

ADMINISTRATION

Chapter 177 SALE - REAL PROPERTY

Article 1 SHORT TITLE

177.1.1 Citation

Article 2 INTERPRETATION

177.2.1 Appraisal - defined

177.2.2 Sale - defined

Article 3 PRESALE REQUIREMENT

177.3.1 By-law - resolution - declare surplus

177.3.2 Appraisal - at least one per property

177.3.3 Notice - to public - proposed sale

177.3.4 Report - to Council - for approval

Article 4 INDUSTRIAL PROPERTY

177.4.1 Declared surplus - sites set out

177.4.2 Future site - declared surplus

177.4.3 Sale - public notice - not required

Article 5 ACQUISITION - LAND UNDER 0.3 METRES WIDE

177.5.1 Declared surplus - as certified by Engineering Services

177.5.2 Public notice - not required - information available

SALE - REAL PROPERTY

Article 6 GENERAL PROVISIONS

- 177.6.1 Appraisal - types - set out
- 177.6.2 Notice - to public - types - set out
- 177.6.3 Notice - to other authorities - corporations - boards
- 177.6.4 Method of sale - types - set out
- 177.6.5 Register - City property - established - maintained
- 177.6.6 Register - to list - describe - surplus property
- 177.6.7 Register - based on last revised assessment roll
- 177.6.8 Register - open to inspection
- 177.6.9 Documents - executed by - Mayor - Clerk
- 177.6.10 Certificate of compliance - form Schedule 'B'
- 177.6.11 Certificate of compliance - attached to transfer of land

Article 7 EXEMPTIONS

- 177.7.1 Sale - agreement - municipal capital facilities
- 177.7.2 Highway - closure - sale pursuant to Municipal Act
- 177.7.3 Expropriated land - abandoned - revested - disposal
- 177.7.4 Agreements - prior to January 1, 1995

Article 8 ENACTMENT

- 177.8.1 Effective date

SCHEDULE

- Schedule 'A' - Ontario Regulation 815/94
 - Schedule 'B' - Certificate of Compliance
-

Article 1
SHORT TITLE

177.1.1 Citation

This Chapter may be cited as the Sale of Real Property Procedural By-law.

Article 2
INTERPRETATION

177.2.1 Appraisal - defined

“appraisal” means a written evaluation of the fair market value of the real property proposed to be sold.

177.2.2 Sale - defined

“sale” includes a lease of 21 years or longer and a transfer of easement.

Article 3
PRESALE REQUIREMENT

177.3.1 By-law - resolution - declare surplus

Before selling any real property owned by the City, Council shall by by-law or resolution passed at a meeting open to the public, declare the real property to be surplus to the City’s needs.

177.3.2 Appraisal - at least one per property

Before selling any real property owned by the City, Council shall obtain at least one appraisal of the real property, unless an appraisal is not required as set out in sections 1 and 2 of Ontario Regulation 815/94, as set out in Schedule ‘A’ as may be amended from time to time.

177.3.3 Notice - to public - proposed sale

Before selling any real property owned by the City, Council shall give notice to the public of the proposed sale.

177.3.4 Report - to Council - for approval

Prior to the consideration by Council of any proposed sale of real property, a report shall be presented for approval to Council, directly or through one of its standing committees, respecting the following matters:

- (a) a description, location and sketch of the real property;
- (b) whether the real property is surplus to the City’s needs and the reason why it should be declared surplus;
- (c) unless an appraisal is not required, what type of appraisal pursuant to Section 177.6.1 should be obtained to determine its fair market value;

- (d) what type of notice to the public pursuant to Section 177.6.2 should be given;
- (e) persons, corporations, authorities, local boards and bodies to whom notice pursuant to Section 177.6.3 should be given;
- (f) recommendation as to method of sale pursuant to Section 177.6.4; and
- (g) recommendation as to terms or conditions of sale.

Article 4 INDUSTRIAL PROPERTY

177.4.1 Declared surplus - sites set out

Despite Section 177.3.4, all industrial real property contained within Huron Industrial Park (Phases I, II and III) Bridgeport Industrial Park and Lancaster Corporate Centre is hereby declared to be surplus to the City's needs and no further declaration under Section 177.3.1 is required.

177.4.2 Future site - declared surplus

Despite Section 177.3.4 any future industrial real property developed by the City as an industrial park will be declared surplus to the City's needs at that time, by by-law or resolution passed at a meeting open to the public. By-law 95-61, 10 April, 1995.

177.4.3 Sale - public notice - not required

Despite Section 177.3.4 no notice to the public of the proposed sale of industrial real property is required other than general marketing by the City's Director of Economic Development and notice of a proposed sale on the agenda of the Development and Technical Services Committee or Council.

