

**THE CORPORATION OF THE TOWN OF GREATER NAPANEE  
BY-LAW NO. 2022-0009**

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**Being a By-Law to Establish Procedures Governing the Sale and Other  
Disposition of Land**

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WHEREAS Section 270 of the Municipal Act, 2001, S.O.2001, c. 25, as amended, (the "Municipal Act") requires Council to adopt and maintain policies with respect to the sale and other disposition of land;

AND WHEREAS in recognition of the emphasis placed on transparency and accountability measures within the Municipal Act, the Town of Greater Napanee believes citizens should be aware what real property is held by the municipality and when and how that real property is dealt with;

AND WHEREAS the Town of Greater Napanee desires to establish a consistent, transparent and accountable procedure to be followed in the disposition of real property assets by the Town;

AND WHEREAS the Town of Greater Napanee has a responsibility to conduct property transactions in a manner that maximizes the benefit to the municipality as a whole;

NOW THEREFORE the Council of the Corporation of the Town of Greater Napanee enacts as follows:

**Part 1 – Introduction**

**Short Title**

1. This bylaw may be cited as the "Sale of Land Bylaw."

**Purpose and Scope**

2. The purpose of this policy is to provide a framework for the overall management of the Town's land assets. This policy applies to all sale of land by the Town, with the exception of:
  - a) the Sale of Lands for Tax Arrears which shall be subject to the procedures set out in Part XI of the *Municipal Act, 2001*, as amended; and
  - b) the sale of lands under the *Expropriation Act*.

**Definitions**

3. In this bylaw:
  - a) "**Appraisal**" means a formal written opinion of the fair market value of land which may be provided by:
    - i. An opinion of an independent Real Estate Agent, having knowledge of

- ii. By a formal valuation by a qualified Real Estate Appraiser.
- b) **“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;
- c) **“Land”** or **“Property”** means real property owned by the Town and includes and building(s) located thereon;
- d) **“Clerk”** means the Clerk or Deputy Clerk of the Corporation of the Town of Greater Napanee as appointed under Section 228 of *The Municipal Act, 2001*, as amended;
- e) **“Community Development Team”** means an internal staff review team composed of representatives from each of Infrastructure Services, Development Services, Community & Corporate Services, Legislative Services, Finance, and Emergency Services as appointed by the head of each department.
- f) **“Surplus Land”** means land that the Town does not require to meet its present or anticipated future needs that has been declared surplus under this or a preceding bylaw;
- g) **“Town”** or **“Municipality”** means the Corporation of the Town of Greater Napanee.

### **Severability**

4. If a court or tribunal of competent jurisdiction declares any portion of this bylaw to be illegal or unenforceable, that portion of this bylaw shall be considered to be severed from the balance of the bylaw, which shall continue to operate in full force and effect. In the event that the provisions of this Policy are inconsistent with the provisions of the *Municipal Act, 2001*, as amended, its Regulations or any other applicable legislation, the provisions of such Acts or Regulations shall prevail.

## **Part 2 – Procedures for Property Disposition**

### **Land Inventory**

5. The Community Development Team is responsible for reviewing the Town’s land portfolio on an ongoing basis to determine which lands are required to be retained for current and future municipal needs, and which lands are not required and can be proactively identified as lands to be declared surplus and offered for sale to promote economic development and growth.
6. The Clerk is responsible to establish and maintain a public register of all lands owned or leased by the Town which contains sufficient information to identify the parcel of land.

7. Notwithstanding the provisions of Section 6, the public register shall not be required to include the following classes of land:
  - a) lands 0.3 metres or less in width acquired in connection with any planning matter;
  - b) all highways, roads and road allowances, whether or not opened, unopened, closed or stopped up; and
  - c) land formerly used for railway branch lines.

