DISPOSITION AND ACQUISITION OF MUNICIPAL LAND POLICY

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Classification	ADM
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Approval Authority	COUNCIL
Supersedes	1999-02 *(partially)*
Mandated Review	2027

1. PURPOSE

The purpose of this policy is to provide guidelines to City Council and Administration in the disposition and acquisition of municipal land.

Specific protocols for the disposition of surplus land, as per respective surplus designations, are also contained herein.

2. SCOPE

The Disposition and Acquisition of Municipal Land Policy applies to the disposition and acquisition of municipal lands.

City staff charged with the administration of this policy will be accountable to the provisions under this policy and any related City By-laws or Policies.

3. DEFINITIONS

(1)	**ACQUISITION**	means the acquisition of land or an interest in land for municipal purposes.
(2)	**AFFORDABLE HOUSING AGREEMENT**	means an agreement between a developer and the Government of Canada, the Government of New Brunswick, or an agency of either, under a provincial or federal affordable housing program, confirming that a development includes units meeting the affordability criteria established under that program.
(3)	**AS-IS**	means with all defects and without any written or oral representation or warranty of any kind, expressed or implied, from the City as to the condition, zoning, environmental or other of the land.

(4)	**LAND FOR PUBLIC PURPOSES**	means "land for public purposes" as defined in the *Community Planning Act*, SNB 2017, c. 19 or any amendments thereto or successor legislation.
(5)	**NON-PROFIT DEVELOPER**	means a non-profit corporation, registered charity, or community land trust engaged in the development of housing.
(6)	**SURPLUS LAND**	means land that the City does not have a need for and would be of interest to potential purchasers/recipients due to size, shape, location, typology, environmental condition, permitted land uses, or any other factor.
(7)	**SURPLUS LAND DESIGNATION**	means the category assigned by Council for the disposition of surplus land, which relates to the method of disposition and intended future use after disposition.

4. POLICY STATEMENT

This policy should be read in conjunction with the City's applicable acts, bylaws, policies, protocols, procedures, and supporting references.

4.1. LAND DISPOSITION

4.1.1. Identification and Recommendation for the Declaration and Designation of Surplus Land:

(a) Potential surplus land may be identified by:

a. Council; or
b. Administration through:
    i) Internal review of municipal land; or
    ii) Request for the disposition of municipal land by an interested party.

(b) Following the identification of surplus land under (a), Administration shall coordinate an interdepartmental review of the surplus land by, at minimum, requesting feedback from all Department Heads to determine:

a. If any department wishes to retain the land for a specific purpose pursuant to its mandate, which may entail environmental considerations including, but not limited to, the preservation of land for environmental purposes (e.g. retention of naturalized areas such as wetlands and urban forests); and

b. Where no department expresses interest to retain land under a., the recommended surplus designation(s) under (c) and any conditions to be considered in the conveyance of land.

(c) Surplus designations are as follows:

a. Economic Development – Properties having economic development potential ought to be sold to:

i) Maximize use or value;
ii) Achieve the attraction of targeted industries and employment or the regeneration of neighborhoods;
iii) Advance development opportunities; or
iv) Generate financial return to the City.

b. Extraordinary – Properties having a legal distinction that include conditions or extraordinary process with respect to their preservation or disposition including, but not limited to:

i) Land held in trust, or upon condition, or with reserving interests, or like constraints; and
ii) Land for Public Purposes acquired through the subdivision process, the disposition of which is governed by section 76 of the Community Planning Act.

c. Remnant – Properties that are remaining or subdivided land that by the nature of their size, dimensions, or location have limited or no reasonable use, but which may have utility for abutting property owners and can be sold less than market value.

d. Intergovernmental Transfer – Properties requested by another level of government that will be used for a public purpose and sold for market value.

e. Building Lot – means a designated parcel, tract or area of land, and the portion or portions of adjacent lots, to be used or developed as the site for a building or structure.

