

CITY OF ORILLIA POLICY MANUAL

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

PURPOSE

The purpose of this policy is to establish principles which govern how City of Orillia Staff and Council carry out the City's Real Property functions.

PRINCIPLE

Staff will ensure that the execution of the City's Real Property functions are performed with the utmost integrity and in compliance with applicable legislation.

OBJECTIVES

- (i) To manage the Real Property interests of the Corporation of the City of Orillia in a timely, accountable and efficient manner while achieving the maximum benefit to the City, financially or otherwise.
- (ii) To permit the acquisition of Real Property rights required for effective municipal operations, or desired to achieve strategic goals or objectives for the planned function of the City.
- (iii) To permit the disposal of Real Property interests surplus to the needs of the City, and/or which disposal may further the City's objectives financially or otherwise.
- (iv) To protect the confidentiality of third-party interests.
- (v) To maintain an accurate, current and complete inventory of all city-owned Real Property and property rights.
- (vi) To ensure consultants retained for Real Property services understand and are aware of the City's Real Property 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 Property or entering into a long term lease as lessee.
1.2 Disposal	The act of selling or transferring fee simple ownership of Real Property or entering into a long term lease as lessor.

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- 1.3 Encroachment The emplacement, advancement or extension of a structure or installation or object of a person onto land owned by the City that may or may not be approved by the City.
- 1.4 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.
- 1.5 Fee Simple An ownership of Real Property in which the owner has the right to control, use, and transfer the property at will.
- 1.6 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.
- 1.7 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.
- 1.8 Licence A permission given to use land for a specific purpose without transferring any Real Property interest in land. A licence is ordinarily revocable at the will of the licensor or for reasons, other than default, as specified in the licence.
- 1.9 Limited Interest Rights to use Real Property that are less than fee simple in which a person has some specific rights to control and use Real Property, said rights to be conveyed by way of leases with a term of less than 21 years, easements and licences.
- 1.10 Long Term Lease A lease with a term of 21 years or more directly or by entitlement to extend or renew.
- 1.11 Municipal Easement Inventory A database that identifies and provides relevant information about easements either granted by, or in favour of, the City.
- 1.12 Municipal Limited Interest Inventory A database that identifies and describes limited interest agreements to which the City is a party.

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2.0 REAL PROPERTY TRANSACTIONS

2.1 GENERAL PROVISIONS

- 2.1.1 Encroachments: Encroachments shall be rectified to the City's satisfaction by removal, disposal, or granting of lease, licence, or limited interest.
- 2.1.2 Determining Value:
- a) When negotiating for Real Property acquisitions or disposals the City shall satisfy itself as to the value of the Real Property, or long term leasehold interest in accordance with subsection 1.14.
 - b) Notwithstanding the provisions of section 2.1.1 a), the City is not obliged to accept the highest value offer to purchase or lease when disposing of property where multiple offers to purchase or lease have been received, or submit an offer to purchase or lease equal to the fair market value.
- 2.1.3 Negotiations: Subject to the provisions of Chapter 251 of the City of Orillia Municipal Code, Real Property transaction negotiations shall be conducted by the CAO or designate.
- 2.1.4 Agreement Review: All agreements for the acquisition or disposal of Real Property shall be reviewed by the City Solicitor. The City Solicitor shall provide a recommendation to the CAO or designate, prior to Council's consideration of the agreement. The recommendation by the City Solicitor shall cite potential material liability issues associated with the terms and conditions of the agreement.
- 2.1.5 Recommendation Report: Where not otherwise authorized, a written report recommending approval to execute a Real Property transaction agreement shall be prepared for presentation to Council or the CAO or designate, as appropriate.
- 2.1.6 Agreement Execution: All real property transaction agreements shall be executed by the Mayor or designate and the CAO or designate or as otherwise stipulated in Chapter 251 of the City of Orillia Municipal Code.
- 2.1.7 Transaction Related Costs:
- a) Where the City is marketing its Real Property;
Each agreement shall have consideration for 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.
 - b) Where the City is not marketing its Real Property;

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Each agreement shall identify the buyer's 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, unless otherwise directed by Council.