### **Categories of Property for Disposition**

8. Land held by the Town shall be categorized into one of the following classes, and disposition of such land shall follow the procedures established for that class:
  - a) **Class One – Independently Developable Land** includes property which is zoned to permit, and that can generally accommodate, both residential and non-residential uses.
  - b) **Class Two – Non-Developable Land** includes property which, in the opinion of the Town, is non-developable except as an addition to one or more abutting properties as it does not meet requirements for development on its own.

### **Procedures and Methods of Disposal for Surplus Lands**

9. The following procedures shall apply to the disposal of land by the Town:
  - a) **Declaration of Surplus Property**
    - i. Prior to a property being declared as surplus, the Town's Community Development Team shall conduct an internal review to determine if the lands are required for municipal purposes or can be considered surplus to the Town's needs. The Community Development Team may also circulate its intent to declare the land surplus to other government agencies that may have an interest in the land for comments.
    - ii. If the property is deemed surplus to the needs of the municipality, the Community Development Team will prepare a report to Council recommending declaration of the land as surplus.
    - iii. A property is not deemed surplus and may not be sold until Council has, by bylaw or resolution passed at a meeting open to the public, declared the property to be surplus to the needs of the municipality.
  - b) **Establishing Fair Market Value**
    - i. Prior to offering any surplus lands for sale, the Town shall obtain at least one appraisal of the land, and the appraised value will be considered valid for a period of two years.
    - ii. An appraisal shall not be required to determine the fair market value of the following classes of land or sales of land to a public body:
      1. Land 0.3 meters (1 foot) or less in width acquired in connection with an approval or decision under the *Planning Act*;

2. A closed highway sold to an owner of land abutting the closed highway;
  3. Land formerly used for railway lines if sold to an owner of land abutting the former railway land;
  4. Land that does not have direct access to a highway if sold to the owner of land abutting that land;
  5. Land repurchased by an owner in accordance with Section 42 of the *Expropriations Act*;
  6. Land sold under Sections 107 and 108 of the *Municipal Act, 2001*, as amended;
  7. Easements granted to public utilities or agencies;
  8. Land sold to public bodies including a municipal corporation, local board (including a school board and a conservation authority), and the Crown in right of Ontario or Canada and their agencies; and
  9. Land to be used for the establishment and carrying out of industries, industrial operations and incidental uses or other uses that are deemed to be in the public interest subject to section 106 of the *Municipal Act, 2001*, as amended.
- iii. Council shall, at its discretion and in accordance with the provisions of the *Municipal Act, 2001*, as amended, determine the sale price of any land or minimum tender bid. The sale price or minimum bid shall include the sale price of the land plus the anticipated costs by the Town with respect to the sale including, but not limited to, legal, survey, appraisal fees, encumbrances, advertising, improvements, demolition, administrative fees, land transfer and registration fees.
  - iv. Council may, by policy, establish flat valuation rates for the sale of small or irregular parcels, closed roadways, Class Two – non-developable lands, or similar properties. Such rates shall be set by obtaining a generic appraisal and once established should be reviewed at least once every five years.

**c) Method of Sale**

The Community Development Team will recommend, and Council shall approve, the method of sale of all surplus land. Such method may include any of the following options:

- i. Listing with a Real Estate Broker or Other Agent:
  1. The Town may deem it appropriate to secure the services of a real estate broker or other qualified agent to assist with the marking and sale of surplus municipal property. In such cases, the Town will undertake a competitive public process to select a preferred service provider to be retained by the Town for this purpose.
- ii. Public Tender or Auction:
  1. Public tender or auction may be used to sell routine surplus municipal property.
  2. Public tender or auction will involve the municipality offering lands

for sale or lease to the general public through a formal and open public process requiring the submission of sealed competitive bids.

iii. Direct Sale:

1. Direct sales may take place when unsolicited proposals or offers for municipal lands are presented to the municipality for consideration without the municipality first advertising an RFP or public tender or auction for the subject lands.
2. The municipality may negotiate a direct sale with the proponent or the municipality may choose to proceed with a formal public process to solicit more competitive bids for the lands in question.
3. Generally, direct sales will be considered in cases where there is an obvious direct benefit or value to the Town from an economic development perspective that would be in the best interest of the public.
4. Direct sales will also generally be considered for cases involving Class Two – Non-Developable Land.

