

TOWN OF SMITHS FALLS

CONSOLIDATED BY-LAW NO. 7019-95, AS AMENDED

By-law to Regulate the Sale of Municipally Owned Real Property

Amended by By-laws:

By-law 7804-2004 – reflect purchasers pay costs for services

By-law 7853-2004 – exempt dispositions which are returning of security

By-law 9000-2017 – implement transparent and fair evaluation criteria

OFFICE CONSOLIDATION: This is an office consolidation of the Sign By-law and amendments thereto which has been prepared for convenience only. While every effort has been made to ensure the accuracy of the information contained herein, reference should be made to the original by-law and all amending by-laws for legal purposes.

THE CORPORATION OF THE TOWN OF SMITHS FALLS

OFFICE CONSOLIDATION

BY-LAW NO. 7019-95

A By-law to regulate the sale of municipally owned real property.

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WHEREAS pursuant to section 193 of the Municipal Act, c.M45, R.S.O. 1990, as amended by Bill 163 dated December 7, 1994 (Section 268 of the Municipal Act, c. 25, S.O. 2001), every council shall by by-law establish procedures, including giving of notice to the public, governing the sale of real property.

NOW THEREFORE the Council of the Corporation of the Town of Smiths Falls enacts as follows:

1. In this by-law,

“appraisal” shall mean a written estimate of fair market value obtained from a licensed appraiser or real estate broker. The sufficiency of the appraisal shall be determined by Committee of the Whole.

“sale” shall include a lease of 21 years or longer;

“zone” shall mean as designated in accordance with the current Zoning By-law of the Town of Smiths Falls.

2. Before selling any real property, Council shall:

(i) by by-law or resolution declare the real property to be surplus to the Town's needs.

a) All vacant municipally owned real property zoned Industrial (M1, M2, M3, or any approved and specific exception thereto) is hereby declared surplus to the Town's needs.

b) All vacant municipally owned real property zoned Highway Commercial (C3 or any approved and specific exemption thereto) is hereby declared surplus to the Town's needs.

c) A separate resolution, declaring the real property to be surplus to the Town's needs, shall be required for all other real property to be sold by the Town of Smiths Falls.

(ii) obtain at least one appraisal of the fair market value of the real property;

a) an appraisal obtained on a group of properties or on an individual property within the same zone and lying within 120 meters of the subject site, may be used as the basis of calculating the fair market value of the subject site provided

- 1) such original appraisal has been obtained not more than three (3) years prior to the acceptance of an offer to purchase; and
 - 2) the Committee of the Whole is satisfied the original appraisal is an appropriate base for such calculation.
- (iii) give a minimum of ten (10) days notice to the public of the proposed sale. Such notice may, as deemed appropriate by the Committee of the Whole, be met by:
- a) the erection of a sign on the subject site or in the case of an industrial or business Park within the Park boundaries. Such sign shall be a minimum of 4' by 8' in size and places so as to be clearly visible from the nearest road; or
 - b) the publication of such notice in a newspaper or flyer having general circulation in the Town of Smiths Falls.

Regardless of the method of notice chosen, such notice shall contain as a minimum a general description and size of the property, frontage on a named street and a person to contact for additional information.

3. The provisions of this by-law shall not apply to a sale or other disposition of land pursuant to subsection 210.1(2) regarding agreements for municipal capital facilities.

The provisions of this by-law shall not apply to disposition of land pursuant to a development agreement where the land is being returned to the developer as a return of security or in exchange for receipt of other lots in the development for the purpose of security, provided said other lots are first transferred to the Town.
(Added by By-law 7853)

4. Section 2(ii) respecting the obtaining of an appraisal shall not apply to:
 - (i) Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act.
 - (ii) Highways, roads and road allowances.
 - (iii) Land formerly used for railway branch lines if sold to an owner of land abutting the former railway land.
 - (iv) Land that does not have direct access to a highway if sold to the owner of land abutting that land.
 - (v) Land repurchased by an owner in accordance with section 42 of the Expropriations Act.
 - (vi) Land to be used for sites for the establishment and carrying on of industries and of industrial operations and incidental uses.
 - (vii) Land sold under sections 112, 112.1, 112.2 and 113 of the Municipal Act respecting Community Economic Development or Community Development Corporations.

- (viii) Easements granted to public utilities or to telephone companies.
 - (ix) Land sold under the Municipal Tax Sales Act.
5. Section 2(ii), respecting the obtaining of an appraisal, shall no apply to the sale of real property to the following agencies:
- (i) Any Municipality, including a metropolitan, regional or district municipality and the County of Oxford.
 - (ii) A local board as defined in the Municipal Affairs Act.
 - (iii) An authority under the Conservation Authorities Act.
 - (iv) The Crown in right of Ontario or of Canada and their agencies.
6. Municipal services and road costs will be paid by the purchaser.
7. If the sale of real property is initiated by an application or request from an individual or agency, such individual or agency shall bear the administrative costs associated with such sale including but not limited to the appraisal, notice and legal costs unless such requirement is waived in writing within the provisions of an offer to purchase.
8. The manner in which the Council carries out the sale of the property, if consistent with the procedures by-law and Section 193 of the Municipal Act is not open to question or review by any court if the council may lawfully sell the property, the purchaser may lawfully buy it and the council acted in good faith.
9. The Clerk shall issue and cause to be included in a deed or transfer of land, a certificate with respect to a sale of real property verifying that:
- (i) A procedural by-law was in force at the time of the resolution or by-law declaring the real property surplus was passed:
 - (ii) The requirement respecting notice of the sale to the public has been published; and
 - (iii) The required appraisal was obtained or that such appraisal was not required by virtue of an exemption provided herein.
- 9.1. Council reserves the right to accept or reject any purchase offer/s of land from the potential buyer(s), if in doing the best interests of the Corporation will be served. No liability shall accrue to the Corporation for its decision in this regard. Any purchase offer will not necessarily be accepted. The following criteria may be used by Council to award the land sale contract:
- 1) Bid price;
 - 2) Type of business/intended use of the building and/or property;
 - 3) Local economic impact and potential employment opportunities that are expected to be created;

- 4) Financial ability of the company to execute the sale of land and implement the business;
- 5) Timelines to launch the business.

10. The Clerk shall maintain a public register listing and describing the real property owned or leased by the municipality.

11. Section 10, respecting the establishment and maintenance of a land registry shall not apply to:

- (i) Land 0.3 metres or less in width acquired in connection with an approval of decision under the Planning Act.
- (ii) All highways, roads and roads allowances, whether or not opened, unopened, closed or stopped up.
- (iii) Land formerly used for railway branch lines.

12. Nothing in this by-law shall absolve Council's rights and obligations with respect to the requirements of any Act.

13. The provisions of this by-law shall come into force and take effect upon the passing thereof.

By-law 7019-95

Read a first and Second time on the 2nd day of March, 1995.
Read a third time and passed on the 20th day of March, 1995.

By-law 7804-04

Read a first, second, third time and passed on the 19th day of January, 2004

By-law 7853-04

Read a first, second, third time and passed on the 20th day of September, 2004

By-law 9000-2017

Read a first, second, third time and passed on the 18th day of December, 2017

(original by-laws signed)

Mayor

(original by-laws signed)

Clerk