



PURPOSE

The purpose of the Disposal of Surplus Real Property Policy (the “Policy”) is to establish how the Municipality of the District of East Hants (“East Hants”) will assess and dispose of Real Property Interests.

The purpose of this Policy is to:

1. Ensure compliance with the *Municipal Government Act*;
2. Provide a fair, consistent, and transparent approach to the disposal of Surplus Real Property;
3. Ensure Real Property is used and disposed of in a manner that supports municipal objectives; and
4. Support the Real Property Management Program by incorporating an ongoing review of the Municipally owned Real Property Inventory to identify Real Property that may be declared surplus for disposal.

SCOPE

This Policy applies to all staff with the responsibility for or involvement in the management and disposal of Real Property.

The following shall be exempt from this Policy:

1. Real Property being disposed of in Municipal Business Parks;
2. Real Property being disposed of by East Hants under tax sale procedures;
3. Real Property being re-conveyed to the individual who originally conveyed the Real Property to East Hants, where a condition, obligation, or legislation exists that requires a specific conveyance by East Hants; and
4. Real Property expropriated from East Hants by another government body pursuant to the *Expropriations Act* or any other applicable legislation.

Real Property that was dedicated or transferred to East Hants through the development application, site plan, or subdivision process, such as Open Space lands, that are declared Surplus shall follow this Policy as an “Extraordinary Disposal”; however, disposal of such lands would be a decision of Council under *Municipal Government Act* s.273(13).

DEFINITIONS

For the purpose of this Policy:

Term	Definition
Abutting	A parcel of land adjoining Municipal Real Property, having one or more lot lines in common.
Acquisition	The act of purchasing or acquiring Fee Simple ownership of Real Property or entering into a long-term lease as lessee.
Agreement of Purchase and Sale	A formal written legal contract between two (2) or more parties, with binding implications, conveying property rights or interests for money or other consideration.
Appraisal/Appraised Value	A written opinion of the Fair Market Value as of a specific date that evaluates the rights, conditions, and limitations according to accepted appraisal practices, undertaken by a recognized professional.
As-Is, Where-Is	Without representation, warranty or condition respecting the condition, developability, planning approvals, zoning, intended use, existence of encroachments, location or state of repair of any and all buildings or structures, environmental state, risks, physical conditions, or lawful use of the Real Property in question.
Disposal	The act of selling or transferring Fee Simple ownership of Real Property or entering into a long-term lease as lessor.
Donation	A voluntary gift of Real Property, given without compensation or consideration or expectation of such.
Expropriation	The Acquisition of land pursuant to the <i>Expropriations Act</i> .
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 otherwise as defined in opinion of value and/or appraisal reports.
Fee Simple	An ownership of Real Property in which the owner has the right to control, use, and transfer the property at will.
Municipal Heritage Property	Means a building, public-building interior, streetscape, cultural landscape, or area registered in a municipal registry of heritage property.
Municipal Real Property Inventory	A database that identifies and describes Real Property owned by East Hants.
Open Space	The property was conveyed to East Hants for public open space and is subject to MGA section 237(13) and MPS disposal requirements.
Opinion of Value	An informed estimate of Fair Market Value undertaken by an individual, group, or agency not registered with the Appraisal Institute of Canada.
Public Hearing	A hearing held concerning Real Property activities in compliance with MGA requirements.
Public Notice	The giving of notice to the public in connection with Real Property activities, in compliance with the MGA as required.
Purchaser	Any person or entity who enters into an Agreement with East Hants to acquire land by way of an Agreement of Purchase and Sale.



Term	Definition
Real Property (Real Property Interest)	Land and all improvements permanently affixed to the land, including on, above, or below the surface of the land or water. Municipal Real Property is any Real Property belonging to the Municipality of the District of East Hants.
Real Property Management Program	A structured service to efficiently and effectively manage Municipal Real Property.
Surplus Consideration	Real Property that is (entirely, or a portion of) being considered for surplus disposal at the departmental and/or Council level.
Surplus Real Property	Real Property that is no longer required to support East Hants' service delivery and has been declared surplus by Council, in accordance with policy and regulations.
Unsolicited Offer	An offer made by a third-party to purchase Real Property that is not actively listed for sale.

POLICY

GENERAL POLICY STATEMENTS

1. General Policy Statements

- 1.1. East Hants shall periodically review the Municipal Real Property Inventory to identify potential Surplus Real Property.
- 1.2. Where an Unsolicited Offer to acquire Municipal Real Property is received, the Unsolicited Offer shall be presented to Council.
- 1.3. Before Municipal Real Property can be disposed of the following actions must occur:
 - 1.3.1. Each Municipal department must confirm they foresee the Real Property will serve no immediate or long-term Municipal purpose;
 - 1.3.2. Each Real Property must be categorized by Council based on disposal potential;
 - 1.3.3. Each Real Property must be declared Surplus Real Property by resolution of Council; and
 - 1.3.4. The method by which the Real Property is to be disposed of shall be approved by Council.

