

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

Policy Statement

The objectives of the real estate function for the City of Orillia are:

- (i) To manage the real estate interests of the Corporation of the City of Orillia in a timely and efficient manner while achieving the maximum benefit to the City, financially or otherwise.
- (ii) To dispose of property interests surplus to the needs of the City in a timely, efficient, transparent, and accountable manner at the greatest return to the City, financially and otherwise.
- (iii) To permit the acquisition of land and other property rights required for effective municipal operations in an efficient and accountable manner, while protecting the confidentiality of third party interests.
- (iv) To maintain an accurate, current and complete inventory of all city-owned real property and property rights.

The real estate function of the City will seek to achieve these objectives while ensuring transparency, fairness and openness is maintained for all parties, consistent with the need to protect the confidentiality of third party interests during negotiations. The real estate function will be performed with the utmost integrity which shall be measured through compliance with all applicable legislative requirements and this Policy.

PURPOSE:

The purpose of this Policy is to provide a clear understanding of the City's real estate processes. All real estate activities are the responsibility of the City Manager's Office with the exception of property interests acquired and disposed of in the development approvals stream, which is the responsibility of the Planning and Development Department, and real estate activities associated with the mandate of the Economic Development Committee. This Policy shall guide the acquisition, disposal and inventorying of all real property interests.

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

SCOPE:

This Policy applies to all City Staff with the responsibility for or involvement in the real estate function.

INDEX:

- 1.0 Definitions
- 2.0 Real Estate Policy - Objectives
- 3.0 Responsibility and Delegated Authority
- 4.0 Real Estate Transactions
- 5.0 Acquisition by Expropriation
- 6.0 Maintenance of Municipal Inventories
- 7.0 Application of Policy – Procedures

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

1.0 DEFINITIONS:

For the purpose of this Policy, the following terms have the following definitions:

	TERM	DEFINITION
1.1	Acquisition	The act of purchasing or acquiring Fee Simple ownership of real estate or entering into a lease term of 21 years or more.
1.2	Agreement	A formal written legal contract between two or more parties, with binding legal implications; usually conveying property rights or interests for money or other consideration.
1.3	Authority	The legal right to conduct tasks outlined in this Policy.
1.4	Confidential	Communicated under circumstances where all or part of the information being communicated relates to any matter which may be considered by Council under the provisions of the <i>Municipal Act</i> in the absence of the public, or information, the disclosure of which would be denied upon receipt of a request under the <i>Municipal Freedom of Information and Protection of Privacy Act</i> .
1.5	Disposal	The sale or conveyance of Fee Simple property interest or the lease of real property for a term of 21 years or more, but does not include the granting of easements or other lease interests in land.
1.6	Easement	A Limited Interest in land owned by another that entitles the holder of the Easement to a specific limited use or enjoyment (as the right to cross the land).

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

- 1.7 Encroachment The emplacement, advancement or extension of a structure or installation or object onto land owned by the City that may or may not be approved by the City.
- 1.8 Expropriation The acquisition of Fee Simple or Limited Interest rights by the City in compliance with the *Expropriations Act*.
- 1.9 Fair Market Value The price at which a property or property rights would change hands between willing parties when both parties have reasonable knowledge of relevant facts, or as otherwise may be defined in Opinion of Value Reports.
- 1.10 Fee Simple An ownership of real estate in which the owner has the right to control, use, and transfer the property at will.
- 1.11 Lease The conveyance by a property owner of exclusive possession, control, use, or enjoyment of the owner's property for a specified rent and a specified term after which the property reverts back to the owner.
- 1.12 Legal Survey A survey made to define boundaries of parcels of land suitable for the transfer of rights. A Legal Survey is prepared by an Ontario Land Surveyor and is registered.
- 1.13 Licence Revocable authority or permission given solely to one having no possessory rights in a tract of land to do something on that land which would otherwise be unlawful or a trespass.

