



THE CORPORATION OF THE TOWN OF ERIN

BY-LAW #17-19

Being a By-Law to establish Policies for the Sale of Real Property and giving notice to the public governing the sale of land referred to as the Real Property Disposal By-Law.

Whereas Section 270 (1) (1) of the Municipal Act, 2001 as amended requires the Council of the Municipality to pass a by-law to establish policies governing the sale of real property;

Now therefore the Council of the Corporation of the Town of Erin **hereby enacts as follows:**

1. Definitions

“Appraisal” means a written opinion as to the amount that the real property might be expected to realize if sold in the open market by a willing seller to a willing buyer

“Clerk” means the Clerk of the Corporation of the Town of Erin

“Disposal” means the sale of real property

2. General

2.1 Conditions Before Sale of Land

Prior to the disposal of real property, Council or the local board except as excluded will comply to the following:

- a) Pass a resolution to declare the land to be surplus
- b) Obtain at least one appraisal of the fair market value of the land; and
- c) Give notice to the public of the proposed sale by an ad in the local paper; a notice on the Web Page and a notice posted on the property for 14 days.

2.2 No Review

The manner in which the municipality or local board carries out the sale of its land, if consistent with the provisions of this by-law, it is not open to review by any court if the municipality or local board may lawfully sell the property, the purchaser may lawfully buy it and the municipality or local board acted in good faith.

2.3 Certificate

The Clerk of the municipality may issue a certificate with respect to a sale of land by the municipality verifying that to the best of his/her knowledge the requirements of this by-law, which applies to the sale of land, have been complied with. The fee for the Certificate is \$50.00 and a sample of the Certificate is attached as Schedule “A” to this by-law.

2.4 Effect

A certificate under clause 2.3 shall be included with the deed or transfer of land and, unless a person to whom the land is sold has notice to the contrary, shall be deemed to be sufficient proof that the requirements have been complied with.

2.5 Exclusion of Certain Classes of Land

Clause 2.1 (b) does not apply to the sale of the following classes of land:

1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act
2. Land formerly used for railway branch lines if sold to an owner of land abutting the former railway land
3. Land that does not have direct access to a highway if sold to the owner of land abutting that land
4. Land repurchased by an owner in accordance with section 42 of the Expropriations Act
5. Land to be used for site for the establishment and carrying on of industries and of industrial operations and incidental uses
6. Land sold under sections 107 and 108 of the Municipal Act, 2001; and
7. Easements granted to public utilities or to telephone companies.

2.6 Exclusion, Sales to Public Bodies

Clause 2.1 (b) does not apply to the sale of land to the following public bodies;

1. A municipality
2. A Local Board including a school board and a conservation authority; and
3. The Crown in right of Ontario or Canada and their agencies.

2.7 Exclusion, Classes of Land

Clause 2.1 does not apply to the sale of the following classes of land:

1. Land sold under section 110 of the Municipal Act
2. Land to be used for the establishment and carrying on of industries and industrial operations and incidental uses.

2.8 Exclusion of Certain Classes of Land from Public Register

Clause 2.3 does not apply to the following classes of land:

1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act
2. Highways; and
3. Land formerly used for railway branch lines

2.9 Exemption

This by-law does not apply to the sale of land for tax arrears (Part XI of the Municipal Act).

2.10 Disposal of Highways, Roads and Road Allowances

The disposal of highways, roads and road allowances (hereinafter referred to as "highway"), shall be conducted in accordance with the following procedures:

1. Prior to passing a by-law approving the sale of a highway, the highway must be closed by way of a by-law. A by-law permanently closing a highway does not take effect until a certified copy of the by-law is registered in the proper land registry office. The closure may be included in a by-law to stop up, close and convey a highway.
2. A highway can not be conveyed if it is covered with water without the consent of the Ministry of Natural Resources.
3. At least one (1) appraisal of the fair market value must be obtained from an independent qualified appraiser who is a registered member in good standing of the Appraisal Institute of Canada.
4. Notice of the closure and sale of a highway shall be given in accordance with the Notice By-Law.
5. The purchaser of a highway shall be responsible for all costs incurred or required to dispose of the highway by the Town including, but not limited to legal, survey, appraisal, encumbrances, notices and advertising, improvements, administrative fees and so on, which shall be calculated in addition to the purchase price.

2.11 Method of Sale

With the exception of the sale of land pursuant to Part XI of the Municipal Act and the sale of highways, roads and road allowances, the disposal of real property by way of sale shall be conducted in accordance with the following procedures:

1. Prior to the passing of the by-law approving the disposal of real property, Council shall determine the method of sale, which may be by way of public tender, public auction, real estate listing, proposal call, or agreement of purchase and sale.
 2. Where the method of sale is by agreement of purchase and sale, unsolicited offers to purchase real property may be processed on a first come, first served basis.
 3. When more than one (1) party has expressed an interest in purchasing real property or where Council believes it to be in the best interest of the Town, Council may, by resolution, direct that the real property be sold by tender.
 4. Where Council directs that the real property be sold by public tender, the tendering policy and procedures in effect at the time shall apply with necessary modifications.
 5. The purchaser of any such real property shall be responsible for all costs incurred or required to dispose of the real property by the Town including, but not limited to legal, survey, appraisal, encumbrances, notices and advertising, improvements, administrative fees and so on, which shall be calculated in addition to the purchase price or the tender price as the case may be.
3. By-law #07-65 is hereby repealed.
 4. This by-law may be cited as the "Real Property Disposal By-Law".
 5. This By-Law shall come into force and take effect on the date of passing.

Passed in Open Council on April 4th, 2017.



Mayor, Allan Alls



Clerk, Dina Lundy

Schedule "A"
Real Property Disposal By-Law #07 –

CERTIFICATE OF COMPLIANCE
Section 270 (1) (1) of the Municipal Act, 2001 as amended

The sale of the real property located at:

Has been lawfully completed with respect to the following:

- a) A resolution was passed declaring the land to be surplus;
- b) The required appraisal was obtained; and
- c) Notice to the public of the proposed sale was given by an ad in the local paper; a notice on the Web Page and a notice posted on the property for 14 days.

This will certify that the above transaction has been completed in compliance with the conditions.

Dated at the Town of Erin
In the County of Wellington

This _____ day of _____, 2017

Clerk, Dina Lundy