2. Surplus Considerations

- 2.1. In considering the potential disposal of Real Property, all Municipal departments shall be included in the review process to determine if Real Property is required for municipal purposes and if it should be classified as Surplus Consideration.
- 2.2. The criteria East Hants shall use to determine the usefulness of Municipal Real Property may include one or more of the following:



- 2.2.1. No immediate or long-term municipal use has been identified;
 - 2.2.2. It is no longer in the best interest of East Hants to retain ownership (i.e. cost to maintain outweighs the benefit of retaining); and/or
 - 2.2.3. Retaining ownership exposes East Hants to liability or risk (i.e. a vacant building or land would be more vulnerable to vandalism and trespassing).
- 2.3. If Real Property is classified as Surplus Consideration, staff shall prepare a report to Council.
- 2.4. Council must declare Real Property surplus by resolution of Council.
- 2.5. At the time of Council declaring a property surplus, the Surplus Real Property shall be categorized by Council based on disposal potential per the categories in **Table 1**.
- 2.6. Surplus Real Property shall be disposed of in a predictable and consistent manner at, or near, Fair Market Value, not only to the general public, but to other public organizations, unless otherwise directed by Council and as permitted under the *MGA*.
- 2.6.1. All Disposals of Surplus Property at less than Fair Market Value require a resolution passed by at least a two-thirds (2/3) majority of Council present and voting.
 - 2.6.2. A Public Hearing is required if the Property being sold for less than Fair Market Value is valued at more than Ten Thousand Dollars (\$10,000). Public Notice of the Public Hearing shall be in accordance with requirements outlined in the *MGA*.
- 2.7. To determine Fair Market Value, at least one (1) Appraisal shall be obtained from a qualified third-party appraiser, unless otherwise directed by Council or an exemption applies under this Policy.
- 2.8. The CAO or designate may obtain an Opinion of Value if obtaining an Appraisal is not reasonable or economical such as in the following circumstances:
- 2.8.1. The value of the Real Property to be disposed of is reasonably anticipated to be less than Ten Thousand Dollars (\$10,000); or
 - 2.8.2. The cost of obtaining the Appraisal would be more than fifty percent (50%) of the estimated value of the Real Property.
- 2.9. An Opinion of Value may be conducted through one or more of the following means, at the discretion of the CAO:
- 2.9.1. An individual, group or agency not registered with the Appraisal Institute of Canada may be utilized based on the circumstances at the discretion of the CAO, such as qualified provincial assessors or independent real estate brokers or agents;
 - 2.9.2. The latest assessed value as reported by the Property Valuation Services Corporation (PVSC); or
 - 2.9.3. Staff analysis of recent sales comparisons associated with similar property transactions.
- 2.10. Surplus Real Property shall be disposed of in an As-Is, Where-Is condition, unless otherwise noted.

- 2.11. East Hants may require the Purchaser to submit a refundable deposit of up to ten percent (10%) of the value of their respective offer.
- 2.12. East Hants reserves the right to recover certain costs relating to the disposal of Surplus Real Property from a Purchaser. These costs include, but are not limited to, appraisal, legal survey, title searches, public notice advertisement, and legal costs, unless such costs are waived in writing within the conditions of an Agreement of Purchase and Sale.

Table 1 Real Property Disposal Categories

Category	Description
Economic Development Disposal	Real Property that has economic development potential where: <ul style="list-style-type: none"> • There is an opportunity to grow or expand targeted industries and employment; and/or • Generate financial return to East Hants, such as through property tax assessment growth. This excludes Real Property in Municipal business parks.
Community Interest Disposal	Real Property known to have potential for community use, in particular where: <ul style="list-style-type: none"> • There has been a prior community or institutional use of the property; and/or • By location or scarcity of available property and/or services, the consideration for community use would reasonably arise.
Ordinary Disposal	Real Property of an ordinary or routine nature.
Remnant Disposal	Real Property that is remaining or subdivided lands which: <ul style="list-style-type: none"> • By nature of their location, size or dimensions have limited or no reasonable use.
Extraordinary Disposal	Real Property having a legal distinction which includes conditions or extraordinary process with respect to its preservation or disposal, including but not limited to: <ul style="list-style-type: none"> • Heritage properties; • Properties held in trust or upon condition; and/or • Open Space properties acquired through the subdivision process.
Intergovernmental Transfer	Real Property requested by another level of government.