(d) In establishing a recommendation for surplus designation(s) under (c), Administration shall take into consideration, but not limited to, the following criteria:

a. Potential economic return to the City from the expected:
   i) Sale of the land; and
   ii) Long-term tax generation from future land improvements;
b. Current zone under the Zoning By-Law Map of the Zoning By-law;
c. Potential for the future use of the land to achieve the goals and objectives of the City as articulated in its plans and strategies.
d. Developability of the potential surplus land regarding:

i) Size, shape, and topography;
ii) Existing buildings or structures and natural assets (e.g. urban forest);
iii) Development constraints including, but not limited to, easements, rights-of-way, encumbrances, natural physical features, flood zones, and heritage resources; and
iv) Availability of water, stormwater, sanitary, and electrical servicing;

e. Proximity to transportation networks (e.g. existing and future streets, transit routes, active transportation routes and facilities);
f. Proximity to essential services (e.g. medical, educational, financial, food);
g. Proximity to public amenities (e.g. parks, playgrounds, public open space);
h. The proximity of heritage resources, including heritage properties designated under the Heritage Conservation Act, as well as any amendments or subsequent versions of that Act.
i. Adjacent land uses and compatibility with the expected future use of the surplus land; and
j. Existing neighborhood character.

(e) The recommendation for declaration and surplus designation of surplus land by Administration to Council shall be brought forward in a Closed Meeting and shall include in the Request for Decision Form:
a. The rationale for the recommended declaration of surplus land;
b. The rationale for the recommended surplus designation;
c. If a consensus cannot be reached by Administration in establishing recommended surplus designation(s) under b., an analysis of the potential benefits and drawbacks associated with the various surplus designation options;
d. The method of disposition under subsection 4.1.3; and
e. Where applicable, the composition of the interdepartmental team or committee.

4.1.2. Council Declaration and Designation of Surplus Land

(a) Upon recommendation of Administration under paragraph 4.1.1 (e), Council may declare land owned by the City as surplus land.

(b) Despite the recommendation under paragraph 4.1.1 (e), Council may choose to retain the land for a specific purpose, which may entail environmental considerations including, but not limited to, the preservation of land for environmental purposes (e.g. retention of naturalized areas such as wetlands and urban forests).

(c) The declaration of surplus land under (a) shall also include the approval of surplus designation(s) under paragraph 4.1.1 (c).

(d) Where Council declares land as surplus and designates it Economic Development, Council may, at its discretion, indicate a preference for the land to be developed for

housing. Where no such preference indicated, the land shall be disposed of in accordance with this policy without regard to the provisions of Schedule A respecting Affordable Housing.

(e) In declaring surplus land under (a), Council shall direct Administration to proceed with the disposition of the land according to the surplus designation(s) per subsection 4.1.3.

4.1.3. Method of Disposition

(a) Following direction from Council, Administration shall proceed with the disposition of the surplus land in accordance with the methods determined by the surplus land designation(s):

a. Economic Development: The process outlined in Schedule A shall be followed for the disposition of these properties.
b. Extraordinary: These properties shall be dealt with as required by legislation, common law, or contract that governs any disposition by the City and may be omitted from this policy.
c. Remnant: Administration shall negotiate the sale of such properties with any interested abutter of such properties and at such price as supported by appraisal or comparable land valuations.
d. Intergovernmental Transfer: These properties shall be dealt with as directed by Council.
e. Building Lot: All City owned low-density residential building lots shall be sold through a licensed real estate company. Land shall be sold at a price as close to market value as possible. If following a six-month listing the land remains unsold, administration, with the approval of Council, may review other methods of sale.

(b) Subject to Schedule A, following the declaration and designation of surplus land, Administration is authorized to:
a. Negotiate land transactions; and
b. Finalize and close land transactions that are not less than fair market value by more than 10%.

(c) Except for surplus land designated as Remnant, offers received that involve a land swap or are less than fair market value by more than 10% shall be subject to Council approval.

(d) Despite (b), further approval is required from Council in accordance with the method of disposition under Schedule A.

(e) All surplus land shall be sold on an as-is basis.

4.2. LAND ACQUISITION

(a) An Acquisition will be considered by Council if there is an identifiable municipal purpose connected to the specific property, which may entail environmental considerations including, but not limited to, the preservation of land for environmental purposes (e.g. retention of naturalized areas such as wetlands and urban forests).

(b) The policy applies whether the acquisition process is through an agreement (e.g. agreement of purchase and sale, an easement, etc.), the subdivision approval process, expropriation or any other method that may be applicable.

(c) An Acquisition may be identified by:
   a. Council;
   b. A third-party offer to dispose of its land to the City; or
   c. A department requirement for the Acquisition for a specific purpose pursuant to its mandate.

