

TOWNSHIP OF LAKE OF BAYS PROCEDURE MANUAL			
Chapter:	Administration	Index No.	AD-2.6
Section:	Municipal Property	Effective Date:	Dec 4/07
Subject:	Sale and Other Disposition of Land Policy and Procedures	Revision Date:	Sept 14/21
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1. PURPOSE

- 1.01** To provide a procedure for governing the sale and other disposition of land in ownership of The Corporation of the Township of Lake of Bays.

2. POLICY

The Council of The Corporation of the Township of Lake of Bays may consider the sale and other disposition of land in its ownership. All sales and other disposition of land are at the sole and absolute discretion of the Council of the Corporation of the Township of Lake of Bays.

- 2.01** The Township of Lake of Bays has developed the sale and other disposition of land policy and procedures pursuant to Section 270 (1) (1) of the *Municipal Act, c.25, S.O. 2001, as amended*, that is transparent and accountable and that ensures returns are fair, reasonable and in the best interests of the municipality.

2.03 Definitions

In this policy:

- (a) **“Act”** means *Municipal Act, 2001, S.O. 2001, Chapter 25, as amended*;
- (b) **“Appraisal”** means a written opinion of the fair market value of the surplus land provided by an individual with training and experience in valuing real property, including a registered member of the Appraisal Institute of Canada and/or licensed real estate agent or brokerage firm;
- (c) **“Certificate”** means the Certificate of Compliance verifying that, to the best of his/her knowledge, the requirements of the *Municipal Act, 2001, as amended* and a policy which applies to the sale of surplus land are in compliance;
- (d) **“Clerk”** means the Clerk of the Corporation of the Township of Lake of Bays;
- (e) **“Council”** means the elected Council of the Corporation of the Township of Lake of Bays;
- (f) **“Disposal”** means the sale of real property by the Township of Lake of Bays. A by-law shall be passed to dispose of real property by the municipal Council and all notice provisions shall apply.
- (g) **“Land”** includes any real estate owned by the Corporation of the Township of Lake of Bays or interest in lands such as easements or right-of-ways;
- (h) **“Municipal Solicitor”** means an external law firm representing the Corporation of the Township of Lake of Bays;

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- (i) **“Notice”** means a written, published, or posted notification or announcement, and in accordance with the municipality’s Provision of Notice policy;
- (j) **“Reference Plan”** means a deposited plan of survey completed by an Ontario Land Surveyor of the portion of land to be declared surplus;
- (k) **“Surplus Land”** means any land declared surplus by the Council of the Corporation of the Township of Lake of Bays;
- (l) **“Township” or “Municipality ”** means the Corporation of the Township of Lake of Bays;

2.04 Exclusions

This policy shall not apply to the following:

- (a) The sale of land under Part XI (Sale of Land for Tax Arrears) of the *Municipal Act, c.25, S.O. 2001, as amended* and any related Ontario Regulation made by the Minister;
- (b) The sale of land under Section 110 (Agreements for Municipal Capital Facilities) of the *Municipal Act, c.25, S.O. 2001, as amended*;
- (c) Land transferred to the Township of Lake of Bays 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*;
- (d) Land to be used for the establishment and carrying on of industries and industrial operations and incidental uses;
- (e) Cemetery plots owned by the Township of Lake of Bays (*Funeral, Burial and Cremation Services Act, 2002 S.O. 2002, c.33*);
- (f) Sale to public bodies:
 - i) A municipality;
 - ii) A local board including a school board and a conservation authority; and
 - iii) The Crown in right of Ontario or Canada and their agencies.