Article 5
ACQUISITION - LAND UNDER 0.3 METRES WIDE

177.5.1 Declared surplus - as certified by Engineering Services

Despite Section 177.3.4, all land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act* is hereby declared to be surplus to the City's needs, effective upon the fulfilment of the purpose for which it was acquired, as certified by the City's Assistant General Manager of Engineering Services, and no further declaration under Section 177.3.1 is required. By-law 95-61, 10 April, 1995; By-law 2001-224, 26 November, 2001.

177.5.2 Public notice - not required - information available

Despite Section 177.3.4, no notice to the public is required other than notice of the proposed acquisition of the land 0.3 metres or less in width and the proposed purpose to be fulfilled before the conveyance thereof to the abutting property owner, as identified in the report of the City's Development and Technical Services Department, available to the public and directed to the Development and Technical Services Committee, Council or Committee of Adjustment. By-law 95-61, 10 April, 1995; By-law 99-12, 1 February 1999; By-law 2001-224, 26 November, 2001.

Article 6
GENERAL PROVISIONS

177.6.1 Appraisal - types - set out

An appraisal required under Section 177.3.2 may be one of the following types:

- (a) a self-contained appraisal report, summary appraisal report or restricted appraisal report prepared by an accredited appraiser of the Appraisal Institute of Canada;
- (b) an appraisal report prepared by a designated member of the International Right of Way Association;
- (c) an appraisal report prepared by a qualified member of another recognized appraisal organization; or
- (d) a letter of opinion or other appraisal satisfactory to the City Solicitor. By-law 95-61, 10 April, 1995; By-law 99-149, 30 August, 1999.

177.6.2 Notice - to public - types - set out

Notice to the public of the proposed sale of real property, required under Section 177.3.3, may consist of one or more of the following types:

- (a) by advertisement in a daily newspaper of general circulation;

- (b) by listing with a real estate broker or by direct multiple listing with the Kitchener-Waterloo Real Estate Board;
- (c) by posting of a “For Sale” sign on the property;
- (d) by advertisement on local cable television, Internet or other telecommunication;
- (e) by personal service, registered mail, certified mail, courier or fax;
- (f) by a report of the City’s Development and Technical Services Department available to the public; or
- (g) by listing on the Council or Committee of Council agenda. By-law 95-61, 10 April, 1995; By-law 99-12, 1 February 1999; By-law 2001-224, 26 November, 2001.

177.6.3 Notice - to other authorities - corporations - boards

Notice may be given to any or all of the following:

- (a) government of Canada or any of its ministries or agencies;
- (b) government of Ontario or any of its ministries or agencies;
- (c) Regional Municipality of Waterloo;
- (d) Waterloo Region District School Board and Waterloo Catholic District School Board;
- (e) Kitchener Power Corporation;
- (f) Grand River Conservation Authority;
- (g) adjacent land owners as determined by a search of title; and
- (h) such other persons, corporations, authorities, local boards and bodies as determined by the City Solicitor. By-law 95-61, 10 April, 1995; By-law 99-149, 30 August, 1999; By-law 2001-224, 26 November, 2001.

177.6.4 Method of sale - types - set out

The method of sale of real property may be one or more of the following:

- (a) direct sale by the City;
- (b) sale by real estate agent;
- (c) land exchange;
- (d) public tender;
- (e) call for proposal; and
- (f) public auction. By-law 95-61, 10 April, 1995.

177.6.5 Register - City property - established -maintained

The City Solicitor shall establish and maintain a public register listing and describing the real property owned and leased by the City, except for the real property not required to be listed as set out in section 3 of Ontario Regulation 815/94, as set out in Schedule 'A' and as may be amended from time to time. By-law 95-61, 10 April, 1995; By-law 99-149, 30 August, 1999.

177.6.6 Register - to list - describe - surplus property

The public register may list and describe, separately, all real property declared to be surplus to the City's needs by Council.

177.6.7 Register - based on last revised assessment roll

The public register will be based upon the last revised assessment roll and may include the following:

- (a) assessment roll number;
- (b) municipal address;
- (c) legal description;
- (d) property size or dimensions;
- (e) whether City owns or leases the real property;
- (f) official/municipal plan designation and zoning category; and
- (g) current use of the real property. By-law 95-61, 10 April, 1995

177.6.8 Register - open to inspection

The public register shall be made available for inspection in the office of the City Solicitor during regular office hours. By-law 95-61, 10 April, 1995; By-law 99-149, 30 August, 1999.

177.6.9 Documents - executed by - Mayor - Clerk

Where the sale of real property is approved by Council all documents required to carry out the sale shall be executed on behalf of the City by the Mayor and Clerk.