- 2.1.8 Acquisition or Disposal Condition: Every acquisition or disposal agreement shall be conditional upon having successfully completed all required procedures for the acquisition or disposal of the property set out in the Real Property 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 acquisition or disposal of the property and its discretion to pass or refuse to pass such confirming by-law.

Notwithstanding the foregoing, acquisitions in the form of Parkland Dedications, Road Widening Dedications, 0.3 metre Reserves, or Trail Dedications as detailed in the *Planning Act*, the City's Official Plan, the City's Parkland Dedication Policy and/or By-law, or other applicable legislation shall not require the passage of a by-law to confirm the completion of all required procedures. Similarly, an acquisition by the City from its public utility (i.e. the Orillia Power Generation Corporation) shall not require the passage of a by-law to confirm the completion of all required procedures.

- 2.1.9 Fee: The fees for certain Real Property transactions shall be as set out in Chapter 454 of the City of Orillia Municipal Code. In addition, the applicant may be required to assume all the City's legal costs to prepare the agreement and submit a legal deposit as determined by the CAO or designate to cover legal expenses.

2.2 REAL PROPERTY ACQUISITIONS

- 2.2.1 Property Request: Prior to commencing negotiations for an acquisition, a written submission of a Property Request is required from a Department, Board, Committee, Working Group, or a party external to the City. The submission shall include information relevant to the required Real Property transaction and shall identify a source of funding to initiate negotiations.

Notwithstanding the foregoing, acquisitions in the form of Parkland Dedications, Road Widening Dedications, 0.3 metre Reserves, or Trail Dedications as detailed in the *Planning Act*, the City's Official Plan, the City's Parkland Dedication Policy and/or By-law, or other applicable legislation shall not require the submission of a Property Request. Similarly, an acquisition by the City from its public utility (i.e. the Orillia Power Generation Corporation) shall not require the submission of a Property Request.

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2.2.2 Agreement of Purchase and Sale: All agreements for acquisitions shall contain a condition that provides an inspection period that allows the City to satisfy itself as to the condition of the Real Property. The inspection period may include investigations into any or all of the following:

- a) Opinion of value;
- b) Archaeological Assessment;
- c) Geoenvironmental Assessment;
- d) Geotechnical Assessment;
- e) Market Demand Analysis;
- f) Structural Analysis;
- g) Any other studies deemed necessary.

2.3 REAL PROPERTY DISPOSALS

2.3.1 Property Request: Prior to commencing negotiations for a disposal, a written submission of a Property Request is required from a Department, Board, Committee, Working Group, or a party external to the City. The submission shall include information relevant to the required Real Property transaction and shall identify a source of funding for any expenditure associated with the disposal.

2.3.2 Giving Public Notice: Public notice for disposals shall be given in accordance with applicable legislation, and in accordance with Policy 1.2.7.1. of the City of Orillia Policy Manual.

2.3.3 Employment Area Land: Notwithstanding 2.3.2 herein, Employment Area Land, as specifically set out in Schedule "A" to this Policy, shall be exempt from the public notice requirement.

2.3.4 Opinion of Value Exemptions:

Except when directed by Council, staff shall not be required to obtain an opinion of value prior to the disposal of the following classes of Real Property:

- a) Land formerly used for railway lines if sold to an owner of land abutting the former railway land;
- b) Land that does not have direct access to a highway if sold to the owner of land abutting that land;
- c) Land to be conveyed to a local board as defined in the *Municipal Act, 2001*;
- d) Land to be conveyed to the Crown in Right of Ontario or of Canada and their agencies.

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- e) Land to be conveyed for affordable housing in accordance with Policy 4.2.1.4.

2.3.5 Methods of Disposal: Depending on the nature of the Real Property, various methods may be employed for its disposal. These methods include public auction; tender processes; request for proposals; listings through the Multiple Listing Service (MLS); direct advertising; or through direct negotiations. The CAO or designate, as stipulated in Chapter 251 of the City of Orillia Municipal Code, shall determine the appropriate method of sale.