2.05 General Provisions

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- (a) The Township of Lake of Bays solicitor will act on behalf of the municipality in the sale and other disposition of lands;
- (b) All administrative, legal, surveying, advertising and any and all costs associated with the purchase and sale of land, including land transferred at nominal consideration shall be borne by the party or parties acquiring the land, unless otherwise directed by Council. In the event that an applicant fails to pay the costs incurred within six (6) months of Council passing the applicable by-law, all outstanding costs will be added to the tax roll and collected in the same manner as taxes pursuant to Section 398 of the *Municipal Act, c.25, S.O. 2001, as amended*;
- (c) Applications will be considered terminated if inactive for a period of one (1) year;
- (d) Prior to selling any land, Council shall pass a resolution, consistent with the form attached to this policy as Schedule "B" – Form of Resolution – Declaring the Land to be Surplus;
- (e) Notwithstanding Section 2.05 (d) of this policy, where the laws of the Province of Ontario specify a particular method of disposition, those laws shall govern;
- (f) At the sole and absolute discretion of municipal staff, a new reference plan may be required to be submitted to the municipality (and approved by the municipality prior to deposit), which shall depict all structures on the land, including but not limited to, buildings, docks and stairs;
- (g) If the land is sold to an abutting land owner, the land, at the sole and absolute discretion of municipal staff, shall merge in title with the abutting lands. Such merger shall be evidenced by the registration of a consolidation application post transfer by the solicitor for the Township of Lake of Bays;
- (h) In order to avoid potential conflict of interest issues, before Council considers the disposition of land, any employee of the Township of Lake of Bays considering the acquisition of any parcel of land from the municipality shall have first advised the Clerk of his/her interest. Both staff and Council must adhere to their Code of Conduct Policy;
- (i) Applications shall not be approved if it is deemed:
 - i) to have a negative impact on neighbouring owners of land;
 - ii) other land owners may be deprived of the sole vehicular access to their property;
 - iii) the disposition of land will result in conflicts with the Official Plan policies, by-law regulations or procedures for the Township of Lake of Bays; or
 - iv) the municipally-owned property listed in the comprehensive parkland review.
- (j) Applications will not be accepted for public lake access points owned by the municipality;

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- (k) The provisions of this policy shall only apply to land owned by the municipality and shall not extend to or apply to any personal property of the Township of Lake of Bays; and
- (l) The manner in which the Township of Lake of Bays carries out the sale of its land, if consistent with this policy, is not open to review by any court if the municipality may lawfully sell the land, the purchaser may lawfully buy the land and the municipality acted in good faith.

2.06 Appraisals

- (a) Subject to Section 2.06 (b), prior to selling any land, the Township of Lake of Bays shall obtain at least one appraisal of the fair market value of the land.
- (b) Section 2.06 (a) of this policy shall not apply to the sale of the following types of land:
 - i) Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act;
 - ii) Land repurchased by an owner in accordance with Section 42 of the *Expropriations Act R.S.O, 1990, c. E.26, as amended*;
 - iii) Land sold under sections 107 and 108 of the Act;
 - iv) Easements granted to public utilities, telephone companies or other like agencies; or
 - v) Land sold to a municipality, a local board, the Crown or other similar agencies.
- (c) The Clerk or designate is authorized, directed and empowered to obtain all such appraisals as may be required pursuant to Section 2.06 (a) of this policy.
- (d) Any appraisals obtained shall be used solely as a guide and shall not be determinative of the terms or price upon which Council may sell any particular piece of real estate. Without limiting other factors including but not limited to the history of the real estate or related properties.

2.07 Provision of Notice

- (a) Where notice of intention to pass a by-law or notice of a public meeting with respect to sale or other disposition of land is required to be given, such notice shall be provided in the time frame prescribed in the Act or its regulations, and in the form similar to Schedule "C" – Public Notice of this policy and if not so prescribed, notice shall be given at least once per week for two (2) consecutive weeks prior to the proposed action being taken, as prescribed under the Township of Lake of Bays' current Provision of Notice By-law. Re-notification of a matter commenced on one

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date and continued to another or deferred from one public meeting date to another shall not be required.

2.08 Procedure

- (a) The Applicant shall submit an application (Schedule "A"- Sale and Other Disposition of Land Application) and applicable fee in accordance with the Township's current User Fee By-law to the Township for consideration. The application shall be in a standard form as determined by the Clerk from time to time. The application shall be submitted to the Township accompanied by:
 - i) Application fee, as per the Township User Fee By-law;
 - ii) Letter stating the intended use and purpose for acquiring the Township property; and
 - iii) Letter of Authorization, if the applicant has engaged the services of an agent to act on their behalf.