iv. Land Exchange

1. Land exchanges involve a reciprocal transfer of parcels owned by the Town for other parcels, which generally hold a higher value for the municipality, such as land required for public infrastructure. Such exchanges will generally be negotiated privately.

v. Request for Proposals

1. Where it is deemed to be in the best interest of the Town, the Request for Proposals process may be utilized for the public sale of properties that are of greater interest to the community due to their size, significance, or other unique characteristic.

vi. Other Sale Method

1. Should the Community Development Team identify another method of land sale which allows for an equitable sale process and is advantageous to the municipality, such method may be recommended to Council for consideration and approval.

**d) Public Notice**

- i. Unless Council directs for additional notice to be undertaken, the minimum public notice shall be as set out in the Town's Public Notice Bylaw. Public notice shall be undertaken after Council has declared the land surplus in open meeting and authorized the sale of the land.
- ii. In addition to the above, for Class One Property, independently developable land, notice shall also be provided by posting of a sign on the property in question.
- iii. In accordance with the Public Notice Bylaw, the contents of the public notice for sales of surplus land will include at minimum:
  1. Sufficient details, in the opinion of the Clerk, to clearly identify the land in question such as reference to a municipal address or street

- intersection, a legal description, or key map;
- 2. The date, time and location of the meeting where the matter will be considered by Council; and
- 3. The name and contact information of the person who will receive written comments and the deadline for comments.
- iv. The purpose of the notice is to invite purchase offers for surplus municipal property in the case of a public sale and also offer the opportunity for public comments or concerns with respect to the proposed sale of Town owned property.
- v. Should any submissions or concerns be received from the public, such comments shall be directed to the Clerk and shall be considered by Council during an open public meeting prior to a bylaw authorizing the sale being passed.

**e) Subsequent Notice Not Required**

If a final decision is not made at the Council meeting specified in a notice given under this Bylaw and Council refers consideration of the matter to a future Council or Committee meeting for discussion, no further notice is required provided that a resolution is passed indicating Council's decision to refer the matter.

**f) Standardized Forms to be Used**

- i. In cases where the municipality elects to proceed with a public Request for Proposal or Public Tender/Auction or listing with a Real Estate Broker or Other Agent, or other public offering, the Town should ensure that appropriate wording be included in such public notices and related documents that "the highest or any offer may not necessarily be accepted."
- ii. The Town should utilize standardized Request for Proposal (RFP) and Public Tender/Auction documents for the advertising of the sale of surplus municipal property wherever reasonably possible.
- iii. The Town may require prospective purchasers to submit a deposit of up to 20% of the value of their respective offers. The purpose of the deposit is to ensure that the successful purchaser satisfies all conditions of the sale. Failing to do so may result in the purchaser forfeiting the deposit to the Town for compensation

**g) Receipt, Evaluation and Negotiation of Purchase Offers**

- i. Purchase offers for surplus municipal property shall be presented to Council in Closed Session for deliberation in accordance with Section 239(2)(c) of the *Municipal Act, 2001*, as amended, unless Council direction has been given to staff to negotiate the sale within certain terms.
- ii. Appraisals or other means used to establish a fair market value for surplus municipal lands are to be used as a guide only and Council may

- ultimately decide to accept offers of purchase that are below, at, or above such established values, or may decide not to accept any offers.
- iii. Notwithstanding clause 9(f)(ii), as a general principle, no offer of purchase accepted shall be less than the cost to the Town to convey the property, and the Town reserves the right to recover certain costs relating to the sale of surplus lands from the purchaser including, but not limited to the appraisal, surveys, title searches, notice and legal costs, and general administration costs unless such costs are waived in writing within the provisions of an offer to purchase.

h) **Acceptance of Offer**

- i. All offers of purchase and sale must be approved by Council by Bylaw passed in open meeting.

