

Sale and Other Disposition of Land Policy

Department:	Clerk	Policy Number:	L07-0800-26
Section:	Legal	Effective Date:	March 10, 2026
Subject:	Disposition of Land	Revised Date:	
Authority:	By-Law 2026-XXX <i>Municipal Act, 2001, S.O. 2001, c.25, as amended</i> <i>Planning Act, R.S.O. 1990, c. P.13, as amended</i> By-Law 2017-035 – Notice Policy By-Law		

1. Purpose

1.1 This Policy is made pursuant to Section 270 of the *Municipal Act, 2001* which requires municipalities to adopt and maintain a policy with respect to its sale and other disposition of land. The purpose of this policy is to set out the process to declare lands surplus and the method of sale or disposition of land owned by the Municipality of Brockton (“Municipality”). It is the desire of the Municipality to ensure that its policy provides for openness and transparency in the sale and other disposition process of its land and to ensure that the consideration for such disposal is fair, reasonable and in the best interest of the Municipality.

2. Scope

2.1 This policy applies to all sales and other dispositions of land by the Municipality unless exempt as per this policy. This policy does not apply to leases with terms of less than 21 years.

This policy sets out the process of appraisal and valuation, the method of sale, and the manner in which notice will be given to the public, in an effort to provide transparency and ensure accountability.

This policy shall be read in accordance with the procedures and guidelines referenced herein, as well as referred to in any associated procedures, as applicable.

3. Definitions

3.1 For the purpose of this policy and associated procedures, the following words shall have the meaning ascribed herein, unless the context otherwise requires:

“**CAO**” means the Chief Administrative Officer of the Corporation of the Municipality of Brockton.

“**Clerk**” means the Clerk of the Corporation of the Municipality of Brockton.

“**Council**” means the Council of the Corporation of the Municipality of Brockton.

“**Disposition**” means the sale, transfer, conveyance or exchange of the fee simple interest in land or the granting of a lease by the municipality for a term of more than 21 years, and “**disposal**” shall have a similar meaning.

“Expropriations Act” means the *Expropriation Act*, R.S.O 1990, c. E26, as amended or any successor legislation.

“Fair Market Value” means the amount the land might be expected to realize if sold in the open market with the parties acting at arm’s length.

“Fee Simple” means the permanent and absolute ownership of land with the freedom to dispose of it at will.

“Highway” means a common and public highway, street, avenue, public lane, parkway, driveway, square, place, bridge, viaduct, or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

“Land” means real property owned by the Municipality.

“Lease” or “leased” means to enter into a contract in which the Municipality agrees to rent Municipal Land to another party for a term of 21 years or more.

“Local Board” means a municipal service board, transportation commission, public library board, board of health, police services board, planning board or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding school boards and conservation authorities.

“Meeting” means any regular, special or other meeting of Council.

“MPAC” means the Municipal Property Assessment Corporation or any successor thereto.

“Municipality” mean the Corporation of the Municipality of Brockton.

“Municipal Act, 2001” means *Municipal Act, 2001*, S.O. 2001, c.25, as amended or any successor legislation.

“Notice By-law” means the By-law adopted by Council pursuant to the *Municipal Act, 2001*, Section 270 (1) 4.

“Sale”, “sell”, “selling” and “sold” means any transaction where an interest in Land is transferred or disposed of with or without consideration.

“Surplus” means Land that the Municipality no longer requires to meet its current or anticipated future needs.

“Unopened Road Allowance” and “URA” means a road allowance delineated in a reference plan or survey that has not been assumed or established by the passing of a by-law for public use by the Municipality nor has the Municipality expended any money towards the maintenance of the said road allowance.

“Value” and “Valuation” means the valuation of the Land as determined by the methods outlined in Section 2.

4. Conditions before Sale or Disposition of Land

- 4.1 Unless an exemption is provided for in this policy, before disposing of any Land, Council shall:
- 4.1.1 Pass a resolution at a meeting open to the public declaring the Land to be surplus.
 - 4.1.2 Value the Land in accordance with Section 6 unless Council authorizes the disposition of Land without a valuation in a public meeting if it deems it in the best interest of the Municipality to do so.
 - 4.1.3 Give notice to the public in accordance with Section 7.