- (b) The initial application fee, as per the Township's User Fee By-law shall include:
 - i) Review of the application and creation of new file;
 - ii) Sub-search of title by municipal solicitor;
 - iii) Circulation of application to various departments;
 - iv) Correspondence with Applicant regarding the process;
 - v) Site visit of the subject land(s);
 - vi) Distribution of Notice of Circulation to abutting neighbour(s);
 - vii) Preparation of preliminary approval report to Council;
 - viii) Transfer of file to municipal solicitor with instruction letter;
 - ix) Review of draft reference plan;
 - x) Preparation of final surplus report and resolutions; and
 - xi) Presentation of by-law to Council at a public meeting.

- (c) The solicitor for the Township of Lake of Bays will perform a sub-search of title to confirm that the Township is the owner of the property.

- (d) Applications are circulated to the Planning, Public Works, Parks and Recreation and Building/By-law Departments for comments and consideration in respect to the provisions of the Official Plan, Development Permit By-law and other applicable by-laws and policies for the Township of Lake of Bays. Applications may be granted subject to conditions (e.g. deeming by-law or development permit).

- (e) Pursuant to Section 2.06 an appraisal shall be obtained.

- (f) Staff will prepare and issue the Notice of Circulation similar to Schedule "F" to abutting neighbour(s) by regular mail;

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- (g) Staff will prepare a preliminary report to Council and if approved Council shall determine the means of disposition of the Township land by resolution, the form attached to this policy as Schedule "B".
- i) If Council directs the Clerk to dispose of the land by public tender, staff shall adhere to Procurement Policy AD-5.2 - General Procurement Process where applicable.
 - ii) All bids must be accompanied by a deposit of at least 20 per cent of the tender amount, which deposit shall be made by way of money order or by way of bank draft or cheque certified by a bank or trust corporation.
 - iii) Tenders received with a lower value than the appraised value may be rejected.
 - iv) Once the tenders have been opened, staff will prepare a report to Council summarizing the tenders received and Council shall accept or reject the bid(s) submitted.
 - v) The municipality may provide a letter, by ordinary mail sent to the address shown in the tender, notifying the applicant of Council's decision and that the tenderer will be declared to be the successful purchaser if, within 30 days of the mailing of the letter, the balance of the amount tendered is paid, in cash, to the treasurer. In the event the remaining balance is not paid, the tenderer's deposit shall be immediately forfeited to the municipality and the tender shall be awarded to the next highest bidder or at Council's discretion.
- (h) The municipality shall provide a letter notifying the applicant of Council's decision and if approved, forward a letter of instruction along with the necessary documents to the municipal solicitor to proceed with the file.
- (i) The applicant will be directed to engage the services of an Ontario Land Surveyor (if applicable) to prepare a Draft Reference Plan of the applicable municipal land subject to the following:
- i) Must show **all** structures on the municipal property;
 - ii) Must show **all** encroachments on the municipal property from the neighbouring properties;
 - iii) The distance from structures to the abutting lot lines;
 - iv) Driveways and paths.
- NOTE:** The structures may be removed from the reference plan once the municipality has reviewed and approved the plan. The draft plan **MUST NOT** be deposited in the Registry Office until final approval is received from the municipality.
- (j) The municipal solicitor upon receiving the letter of instruction from the municipality will proceed as follows:

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- i) Contact the applicant or their named agent or solicitor in writing, requesting the name of their surveyor; establish costs relating to legal, surveying, advertising, appraisal, land acquisition costs and advise of the method of disposition for the municipal land;
 - ii) Shall request two (2) copies of the reference plan (including an electronic version) and forward one (1) copy of said survey to the municipality for approval;
 - iii) Provide notice of application to the following to inquire if such agencies have an interest in the land:
 - a) District Municipality of Muskoka, if applicable;
 - b) Ontario Hydro (Markham);
 - c) Bell Canada (Huntsville);
 - d) Public Works Canada;
 - iv) If agencies listed above have an interest in the land, the municipal solicitor shall facilitate the registration of such interest against title to the municipal land after the closing thereof and prior to the transfer of the land to the applicant;
 - v) Request a public meeting date from the Corporate Services Department;
 - vi) Prepare the public notice consistent with Section 2.08, the form attached to this policy as Schedule "C", declaring the land to be surplus and the Council date when the matter will come before Council for consideration;
 - vii) Submit the public notice to the Corporate Services Department via email to be posted on the municipal website for two (2) consecutive weeks and advertised in the local newspaper for the same period, prior to the public meeting to declare the land surplus and the conveyance by-law approved by Council.
 - viii) Prepare the by-law, together with all required affidavits, certificate of compliance and exhibits and submit to the Corporate Services Department for execution.
- (k) At the scheduled public meeting Council is required to give consideration to written comments that may be provided to the Clerk of the municipality. The resolution declaring the land surplus and the by-law are then passed concurrently in that order by Council at the scheduled public meeting.
- (l) The Corporate Services Department will forward the resolution and executed by-law(s) to the municipal solicitor for preparation of the necessary documents for registration.
- (m) The municipal solicitor shall then:

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- i) Prepare the Document General, Transfer/Deed of Land and Land Transfer Tax Affidavit together with all supporting documents;
- ii) Prepare interim reports to the applicant, or their named agent or solicitor which shall include all necessary documentation to complete the transfer of the land to the applicant as well as consolidate parcels, if necessary. The report shall contain a request for funds to complete the transaction.
- iii) Register the required easements (if any);
- iv) Register transfer/deed; and
- v) Prepare and forward a final report to the applicant, or their named agent or solicitor and municipality attaching all supporting documents.

2.09 Notice

- (a) Notice of intention to pass a by-law or notice of a public meeting with respect to sale or other disposition of land is required to be given and shall comply with the Act and Township of Lake of Bays Policy AD-3.2 - Provision of Notice. Re-notification of a matter commenced on one date and continued to another or deferred from one public meeting date to another shall not be required.
- (b) Section 2.09 (a) of this policy does not apply to the sale or granting of easements to public utilities, telephone companies or other like agencies.

2.10 Clerk's Certificate/Affidavit

- (a) The municipal Clerk shall be and is hereby authorized, directed and delegated authority to sign a certificate or affidavit, in a form substantially similar to Schedule "D" or Schedule "E" of this policy.
- (b) The certificate or affidavit shall be attached to all deeds or transfers of land owned by the Township of Lake of Bays and shall be deemed to be sufficient proof that this section has been complied with.

3. ADMINISTRATION

- (a) This policy shall come into force and effect under By-law 2021-094 on September 14, 2021.
- (b) This policy shall be adhered to by all elected officials, Township solicitor and employees of the Corporation of the Township of Lake of Bays.

4. ATTACHMENTS

- Schedule "A" - Sale and Disposition of Land Application

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- Schedule "B" – Form of Resolution – Declaring the Land to be Surplus
- Schedule "C" – Public Notice
- Schedule "D" – Certificate of Compliance
- Schedule "E" – Affidavit
- Schedule "F" – Notice of Circulation

5. REVISION CONTROL

Revision Date	Revision	Effective Date
	<ul style="list-style-type: none"> • Complete update from policy adopted on December 4, 2007 in compliance with the Municipal Act, 2001, as amended. • Addition of Schedule "A" – Sale and Disposition of Land Application. • Addition of Schedule "F" – Notice of Circulation. 	September 14, 2021

SCHEDULE 'A' – Sale and Other Disposition of Land Application



LAKE OF BAYS
• MUSKOKA •

Township of Lake of Bays

Sale and Other Disposition of Land Policy and Procedures AD-2.6

Sale and Other Disposition of Land Application

Applicant Name(s):	
Mailing Address:	
Postal Code:	
Telephone Number:	
Email Address:	
Name of Solicitor/Agent:	
Mailing Address:	
Telephone Number:	
Email Address:	
Land Applying to Purchase	
Roll Number:	4427-
Civic Address or Description of Land:	
Former Municipality:	<input type="checkbox"/> Franklin <input type="checkbox"/> Sinclair/Finlayson <input type="checkbox"/> Ridout <input type="checkbox"/> McLean
Concession: _____	Lot: _____
Plan Number: _____	Part: _____

Submitted with this application is the following:

- a) Application fee, as per the Township of Lake of Bays User Fee By-law;
- b) Letter stating the intended use and reasons why they wish to acquire the municipal property; and
- c) Letter of Authorization, if the applicant has engaged the services of an agent to act on their behalf.