3.0 DISPOSAL OF ROAD ALLOWANCES

3.1 Developable Land: All municipal road allowances of adequate size for development and determined to be surplus to the needs of the City, may be offered for sale in accordance with this policy.

3.2 Non-Developable Land: All municipal road allowances determined to be surplus to the needs of the City, which are not of adequate size for development, shall be offered proportionately at the discretion of the City to each of the significant abutting private property owners in accordance with this policy. In the event that the purchase option is not exercised by an abutting private property owner(s) within 30 days the City may choose to retain the Real Property or dispose of the Real Property in accordance with this policy.

3.3 Road Allowances Adjacent to Water: To protect the long term public access to Lakes Couchiching and Simcoe, road allowances adjacent or leading to the shoreline shall not be conveyed out of municipal ownership unless specifically authorized by Council.

4.0 LICENCES

4.1 Request: All requests for licences shall be made in writing (using the Real Property application form), together with the applicable municipal administration fee as set out in Chapter 454 of the City of Orillia Municipal Code.

4.2 Transfer of Licence: The transfer or assignment by the licensee to each subsequent land owner may be authorized by the CAO or designate, and will be subject to an additional municipal administration fee as set out in Chapter 454 of the City of Orillia Municipal Code.

4.3 Temporary Licence: Temporary licences may be issued for periods up to one year (with an option to renew at the City's sole discretion) in accordance with the

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provisions of Chapters 251 and 454 of the City of Orillia Municipal Code to allow improvements to be recognized, or work to be commenced on Real Property owned by the City of Orillia, when the abutting property owner has commenced an acquisition process to purchase the abutting portion of City-owned Real Property.

5.0 ACQUISITION BY EXPROPRIATION

5.1 The process of expropriation of Real Property by the City shall be conducted pursuant to the *Expropriations Act*.

6.0 LEASES

6.1 Lease Agreements shall be drafted in a form satisfactory to the City Solicitor.

6.2 All Leases shall be transacted at Fair Market Value to the satisfaction of the CAO or designate.

6.3 Any Lease of City Real Property to a Not-For-Profit Entity shall be transacted at Fair Market Value. Any difference between Fair Market Value and the Lease rate negotiated shall be calculated as a grant to the Not-for-Profit Entity. Before any Lease is entered into by a Not-For-Profit Entity and the City, pursuant to this term 6.3, City staff shall inform Council *via* CIP 4 weeks in advance to allow sufficient time for Council to comment and provide direction.

6.4 Where applicable, all leases shall be a carefree net Lease in favour of the City. The tenant shall be responsible for payment of their share of all operating costs, including, but not limited to, taxes, utilities, maintenance, insurance and any other costs incurred related to the tenant's occupancy of the property.

6.5 Unless there is a compelling business case to suggest otherwise, all capital improvements to the leased Real Property will be paid for by the tenant either as an upfront capital contribution or to be recovered by the City as additional rent in the terms of the lease.

7.0 MAINTENANCE OF MUNICIPAL INVENTORIES

7.1 The CAO or designate shall maintain the following inventories:

- i) Municipal Real Property Inventory;
- ii) Municipal Easement Inventory; and
- iii) Municipal Limited Interest Inventory.

8.0 APPLICATION OF POLICY - PROCEDURES

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8.1 The CAO or designate is hereby authorized to prescribe procedures consistent with this policy and its objectives regarding the methods of performing Real Property 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)

(R. 2017-143 17.07.26)

(R. 2018-159 18.08.16)

(R. 2020-150 20.11.09)

