



**The Corporation of the Municipality of  
Grey Highlands**

206 Toronto Street South, Unit 1, Box 409  
Markdale, ON N0C 1H0  
Tel.: 519-986-1216

## Grey Highlands Policy

Policy Name: Sale of Surplus Lands

Policy Number: A09-L-02

Department: Corporate

Authority:

Effective Date: 2020-10-21

Supersedes: A09-L-01

Last modified: New

### 1) Purpose

The purpose of this policy is to ensure that transparent and accountable processes are followed in the disposal of all real property and to ensure that returns are fair, reasonable and in the best interests of the Municipality.

### 2) Scope

This policy applies where real property is disposed of by the Municipality of Grey Highlands. The Municipality shall undertake the disposal of real property in accordance with this policy and the disposal of real property procedures, unless waived by Council. This policy applies to all Municipal employees, and any agents or assignees authorized to dispose of real property on behalf of the Municipality.

### 3) Policy

#### A. General

- i) Where real property is proposed to be disposed of, it shall first be determined to be viable or non-viable by the CAO or their delegate.
- ii) Subject to Section 3) A. iii), real property shall be disposed of at current market value.
- iii) Notwithstanding Section 3) A. ii), Council may, unless prohibited by the Municipal Act, authorize the disposal of real property at less than market value if, in its opinion, it is in the best interests of the Municipality to do so.
- iv) All Municipally owned real property is a corporate asset and not an asset of any individual department.

## Grey Highlands Policy

- v) The disposal of real property shall occur in accordance with the procedures attached to and forming part of this policy as Appendix A.

## B. Disposal of Road Allowances

- i) **Road Allowances for Road Use** - Where a road allowance is to be closed and conveyed to another party, or where a road allowance has been closed and is to be conveyed to another party, and where a part(s) of that road allowance will be constructed as a road, that part will be conveyed for \$1.00, provided that the said part(s) will be dedicated back to the municipality for road purposes at no cost to the municipality. The requirement to dedicate back will be established in the Agreement of Purchase and Sale. The balance of the closed road will be sold at market value.
- ii) **Road Widening** - In the event that no concession is made with the developer in exchange for the widening, the Site Plan/Subdivision Agreement will stipulate that if the Municipality does not require all or a portion of the road widening, it may transfer the land back at \$1.00 to the developer or its successor in title. The purchaser will pay all costs.
- iii) **Subdivision Blocks Identified for Future Roads** - Where Subdivision blocks are identified for future roads and are deemed to be surplus at a later date, the land will be sold at market value.
- iv) **All Other Road Allowances** – all other requests for disposal of road allowance real property will follow this policy and associated procedures.
- v) **Road Allowance Future Needs** – The Municipality of Grey Highlands shall generally deem all road allowances to be required for future needs, regardless of whether the needs are known at the present time.
- vi) **Merge required** – any road allowances that are disposed of to abutting property owners and shall merge with the proponent's property.

## C. Conditions for the Disposal of Real Property

Unless otherwise stated in this policy, the following conditions must be met before the disposal of any viable or non-viable real property:

- i) The real property shall be declared surplus to current or future program or operational requirements of the Municipality.
- ii) At least one (1) appraisal of the real property shall be obtained.
- iii) Notice of the proposed real property disposal shall be provided to the public.
- iv) With the exception of Initiatives as per Section 3. B. i) and Section 4, all municipal real property that has been declared surplus shall be disposed of by one of the following options:
  - (1) Direct sales for land exchanges or disposals to government/quasi-government agencies of non-viable land.
  - (2) Marketing by Municipality and accepting sealed offers
  - (3) Listing Agreement with licensed real estate brokers
  - (4) Public Auction with minimum bid/reserve amount
- v) With the exception of initiatives as per section 4, the Municipality shall not proceed with a disposition of viable land without going through a competitive process.

## Grey Highlands Policy

- vi) The Municipality shall not dispose of any real property for less than the legal costs required to complete the process.

#### D. Authority to Declare Surplus

All viable and non-viable real property shall be declared surplus only by Council.

#### E. Appraisals

- i) At least one (1) appraisal estimating the current market value of the real property shall be obtained. Appraisal reports shall remain confidential until the disposal is completed.
- ii) Notwithstanding Section above, the requirement to obtain an appraisal shall not apply to the disposal of real property 0.3 metres or less in width, acquired in connection with an approval or decision under the Planning Act.