1. I/We confirm that I/We have read and understand the Sale and Other Disposition of Land Policy and Procedures and agree to abide by this policy.
2. I/We acknowledge that I/We will be responsible for paying all legal, surveying, advertising, and administrative costs involved in the sale and other disposition of land and will be obligated to pay to the Township the land acquisition costs as per the current User Fee By-law.
3. I/We acknowledge that any approval that may be given to this application by the Township of Lake of Bays is subject to other approvals being obtained for all other statutory bodies, failing which this application cannot be approved.

Dated this _____ day of _____, in the year _____.

Signature

Signature

The personal information on this form is being collected pursuant to the Municipal Freedom of Information and Protection of Privacy Act and the Municipal Act, for the principle purpose of processing this application. Questions about this collection should be directed to the Freedom of Information Officer at 705-635-2272.

SCHEDULE 'B' – Form of Resolution – Declaring the Land to be Surplus
THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
SALE AND OTHER DISPOSITION OF LAND POLICY AND PROCEDURES

FORM OF RESOLUTION - DECLARING THE LAND TO BE SURPLUS

BE IT RESOLVED THAT the Council of The Corporation of the Township of Lake of Bays declares the following Township-owned land to be surplus:

Part of Lot _____, Concession _____, former Township of _____ now in the Township of Lake of Bays, District Municipality of Muskoka described as Part(s) _____ on Plan _____.
(Applicant's Name)(Township-Owned Land Civic Address)(Roll Number)

AND FURTHER THAT the Clerk is hereby instructed to dispose of the said property pursuant to:

- public tender
- nominal consideration
- disposal at the set price of \$ _____
- exchange of land of equivalent value

AND FURTHER THAT the applicant will be responsible for paying all legal, surveying, advertising and administrative costs.

SCHEDULE 'C' – Public Notice
THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
SALE AND OTHER DISPOSITION OF LAND POLICY AND PROCEDURES

NOTICE OF INTENT TO DISPOSE OF SURPLUS REAL ESTATE

TAKE NOTICE that the Council of the Corporation of the Township of Lake of Bays has, pursuant to Sections 270(1) of the *Municipal Act, 2001, S.O. 2001 Chapter 25, as amended* declared the following land as surplus:

- a) Part Lot _____, Concession _____, former Township of _____, now in the Township of Lake of Bays, in the District Municipality of Muskoka, described as Part(s) _____ on Plan 35R-_____.
(Applicant's Name)(Township-Owned Land Civic Address)(Roll Number)

The proposed by-law will come before the said Council for consideration at its regular meeting to be held (electronically or in the Council Chambers) at 1012 Dwight Beach Road, Dwight, Ontario on the _____ day of _____, 20____, at the hour of 9:00 o'clock in the morning. Written comments may be provided to the Clerk of the municipality at the address below.

Dated this _____ day of _____, 20____.

Clerk
Township of Lake of Bays
1012 Dwight Beach Road
Dwight, ON P0A 1H0
Telephone: 705-635-2272

SCHEDULE 'D' – Certificate of Compliance
THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
SALE AND OTHER DISPOSITION OF LAND POLICY AND PROCEDURES

CERTIFICATE OF COMPLIANCE

Certificate of Compliance in accordance with Section 2.09 of Township of Lake of Bays Policy AD-2.6 in the sale of land described as:

PIN _____

Part Lot _____, Concession _____, former Township of _____, designated as Part _____, on Plan 35R-_____, now in the Township of Lake of Bays, in the District Municipality of Muskoka.

