

**THE CORPORATION OF
THE TOWNSHIP OF
PELEE**

BY-LAW NO. 2025 – 12

“Disposition of Land”

(January 28, 2025)

A by-law to establish a policy and procedures governing the sale and
other disposition of land

WHEREAS The Municipal Act (as defined below) has been amended by the *Municipal Statute Law Amendment Act 2006*, S.O. 2006, c.32 and Section 268 which previously governed the sale of real property has been repealed.

AND WHEREAS Section 270 of the Municipal Act enacted on January 1, 2008, now only requires The Corporation of the Township of Pelee to adopt and maintain policies with respect to the sale and other disposition of land.

AND WHEREAS it is deemed expedient to pass a by-law to establish procedures governing the sale and other disposition of land owned by the Municipality;

NOW THEREFORE, the Council of The Corporation of the Township of Pelee
HEREBY ENACTS as follows:

1. SHORT TITLE

This By-law may be referred to as the "Disposition of Land By-law".

2. DEFINITIONS

In this by-law:

"Municipal Act" means the *Municipal Act, 2001*, S.O. 2001, C.25, as amended.

"Appraisal" means an opinion of the fair market value of the Surplus Land provided by a land appraiser or such other qualified person as Council may provide in this policy.

"Certificate" means the Clerk's Certificate verifying that, to the best of his/her knowledge, the requirements of the *Municipal Act, 2001* and a policy which applies to the sale of surplus land have been complied with.

"Clerk" means the Township Clerk of The Corporation of the Township of Pelee or a person designated by Council.

"Council" means the Council of The Corporation of the Township of Pelee.

"Disposition" means the transfer, sale, conveyance, exchange or grant by the Township of an interest in Lands, which may include a lease (including any renewal or extensions of the term provided for in the lease) where the term of such lease exceeds thirty-five (35) years

"Roadway" means a common and public roadway and includes any bridge, trestle, viaduct or other structure forming part of the roadway and, except as otherwise provided, includes a portion of a roadway.

"Land" means lands owned by the Township, whether vacant or not, or any other proprietary interest in lands by the Township, and, without limited the generality of the foregoing, includes easement, rights-of- way, road allowances, leaseholds exceeding thirty-five (35) years, and an interest in lands under an agreement of purchase and sale. Without limiting the generality of the foregoing, lands temporarily conveyed to the Township for municipal purposes intended to be reconveyed to the grantor, and any land or interest in land Quit Claimed or released by the Township shall be excluded from the definition of "Land".

"Local Board" means a municipal service board, public library board, 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.

"Newspaper" means a printed publication in sheet form, intended for general circulation in the Township of Pelee, published regularly at intervals of no longer than two weeks, consisting in great part of news of current events of general interest that may or may not be sold to the public and to regular subscribers.

"Notice" means a written, printed, published, or posted notification or announcement.

"Planning Act" means the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

"Public Register" means a listing and description of real property owned or leased by the Township or Board to be maintained in the Clerk's Office and to be made available to the public, but shall not include those classes of lands deemed to be exempt.

"Published" means published in bi-weekly newspaper that, in the opinion of the Clerk, has such circulation within the municipality as to provide reasonable notice to those affected thereby, and "publication" has a corresponding meaning.

"Surplus Land" means any Land declared surplus by the Council of the Township.

"Township" means The Corporation of the Township of Pelee.

3. DECLARATION OF SURPLUS LAND

- a) Prior to the Disposition of any Land, Council shall, by a resolution or by-law, at a meeting open to the public, declare the land to be Surplus Land.