5. Declaration of Surplus (See Section 4.1.1)

- 5.1 Prior to the disposal of Land by the Municipality, Council shall declare the land to be surplus in the following manner:
- 5.1.1 The Clerk, or their designate, will submit a report to Council recommending that the Land in question be declared surplus to the needs of the Municipality.
 - 5.1.2 Where Council deems it advisable to adopt any recommendation with respect to declaring any Land owned by the Municipality surplus Council will, in a meeting open to the public, pass a resolution declaring any such land surplus to the needs of the Municipality.
- 5.2 Notwithstanding the foregoing, the following classes of land are exempt from the requirement to declare such land surplus prior to its disposal:
- 5.2.1 All land owned by the Municipality that is zoned for industrial uses;
 - 5.2.2 All cemetery plots owned by the Municipality; and
 - 5.2.3 Any land transferred to the Municipality for security or for temporary roads or other works in connection with any agreement to which the Municipality is a party under the *Planning Act*, R.S.O. 1990, c. P. 13, as amended.
 - 5.2.4 Any lands enumerated in Section 8 of this policy.

6. Value or Valuation (See Section 4.1.2 above)

- 6.1 Where the value of the Land needs to be determined, it will be valued by a method determined to be satisfactory to Council including but not limited to:
- 6.1.1 An appraisal or an opinion of an independent qualified appraiser who shall be a registered member in good standing of the Appraisal Institute of Canada;
 - 6.1.2 The value assigned by the Municipal Property Assessment Corporation (MPAC);
 - 6.1.3 An opinion of value by a licensed real estate agent;
 - 6.1.4 The amount set out in an agreement of purchase of sale between a purchaser and vendor/seller who are at arm's length for fair market value;
 - 6.1.5 The amount agreed to for rent in a lease entered into between a lessee and lessor who are at arm's length for fair market value; or
 - 6.1.6 Such other means as may be specifically determined as appropriate by Council in the circumstances.

- 6.2 Notwithstanding Section 6.1 above, classes of Land or types of transactions as outlined in Section 8. herein may not require a valuation.
- 7. Notice (See Section 4.1.3 above)**
- 7.1 The Clerk shall give notice to the public of the intention to dispose of the land in a manner consistent with Bylaw Number 2017-035, the Municipality's By-law to Prescribe the Form and Manner and Times for the Provision of Notice, or any of its successors.
- 7.2 If Notice is required to be given, notice shall include sufficient information to identify the Land being declared surplus and may include the following:
1. a municipal address, if available;
 2. the legal description of the land, if available;
 3. the inclusion of a map or sketch of the land;
 4. the date and time of the Council meeting when disposal of the land will be considered by Council, if applicable;
 5. the contact information of the staff person who will receive comments and the deadline for submission, if applicable.
- 7.3 If Land is to be sold by public tender, then Notice, in addition to those items outlined in Section 7.2, shall include the following:
1. the date for submitting the tender;
 2. the notation "the highest or any tender may not necessarily be accepted";
 3. the land is being sold on an "as is, whereas basis"; and
 4. the date, time and location of opening tenders.
- 7.4 Notwithstanding the above, Land being disposed of under Section 8 of this policy is exempted from the Notice requirements in Section 4.1.3.
- 8. Exemptions from the Policy**
- 8.1 The requirements to declare lands surplus, provide advance notice, and the valuation methods do not apply to the following:
- 8.1.1 Land 0.3 metres or less in width acquired for road widening purposes or in connection with an approval or decision under the *Planning Act*, sold to any adjoining landowner or government or government related agency;
 - 8.1.2 Closed highways, roads and road allowances, including shore road allowances, of insufficient size to be undevelopable on their own sold to an owner of land abutting said road
 - 8.1.3 Any highways, roads and road allowances;
 - 8.1.4 Easements granted to public entitles, public utilities, an electricity distribution company, a power generation company, a telephone company or a similar entity;
 - 8.1.5 Land leased or sold under Section 110 (Municipal Capital Facilities of the *Municipal Act, 2001*);
 - 8.1.6 Land sold under *Part XI* (Sale of Land for Tax Arrears) of the *Municipal Act, 2001*;
 - 8.1.7 Land being reconveyed to a Person that originally conveyed it to the Municipality where the Land is held by the Municipality in trust or subject to a condition, obligation or legislation that requires a specific conveyance by the Municipality;

