

### SUBJECT: SALE OF LAND POLICY

#### 1.0 PURPOSE

- 1.0 To establish an accountable and transparent policy for the sale and other disposition of Land by The Corporation of the County of Lanark, which considers its social, economic, environmental, and cultural return to the County and its residents.
- 1.1 To provide a framework for the County's real estate transactions and to delegate and define responsibilities of Council, Chief Administrative Officer Clerk, and Treasurer with regard to the Sale and other Disposition of Lands.

#### 2.0 POLICY STATEMENT

- 2.1 In accordance with Section 270 of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended, this Policy establishes a comprehensive framework governing the sale or other disposition of Land.
- 2.2 This Policy is intended to foster the following principles in order to advance and maintain the best interests of the County:
  - i) Fiscal Accountability
  - ii) Consistency with Council's Strategic Plan
  - iii) Sustainability
  - iv) Social Responsibility
  - v) Accountability and Transparency
- 2.3 This Policy ensures that any dispositions of Land are conducted in a manner that fosters public trust and supports the following policy statements:
  - i) The process is fair, open and transparent;
  - ii) The County's current and future interests are protected;
  - iii) The County considers the value of its real property assets;
  - iv) Any potential or real risks to the environment, the health and safety of residents and the financial integrity of the County are minimized.

#### 3.0 DEFINITIONS

For the purpose of this policy:

**"Abutting Land"** – shall mean real property that directly borders the County's Land parcel. In the case of the disposal of a closed highway, Abutting Land is considered real property that is immediately to the side of the closed highway.

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**“Act”** – shall mean the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

**“Appraisal”** – shall mean a written opinion of the fair market value of the Land, prepared in accordance with this policy and by an individual holding the designation of “Accredited Appraiser Canadian Institute” (AACI) with the Appraisal Institute of Canada or such comparable designation to the satisfaction of the CAO and shall be valid for one (1) year from the date of appraisal.

**“Appraised Value”** – shall mean the fair market value set out in the Appraisal

**“CAO”** – shall mean the Chief Administrative Officer of the County.

**“Certificate”** – shall mean a Certificate of Compliance signed by the Clerk of the County verifying that, to the best of his/her knowledge, the sale of the Land complies with the requirements of the *Municipal Act, 2001*, as amended, and a policy which applies to the sale of surplus land.

**“Clerk”** – shall mean the Clerk of the County.

**“Costs”** – shall mean all costs incurred including but not limited to advertising fees; appraisals; staff time; survey fees; real estate commission; legal fees and disbursements; and, HST.

**“Council”** – shall mean the duly elected Municipal Council of the County.

**“County”** - shall mean The Corporation of the County of Lanark.

**“Developable Land(s)”** – shall mean, in the opinion of the CAO or designate, Lands that are capable of accommodating the development of structures and associated servicing of a residential, commercial or industrial use, in accordance with the applicable zoning of the Land.

**“Disposition”** – shall mean the act of selling, transferring, conveying or otherwise disposing of an interest in Land, whether or not such disposition or sale involves the exchange of money or another form of consideration.

**“Director of Public Works”** – Shall mean the Director of Public Works of the County.

**“Fair Market Value”** – shall mean the highest amount that Land might be expected to realize if sold in the open market by a willing seller to a willing buyer.

**“Highway(s)”** – shall, in accordance with s. 1(1) of the Act, mean a common and

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public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, includes a portion of a highway

**“Land(s)”** – shall mean real property and real estate and shall include all buildings or any part of any building and all structures, machinery, fixtures erected or placed upon, in, over, under or affixed to Land and Highways which have been stopped up and closed, but does not include personal property.

**“Local Board”** – shall mean a local board as defined in Section 1(1) of the Act.

**“Notice”** – shall mean a written, published, or posted notification or announcement, and in accordance with the County’s Provision of Notice policy.

**“Public Notice Policy”** – means the County Public Notice Policy in place from time to time.

**“Reference Plan” or “Survey”** – shall mean a deposited plan of survey completed by an Ontario Land Surveyor of the portion of Land to be declared surplus.

**“Sale”** – shall mean a commitment to sell or otherwise dispose of Land and includes a lease of 21 years or longer, without any renewals of the lease within 21 years and “sold” has a corresponding meaning.

**“Surplus Land(s)”** – shall mean any Land declared surplus by Council.

### **4.0 SCOPE**

This policy shall apply to Land owned by County, including its Local Boards and Commissions, as applicable, in accordance with any legislation and/or by-laws passed by County, its Local Boards and Commissions. Unless waived by Council, County shall be the authority to complete the disposal of Land owned by County, its Local Boards and Commissions. This policy applies to all County employees, and any agents or assignees authorized to dispose of Land on behalf of County.

### **5.0 ACCOUNTABILITY FRAMEWORK**

The Chief Administrative Officer is responsible to ensure that all sales and other dispositions of Land are completed in compliance with this Policy.

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**6.0 COUNCIL AUTHORITY**

Council shall be the approval authority for declaring Land to be surplus and to pass the required by-laws for the Sale and other disposition of Land.