(d) Following the identification of an Acquisition under (c) b., Administration shall coordinate an interdepartmental review of the offer, at minimum, requesting feedback from all Department Heads to determine:
   a. If any department wishes to proceed with the Acquisition for a specific purpose pursuant to its mandate, Administration shall present a recommendation for the Acquisition before Council; and
   b. Where no department expresses interest to proceed with the Acquisition, the third-party offer shall be refused.

(e) Following the identification of an Acquisition under (c) c., Administration shall present a recommendation for the acquisition for Council.

(f) The recommendation for the Acquisition under (d) a. and (e) by Administration to Council shall be brought forward in a Closed Meeting and shall include, but is not limited to, in the Request for Decision Form:
   a. The rational for the recommendation for the Acquisition; and
   b. Where a consensus cannot be reached by Administration in favour of the recommendation for the Acquisition, an analysis of the potential benefits and drawbacks associated with the Acquisition for Council's consideration.

5. RELATED LEGISLATION

- *Community Planning Act*
- *Local Governance Act*

6. REVISION HISTORY

Date (yyyy/mm/dd)	Description of Change	Sections	Person who Entered Revision (Position Title)	Person who Authorized Revision (Position Title)
2026/09/08	Addition of Affordable Housing Information	Definitions, 4.1.2.(d), Schedule A	Amy-Lynn Parker, City Clerk	Council

SCHEDULE A
Disposition of Economic Development Properties

Land Appraisal

a) Appraisals shall be standard on all surplus land designated for Economic Development, prior to disposal, to ensure that the City obtains the best value for the land.

b) Despite (a), the requirement of an appraisal may be waived by Council in consideration of, but not limited to, instances where comparable land valuations are readily available.

Method of Disposition

c) Administration shall determine the surplus land designated for Economic Development should be disposed through:

i. Expressions of Interest and Request for Development Proposals; or
ii. Marketing and/or Direct Sale.

d) In considering the appropriate disposition method under (c), Administration shall take into consideration the criteria under paragraph 4.1.1 (d).

e) The recommendation and rationale for the method of disposition under (c) shall be included in the recommendation to Council for the declaration and designation of surplus land under subsection 4.1.2.

Affordable Housing Rebate

f) The provisions of this section apply only where Council has indicated a preference for housing development under paragraph 4.1.2.

g) All sales of surplus land under this section shall be transacted and reflected in all closing documents at full market value, as established under (a) or (b). No land shall be sold at a nominal or below-market value at closing on the basis of an intended affordable housing use.

h) Where the purchaser has entered into an Affordable Housing Agreement in respect of the proposed development, the following rebate provisions apply as a repayment following closing:

i. Where the purchaser is a Non-Profit Developer, one hundred percent (100%) of the sale value of the land shall be rebated.
ii. Where the purchaser is a private developer, a percentage of the sale value of the land, proportionate to the number of units covered by the Affordable Housing Agreement relative to the total number of units in the completed development, shall be rebated.

i) Eligibility for a rebate under this section shall be established by the purchaser providing Administration with documentation of the Affordable Housing Agreement;

Administration is not required to independently verify the affordability criteria of the applicable provincial or federal program.

j) A rebate shall be paid only following:

i. Closing of the land sale; and
ii. Confirmation by Administration that the development has been completed in accordance with the disposition agreement and that the Affordable Housing Agreement remains in good standing.

k) The timing, form, and documentation requirements for a rebate under this section shall be set out in the disposition agreement.

Public Advertisement

l) Public advertisement for the disposition of surplus land designated for Economic Development may include the following:

i. Advertisement on the City's website for a minimum of 30 days;
ii. Advertisement published in local newspapers for a minimum of 30 days.; and
iii. Sign on the land for a minimum of 30 days.

m) Despite (f), the public notice requirement may be waived by Council upon recommendation by Administration taking into consideration, but not limited to, the following:

i. Access to the land (e.g. only abutting landowners are in a position to purchase and assemble the land for development purposes); or
ii. The proposed sale of land to a specific landowner for the purposes of a strategic land swap/acquisition to achieve the goals and objectives of the City as articulated in its plans and strategies.

n) A recommendation under (g) to waive the public notice requirement shall be included in the recommendation to declare and designate surplus land under subsection 4.1.2.