#### F. Notice of Proposed Disposal

- i) Prior to the disposal of any real property, notice of the proposed disposal shall be provided to the public by two or more of the following methods:
  - (1) Posting a sign on the real property for a period of not less than ten (10) days
  - (2) Mailing a notice to abutting property owners or posting in a newspaper of general circulation
  - (3) Posting on the Municipal website and/or social media
  - (4) Posting on Social Media
- ii) In addition to F. i), in the case of an unopened road allowance, notice shall also be provided to hydro and gas companies.
- iii) The notice shall include:
  - (1) the location of the land by reference to the municipal address or legal description, or both;
  - (2) the name, title, and contact information of one or more staff having information about the proposed disposition;
  - (3) a general description of the method of disposition; and
  - (4) the latest date by which enquiries may be made of any staff member indicated in the notice, or the last date by which offers will be received.

### 4) Development Initiatives

- A. Council may enter into partnership agreements for development initiatives involving municipal and private lands for the benefit of the community.
- B. Development Initiatives may follow an alternate process for disposition than what is described in this policy and associated procedure.
- C. Any disposition process for development initiatives outside the scope of this policy shall be approved by Council in advance of any disposition.

### 5) Responsibilities

- A. Council approval is required to declare land surplus, authorize disposal at less than market value, approve a minimum bid/reserve amount in the case of a public auction or tender and pass the by-law authorizing the sale of land (depending on any delegation of authority)
- B. CAO is responsible for providing determination of viable or non-viable real property.

## Grey Highlands Policy

- C. Municipal Clerk or delegate is responsible for ensuring proper notice is given and the preparation of any reports to Council.
- D. Municipal Solicitor is responsible for providing legal services for authorization of sale.
- E. All Directors are responsible for providing comments on whether any lands should be declared surplus by Council.

## 6) Definitions

- A. **Abutting Landowner** – in the case of the disposal of a closed road or highway, an abutting owner refers to an owner of property that is immediately to the side of the road or highway, but does not include an owner whose property touches either end of the road or highway. With respect to any other real property disposal, an abutting owner is any owner whose real property touches the Municipality's real property.
- B. **Appraisal** – a written estimate of current market value prepared by an independent qualified appraiser.
- C. **Disposal** – the sale or exchange for other real property of any of the Municipality's real property that has been declared surplus but does not include the leasing of Municipally-owned property or the granting of an easement or right-of-way.
- D. **Market Value** – the highest price a willing buyer would pay, and a willing seller would accept, both parties being fully informed, and the real property being marketed for a reasonable period.
- E. **Non-Viable Real Property** – Real property for which a building permit cannot be granted because either it is landlocked, or because it is of insufficient size and shape to permit development unless developed in conjunction with abutting land.
- F. **Real Property** – land and/or buildings and all improvements thereon.
- G. **Road Allowance** - A road allowance is typically an elongated corridor of land that has been established for use as a public highway. Pursuant to Section 26 of the Municipal Act, 2001, the following are deemed public highways, unless they have been closed:
  - i) Highways that existed on December 31, 2002.
  - ii) Highways established by by-law of a municipality on or after January 1, 2003.
  - iii) Highways transferred to a municipality under the Public Transportation and Highway Improvement Act.
  - iv) Road allowances made by the Crown surveyors that are located in municipalities. (These are mostly road allowances shown on township layouts, generally called "Concession Roads or Side Roads, but could also Colonization Roads, etc.).
  - v) All road allowances, highways, streets and lanes shown on a registered plan of subdivision.

Road allowances may be categorized as "open and maintained", "open and unmaintained", and "closed and unmaintained". For the purpose of this policy, the term road allowance will include all three categories.
- H. **Surplus Real Property** – Real property that is not required to meet the current or future program or operational requirements of the Municipality and that has been declared surplus by Council or its delegated authority.
- I. **Viable Real Property** – Real property for which a building permit can be granted.

# Appendix A

## Procedure for Disposal of Surplus Lands

### 1) Application

These procedures apply where real property is disposed of by the Municipality of Grey Highlands.

### 2) Procedure

#### A. Inventory Review

The Municipality may, at any time, undertake an inventory review of the Municipality's real property and provide any requests to declare surplus to Council under the direction of the CAO.

#### B. External Request for Surplus Land

Requests received from members of the public or outside agencies will be reviewed and proceed in accordance with the policy and associated procedures.