3. Disposal Authority & Methods

- 3.1. The method by which the Surplus Real Property is to be disposed of shall be approved by Council, unless delegated to the CAO, in accordance with the Disposal Methods outlined in **Table 2**.
- 3.2. The manner by which East Hants acquired the Surplus Real Property must be considered when choosing the method of disposal.



- 3.2.1. If Real Property was acquired for a community, charitable, or recreational purpose, reasonable effort should be made to ensure the Disposal of the Real Property will facilitate a continued community, charitable, or recreational vision, either on or in the region where the Real Property is located.
- 3.2.2. If Real Property was acquired through expropriation, or contains other legal distinction, applicable conditions and process must be followed.
- 3.3. Economic Development Disposal Properties may include partnership models between private developers and non-profits.
- 3.4. Extraordinary Disposals shall be dealt with as required by legislation or contract that governs their disposal.
- 3.5. Intergovernmental Transfer properties shall be dealt with as directed by Council.

Table 2 Approved Disposal Methods of Municipal Real Property

Disposal Method	Eligible Category	Disposal Method Requirements
Calls for Expressions of Interest: Community Return	<ul style="list-style-type: none"> • Community Interest Disposal 	<ul style="list-style-type: none"> • The call for Expressions of Interest shall outline submission requirements, in line with Council direction for the Disposal. • The minimum bid price shall be set at the Appraised Value, unless otherwise set by Council. • Council may determine to select a submission which is not the highest financial offer, based on the overall community value of the proposal.
Request for Proposals: Economic Return	<ul style="list-style-type: none"> • Economic Development Disposal 	<ul style="list-style-type: none"> • The Request for Proposal shall outline submission requirements, in line with council direction for the Disposal. • The minimum bid price shall be set at the Appraised Value, unless otherwise set by Council. • Council may determine to select a submission which is not the highest financial offer, based on the overall economic value of the proposal.



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Disposal Method	Eligible Category	Disposal Method Requirements
Direct Sale: Unsolicited Offer	<ul style="list-style-type: none"> All Categories 	<ul style="list-style-type: none"> If an Unsolicited Offer to purchase Real Property is received by East Hants and the subject Real Property has not been declared surplus, the request must be presented to Council with a report and recommendation respecting the Real Property. Where/when the Real Property is declared Surplus, Council may choose to: <ul style="list-style-type: none"> negotiate a direct sale per the request; or proceed with alternative disposal method to solicit competition. Generally, the direct sale method will be considered in cases where there is an obvious direct benefit or value to East Hants that would be in the best interest of the public. Determination of Fair Market Value shall be supported by an Appraisal, unless otherwise set by Council.
Direct Sale: Abutting Property Owner	<ul style="list-style-type: none"> Ordinary Disposal Remnant Disposal 	<ul style="list-style-type: none"> All Abutting property owner(s) shall be offered, in writing, an approximately equal portion of the Surplus Real Property. The sale price shall be set at an approximately equal portion of the Appraised Value, or at a sale price set by Council. Assessment values set by Property Valuation Services Corporation (PVSC) may be considered a sufficient metric of Fair Market Value for the purposes of this disposal method. Where one or more, but not all, abutting property owners thereafter expresses in writing continued interest in a portion of the Surplus Real Property, these owners shall be offered the entire parcel at the aforementioned sale price on a pro-rated basis.
Sale by Land Exchange	<ul style="list-style-type: none"> All Categories 	<ul style="list-style-type: none"> Land exchange of Real Surplus Property may be employed as an alternative method for the acquisition of necessary lands to accomplish municipal objectives. The respective value of the lands exchanged should be relatively equal in value or economic return.



Disposal Method	Eligible Category	Disposal Method Requirements
Open Market: Sale by Listing Agent	<ul style="list-style-type: none"> Economic Development Disposal Ordinary Disposal 	<ul style="list-style-type: none"> East Hants shall follow procurement guidelines to select a preferred service provider, unless otherwise decided by Council. The listing price shall be set in collaboration with the licensed real estate agent or broker, or by an Appraisal, unless otherwise set by Council. The listing agent shall be responsible for the marketing, communications, and open houses/showings. Documentation shall be managed in partnership with East Hants staff.
Open Market: Sale by Staff	<ul style="list-style-type: none"> Ordinary Disposal 	<ul style="list-style-type: none"> East Hants staff shall be responsible for all marketing, communications, open houses/showings, and documentation. Determination of Fair Market Value shall be supported by Appraisal, unless otherwise set by Council, or shall be supported through the receipt of sufficient offers over an appropriate exposure period.