Finalizing the Disposition of Surplus Land via Marketing and/or Direct Sale

o) Where Council approves the disposition of surplus land for Economic Development by way of Marketing and/or Direct Sale under (c) b., Administration shall be directed to sell the land, which may include a listing contract with a licensed real estate broker.

p) The sale price, negotiation, finalization and closing of land sales under this method of disposition are subject to subparagraph 4.1.1 (c) a. and subsection 4.1.3.

Expressions of Interest and Request for Development Proposals

q) Administration shall form an interdepartmental team or committee to establish criteria for the Expressions of Interest and Request for Development Proposals and to review and evaluate any submissions received.

r) Either through public advertisement under (f) or direct request to specific landowners/developers, Expressions of Interest shall be solicited for the disposition of surplus land.

s) A request for Expressions of Interest under (l) may include, but is not limited to, the:

i. The City's preference for the site, if any has been indicated by Council under paragraph 4.1.2; and ~~City of Bathurst's preference for the site, if defined; and~~
ii. Submission requirements for proponents including, but not limited to:
    (a) Composition of proposed project team; and
    (b) Proponent's experience in carrying out similar developments.
iii. Where a preference for housing development has been indicated under (i), a minimum requirement for the number or percentage of units to be developed under an Affordable Housing Agreement.

t) Following the review of Expressions of Interest submissions, Administration shall create a short list of proponents, who meet the minimum requirements, which the City will solicit development proposals from.

u) If the short list under (n) includes only one (1) proponent, the City shall solicit a development proposal directly from said proponent.

v) If the short list under (n) includes two (2) or more proponents, the City shall issue a Request for Development Proposals to said proponents through the City's standard procurement process.

w) Development proposal(s) received under (o) or (p) shall be evaluated by the interdepartmental team or committee using established evaluation criteria, which may include, but is not limited to, the following:

i. Compliance with all minimum mandatory requirements;
ii. Financial proposal;
iii. Proponent's expertise and capacity; and
iv. Land development proposal (e.g. proposal for inclusion of affordable housing and preservation of natural assets such as urban forest).

Recommendation to Council for Finalizing the Disposition of Surplus Land via Development Proposal(s)

x) Through a Request for Decision Form for consideration in a Closed Meeting, Administration shall bring forward a recommendation to Council for awarding a successful submission/proponent and finalizing the disposition of surplus land for development proposal(s).

y) The recommendation under (r) shall include, but is not limited to, the following:

i. Where applicable, an overview of the submissions received through the Expressions of Interest and Request for Development Proposals process;

ii. Where applicable, final scoring from the evaluation of any development proposals received;
iii. The recommended successful submission/proponent; and
iv. The proposed provisions of an agreement for finalizing the disposition of surplus land.

z) Where no successful submission/proponent is awarded or where no development proposals were received under (o) or (p), Council shall provide direction to Administration, which may include, but is not limited to the following:

i. Re-issuing the Expressions of Interest and Request for Development Proposals;
ii. Re-designating the land under subsection 4.1.1 (c); and
iii. Tabling the initiative and directing Administration accordingly (e.g. until such time market conditions improve).

Finalizing the Disposition of Surplus Land via Request for Development Proposal(s)

aa) The successful proponent shall enter into agreement(s) with the City for the disposition of surplus land (e.g. Agreement of Purchase and Sale, Option to Purchase Agreement, Right of First Refusal Agreement), which may include conditions such as, but is not limited to the following:

i. Performance deposit and conditions of release by a date of substantial completion and conformance;
ii. An option to repurchase the land if construction has not commenced by a specific date. All other terms and conditions of the option to repurchase shall be determined at the City's sole discretion, on a case-by-case basis.
iii. The requirement of Environmental Site Assessment prior to land conveyance;
iv. The requirement of the execution of ancillary agreements associated directly with the conveyance of the land (e.g. easement agreement);
v. The requirement of a covenant indicating that no major design alterations shall be made to the plans and drawings submitted to the City through Request for Development proposals process;
vi. The payment, and conditions thereof, of any costs associated with the conveyance of the land and to give effect to this policy, which may include, but is not limited to:
    (a) Survey fees;
    (b) Land appraisal fees; and
    (c) Legal fees for land conveyance and any ancillary agreements.
vii. Where applicable, the terms and conditions of the Affordable Housing Rebate.

bb) The entire disposition process under this method of disposition—including the determination of the sale price, the negotiation of the terms and conditions, finalization and the closing of the sale transaction—is subject to subparagraph 4.1.1 (c) a. and paragraph 4.1.3 (b).