I hereby certify that:-

1. The Township of Lake of Bays passed By-law 20XX-XXX in conjunction with policy AD-2.6 on the _____ day of _____, 20XX.

It is a procedural by-law for the purpose of the sale of land and was in force on the date of the sale of the land described above.

2. The real estate was declared surplus under Resolution #5()()/ / / , enacted or passed on the _____ day of _____, 20XX.
3. Public Notice of intent to sell or dispose of the real estate was given by the following methods:-

Pursuant to Section 270.(1)(4) of the Municipal Act, R.S.O. 2001, as amended, and subsequent Provision of Notice By-law #12-020 on the following dates in the Muskoka Region Newspaper and Township of Lake of Bays Website:

Date: _____, 20XX; and

Date: _____, 20XX.

Dated at Dwight, Ontario, this _____ day of _____, 20XX

Clerk

SCHEDULE 'E' – Affidavit
THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
SALE AND OTHER DISPOSITION OF LAND POLICY AND PROCEDURES

AFFIDAVIT

IN THE MATTER OF BY-LAW NUMBER 20XX-XXX OF THE CORPORATION OF
THE TOWNSHIP OF LAKE OF BAYS

I, _____ of the Township of Lake of Bays, in the
District Municipality of Muskoka, Clerk of The Corporation of the Township of Lake of
Bays, make oath and say as follows:

1. THAT I am the Clerk of The Corporation of the Township of Lake of Bays.
2. THAT annexed hereto and marked as Exhibit "A" is a true copy of By-law No.
20XX-XXX of The Corporation of the Township of Lake of Bays, which said by-
law was passed by the municipal Council of The Corporation of the Township of
Lake of Bays on _____ day of _____, 20XX.
3. THAT I have examined the files of the Muskoka Region, a newspaper published
weekly in the Township of Lake of Bays, in the District Municipality of Muskoka,
and I found that the advertisement, a true copy whereof is hereunto annexed
and marked as Exhibit "B" to this affidavit, was published in the issues of the
said newspaper on _____, 20XX and _____,
20XX.

SWORN before me at the Township)
of Lake of Bays, in the District)
Municipality of Muskoka, this ____)
day _____, 20XX.)

) _____
) Clerk

A Commissioner, etc.)

SCHEDULE 'F' – Notice of Circulation
THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
SALE AND OTHER DISPOSITION OF LAND POLICY AND PROCEDURES
NOTICE OF CIRCULATION



**LAKE
OF BAYS**
• MUSKOKA •

Township of Lake of Bays
Sale and Other Disposition of Land Policy and Procedures AD-2.6

NOTICE OF CIRCULATION

This **Notice of Circulation** is to advise you that an application has been received by the Township of Lake of Bays to purchase Township property identified as _____ (subject land).

Please refer to the attached map clearly illustrating the subject proposed to be purchased.

As your property identified as _____ abuts the subject land, you are being provided this notice to seek your comments.

Pursuant to Sections 9 and 35 of the *Municipal Act, 2001, as amended*, a Public Meeting will be held with respect to the proposed purchase of the Township-owned land. Said meeting will be advertised in the Muskoka Region newspaper and on the Township website under "News and Notices". Any comments and/or concerns must be received by the Municipal Clerk prior to the meeting.

I/We **have concerns** with the application or an interest in the subject land; and will submit them in writing to the Clerk.

I/We **have no concerns or interests** in the subject land and support the application moving forward.

I/We _____ are the registered owner(s) of the land abutting the above-noted property and have reviewed the attached map and understand that we will have the opportunity to review and comment prior to the public meeting.

Dated this _____ day of _____, 20_____.

Signature

Signature

If you have any questions, please contact the Township of Lake of Bays Corporate Services Department at 705-635-2272.

The personal information on this form is being collected pursuant to the Municipal Freedom of Information and Protection of Privacy Act and the Municipal Act, for the principle purpose of processing this application. Questions about this collection should be directed to the Freedom of Information Officer at 705-635-2272.