Timing of Notice:** All notices (excepting those referenced in Section 3.05 (b)) shall be provided at least three weeks and no more than twelve months prior to any Council meeting at which the disposition of the surplus real property may be confirmed.

Section 4.00: Procedures Concerning the Disposition of Land in Class Two

- 4.01 **Inquiries about Class Two Land:** The City cannot consider disposition of any land in Class Two unless it has never been opened as a public highway, or unless it has been closed as a public highway. Where inquiries are made regarding the purchase of these lands, and the highway has not been closed, a closure procedure is required and any claims must be considered, in accordance with the Municipal Act, 2001, before disposition can occur.
- 4.02 **Disposition of Closed Highways:** In considering whether a highway should be closed, the Council may also consider whether the land is surplus to municipal needs. Where Council declares the property surplus, this Section applies to the disposition. A declaration that the lands are surplus can be revoked by the City at any time prior to a disposition of the same lands and the City reserves the right to ultimately decide not to close the highway or dispose of the land.
- 4.03 **Pricing:** Subject to Section 4.04, at the same meeting at which the Council considers declaring any land in Class Two surplus, it may set a price for the land to be disposed of. An appraisal shall be required as set out in Section 3.03 unless the exemptions set out in Section 4.04 apply.
- 4.04 **Certain Set Pricing:** Schedule "C" to this By-law sets the prices for certain types of land in Class Two if they are sold to an owner of lands abutting the closed highway.
- 4.05 **Public Notice:** Public notice of a by-law to permanently close or alter a highway and to dispose of it shall be given in accordance with Section 3.05(a)-(c)
- 4.06 **Consent:** As required by section 34.(2) of the *Municipal Act, 2001*, consent of the Government of Canada will be obtained prior to passage of a by-law to permanently close a highway that (a) abuts on land, including land covered by water, owned by Canada; or (b) leads to or abuts on a bridge, wharf, dock, quay or other work owned by Canada.
- 4.07 **Manner of Disposition:** Any lands in Class Two, except those set out in Section 4.04, shall be disposed of by one of the manners of sale set out in Section 7.00.
- 4.08 **Procedures:** None of the other provisions of Section 3.00 apply to the disposition of any land in Class Two.

Section 5.00: Procedures Concerning the Disposition of Land in Class Three

- 5.01 **Declaration as Surplus:** The provisions of Section 3.01 apply to the disposition of any land in Class Three.
- 5.02 **Certain Set Pricing:** Schedule “C” to this By-law sets the prices for certain types of land in Class Three (namely, landlocked parcels) if they are sold to an owner of lands abutting the landlocked parcel.
- 5.03 **Procedures:** None of the other requirements of Section 3.00 apply to the disposition of any land in Class Three.

Section 6.00: Procedures Concerning the Disposition of Land in Class Four

- 6.01 **Declaration as Surplus:** Land held as Security or as a Reserve are, by their nature, surplus to the City’s needs once the obligations or conditions secured have been performed. Accordingly, it is not necessary to declare land held as Security or as a Reserve as surplus for the purposes of its disposition back to the developer, in accordance with the terms of a development agreement or conditions of development, or, in the case of Security, for disposition on the general market in satisfaction of the Security.
- 6.02 **Appraisal:** Section 3.04 applies to the disposition of any land in Class Four.
- 6.03 **Procedures:** None of the other requirements of Section 3.00 apply to the disposition of any land in Class Four.

Section 7.00: Manner of Sale for All Classes of Real Property

- 7.01 **Manners of Sale:** This section lists methods by which real property may be disposed of.
 - (a) A public call for tenders;
 - (b) A public request for proposals, seeking to optimize development concepts as well as price (within the context of the development);
 - (c) Sale by public auction;
 - (d) Sale through listing with a registered real estate broker on the multiple listing system;

- (e) Direct sale through advertisement of the property (by posting of signs or otherwise) soliciting offers to the Manager Realty Services; or
 - (f) Direct sale through approach to the City by interested purchasers or potential purchasers.
- 7.02 **Default Manner of Sale:** Unless Council provides otherwise when declaring property surplus, the manner of sale used for the disposition of lands shall be by way of Section 7.01(d) with the Manager Realty Services to negotiate with the parties as per usual real estate practices.
- 7.03 **Consideration:** The City may accept consideration for property dispositions through any one or a combination of: money, land exchange, or any other manner which staff may recommend and Council approve.

Section 8.00: Unopened Road Allowances Leading to Water

- 8.01 **Request to Purchase:** Council has declared, by Resolution CR2001-1025, that unopened road allowances leading to water shall be retained by the municipality. Upon receipt of a request to purchase an unopened road allowance leading to water the applicant shall be advised that Council is not prepared to consider declaring any unopened road allowances that lead to water as surplus to municipal needs. Exceptions may be considered where alternate access to water in the immediate vicinity can be provided.
- 8.02 **Consent:** For roads abutting or leading to federally-owned land, consent of the Government of Canada must be obtained prior to closure (see section 4.06 of this By-law).