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

- 1.14 Limited Interest An ownership of real estate rights that is less than Fee Simple ownership rights in which the owner of the limited interest has some specific rights to control and use property, said rights typically conveyed by way of Agreement.
- 1.15 Municipal Easement Inventory A database that identifies and describes Permanent Easement rights in favour of the City and granted by the City.
- 1.16 Municipal Occupancy Agreement Inventory A database that identifies and describes Occupancy Agreements to which the City is a party.
- 1.17 Municipal Real Estate Inventory A database that identifies and describes real estate owned in Fee Simple by the City.
- 1.18 Occupancy Agreement An Agreement that authorizes the conveyance of limited interest in real estate on specified terms and conditions with an Agreement term of twenty years or less, including any rights to extend or renew a term. An Occupancy Agreement may or may not be registered on title. An Occupancy Agreement includes, but is not limited to, the following types of agreements: Lease, Licence, Management and Operation, Encroachment, Temporary Easement, Consent to Enter.
- 1.19 Opinion of Value A written estimate or considered opinion of the value of real-estate, must be prepared by an accredited appraiser of the Appraisal Institute of Canada.

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

- 1.20 Property Request A written submission by a Department, Board, Committee or a party external to the City requesting an Acquisition or Occupancy Agreement. The submission shall include information relevant to the required real estate transaction and shall identify an approved source of funding to initiate negotiations.
- 1.21 Public Notice The giving of notice to the public in connection with real estate functions in compliance with Policy 1.2.7.1. of the City of Orillia Policy Manual.
- 1.22 Real Estate Land, including all the natural resources and permanent buildings on it.
- 1.23 Real Estate Functions Real estate activities performed or managed by the Manager, Legislative Services for the purposes of meeting the City’s real estate needs. Real estate functions include, but are not limited to, the following activities:
- Real Estate Acquisitions and Disposals, which typically involve negotiations, Agreement execution, reporting and, if required, public notice.
 - Processing Occupancy Agreements, which typically involves negotiations, Agreement execution, and reporting.
 - Managing Occupancy Agreements.
 - Maintaining the Municipal Easement Inventory, Municipal Occupancy Agreement Inventory and Municipal Real Estate Inventory. (Sept. 2009)
 - Reviewing Opinions of Value.
 - Conducting Real Estate related research and preparing reports.
 - Responding to Real Estate related inquires from the public, members of Council, City staff, other municipalities or governments, and such agencies or organizations with which the City conducts business.
- 1.24 Real Estate Transactions Activities conducted to effect the transfer of Fee Simple or Limited Interest rights resulting in an Agreement to which the City is a party.

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

2.0 REAL ESTATE POLICY OBJECTIVES

The objective of this Policy is to promote real estate activities that are consistent with the Corporate Plan of the City which may be redefined from time to time.

The principles of real estate activity advocated by the City include:

- 2.1 Ensuring compliance with applicable legislation and this Policy.
- 2.2 Ensuring City employees, both staff and consultants, involved in the real estate functions are accountable for their actions and decisions.
- 2.3 Effecting real estate transactions in a timely manner with consideration for monetary and non-monetary benefit to the City.
- 2.4 Delegating the appropriate level of authority enabling the City to meet its service requirements.

3.0 RESPONSIBILITY AND DELEGATED AUTHORITY

- 3.1 The Manager, Legislative Services under the direction of the City Manager shall be responsible for all real estate functions, excluding real estate transactions initiated as a condition of development application approvals, real estate transactions undertaken by the Economic Development Committee pursuant to its mandate, and City Centre leases managed by the Manager of Property and Purchasing. The City Manager's Office shall be available as a resource to assist the Planning and Development Department and the Economic Development Committee.
- 3.2 The Director of Planning and Development shall be responsible for processing all real estate transactions initiated as a condition of development application approvals, with all such transactions to be subject to Council approval as part of the development approval process.

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

- 3.3 The Economic Development Committee shall be responsible for the Acquisition and Disposal of Employment Area lands in accordance with its mandate under Chapter 75 of the City of Orillia Municipal Code and as specifically set out in Schedule “A” to this Policy. The Committee shall comply with the requirements of this Policy except where its activities are specifically exempted. The Economic Development Manager shall have the authority to enter into Agreements for the Acquisition or Disposal of property rights, provided such Agreements are expressly conditional upon approval by Council.
- 3.4. The City Manager, in consultation with the Manager, Legislative Services, shall have the authority to enter into Agreements for the Acquisition or Disposal of real estate as defined in this Policy, provided such Agreements are expressly conditional upon approval by Council.
- 3.5. The City Manager, in consultation with the Manager, Legislative Services, shall have the authority to enter into Occupancy Agreements as defined in this Policy. Following the end of each calendar year, the City Manager shall submit to Council a report detailing his exercise of this delegated authority during the past year.