**7.0 EXEMPTIONS**

**7.1 Exclusions, sales to public bodies:**

This policy does not apply to the Sale of Land to the following public bodies:

- i) A municipality;
- ii) A Local Board, a school board or a conservation authority;
- iii) The Crown in right of Ontario or Canada and their agencies
- iv) By resolution, Council may direct, on a case-by-case basis, that any exempted disposal of Land be conducted in accordance with this policy.

**7.2 Exempt from policy**

The following classes of Land disposal are exempt from the provisions of this Bylaw:

- i) Land sold under Section 110 of the Act;
- ii) Land to be used for the establishment and carrying on of industries and industrial operations and incidental uses.

**8.0 DECLARE SURPLUS**

- 8.1** Prior to selling any Land, the Council shall by resolution, declare the Land to be surplus;
- 8.2** Prior to declaring the Land surplus, staff shall circulate to all County Departments and other such agencies or governments as County deems appropriate or as may be required by law;
- 8.3** The CAO or designate will submit a report to the appropriate County Committee recommending that the Land in question be declared surplus to the needs of County and include any comments received through the process set out in subparagraph 8.2 herein;
- 8.4** Council may declare Lands to be surplus for any reason, including but not limited to economic growth, income, job creation, community development, affordable housing development, former Highway, etc.

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**9.0 PUBLIC NOTICE**

**9.1** Once the Lands have been declared surplus by Council, County shall give notice to the public of the proposed Sale by an advertisement in accordance with the Public Notice Policy.

**10.0 APPRAISAL**

**10.1** County, before disposing of Land, shall obtain at least one appraisal of the Land to be disposed of.

**10.2** Notwithstanding the foregoing, the following classes of Land are exempt from the requirement to obtain an appraisal prior to its disposal:

- i) Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*;
- ii) Closed Highways, roads and road allowances;
- iii) Land formerly used for railway branch lines if sold to an owner of Abutting Land;
- iv) Land that does not have direct access to a Highway if sold to the owner of Abutting 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) Disposal to an authority under the *Conservation Authorities Act*; and
- viii) Disposal to the Crown in Right of Ontario or of Canada and their agencies.

**10.3** Notwithstanding subparagraphs 10.1 and 10.2 herein, and whereas otherwise not or prohibited by legislation and regulation from doing so (i.e. anti-bonusing provisions), the acquisition and disposition of Land may be at a price different than fair market value if, in Council's opinion it is in the best interest of County to deviate from the fair market value.

**11.0 METHODS OF DISPOSAL**

**11.1** The disposal method and negotiation process utilized shall ensure that transparent and accountable processes are followed in the disposal of Land. The method of disposal from the list below is determined by the type of Land to be sold.

- i) Direct sales / Negotiation

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- ii) Request for Tender
- iii) Listing Agreement with licensed real estate agents / brokers
- iv) Land Exchange

**11.2 Direct Sale / Negotiation**

Direct sale and/or negotiation may be selected for the following types of Land:

- i) Lands that are not considered 'Developable' that are requested to be purchased by the owner of Abutting Land;
- ii) Lands that do not have direct access to a Highway (i.e. landlocked Lands) if sold to the owner of Abutting Land;
- iii) The disposition of County Land as part of an approved Land development planning application.
- iv) Closed Highways, roads and road allowances

NOTE: Lands that are not considered to be 'developable' will ONLY be considered for direct sale to the owner of Abutting Land. For example, this ensures that a specific portion of a former County Highway will be exclusively offered for purchase to the owner(s) of the Abutting Land.

Lands will be sold through a Direct Sale/Negotiation process using the following considerations:

- i) The County CAO or designate shall have the authority to approve the Sale and, with the exception of the Clerk's Certificate/Affidavit set out in paragraph 15.0, all documents relating to the Sale shall be executed by the Warden and Clerk of the County;
- ii) County shall be responsible for all Costs except the Purchaser's legal fees, disbursements and HST.

**11.3 Request for Tender (RFT)**

In accordance with the County's Procurement Policy, in place from time to time, Council may direct that surplus Land be disposed of by a Request for Tender (RFT) process using the following considerations:

- i) Developable Lands (or other Lands) that may have interest from the general public may be listed in this method
- ii) The CAO or designate shall submit all final offers to Council for review and approval prior to execution by the Warden and Clerk

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**11.4 Listing with Real Estate Agent / Broker**

Listing by County with one or more property listing services may be selected with the following considerations:

- i) Developable Lands (or other Lands) that may have interest from the general public may be listed in this method
- ii) The listing price shall be determined to be not less than the Appraised Value plus all Costs
- iii) the CAO or designate shall submit all final offers to Council for review and approval prior to execution by the Warden and Clerk
- iv) Based on the final offers received, Council may, at their discretion, accept a sale price at less than the listing price.

**11.5 Land Exchange**

A Land exchange involves a reciprocal transfer of Land of an equivalent value (monetary or public interest) in whole or in part. Such exchanges may be negotiated with the following considerations:

- i) The negotiated price shall be determined to be not less than the Appraised Value plus Costs;
- ii) The CAO or Designate shall be authorized to negotiate a direct sale upon direction of Council.