**Additional Policies for the Sale of Specific Lands**

**10. Road Allowance Closures and Sale**

In addition to the requirements of this Bylaw, requests to the Town for the closure and sale of a road allowance shall adhere to the Town's Road Closing and Sale Request Policy and the provisions of the *Municipal Act, 2001*, as amended.

**Part 3 – Record Keeping**

**Proceeds from Sale of Land**

11. All proceeds from the disposition of land shall be managed by the Treasurer and may be placed into a reserve or other dedicated fund as Council may direct for the purpose of capital projects that support future development and community growth.
12. If applicable, the proceeds of the sale of commercial and industrial land holdings of the former municipalities prior to amalgamation shall be allocated in accordance with the Ministerial Order dated January 7, 1997 by the Minister of Municipal Affairs and Housing. For greater clarity, the relevant excerpt of this order is appended to this Bylaw as Schedule A.

**Certificate of Compliance**

13. Following completion of a sale under this Bylaw, the Clerk shall issue a certificate with respect to the disposition of the land.
14. The certificate shall verify that, to the best of the Clerk's knowledge and belief, all obligations and requirements of this Bylaw have been complied with, and that any appraisal required by this Bylaw has been obtained. Where an appraisal was not obtained, the Clerk shall set out in the certificate the reasons why an appraisal was not required.

15. The Clerk's Certificate of Compliance shall, when issued, unless a person to whom the land is sold has notice to the contrary, be deemed to be sufficient proof that the provisions of this Bylaw have been complied with.

**Part 4 – Coming Into Force**

16. Bylaw No. 2007-59 is hereby repealed.
17. This bylaw shall come into force and take effect on the date of passage.

Read a first and second time and finally passed this 8th day of February, 2022.

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Marg Isbester, Mayor

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Jessica Walters, Clerk



## **Schedule A – Ministerial Order Regarding Amalgamation and Land Sale Proceedings**

*Excerpt from Order Made Under Section 25.2 of the Municipal Act to Implement the Proposal for the Restructuring of the County of Lennox and Addington and Its Constituent Municipalities dated January 7, 1997*

### **8.4 Disposition of the Proceeds from the Sale of Assets Including the Sale of Commercial and Industrial Land Holdings**

8.4(1)(a) Prior to December 31, 1997 the councils of the former municipalities which will constitute part of the new Corporation of the Town of Greater Napanee shall ensure that all lands listed in Schedule “1” are appraised by two certified appraisers, whose businesses are located outside of the boundaries of the new Town, in order to determine the market value of the lands as of December 31, 1997.

8.4(1)(b) The average of the two appraisals referred to in paragraph (a) of subsection 8.4(1) shall be considered the market value of the land.

8.4(1)(c) At the time of the sale of the land by the new Town the proceeds shall be allocated as follows:

- i) to the cost, if any, incurred by the new Town to improve and appraise the lands prior to the sale;
- ii) the balance of the proceeds, up to the amount of the market value appraisal referred to in paragraph (b) of subsection 8.4(1), to be paid into a capital reserve to be used for capital projects within the area of the former municipality in which the property is located; and
- iii) the balance, if any, to general revenues of the new Town.

