

# THE CORPORATION OF THE UNITED TOWNSHIPS OF HEAD, CLARA & MARIA

## BY-LAW NUMBER 2023-20

### Acquisition, Sale and Disposition of Land By-law

**BEING** a by-law to set out procedures for the purchase and sale or other acquisition or disposition of land by the Corporation of the United Townships of Head, Clara & Maria.

**WHEREAS** Section 270 of the Municipal Act, 2001, as amended, requires The Corporation of the United Townships of Head, Clara & Maria ("Municipality") to adopt and maintain policies with respect to the sale and other disposition of land;

**NOW THEREFORE** the Council of The Corporation of the United Townships of Head, Clara & Maria hereby enacts as follows:

#### 1. DEFINITIONS

"Appraiser" means a professional appraiser who is designated an Accredited Appraiser Canadian Institute (AACI) by the Appraisal Institute of Canada;

"Council" means the municipal council of the Corporation of the United Townships of Head, Clara and Maria;

"Clerk" means the Clerk of the Corporation of the United Townships of Head, Clara and Maria and/or his or her designate;

"Disposition" means the sale, transfer, conveyance or exchange of the fee simple interest in land or the granting of a lease for a term of twenty-one (21) years or longer, and does not include the granting of an easement or right of way, and "disposal" shall have a similar meaning;

"Land", "property" or "real property" means lands and premises or a proprietary interest in land which is owned or held by the Municipality of the United Townships of Head, Clara and Maria;

"Market Value" means the most probable price that the Lands shall bring in a competitive and open market with an arm's length buyer as of a specified date under all conditions necessary for a fair sale, the buyer and seller each acting prudently, knowledgeably and in their own best interests;

"Municipality" means the Municipality of the United Townships of Head, Clara and Maria;

"MPAC" means the Municipal Property Assessment Corporation or any successor thereto;

"Purchase", "acquire" or "acquisition" means any transaction whereby an interest in Land is transferred to the Municipality with or without consideration;

"Qualified Professional" means a registered real estate agent who is familiar with the area; "Sale" includes the sale, transfer or conveyance of land by the Municipality. Sale does not include a Quit Claim Deed made by the Municipality for the purpose of correcting or clarifying title or boundaries of its land or of land not owned by the Municipality;

"Surplus" means property that the municipality no longer requires to meet its current or future needs;

#### 2. APPLICATION

Land owned and intended to be sold by the Municipality shall be sold in accordance with the requirements of the Municipal Act, 2001, S.O. 2001, c.25, as amended, and the provisions of this By-Law.

#### 3. PROCEDURES

3.1 The Municipality may commence land sale procedures at its own initiation or upon the receipt of a written request or enquiry from an applicant.

3.2 Upon direction of Council or receipt of a written request or enquiry, the Clerk will circulate the land sale direction or request to the appropriate Municipal staff to obtain their comments on whether the property may be considered surplus to the Municipality's needs or any other issues which would need to be addressed prior to or in conjunction with the potential land sale.

3.3 The Clerk shall prepare a Report to Council based on the comments received, including a recommendation as to whether or not the lands could be considered surplus and identification of any other issues. In the event that the report includes a recommendation to deem the lands as surplus, the report shall also address the proposed method of valuation, sale and notice required together with cost estimates and any conditions.

3.4 For the purposes of the surplus land declaration, only Municipal Council may pass such a resolution or by-law. The passage of such resolution or by-law does not obligate the Municipality to sell such lands and such a declaration may be rescinded by resolution at any time before a binding agreement of purchase and sale has been entered into by the Municipality, or if no formal agreement of purchase and sale is required, at any time prior to the completion of the sale.

3.5 Prior to the disposal of any real property or lands, Council shall:

- i. by resolution declare the lands to be surplus;
- ii. obtain at least one appraisal, prepared by qualified professional except where the most recent assessed value of the land provided by MPAC is \$30,000 or less;
- iii. authorize the disposition of land without an appraisal if in a public meeting, Council deems that to do so is in the best interest of the municipality;
- iv. give notice to the public of the proposed sale.

#### **4. NOTICE**

4.1 Upon the Council having declared the land surplus to the needs of the municipality, but before any such land is disposed of by the municipality, the Clerk shall give notice to the public of the intention to dispose of the land in one of the following forms:

- i. Publication of an advertisement in a newspaper of general circulation;
- ii. Posting a for sale sign on the land;
- iii. Posting a notice on the municipal website and or social media;

4.2 Where the land being disposed of is, in the opinion of the Clerk, not developable except in conjunction with other adjacent land, the notice provision may be forgone.

4.3 This notice shall be given at least fourteen (14) days prior to the Council meeting at which the sale and disposition of land will be discussed and shall include the following:

- i. a legal description of the lands, municipal address or location map which the Clerk deems sufficient to identify the lands;
- ii. the proposed purchase price or formula upon which the sale price is determined;
- iii. the proposed use of the lands or reason for the land sale;
- iv. information advising the public when and where additional information may be obtained or where comments may be submitted for Council consideration;
- v. the date on which the resolution or by-law declaring the lands to be surplus will be passed.