Section 9.00: Certificate of City Clerk

- 9.01 **Certificate:** Where requested by the purchaser or lessee of surplus property, the City Clerk shall issue a certificate with respect to the Disposition of the land.
- 9.02 **Contents:** The certificate referenced in Section 9.01 shall verify that, to the best of the City Clerk's knowledge and belief, all obligations and requirements of this By-law have been complied with, and that the appraisal required by this By-law has been obtained. Where an appraisal was not obtained, the City Clerk shall set out in the certificate the reasons why the appraisal was not required.
- 9.03 **Registration:** The certificate shall be included in the Transfer/Deed of Land registered pursuant to the Registry Act or the Land Titles Act, as applicable. Where it is included in the Transfer/Deed of Land and

registered, it is deemed to be sufficient proof that the provisions of this By-law have been complied with.

Section 10.00: Full Cost Recovery

10.01 **Costs:** A non-refundable application fee as described in Schedule C must be submitted with each inquiry to purchase City owned land that has not been declared surplus. The application fee will offset any expenses that the City will incur in connection to the initial review of a request. In addition, any costs that are incurred by the City in connection to a request concerning City owned land or the disposition of surplus property shall be payable by the applicant or the purchaser. Such costs shall include:

- (a) any legal costs incurred by the City;
- (b) any costs incurred through the completion of any required public notification;
- (c) any costs incurred through the completion of any required reference plans;
- (d) any costs incurred through the completion of any appraisals that are necessary;
- (e) a fee of \$1,500 to cover City staff time expenses;
- (f) and any miscellaneous costs that are incurred by the City.

10.02 **Exception:** The Manager Realty Services or CAO are hereby permitted to negotiate any legal costs incurred by the City and any costs incurred through the completion of any required public notification with a potential purchaser of municipal property identified by the Property Disposition Task Force only.

Section 12.00: Administration

12.01 **Administration of By-law:** The Manager Realty Services is responsible for the administration of this By-law.

12.02 **Transition:** Dispositions of City owned land resulting from an application to purchase land received by the City prior to February 1, 2018 shall follow the fees and process described in this by-law as last amended by By-law 2014-045, with the exception of the amendments to the notice provisions: For those dispositions for which notice has already been given, this by-law as last amended by By-law 2014-045 will apply.

12.03 **Effective Date:** This By-law shall come into force on the date it is finally passed.

By-law read a first, second and third time, and finally passed, this 13th day of February, 2018.

Mayor

Clerk

Schedule "A" To City of Kawartha Lakes By-Law Number 2010-118

Passed This 29th Day of June, 2010

1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act, R.S.O. 1990, c. P.13*.
2. Closed highways, if sold to an owner of land abutting the closed highways.
3. Land formerly used for railway lines, if sold to an owner of land abutting the former railway land.
4. Land that does not have direct access to a highway, if sold to the owner of land abutting that land.
5. Land repurchased by an owner in accordance with Section 42 of the *Expropriations Act, R.S.O. 1990, c. E. 26*.
6. Land repurchased by an owner in accordance with a reversionary interest retained by that owner in the property.

Schedule "B" To City of Kawartha Lakes By-Law Number 2010-118

Passed This 29th Day Of June, 2010

1. Any municipality, including metropolitan, regional or district municipalities.
2. Any local board, as defined in the Municipal Affairs Act, R.S.O. 1990, c. M. 46.
3. An authority under the Conservation Authorities Act, R.S.O. 1990, c. C. 27.
4. The Crown in Right of Ontario or of Canada, and their agencies.

Schedule "C" To City of Kawartha Lakes By-Law Number 2010-118

Passed This 29th Day of June, 2010

1. **Fee:** A non-refundable fee of \$125.00 must be submitted with each request to purchase City owned property that has not been declared surplus. The fee will cover the initial costs that are associated with the preliminary review/research that is to be completed in order to determine whether or not the property should be declared surplus and offered for sale. In the event that the associated costs exceed \$125.00 the applicant will be notified so that they are aware that they will be responsible for the payment of those costs.
2. **Road Allowances by Shorelines or Interior Road Allowances:** The price for property meeting this description in Section 4.04 of this By-law is:
 - (a) \$15.00 per linear foot of interior road allowances (where the linear foot has an average width of 66 feet); \$20.00 per linear foot of water frontage for shoreline road allowances adjacent to rivers (where the linear foot has an average width of 66 feet); or \$23.00 per linear foot of water frontage for shoreline road allowances adjacent to lakes (where the linear foot has an average width of 66 feet);
 - (b) a fee of \$1,500.00 to cover the City's staff time expenses; plus
 - (c) all costs of the land transaction including the cost of all required notices and surveys, documents required to be registered in the Land Registry Office, all legal fees incurred by the municipality in connection to the sale and any other costs associated with the transaction. The purchaser will be required to make a non-refundable deposit of \$1,000.00 in advance of the road closing to cover the said costs.
3. **Landlocked Lot Additions:** Except in exceptional circumstances, in the opinion of the Manager Realty Services, the price for property meeting the description in paragraph 3 of Schedule "A" of this By-law is:
 - (a) where the parcel is an addition to a farm, a price of \$1500.00 per acre, plus the amounts in parts (c) and (d);
 - (b) where the parcel is an addition to a lot other than a farm, a price of \$1.00 per square foot of land, plus the amounts in parts (c) and (d);
 - (c) a fee of \$1,500.00 (to cover the City's staff time expenses); and
 - (d) all costs of the land transaction including the cost of all required notices and surveys, documents required to be registered in the Land

Registry Office, all legal fees incurred by the municipality in connection to the sale and any other costs associated with the transaction.