SCHEDULE "1"Commercial and Industrial Land Holdings  
Town of Greater Napanee

(A) TOWNSHIP OF ADOLPHUSTOWN N/A

(B) TOWNSHIP OF NORTH FREDERICKSBURGH

Roll # 1116-003-020-05600

RR #2

Napanee, Ontario K7R 3K7

Purchase Price \$72,500

Date Purchased - May 4, 1994

Inst. #204309

Former Quarry Site

(C) TOWNSHIP OF SOUTH FREDERICKSBURGH N/A

(D) TOWN OF NAPANEE

Location	Roll #	Description	Size
Advance Ave.	31-20-269	Pt 1 to 19 29R1462	23.04 AC
Commercial Cr.	31-20-223	Pt 1&5 29R3328	2.05 AC
Advance Ave.	31-20-259	Pt 1 29R4484	10.01 AC
Advance Ave.	31-20-302	Pt 1 49R4147	5.71 AC
Ind. Blvd.	31-20-255	Pt 1 29R4213	1.00 AC
Milligan Lane.	31-20-237	Pt 4 29R4229	46 AC
Dairy Ave.	51-20-768	Pt 1 29R6826	1.24 AC
Dairy Ave.	51-20-769	Pt 1 Plan 345.	1.34 AC
Dairy Ave.	31-20-322	Con 2 L.F. 22	.23 AC
Dairy Ave.	31-20-323	Pt 1 29R251	3.85 AC
Dairy Ave.	51-10-400	Blk A B40	2.30 AC
West St.	21-10-85	Pt 1 29R2566	13.42 AC
		Pt 2 29R2567	
		Pt 1&2 29R6628	
Belleville Rd.	21-30-63	Pt 1 29R2129	14.38 AC
		Pt 3&4 29R6736	
	None Yet	Pt 2 & 12 29R7018	2.00 AC

(E) TOWNSHIP OF RICHMOND

Plan 382 Lot 18  
Riverview Drive  
Frontage 100'  
Acres 0.44  
Roll # 1010-17300  
Zoning R1 Residential Type One  
O.P. Designation Low Density Residential

Part Lot 17 Concession 1 Sewage Pumping Station  
Highway 2, South Side  
RP 29R-677 Part 1  
Frontage 104.48'  
Acres 0.73  
Roll #1010-17702  
Zoning C1 District Commercial  
O.P. Designation Low Density Residential, Environmental Constraint Area

Part Lot 19 Concession 1 HELD IN TRUST  
Water Street West, South Side  
RP 29R-3547 Part 1  
Frontage 82.81'  
Acres .17  
Roll #1020-28600  
Zoning R1 Residential Type One  
O.P. Designation Industrial (Restricted)

Part Lot 19 Concession 1  
Water Street West, South Side on Napanee River  
RP 29R-2228 Part 1, 2  
Frontage 137.00'  
Acres  
Roll #1020-28400  
Zoning R1/EP Residential Type One, Environmental Protection  
O.P. Designation Industrial (Restricted), Environmental Constraint Area

Part Lot 17 Concession 2 RICHMOND VILLAGE PARKLAND  
Plan 1160 Blocks 98, 99, 100  
Acres 4.06  
Roll #1020-23740  
Zoning RE Recreational Open Space  
O.P. Designation Recreational Open Space

Plan 405 Lots 22, 23, 24 Rear of lot 25  
Sunset Crescent / Bridge Street West / Park Street  
Frontage 145.66'  
Acres .53  
Roll #1020-30700  
Zoning RE Recreational Open Space  
O.P. Designation Recreational Open Space

Part Lot 18 Concession 2  
South of Road Allowance between Concessions 2 & 3  
RP 29R-448 Part 3  
Frontage 600.88'  
Acres 4.15  
Roll #2030-15100  
Zoning D/EP Development, Environmental Protection  
O.P. Designation Recreational Open Space, Environmental Constraint Area

Part Lot 22 Concession 3  
Brandon Road, North Side  
RP 29R-4408 Part of Part 4  
Acres 4.58  
Roll #2040-19110  
Zoning M1-1 Restrictive Industrial Exception, One Environmental Protection  
O.P. Designation Industrial, Environmental Constraint Area

Part Lot 22, 23 Concession 3  
Highway 41, East Side, Goodyear Rd. South Side, Kimmett Side Rd. West Side  
Acres 155  
Roll #2040-17801  
Zoning M1-1/EP Restrictive Industrial Exception One, Environmental Protection  
O.P. Designation Industrial, Environmental Constraint Area