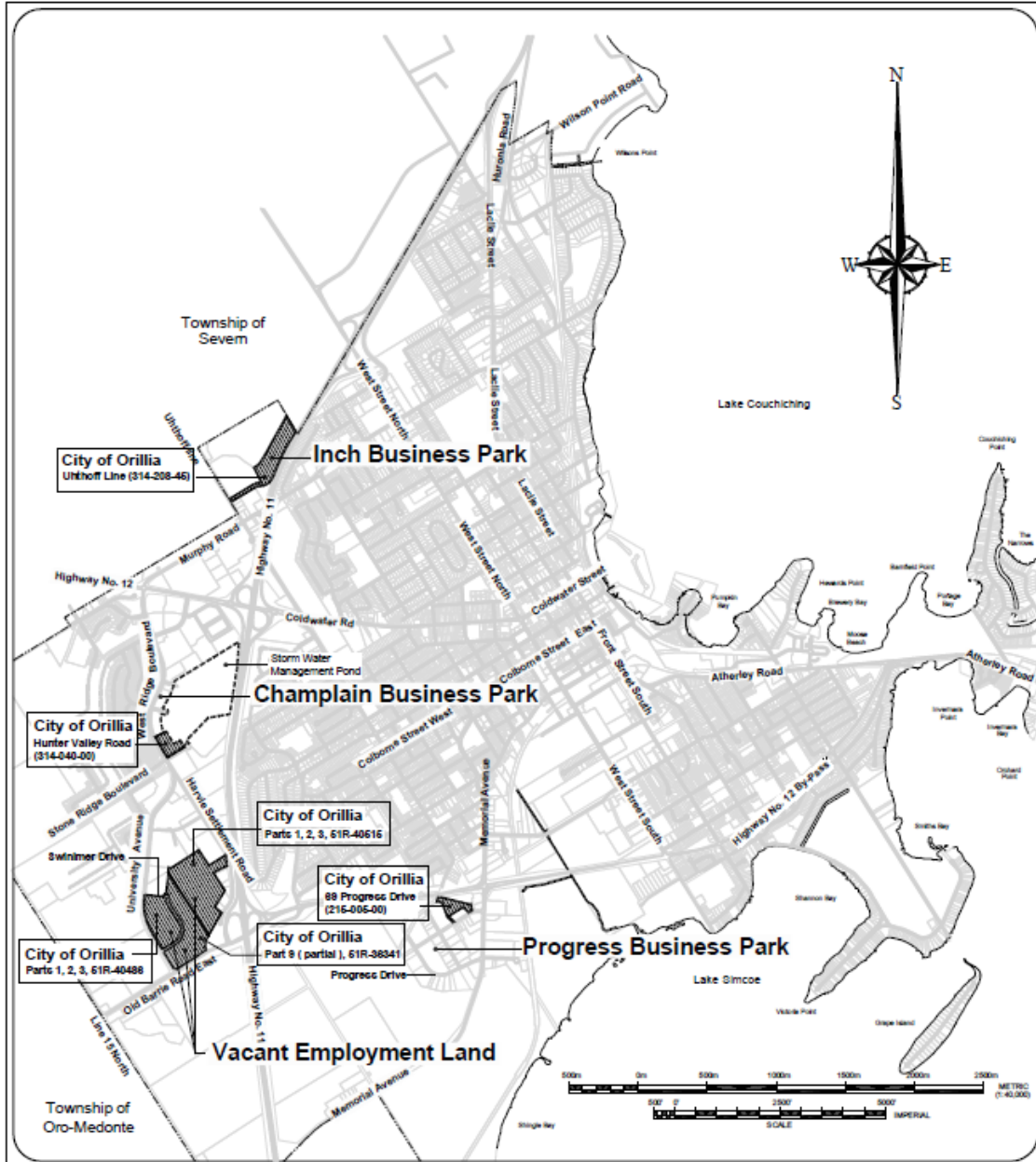
(R. 2021-97 21.07.19)

(R. 2022-147 22.10.31)

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Schedule "A"



DESIGN BY:
DRAWN BY: WH
CHECKED BY: LT
APPROVED BY:
DATE: JUNE 20, 2017
PLOTTED: JUNE 20, 2017



THE CORPORATION OF THE
CITY OF ORILLIA

Engineering and
Transportation Department

TITLE
**Employment Lands
Owned by the City of Orillia**

FILE:
SHEET: PLAN No:
ACAD FILE:
SKGJEDC3.DWG