4.0 REAL ESTATE TRANSACTIONS

4.1 GENERAL TO ALL REAL ESTATE TRANSACTIONS

- 4.1.1 Obtaining Opinion of Value: Subject to Section 4.2.4, when negotiating for real estate Acquisitions that a condition be inserted into the agreement of purchase and sale, which will allow the City of Orillia to satisfy itself of the valuation of the property it is acquiring during its condition period and be subject to subsection 1.19. And that prior to Disposal of real estate that an opinion of value be done subject to sub section 1.19.
- 4.1.2 Negotiations: Subject to Section 3.1, real estate transaction negotiations shall be conducted by the City Manager and/or the Manager, Legislative Services.
- 4.1.3 Agreement Review: All Agreements shall be reviewed and approved by the City Solicitor prior to recommendation for approval to Council or the City Manager. Those recommendations by the City Solicitor shall cite to Council, liability issues arising from the transaction.

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

4.1.4 Recommendation Report: A written report recommending approval to execute a real estate transaction Agreement shall be prepared for presentation to Council or the City Manager, as appropriate.

4.1.5 Agreement Execution: All real estate transaction Agreements shall be executed by the City Signing Officers or the City Manager, as appropriate.

4.1.6 Transaction Related Costs: Each Agreement shall incorporate the negotiated responsibility for all transaction related costs, including but not limited to Public Notice, Opinions of Value, soil tests, Legal Surveys, legal services, and real estate agent fees.

4.2 REAL ESTATE DISPOSALS

4.2.1 Giving Public Notice: Subject to 4.2.2, Public Notice shall be given for all real estate Disposals as defined in this Policy. The Public Notice shall be given in accordance with Policy 1.2.7.1. of the City of Orillia Policy Manual.

4.2.2 Employment Area Land: Employment Area land, managed by the Economic Development Committee, as specifically set out in Schedule “A” to this Policy, shall be exempt from the Public Notice requirement.

4.2.3 Disposal Condition: Every Disposal Agreement shall be conditional upon having successfully completed all required procedures for the disposal of the property set out in the Real Estate Policy and Council having passed a confirming by-law following the completion of all required procedures. The Agreement shall not fetter the discretion of Council to consider any comments received with respect to the disposal of the property and its discretion to pass or refuse to pass such confirming by-law. Unless the City notifies the Purchaser/Tenant in writing that the above condition has been satisfied within the conditional period, the Agreement shall be null and void and any deposit shall be returned in full without interest.

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

4.2.4 Obtaining Opinion of Value:

Except when directed by Council, staff shall not be required to obtain an Opinion of Value prior to the sale of the following classes of land:

- a) Closed highways, road and road allowances.
- b) Land formerly used for railway branch lines if sold to an owner of land abutting the former railway land.
- c) Land that does not have direct access to a highway if sold to the owner of land abutting that land.
- d) Land repurchased by an owner in accordance with Section 42 of the *Expropriations Act*.
- e) Employment Area land as defined in the City of Orillia Official Plan, which is within the mandate of the Economic Development Committee and as set out in Schedule "A" to this Policy.
- f) Land to be conveyed to a local board as defined in the *Municipal Affairs Act*.
- g) Land to be conveyed to an authority under the *Conservation Authorities Act*.
- h) Land to be conveyed to the Crown in Right of Ontario or of Canada and their agencies.

4.2.5 Methods of Sale: Depending on the nature of the land, various methods may be employed for its disposal. These methods include public auction; tender processes; listings through the Multiple Listing Service; direct advertising; direct negotiations with an abutting property owner; or through other direct negotiations. The City Manager, upon the advice of the Manager, Legislative Services, shall determine the appropriate method of sale, subject to Sections 3.2 and 3.3.