#### C. Title Search

Where real property has been identified as potentially surplus, the parcel register shall be obtained from the Land Registry Office to determine if there are any legal impediments to the disposal of the real property.

#### D. Internal Circulation

- i) Prior to identifying real property as potentially surplus, the potential property list is circulated to all municipal departments and the County of Grey for comment. Specific comments should reference:
  - Potential identification of any Municipally mandated requirements that could be achieved by the use of the real property.
  - Potential co-ordination of the Municipal corporate objectives including Strategic and Official Plans.
  - Potential future development initiatives by associated organizations or upper tier government that target environmental, cultural, social or economic development strategic objectives.
  - Potential for municipal or County mandated programs that may wish to utilize the property for housing purposes. Non-profit and co-operative housing groups within the Municipality may be afforded the opportunity to acquire the real property at current market value.
  - That significant natural features are considered and, if required, restrictive covenants or other measures are formulated to establish appropriate protection of such natural features.
  - The disposal of real property designated under Parts IV or V of the Heritage Act may be considered and may include recommendations to retain an independent consultant to

## Grey Highlands Policy

confirm the heritage significance of the real property as well as opportunities for restoration or adaptive re-use. The Local Heritage Advisory Committee is to be notified of any heritage property being considered for disposal.

- That easement requirements are identified and protected as part of the disposal of the real property.
- ii) Municipal departments shall have twenty (20) working days to provide written requirements or comments in response to an internal circulation.
- iii) Should a requirement be identified by a Municipal department to retain the real property in support of a Municipally mandated program now or in the future, the department shall provide such rationale for maintaining the property to Council.
- iv) Where an interest is expressed by two or more municipal departments or agencies to retain the real property, the departments or agencies shall provide such rationale for maintaining the property. Final allocation or use of the property shall be determined by Council.

#### E. External Circulation

At the same time as the internal circulation, an external circulation is completed to allow twenty (20) working days for written expressions of interest to acquire the property. The parties to be circulated to include, but are not limited to, the federal and provincial governments, school boards and conservation authorities.

#### F. Report to Council

- i) Staff will prepare a report to Council outlining the details of the potential surplus property indicating the comments received on the file from the internal and external circulations.
- ii) The staff report will be submitted for inclusion to Council on the first available meeting after the completion of the internal and external circulation timelines have lapsed.
- iii) Council will be presented with recommendations as to whether the property should be declared surplus or not. The staff report should lay out the preferred staff recommendation as well as any operational considerations or recommendations should Council determine a course of action that differs from the staff recommendation.
- iv) Should Council determine that the lands are surplus to Municipal needs, Council will also determine the method of disposal to be used in accordance with the policy.
- v) Council will approve the final disposition of any real property.

#### G. Expropriations Act – Former Owner’s Rights

For properties that were expropriated, disposal shall be in accordance with the provisions of Section 42 of the Expropriations Act. Any waiver by the Municipality of the former owner’s rights must be approved by Council.

#### H. Appraisal

- i) An appraisal report estimating the real property’s current market value is to be completed in support of each disposal, unless otherwise specified in the Policy. The appraisal report shall be obtained prior to placing the property for disposal. As per policy, the appraisal report(s) shall remain confidential until the disposal is completed.

## Grey Highlands Policy

- ii) Appraisal reports are based on the “Highest and Best Use” of the asset and are prepared by an accredited appraiser in accordance with the current Standards of the Appraisal Institute of Canada.

#### I. Methods of Disposal

The disposal method and negotiation process utilized ensures that transparent and accountable processes are followed in the disposal of real property. The method of disposal is determined based on maximizing the social, economic, environmental, and cultural return to the Municipality and takes into consideration factors such as viability, interest expressed from the external circulation, market conditions and availability of resources.

The method of disposal from the list below is determined by resolution of Council:

- Direct sales for land exchanges or disposals to government/quasi-government agencies of non-viable land.
- Marketing by Municipality and accepting sealed offers
- Listing Agreement with licensed real estate brokers
- Public Auction with minimum bid/reserve amount

#### J. Notice of Proposed Disposal

After Council passes a resolution to declare the lands surplus and to proceed with the disposition of land, and prior to the disposal of any real property, notice of the proposed disposal is given to the public in accordance with the policy indicating the method chosen for disposal.

#### K. Legal Requirements

The Municipal Solicitor shall finalize all aspects of the disposal for Council approval.