4. PROCEDURE FOR DISPOSITION OF SURPLUS LAND

4.1 Appraisal

- a) Before the Disposition any Surplus Land, the Township shall obtain an Appraisal or Letter of Opinion of the fair market value of the Surplus Land from:
 - i. An independent qualified appraiser who shall be registered member in good standing of the Appraisal Institute of Canada, or
 - ii. A real estate brokerage firm or an independent real estate agent, or
 - iii. Any other person deemed by the Township to be qualified for this purpose, including a qualified land assessor in the Province of Ontario.
- b) Notwithstanding the above requirement, the Township shall not be required to obtain an Appraisal for any class of Surplus Land or Disposition of Surplus Land to any public body as follows:
 - a. Land 0.3 metres or less in width acquired in connection with an approval or decision under the Planning Act.
 - b. Closed roadways if sold to an owner of land abutting the closed roadways.
 - c. Roadways, including road allowances.
 - d. Land that does not have direct access to a roadway if sold to the owner of land abutting that land.
 - e. Land repurchased by an owner in accordance with the *Expropriations Act* (Ontario).

- f. Easements granted to public utilities, cable or to telephone companies.
- g. Land sold under the Municipal Act for tax arrears.
- h. The entering into an Agreement to provide for a long-standing encroachment.
- i. The granting of a license to use property which is less than a lease.
- j. The granting of Municipal consents to utilities companies for the placement of physical property on municipal right-of-way.
- k. Land sold to another municipality.
- l. Land sold to the Crown in Right of Ontario or Canada and their agencies.

4.2 Notice

- a) Before a Disposition of any Surplus Land, the Township shall publish a Notice in at least one (1) newspaper and on the Township's website. Additional Notice, including publication in newspapers which provide general distribution within or beyond the geographic area of the Township shall be at the discretion of the Township Clerk.
- b) The Township shall give Notice no later than 14 days prior to the Disposition of the Surplus Land and shall include the following:
 - i) A brief description of the reason for the Disposition;
 - ii) The proposed date of the Disposition and/or the date, time and location of the meeting where Council will consider the Disposition;
 - iii) A legal description, municipal address and/or key map which in the opinion of the Clerk is sufficient to identify the Surplus Lands to be subject to the proposed Disposition;
 - iv) When and where information pertaining to the Disposition will be available for public viewing; and
 - v) Name and contact information of the person handling the Surplus Land Disposition and/or the deadline for any written submissions to the Township.

4.3 Survey

- a) Before the Disposition of any Surplus Land, the Township shall obtain a survey of the Surplus Land from an independent surveyor in accordance with the laws of the Province of Ontario. This requirement is deemed to be waived if:
 - (a) in the opinion of the Clerk, a current survey exists; or
 - (b) if an alternate legal description for the Surplus Land exists.

4.4 Other Actions

- a) Before a Disposition of any Surplus Land, the Township shall be satisfied that it is legally able to complete such Disposition of the Surplus Land and shall obtain approval from any other agencies, as may be required by law.

4.5 Due Diligence

- a) The purchaser/lessor in any Disposition is responsible to complete any and all due diligence to ensure the Surplus Land is useable for the intended purposes.

5. METHOD OF DISPOSITION

Council shall determine the appropriate method of Disposition for each parcel of Land declared Surplus Land. Based on such method chosen, the following procedures shall be followed:

5.1 Tender or Quotation

- a) Where the method of Disposition is by tender or quotations the Township shall:
 - i) estimate the costs incurred or required for the proposed Disposition of the Surplus Land including any Appraisal, public notice, survey, legal fees, encumbrances, improvements or such other costs associated with the Disposition;
 - ii) determine a reserve bid amount based on the appraised value of the Surplus Land plus estimated costs above;
 - iii) prepare an Invitation to Tender or Request for Quotations which shall be reviewed by the Treasurer before publication;
 - iv) include in all Invitations to Tender or Request for Quotations the statement that "the highest or any offer may not necessarily be accepted"; and
 - v) give notice by way of posting on the Township website and publishing in at least one (1) newspaper of general circulation at least 14 days prior to

the date when the tenders or quotations will be considered by Council.

- b) Council reserves the right to accept a tender or quotation less than the received bid amount where, in the opinion of Council, it is in the best interests of the Township to do so.