177.6.10 Certificate of compliance - form Schedule 'B'

Where the sale of real property is approved by Council the Clerk may issue a "Certificate of Compliance" in the form as set out in Schedule 'B'.

177.6.11 Certificate of compliance - attached to transfer of land

Where the sale of real property is approved by Council such certificate shall be attached to the transfer of land and, unless a person to whom the real property is sold has notice to the contrary, shall be deemed to be sufficient proof that section 193 of the *Municipal Act*, R.S.O. 1990, c. M.45 has been complied with.

Article 7 EXEMPTIONS

177.7.1 Sale - agreement - municipal capital facilities

The procedures set out in this Chapter do not apply to the sale or disposition of real property in accordance with an agreement for the provision of municipal capital facilities entered into pursuant to subsection 210.1(2) of the *Municipal Act*, R.S.O. 1990, c. M.45.

177.7.2 Highway - closure - sale pursuant to Municipal Act

Where Council determines to sell a highway, closed or proposed to be closed, the notice provision in section 300 and the sale provisions in section 315, of the *Municipal Act*, R.S.O. 1990, c. M.45 in respect thereto shall be adhered to and override this Chapter.

177.7.3 Expropriated land - abandoned - revested - disposal

Where expropriated land is to be abandoned and revested or disposed of, the provisions of sections 41 and 42 of the *Expropriations Act*, R.S.O. 1990, c. E.26 shall be adhered to and override this Chapter.

177.7.4 Agreements - prior to January 1, 1995

This Chapter does not apply to agreements entered into for the sale of land under section 193 of the *Municipal Act*, R.S.O. 1990, c. M.45 prior to January 1, 1995.

Article 8 ENACTMENT

177.8.1 Effective date

This Chapter shall come into force on the date of the passing of the enabling by-law and apply to all sales of real property approved by Council on or after that date. By-law 95-61, 10 April, 1995.

SALE - REAL PROPERTY

SCHEDULE

Schedule 'A' - Ontario Regulation 815/94

ONTARIO REGULATION 815/94 made under the *Municipal Act*

Made: December 21, 1994

Filed: December 21, 1994

Disposal of Property

1. A municipality or local board may sell the following classes of real property without obtaining an appraisal under subsection 193 (4) of the Act:

1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*.
2. Highways, roads and road allowances.
3. Land formerly used for railway branch 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 to be used for sites for the establishment and carrying on of industries and of industrial operations and incidental uses.
7. Land sold under sections 112, 112.1, 112.2 and 113 of the *Municipal Act*.
8. Easements granted to public utilities or to telephone companies.
9. Land sold under the *Municipal Tax Sales Act*.

2. A municipality or local board may sell real property to the following classes of public bodies without obtaining an appraisal under subsection 193 (4) of the Act:

1. Any municipality, including a metropolitan, regional or district municipality and the County of Oxford.
2. A local board as defined in the *Municipal Affairs Act*.
3. An authority under the *Conservation Authorities Act*.

SALE - REAL PROPERTY

4. The crown in Right of Ontario or of Canada and their agencies.
3. A municipality or local board is not required to list the following classes of real property in the public register established under subsection 193(7) of the Act:
 1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*.
 2. All highways, roads and road allowances, whether or not opened, unopened, closed or stopped up.
 3. Land formerly used for railway branch lines.
4. This regulation comes into force on the day section 55 of the *Planning and Municipal Statute Law Amendment Act, 1994* comes into force.

Ed Philip

Minister of Municipal Affairs

Dated at Toronto on December 21, 1994.

By-law 95-61, 10 April, 1995; Schedule 'A'.

SALE - REAL PROPERTY

Schedule 'B' - Certificate of Compliance

Certificate of Compliance
under section 193 of the *Municipal Act*,
R.S.O. 1990, c. M.45, as amended

Certificate of Compliance with section 193 of the *Municipal Act* with respect to the sale of the real property described as:

I hereby certify that:

1. The Municipality passed By-law Number 95-61 on April 10, 1995.

It is a procedural by-law governing the sale of real property and was in force on the date of the sale of the property described above.

Delete if not applicable

2. The property was declared surplus by by-law or resolution passed at a meeting open to the public on _____ (date).

Delete if not applicable

3. An appraisal of the fair market value of the property was obtained on _____ (date).

Delete if not applicable

4. The sale of the property is exempt from the requirement to obtain an appraisal of its fair market value under the following exemption:

Delete if not applicable

5. Public notice of intent to sell the property was given by the following method(s):

on _____

(Signature of Clerk)

(date)

By-law 95-61, 10 April, 1995; Schedule 'B'.