4.2.6 Council Approval: All Disposals shall be subject to Council approval.

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

4.3 DISPOSAL OF ROAD ALLOWANCES:

- 4.3.1 Developable Land: All municipal road allowances of adequate size for development and intended for sale by the City shall be offered for sale through public tender at Fair Market Value.
- 4.3.2. Non-Developable Land: All municipal road allowances intended for sale which are not of adequate size for development shall be offered proportionately to each of the two significant abutting private property owners at Fair Market Value, as established by an Opinion of Value. In the event there are more than two abutting private properties, the first right of refusal will be offered to the two owners having the largest contiguous abutting property lines. Unless both of the two significant abutting private property owners exercise their first right options within 30 days both will become invalid. If one of the two significant abutting private property owners indicates a willingness to exercise their first right option for half the parcel, that individual would then be offered a further first right option to purchase the whole road allowance. In the event the purchase option for the whole road allowance is not exercised within 30 days, the City may choose to either stop the sale process or offer it to the highest bidder through the tender process.

4.4 ACQUISITIONS

- 4.4.1 At Less than Fair Market Value: Acquisitions may be conducted at less than fair market value in the following circumstances:
- i) gratuitous dedications offered by land owners prior to dedication as a condition of development application approval, or
 - ii) conveyances from other levels of government, or
 - iii) gifts, or
 - iv) negotiated price.
- 4.4.2 Property Request: Prior to commencing negotiations for an Acquisition, a request for Property Acquisition must be submitted to and approved by Council in Closed Session, containing sufficient justification for the Acquisition, cost estimate and funding source to enable Council in Closed Session to make an informed decision.

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

4.4.3 Council Approval: All Acquisitions shall be subject to Council approval.

4.4.4 Agreement of Purchase and Sale: All Agreements for the acquisition of Fee Simple lands shall contain a condition providing an inspection period for the City to satisfy itself as to the physical condition of the property via geotechnical and environmental investigations, a structural review completed by a structural engineer, unless specifically directed otherwise by Council.

4.4.5 Confidential: All negotiations and discussions pertaining to the potential acquisition of property shall be kept confidential by all parties involved.

4.5 OCCUPANCY AGREEMENTS

4.5.1 Request: All requests for Occupancy Agreements shall be made in writing to the Manager, Legislative Services.

4.5.2. Fee: The fee for an Occupancy Agreement shall be as set out in Chapter 454 of the City of Orillia Municipal Code. In addition, the applicant will be required to assume all the City's legal costs to prepare the Agreement and submit a deposit of \$800.00 to cover legal expenses.

4.5.3 Transfer of Agreement: The transfer or assignment by the licensee to each subsequent land owner will be subject to an additional municipal administration fee as set out in Chapter 454 of the City of Orillia Municipal Code.

4.5.4 Delegated Authority: The City Manager shall have the authority to enter into Occupancy Agreements in accordance with Section 3.5.

4.5.5 Management: All Occupancy Agreements shall be managed by the Manager, Legislative Services.

5.0 ACQUISITION BY EXPROPRIATION

5.1 The process of expropriation of real estate by the City shall be conducted pursuant to the *Expropriations Act*, and shall require the express approval of Council.

CITY OF ORILLIA POLICY MANUAL

Part	1	General Government	1.7.1.1.
Section	7	Land Purchase and Sale	
Sub-Section	1	Real Estate	
Policy	1	Real Estate Policy	

Page 13 of 13

6.0 MAINTENANCE OF MUNICIPAL INVENTORIES

- 6.1 Effective September 2009, the Manager, Legislative Services shall maintain the following inventories:
- i) Municipal Real Estate Inventory;
 - ii) Municipal Easement Inventory; and
 - iii) Municipal Occupancy Agreement Inventory.
- 6.2 The Manager, Legislative Services shall keep the inventories current, accurate and complete, to the highest degree reasonably possible. The inventories shall reside in appropriate databases and shall be manipulated by applications currently available to City staff, which best facilitate inventory maintenance, research and reporting.
- 6.3 Municipal Real Estate Inventory: Identifies Real Estate owned in Fee Simple by the City and provides relevant information.
- 6.4 Municipal Easement Inventory: Identifies permanent Easements in favour of the City and provides relevant information.
- 6.5 Municipal Occupancy Agreement Inventory: Identifies Occupancy Agreements to which the City is a party and provides relevant information.

7.0 APPLICATION OF POLICY - PROCEDURES

- 7.1 The City Manager, in consultation with the Manager, Legislative Services is hereby authorized to prescribe procedures consistent with this Policy and the objectives set out in Section 2.0 regarding the methods of performing real estate functions that will most effectively achieve the objectives of this Policy.

(R. 2008-209C 08.07.21)
(R.2010-230 10.09.20)
(R. 2011-37C 11.01.31)