5.2 Real Estate Broker

- a) Where the method of Disposition is by way of the use of a real estate brokerage or broker, the Township shall:
 - i) Invite proposals from not less than three (3) real estate brokerages or brokers operating in the Township or part of the Township. Said proposals are to include a recommendation to Council on the listing price based on an evaluation of the fair market value of the Surplus Land, the proposed term of the listing agreement, services to be provided, and the real estate commission payable by the Township.
 - ii) Ensure that the real estate broker or agent posts at least one "For Sale/Lease" sign at the subject Surplus Land including the name of the broker and telephone number;
 - iii) Ensure that the real estate broker or agent lists the Surplus Land for sale/lease on the Multiple Listing Service and actively and aggressively market the lands;
 - iv) Ensure that all prospective purchasers/lessors are made aware that "the highest or any offer may not necessarily be accepted"; and
 - v) Have all offers submitted to the Clerk for presentation to Council, prior to the Disposition being completed;
- b) Council reserves the right to adjust the listing price in consultation with the listing brokerage, broker and agents and/or accept an offer less than the listing price where, in the opinion of Council, it is in the best interests of the Township to do so.

5.3 Sale of Closed Roadway

- a) Where the Surplus Land is a closed roadway or is being closed under the provisions of the Municipal Act, the Township shall:

- i) Estimate the costs incurred or required to close and/or complete the Disposition of the roadway including public notice, survey, legal fees, realty fees, encumbrances, improvements or such other costs associated with the land sale;
 - ii) All costs incurred are the responsibility of the applicants for the purchase;
 - iii) Determine a sale price based on the value of the Surplus Land plus estimated costs above;
 - iv) Where the purpose of the proposed road closure and sale is to permit development of the Surplus Land either as part of an application under the Planning Act or the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended, the Township shall determine the value of the Surplus Land in a manner consistent with this By-Law;
 - v) The Township may, at its sole discretion, place a nominal value on Surplus Land where the purpose of the road closure and Disposition is to resolve a long-standing encroachment on the roadway or to bring a pre-existing building into compliance with the Township zoning by-law;
 - vi) Give notice in the same time, form and manner as set out in the By-law as Council may pass from time to time, for the purpose of giving notice of the permanent closure of a road under the Municipal Act.
 - vii) Where the Disposition of the road is being carried out in conjunction with the road closure, the Notice of Intent may be issued for both purposes provided that the form of the notice references both the closure and sale of the roadway; and
 - viii) Establish any special terms or conditions of the sale;
 - ix) Follow the policy outlined in Schedule "A" to this by-law when presented with an application to stop up, close and sell the road allowance.
- b) Council may reserve the right to adjust the Disposition price where, in the opinion of Council, it is in the best interests of the Township to do so.

6. CLOSED SESSION

- a) All tenders, quotations or offers shall be presented to Council in Closed Session for deliberation unless Council direction has been given to staff to negotiate the Disposition within certain terms or an alternate method of Disposition approved by Council determines otherwise.

7. NO FURTHER NOTICE REQUIRED

- a) If a final decision is not made at the Council meeting specified in a notice given under this policy 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.
- b) The provisions of this section shall also apply to any further referrals of the matter, including a Committee recommendation to pass the by-law.
- c) Notwithstanding the above, a Disposition may not be invalidated on the basis that Council or Committee failed to pass a resolution or that a resolution failed to specify to which meeting the matter was referred provided that a public statement was made of the Township's intent to continue its deliberations on the matter.

8. CLASSES OF PROPERTY EXEMPT FROM PROCEDURES

- a) That the provisions of this By-law shall apply to all classes of Land owned or leased by the Township, save and except:
 - i) the sale of Lands for the arrears of taxes which shall be subject to the procedures set out in Part XI of the Municipal Act.
 - ii) The sale of lands under the *Expropriations Act* (Ontario); and
 - iii) The sale of the classes of land exempted under the Municipal Act, as follows:
 - a) land sold under Municipal Capital Facilities;
 - b) land to be used for the establishment and carrying on of industries and industrial operations and incidental uses subject to the Municipal Act.