Part Lot 23 Concession 3  
Richmond Rd 3 South Side, Kimmett Side Road. West Side  
RP 29R-765 Parts 4 to 7 Part of Part 3  
Acres 67.64  
Roll #2040-19850  
Zoning M1-1/EP:C1-6 Restrictive Industrial Exception One, Environmental Protection  
District Commercial Exception Six  
O.P. Designation Industrial, Environmental Constraint Area, District Commercial

Part Lot 23 Concession 3  
Keilwood Crescent North Side East of Dickson Transport  
RP 29R-4331 Part 3  
Frontage 35.68'  
Acres 0.37  
Roll #2040-19499  
Zoning M1-1 Restricted Industrial Exception One  
O.P. Designation Industrial

Part Lot 21 Concession 4 SELBY HALL / BALL PARK  
Selby Village, Old Highway 41  
RP 29R-1235 Part 1 Plan 24 SV Lots 6, 7, 8, 9, 10  
Acres 7.6  
Roll #3050-01500  
Zoning C-4/RE/EP Hamlet, Commercial, Recreational Open Space, Environmental  
Protection  
O.P. Designation Hamlet, Environmental Constraint Area

Part Lot 22 Concession 5 VILLAGE THEATRE  
SV Lot 2 Hamlet of Selby, County Road 11 North Side  
Frontage 99'  
Acres .74  
Roll #3050-05800  
Zoning CF Community Facility  
O.P. Designation Hamlet

Part Lot 22 Concession 5 MUNICIPAL GARAGE  
Highway 41 East Side  
Frontage 93.64'  
Acres 4.0  
Roll #3060-05000  
Zoning M2-1 General Industrial Exception One  
O.P. Designation Industrial

Part Lot 22, 23, Concession 5  
County Rd 11 North Side  
RP 29R-3893 Part of Part 1 RP 29R-4470 Part 1  
Acres 112.15  
Roll #3060-05100  
Zoning HR/RU/EP Hamlet Residential, Rural, Environmental Protection  
O.P. Designation Hamlet, Rural, Agricultural Priority Area, Environmental Constraint Area

Part Lot 12, Concession 7 ABANDONED GRAVEL PIT  
South of County Road 12  
Acres 6.08  
Roll #3060-13530  
Zoning RU Rural  
O.P. Designation Rural, Agricultural Priority Area

Part Lot 16 Concession 7  
Corner of County Road 12 and Richmond Road 7A  
Frontage 217.5'  
Acres 0.49  
Roll #3060-14910  
Zoning RU Rural  
O.P. Designation Rural, Agricultural Priority Area

Part Lot 18 Concession 8 WEST OF ROBLIN DUMP  
Forest Mills Road, South Side  
Acres 30.0  
Roll #3060-2110  
Zoning RU/EP Rural, Environmental Protection  
O.P. Designation Rural, Agricultural Priority Area

Part Lot 19, 20 Concession 8 ROBLIN DUMP  
Forest Mills Road, South Side  
Acres 65.0  
Roll #3060-21101  
Zoning RU/EP Rural, Environmental Protection  
O.P. Designation Rural, Agricultural Priority Area

Part Lot 21 Concession 9 ROBLIN BALL PARK  
Richmond Rd 9A South Side  
RP 29R-5236 Part 4  
Frontage 369.03'  
Acres 7.03  
Roll #4070-05504  
Zoning RE Recreational  
O.P. Designation Hamlet

Part Lot 21 Concession 9 ROBLIN HALL  
Highway 41 West Side  
RP 29R-3311 Part 1 & 2  
Frontage 113.71'  
Acres 1.04  
Roll #4070-06701  
Zoning CF Community Facility  
O.P. Designation Hamlet

Part Lots 16-19 Concession 2  
RP 29R-448  
Parts 2, 4, 5, 6, 7  
Acres 60.29  
Roll #2030-17450