4. Disposal Terms and Conditions

- 4.1. East Hants reserves the right to negotiate disposals, development, and other agreements with any potential Purchaser.
- 4.2. Council may indicate specific key terms and conditions for an Agreement of Purchase and Sale, such as covenants to be registered against title.
- 4.3. The CAO shall have the authority to negotiate the terms and conditions in the agreement of Purchase and Sale on behalf of East Hants and execute the Agreement of Purchase and Sale on behalf of East Hants, subject to the CAO Authority Policy, the Delegation of Signing Authority Policy and any direction from Council.

5. Disposal Proceeds

- 5.1. The Municipality shall invest the proceeds from the Disposal of Real Property in alignment with MGA requirements.
- 5.2. Proceeds from the Disposal of Real Property transferred during the subdivision process shall be invested in the Municipality’s Open Space Fund; all other proceeds from the Disposal of Real Property shall be invested in the Municipality’s Capital Reserve Fund.

6. Authority to Acquire Surplus Real Property

- 6.1. Elected officials, the CAO, or the spouse, as defined by the Nova Scotia Municipal Conflict of Interest Act, of an elected official or the CAO are not permitted to purchase Surplus Real Property.
- 6.2. East Hants staff, or their spouse as defined by the Nova Scotia Municipal Conflict of Interest Act, are not permitted to place a bid or purchase Surplus Real Property listed for sale on the open market until fifteen (15) days have passed since the property was listed for sale.

ROLES AND RESPONSIBILITIES

Title/Role	Responsibilities
Policy Editor	<p>The Policy Editor is a person having managerial and policy-making responsibility related to the writing, compilation and revision of content and will:</p> <ul style="list-style-type: none"> • Ensure policies in their care and control are always up-to-date and reviewed annually, or sooner if necessary • Draft new or edit existing policy content • Be able to interpret and explain policy content • Ensure policy documents are branded and any supporting documents, i.e. applications forms are also branded and content consistent with the policy • Ensure policy content is relevant and accurate • Seek and secure approval recommendation of the policy from the Policy Owner • Seek and secure approval of the policy from the appropriate Approver; and, • Provide the final approved policy document to the Assistant Municipal Clerk
Policy Owner	<p>The Policy Owner will:</p> <ul style="list-style-type: none"> • Provide oversight to ensure policies in their care and control are always up-to-date, reviewed annually or sooner if necessary by the assigned Policy Editor • Be able to interpret and explain policy content • Provide oversight to ensure policy documents are branded and any supporting documents, ie. application forms are also branded and content consistent with the policy • Provide oversight to ensure policy content is relevant and accurate • Review the policy and make recommendation for approval to the appropriate Approver; and, • Ensure that the final approved policy document has been provided to the Assistant Municipal Clerk
Approver	<p>The Approver will:</p> <ul style="list-style-type: none"> • Review Policy recommendations for approval consideration (approve, reject or edit); and, • Notify the Policy Editor, Policy Owner and Assistant Municipal Clerk of decision
Assistant Municipal Clerk	<p>The Assistant Municipal Clerk will:</p> <ul style="list-style-type: none"> • Facilitate an annual Policy Review; and, • Ensure final approved policies are maintained, stored and posted where appropriate



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Title/Role	Responsibilities
Directors	Department Directors will: <ul style="list-style-type: none"> Be responsible for monitoring and reporting on the management of Real Property in their departments.
Employees	The Employees will: <ul style="list-style-type: none"> Be responsible for managing and disposing of Real Property per this policy.

RELATED DOCUMENTATION

Related forms, processes, procedures and other documents that support the policy.

Document Name	Document ID	Document Type
Asset Management Policy		Policy
Management of Real Property Policy		Policy
CAO Authority Policy		Policy
Delegation of Signing Authority		Policy
Nova Scotia Municipal Government Act (Sections 51 and 51A)		Legislation
Nova Scotia Municipal Conflict of Interest Act		Legislation

VERSION LOG

Version Number	Amendment Description	Amendment/Policy Editor	Amendment/Policy Owner	Approver	Approval Date
1.0	Approval of Policy by Council		Director of Administration	Council	June 23, 2010 C10(255)



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Version Number	Amendment Description	Amendment/ Policy Editor	Amendment/ Policy Owner	Approver	Approval Date
2.0	Template change; restructuring sections to align content; addition of disposal categories; addition and clarification of disposal methods; added “As-Is, Where-Is” condition clause; added refundable deposit clause; added cost recovery option clause; added Disposal Terms and Conditions section	Manager, Real Estate and Corporate Projects/Policy Analyst	Director, Corporate Services	Council	

CERTIFICATION

I, Kim Ramsay, Municipal Clerk for the Municipality of East Hants, hereby certify that this policy was duly approved.

Kim Ramsay
Municipal Clerk