9. OFFER OF DISPOSITION

- a) Any offers received for Surplus Land to be disposed of by the Council must be made in writing and must include the following:
 - a. a proper legal description of the Surplus Land;
 - b. the full name of the person making the offer;
 - c. the price to be paid for the Disposition;
 - d. a deposit by cash or certified cheque to the Township in the amount of not less than ten percent (10%) of the entire Disposition price;
 - e. a date set for closing of the transaction
- b) Notwithstanding the public notice of the proposed Disposition is given and that one or more interested parties may present to Council an offer to for the Disposition of the Surplus Land, nothing shall fetter the absolute discretion of Council to retain the Surplus Land or to dispose of the Surplus Land on such terms and conditions as may be fixed by Council, which shall include:
 - i) the power to list the property with a real estate broker;
 - ii) the power to sell or lease the property for nominal consideration and to whomever it wishes, regardless of whether the Disposition is to the party which presented the best offer.
- c) Upon acceptance of an offer, the Council shall pass any and all by-laws necessary to complete the disposal of the Surplus Lands, including any by-law necessary to authorize the Mayor and Clerk to execute any documentation necessary to complete the transaction.

10. AUTHORIZING BY-LAW

- a) That any Disposition of Surplus Land by the Township shall be ratified by a by-law authorizing the sale.

11. CERTIFICATE OF COMPLIANCE

- a) That the Clerk shall issue a certificate with respect to a Disposition by the Township verifying that to the best of his or her knowledge the requirements of the Municipal Act and this By-Law which apply to the Disposition of Surplus Land have been complied with.
- b) That the Clerk's Certificate shall, when issued, be included in applicable deeds or transfers of Land and, unless a person to whom the Surplus Land is sold has notice to the contrary, shall be deemed to be sufficient proof that this section has been complied with.

12. CONFLICT WITH LEGISLATION & REGULATIONS

- a) That in the event the provisions of this By-law are inconsistent with the provisions of the Municipal Act, its Regulations or any other laws or legislation to which the Township is subject, the provisions of the Municipal Act or Regulation shall prevail.

13. SCHEDULES

- a) That the Schedules attached hereto form a part of this By-law. Schedules may be amended from time to time without an amendment to this by-law.

14. PUBLIC REGISTRY

- a) That a public registry be established and maintained listing and describing the Land owned and leased by the Township or local board.
- b) The register shall be maintained at the Office of the Clerk and shall be available to the public during regular office hours.
- c) Notwithstanding the above, the following classes of Land are not required to be kept in the public register:
 - i) land 0.3 meters or less in width acquired in connection with an approval or decision under the Planning Act.
 - ii) All roadways, road and road allowances, whether or not opened, unopened, closed or stopped up, as well as land acquired for road widening.

15. ADMINISTRATION AND REVIEW PERIOD

- a) This By-law and Disposition of Surplus Land shall be administered by the Clerk's Office.
- b) This By-law shall be reviewed every five (5) years by the Clerk or as required under the Municipal Act, and will be revised in light of any changes in legislation.

16. REPEAL PREVIOUS BY-LAWS

By-Law No. 2016 – 20 and all previous by-laws, resolutions and policies and parts of by-laws, resolutions and policies inconsistent with the provisions of this By-law regarding procedures for the sale and other disposition of land are hereby repealed.

17. EFFECTIVE DATE

This By-law shall come into force and take effect on the date of its final passing.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 28TH DAY OF JANUARY, 2025.

Original Signed By:

MAYOR, Catherine Miller

Original Signed By:

TOWNSHIP ADMINISTRATOR & CLERK, Kristine Horst

SCHEDULE "A" to BY-LAW NO. 2025 – 12
POLICY FOR ROAD ALLOWANCE CLOSURE AND SALES

Preamble

Road allowances are one of a variety of roads that are defined as “highways” in the Municipal Act. Within a municipality, common and public roadways are vested in the council of the municipality having jurisdiction over them in accordance with Sections 28 of the Municipal Act, except to the extent that they have been stopped up according to law (and sold).

There are a variety of road allowances located within the municipal boundaries.