**12.0 REQUESTS FOR SALE OF MUNICIPAL LAND**

Council will consider requests to stop-up, close and sell County owned Highways or the sale of other pieces of County owned Land, provided:

- i) The Highway or Land is deemed to not be required for current or future use by either the County or the lower tier municipality;
- ii) The Highway does not lead to waterbodies;
- iii) Where the Land is greater than one acre or is Developable Land, all Costs shall be paid by the Purchaser, including all County Costs so that there is no expense to County;
- iv) Where the Land is former Highway and is not considered to be Developable Land or where the Land is former Highway and is less than one acre, County shall be responsible for all Costs except the Purchaser's legal fees, disbursements and HST.
- v) Generally, offers of purchase of County lands designated as "Community Forests" will not be considered by the County, however if an individual

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wishes to offer to purchase a parcel of land designated as a “Community Forest”, the following process shall apply:

- a. All offers of purchase shall be made in writing and include a proposed purchase price, a general proposal for the use of the property and other information related to the ability of the purchaser to achieve the proposed use of the property (e.g. Zoning Bylaw Amendments)
- b. The written offer shall be presented to the Community Forest Sub-Committee and their recommendation, along with the written offer, shall subsequently be presented to Council at an appropriate Committee meeting.
- c. The staff report that accompanies the purchase offer shall indicate to Council the County’s obligations related to any payments to the applicable Ontario Ministry.

**12.1 Approvals:**

- i) Applications shall not be approved if is deemed by County:
  - a. to have a negative impact on neighbouring owners of land;
  - b. that other landowners may be deprived of the sole vehicular access to their property;
  - c. the disposition of Land will result in conflicts with the Official Plan policies, by-law regulations or procedures for the County or lower tier municipalities; or
  - d. it is County owned property deemed for other purposes.
- ii) If permanently closing or altering a Highway or other Land results in any other person having no legal access to and from that person’s Land over the Highway the application shall not be considered
- iii) If the application proceeds the Public Notice Policy applies and Council shall be the final approval authority. Any method of sale may be selected from this Policy.

NOTE: A Highway will ONLY be sold to the owner(s) of the Abutting Land. This means that the sale of a closed Highway will be limited to the registered landowner whose property directly abuts the closed Highway.

**13.0 ROAD REALIGNMENT**

**13.1** Where, after the passing of this Policy, County realigns a Highway and such realignment results in portion(s) of a Highway no longer being required for County purposes, County may contact the owner of the Abutting Land

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requesting that the owner(s) of the Abutting Land(s) accept a conveyance of those parts of the Highway no longer required by County.

- 13.2 Where County requests the owner(s) of the Abutting Lands to accept a conveyance of that part of the Highway no longer required by County, County shall pay all Costs associated with the conveyance of the closed Highway to the owner(s) of the Abutting Lands including the owner(s) legal fees, disbursements and HST to a maximum of \$1,000.

**14.0 GENERAL PROVISIONS**

- 14.1 Subject to subparagraph 14.2, where the Surplus Land is sold to an owner of Abutting Land, the Surplus Land shall merge in title with the Abutting Land. Such title merger shall, where possible or at the sole and absolute discretion of County staff, be evidenced by the registration of an Application to Consolidate by the solicitor for County following the transfer of the Surplus Land.
- 14.2 Where the Surplus Land is sold to an owner of Abutting Land and the Abutting Land is a severed parcel then, at the sole option of County staff, the owner of the Abutting Land may be required to obtain and register a Cancellation Certificate under the *Planning Act*, at the Owner's expense, on the Abutting Land so that the Surplus Land and the Abutting Land shall merge. Such title merger shall, where possible or at the sole and absolute discretion of County staff, be evidenced by the registration of an Application to Consolidate by the solicitor for County following the transfer of the Surplus Land.
- 14.3 No disposition of Lands owned by the County shall be authorized unless it is in compliance with this Policy, or unless otherwise directed by Council.
- 14.4 Where this Policy is in conflict with the requirements of legislation, the legislation shall supersede the provisions of this policy and any disposition of land shall proceed in accordance with the legislated requirements.

**15.0 CLERK'S CERTIFICATE/AFFIDAVIT**

- 15.1 The Clerk is hereby authorized, directed, and delegated authority to sign a Certificate and/or Affidavit with respect to a Sale of Land by County verifying that to the best of their knowledge the requirements of this Policy and the Public Notice Policy have been complied with.
- 15.2 The Certificate and/or Affidavit shall be included with the Deed or Transfer of Land and, unless a person to whom the Land is sold has notice to the

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contrary, shall be deemed to be sufficient proof that this paragraph has been complied with.

**15.0 POLICY REVIEW**

**15.1** Every effort will be made to maintain this Policy within currently prescribed requirements and will therefore be amended as soon as possible to reflect those changes.

**15.2** Revision Control

Revision Date	Revision	Effective Date
December 4, 2024	s. 12 addition of subsection v	December 4, 2024

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