#### **5. SALE OF LAND**

5.1 The following classes of land are hereby declared to be surplus to the needs of the municipality, and no further declaration or appraisal is required:

- i. Land 0.3 Metres or less in width acquired in connection with an approval of decision under the Planning Act;
- ii. Closed highways, road and road allowances
- iii. Land formally 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 said land;
- v. Land repurchased by an owner in accordance with Section 42 of the Expropriations Act;
- vi. Land acquired by the municipality pursuant to Part XI of the Municipal Act, 2001, Sale of Land for Tax Arrears, which is to be resold within the one-year period as set out by the Municipal Act, 2001;
- vii. Land being sold to public bodies such as Boards of Education, Municipal, Provincial and Federal Government, Conservation Authorities, Ontario Hydro, public utilities and other recognized Authorities;
- viii. Easements granted to public utilities or to telephone companies.

5.2 The disposal of surplus land may be made in one or more of the following methods as determined by Council:

- i. Call for proposals or offers;
- ii. Call for public tender by sealed bids;
- iii. Direct negotiations or sale by municipality;

- iv. Single source sale;
- v. Public auction;
- vi. Listing with a local real estate broker;
- vii. Land exchange;
- viii. Any method determined by Council

## **6. TERMS OF DISPOSITION**

6.1 The purchaser shall be responsible for all costs incurred or required to dispose of the property including, legal, survey, appraisal, encumbrances, advertising, improvements, administrative fees and any other fee deemed appropriate.

6.2 Agreements of purchase and sale and related documents required to carry out the disposition of land shall be executed on behalf of the municipality by the Mayor and Clerk.

## **7. EXEMPTION FROM SALE PROCEDURES**

7.1 The following classes of land are exempt from the requirements:

- i. 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.
- ii. Land being purchased by an owner in accordance with Section 42 of the Expropriations Act.
- iii. Lands disposed of in accordance with Sections 107, 108 and 110 of the Municipal Act.
- iv. Closed highways, roads and road allowances shall be disposed of as set out in accordance with the applicable municipal policy, in force from time to time.

7.2 For Land Sales under this Section, the Clerk shall provide a Report to Council and prepare the necessary by-law, as required, for Council consideration.

## **8. ACQUISITION OF LAND**

8.1 Authority as granted will be limited to the negotiations of an agreement of purchase and sale as agent for Council which will not be binding until approved by Council and executed by the Council and Clerk.

8.2 The purchase price will be established either by reference to the policies or procedures that govern the type of land purchased or by reference to the specific by-law for the Land in question.

### **8.3 Land Acquisition for Road Purposes**

8.3.1 The Clerk is authorized to negotiate the purchase of Land in compliance with procedures and policies of Municipal Council set out in this By-law;

8.3.2 A Municipal report shall be presented to Council regarding the reason for the proposed Land acquisition and the proposed method of purchase, valuation and valuation as deemed appropriate. Prior to the land purchase, a by-law shall be presented to Council to allow for advance authorization to enter into a binding Agreement of Purchase and Sale.

8.3.3 Agreements of Purchase and Sale will be prepared by the Municipal Solicitor, executed by the Council and Clerk, indicating that approval has already been granted from Council, and presented to the landowner for execution. The landowner will be informed that the authority of the Municipal staff for the purchase of the Land for road purposes has been provided by Council.

### **8.4 Land Acquisition by Expropriation**

8.4.1 The Municipal Act, 2001 authorizes the Municipality to acquire lands by way of expropriation.

8.4.2 Expropriation may be authorized by Municipal Council if direct negotiations fail. In these circumstances the requirements of the Expropriation Act will be followed.

### **8.5 Land Acquisition for Other Purposes**

8.5.1 The Municipal staff is authorized to negotiate the purchase of Land that is in Council's opinion required for other Municipal purposes which may include municipal facilities, public parking facilities, public utilities, resolution of legal matters or such other purposes as deemed appropriate by Council.

8.5.2 The negotiations for the purchase of Land will be in compliance with this By-law amending the template Offer of Sale and Purchase as required.

8.5.3 Once approval has been granted by Council, Agreements of Purchase and Sale will be prepared by the Clerk, in consultation with the Municipal Solicitor

as required, in the standard form used by the Ontario Real Estate Association. The Agreement shall then be presented to the land owner for execution.

- 8.5.4 If an Agreement is signed by a proposed purchaser, the signed Agreement of Purchase and Sale will be presented to Council attached to a report seeking approval of the terms as negotiated and approval of the purchase by-law. If Council approves the offer as presented the purchase by-law will be adopted authorizing the Council and Clerk to execute the Agreement of Purchase and Sale and take all actions and execute all documents necessary to close the transaction.

## 9. ROAD ALLOWANCES

- 9.1.1 The United Townships of Head, Clara and Maria encourages the preservation of road allowances leading to the water. The Municipality requires that such road allowances remain in the Municipality's ownership to ensure that access to the water is available to the public now and in the future or the proposed purchaser shall offer an alternative means of guaranteeing access to the water that either provides at least the equivalent access to the water that the road allowance could provide or provides access appropriate for the location.
- 9.1.2 The United Townships of Head, Clara and Maria will not typically consider the stop up and closing of an unopened road allowance where the road allowance might potentially serve future development or movement of traffic.
- 9.1.3 All costs incurred for the road closing are borne by the applicant (e.g. legal fees, survey costs, advertising costs). Road closing that takes place, are at no expense to the Municipality.

## 10. SEVERABILITY

- 10.1.1 If any portion of this by-law is ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of the by-law shall remain valid and binding.

## 11. ENACTMENT

- 11.1.1 This by-law shall come into force and effect, and By-Law 2009-08 shall be repealed, upon final passing.

Read a first and second time this 21<sup>st</sup> day of September, 2023.

Read a third time short and passed this 21<sup>st</sup> day of September, 2023.



*D. Hills*

MAYOR

*C. Meher*

CLERK