Consideration of the sale of a road allowance or a portion of a road allowance will be given if it is not used for public access, emergency access, or public waterfront activities. Adjoining landowners in the neighborhood or the community must not be deprived of access to water in the case of a shoreline road allowance. The Township must also look to the future to ensure that the subject road allowance will not be required for municipal purposes at some later date.

Shoreline Road Allowances:

Many waterfront properties are fronted by road allowances.

In some cases, owners of land adjacent to waterways have, over the years, constructed valuable cottages, residences and other structures on the road allowance (or made improvements) in front of their properties or partly on land that they do not own.

In recognition of this situation and the fact that this area is primarily utilized by the abutting landowner, Council will generally entertain requests to purchase shoreline road allowances within the Township.

Shoreline Road Allowances will only be sold to owners of abutting land.

Road Allowances Leading to Water:

In general, Council encourages the preservation of road allowances leading to water.

Council will consider very carefully applications for the Disposition of road allowances leading to water. The focus of debate shall be based on the merits of the applicant's proposed use and need for the Lands versus the preservation of the road allowance leading to water while considering any effects or outcomes that may result from the proposed disposition. The applicant must show compelling reasons why the

Township should proceed with a Disposition of the road allowance.

Careful consideration shall be given to the Disposition of road allowances leading to the water to ensure that the sale will not have any negative effect on the neighborhood emergency access, present or potential public access and public waterfront activities. Area land owners will not be deprived of access to water.

Unopened Road Allowances Not Leading to Water:

These would include road allowances made by crown surveyors and road allowances on a registered plan of subdivision.

In some cases, a roadway does not follow a boundary line and deviates so that parts of it, although declared as a public roadway, do not constitute an open publicly maintained road. There are also road allowances that have not been constructed and assumed by the Township. From time-to-time requests to purchase portions of these road allowances are received. Careful consideration will be given to the future potential of these road allowances.

Rights of Ingress and Egress

A road allowance shall not be stopped up and sold that will deprive any person of the means of ingress and egress to and from the person's land or place of residence or another convenient road or way of access to the land is provided.

Offer to Abutting Owners

A road allowance that has been declared Surplus Land shall be offered for sale to the owners of the land abutting the Surplus Land to subject to the proposed Disposition. The owner of each parcel on opposite sides of the Surplus Land to subject to the proposed Disposition has the right of first refusal to purchase the land to its middle line, unless otherwise determined by Council (for example, encroachments).

If the person entitled to purchase the Surplus Land and does not exercise the right to purchase within a period of time as determined, the Township may proceed with a Disposition of the Surplus Land to any other person as Council determines.

Notice & Procedure

All proposed Dispositions of road allowances will be subject to the Disposition of Land By-law and Notice requirements, as deemed appropriate by the Clerk.

Application

An application for the purchase of an unopened road allowance can be in the form of a letter. The letter must clearly state the reason for the request and as much information as possible with regards to the road allowances as is known. A plan/sketch must be attached to show the applicant's property and the land proposed to be purchased.

The application will be circulated to various agencies and operating departments, as required. Once comments have been received, a report will be presented to Council for a recommendation to declare the property surplus or not. The applicant can attend to answer questions. The public can attend to express support or opposition to the proposal. After proper notice has been given, Council will consider the application for a decision whether or not to sell the property.

SCHEDULE "B"
CERTIFICATE OF COMPLIANCE
In Compliance with By-Law No. 2025 – 12, as amended, of The
Corporation of the Township of Pelee

Certificate of Compliance in the Disposition of the Land described as:

I HEREBY CERTIFY THAT:

1. The Corporation of the Township of Pelee adopted By-law 2025 – 12, being a procedural by-law governing the disposition of property and was in force on the date of the disposition of the property described above.

2. The Land was deemed surplus land under By-Law or Resolution No. _____ enacted or passed on _____

3. Either:

(a) An Appraisal of the fair market value of the Land deemed Surplus Land was obtained on _____:

OR

(b) The Disposition is exempt from the requirement to obtain an Appraisal of its fair market value under the following exemption:

4. Public notice of intent to proceed with the Disposition of the Surplus Land was given by the following method:

Clerk

Date