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- 8.1.8 Land being reconveyed to the Person who conveyed the Land to the Municipality where the Land is held by the Municipality as security for the performance of obligations for that Person pursuant to an agreement between the Person and the Municipality;
 - 8.1.9 Real property that is vested in the Municipality by by-law, operation of law, or otherwise which neither the Municipality nor the registered owner intended to vest;
 - 8.1.10 All cemetery plots owned by the Municipality;
 - 8.1.11 Land sold or leased to the following:
 - a. Any municipality;
 - b. A local board, including a school board and a conservation authority;
 - c. A corporation that operates a public hospital;
 - d. The Crown in Right of Ontario or Canada and their agencies;
 - e. A not-for-profit organization that will use the property for an institutional use or to provide affordable or attainable housing or housing aimed at vulnerable populations;
 - 8.1.12 Land that is subject to a settlement arising from potential or actual litigation against the Municipality.
 - 8.1.13 Land formerly used for railway lines if sold to an owner of land abutting that land;
 - 8.1.14 Land that does not have direct access to a highway if sold to the owner of land abutting that land;
 - 8.1.15 Land repurchased by an owner in accordance with Section 42 of the *Expropriations Act*;
 - 8.1.16 Land sold under Section 107 (General Power to Make Grants) of the *Municipal Act, 2001*;
 - 8.1.17 Land leased under Section 108 (Small Business Assistance) of the *Municipal Act, 2001*; and
 - 8.1.18 Any other Land which Council in its discretion determines a valuation is not necessary.

9. Methods of Sale or Disposition

- 9.1 Council has the discretion to select the method of sale or disposal of Land:
 - 9.1.1 Sale by Public Tender;
 - 9.1.2 Call for Proposal;
 - 9.1.3 Listing with Real Estate Firm(s) or Broker(s);
 - 9.1.4 Private Sale;
 - 9.1.5 Land Exchange;
 - 9.1.6 Auction; or
 - 9.1.7 Such other method as Council deems appropriate.

10. Terms of Disposition

- 10.1 Municipal Staff shall negotiate the key terms and conditions of the disposition of land and bring a Report forward to Council. All bids, proposals and offers shall be presented to Council unless Council has given direction to Municipal staff to negotiate the disposition by another method.

- 10.2 Unless prohibited by Section 106 of the *Municipal Act, 2001*, Council may authorize the sale of Land for less than value, if in the opinion of Council, it is in the best interest of the Municipality to do so, particularly if the disposition will support affordable or attainable housing or housing for vulnerable populations or other institutional uses.
- 10.3 The Municipality, depending on the circumstances of the disposition, will seek recovery from the Purchaser of all costs incurred or anticipated to be incurred to dispose of the land, including but not limited to, legal fees, surveying costs, appraisal fees, encumbrances, advertising and improvements, environmental testing/remediation, demolition, land transfer and registration fees.
- 10.4 An Agreement of Purchase and Sale shall be prepared in accordance with the factors Council has deemed appropriate in the circumstances and in a by-law enacted by Council. Upon confirmation by the Clerk that the Agreement of Purchase and sale is in accordance with Council's directions, the Mayor and Clerk and/or the Mayor or CAO and/or the Clerk and CAO shall be authorized to take all action and execute all documentation required to finalize the sale. The CAO or designate shall have the authority to negotiate any additional terms and conditions in the Agreement of Purchase and Sale with the purchaser, provided that the additional terms and conditions are minor and not substantial in nature to warrant Council's approval and shall have authority to approve such final terms and conditions and arrange for the execution of same on behalf of the Municipality.
- 10.5 Upon execution of the Agreement of Purchase and Sale, the Mayor and Clerk or CAO shall be authorized to take all actions and execute all documentation required to finalize the sale.

11. Certain Procedures for the Disposition of Land

- 11.1 In addition to the requirements set out in this Policy, the Director of Legislative and Legal Services (Clerk), or their delegate, is hereby authorized to establish the necessary guidelines, procedures, applications, forms, and processes and prepare draft by-laws to give effect to the procedures set out herein or other related legislation.