



The Corporation of the Township of Nairn and Hyman

BY-LAW NUMBER 2011-33

BEING A BY-LAW TO ESTABLISH PROCEDURES GOVERNING THE SALE OF SURPLUS LANDS BY THE CORPORATION OF THE TOWNSHIP OF NAIRN AND HYMAN

WHEREAS the Municipal Act, 2001 S.O. 2001. C. 25, section 270(1) as amended, requires a municipality to adopt and maintain policies regarding the sale and other disposition of surplus land;

NOW THEREFORE the Municipal Council of the Corporation of the Township of Nairn and Hyman hereby enacts as follows:

1. **BACKGROUND**

- 1.1 The procedures established in this By-law are intended to govern the sale and disposal of surplus property owned by the Corporation of the Township of Nairn and Hyman. Property disposal procedures may be initiated in response to inquiries from the public, unsolicited offers or as the result of internal municipal actions.

2. **DEFINITIONS**

- 2.1 For the purpose of this By-law:

“Appraisal” means a written opinion or valuation of the current fair market value of real property. Such appraisal is to be obtained from a person with expertise in the valuation of real property.

“Council” means the Municipal Council of the Township of Nairn and Hyman.

“Municipality” means the Corporation of the Township of Nairn and Hyman

“Notice” means the notice of the proposed sale in an approved local newspaper of the intention to dispose of the lands in question.

“Real Property” means lands owned by the Corporation of the Township of Nairn and Hyman whether vacant or not or any other proprietary interest in lands owned by the Corporation of the Township of Nairn and Hyman, and without limiting the generality of the foregoing, includes easements, right of ways, leaseholds exceeding 21 years, and any interest in lands under an agreement of purchase and sale.

“Sale” means a transfer of municipal real property.

“Surplus Land” means real property owned by the municipality and declared surplus by By-law or resolution of council.

“Tender” means a completed tender document sealed in an envelope. The required tender form is attached as Schedule “A” forming part of this By-law.

3. **COMMENCEMENT OF DISPOSAL PROCEEDINGS**

3.1 The Municipality may commence the proceedings to dispose of Real Property at its own initiative or upon the receipt of a written request or inquiry from an applicant.

4. **DECLARATION OF SURPLUS PROPERTY**

4.1 Before selling any land or advertising the lands for sale Council shall by By-law or resolution during an open meeting, declare the property to be Surplus Land.

5. **APPRAISAL**

5.1 Council shall before selling any land obtain at least one Appraisal of the fair market value of the land by a person or body qualified to do so.

5.2 The listed price of surplus land for sale shall be the appraised value determined by a qualified appraiser unless a majority of Council sets a different price by way of motion of Council.

6. **NOTICE TO PUBLIC**

6.1 Prior to selling any Real Property the Municipality shall give Notice to the public of the proposed sale.

6.2 An advertisement shall be placed in at least one newspaper having general circulation within the local area once a week for a period of no less than two consecutive weeks.

6.3 Further to section 6.2 of this By-law, the Notice is also to be posted on the municipal website and at the municipal office.

6.4 The Notice shall include a brief description of the property and a sketch if at all possible.

6.5 The Notice will make clear the closing date of the sale(s) and the date and time to which the sealed Tenders will be opened.

6.6 Further to section 7.9 of this By-law the Notice shall state that highest or any Tender not necessarily accepted.

7. **METHOD OF SALE**

7.1 The method of sale for surplus land shall be by sealed Tender.

7.2 Tenders received after the original advertised date will not be accepted.

7.3 Tenders must be delivered to the Township of Nairn and Hyman Municipal Office in a sealed envelope clearly marked "Tender for Surplus Lands" and include the address and name of the applicant.

7.4 Sealed tenders will be opened during a public meeting of Council.

7.5 The required tender document to be completed by the applicant is attached to this By-law as Schedule "A".

7.6 The tender document attached as Schedule "A" of this By-law must be accompanied by a certified cheque, bank draft or money order worth no less than 20% of the asking price of the Surplus Land for sale.

- 7.7 By submitting a completed application accompanied by the required monetary deposit established in Section 7.6 of this By-law, applicants are accepting the terms and conditions of this By-law.
- 7.8 Council may choose to make a final decision to accept or decline the Tender immediately upon opening all Tenders during a public meeting or choose to defer the decision until a later date.
- 7.9 Council reserves the right to accept or decline any tender for Surplus Land. Highest or any tender not necessarily accepted.

8. **SURPLUS LAND SALES BY BEST OFFER**

- 8.1 Sections 5.2 and 7.6 notwithstanding, if there are no Tenders received for properties for sale by the original deadline, Council may pass a resolution to re-advertise any Surplus Lands for 'best offer'.
- 8.2 A decision to dispose of Surplus Lands by best offer must be made within 3 calendar years of the original method of disposing of the land for appraised value. If this decision has not been made within 3 calendar years, the next time the Surplus Land is put up for sale it will be for appraised value.
- 8.3 Sections 5.2 and 7.6 of this By-law notwithstanding, the procedures for re-advertising sales by best offer remain the same with the further exception of procedures listed under Section 8 of this By-law.
- 8.4 Tenders submitted for Surplus Land sales by best offer will require a certified cheque or bank draft worth 20% of the offer to be accompanied by the completed tender forms.
- 8.5 For sales by best offer Council will determine whether or not a tendered amount will be accepted. Highest or any Tender not necessarily accepted.
- 8.6 Sales by best offer are intended to provide some revenue from Surplus Lands that have historically not received any tendered offers during the sales process.

9. **EXEMPTIONS**

- 9.1 The following classes of property disposal are exempt from the provisions of this By-law:
- 9.1.1 Disposal of an easement to a public utility;
 - 9.1.2 Municipal tax sales as per Part XI of the Municipal Act 2001;
 - 9.1.3 Sales pursuant to section 110 of the Municipal Act 2001.
- 9.2 By resolution, Council may direct, on a case by case basis, that any exempted disposal be conducted in accordance with this policy.

10. **ASSOCIATED COSTS**

- 10.1 The purchaser of such lands determined to be surplus by the municipality shall be responsible for all costs incurred or required to dispose of the property with the exception of advertising and appraisal costs. These include, but are not limited to encumbrances and legal fees.
- 10.2 The Municipality makes no representation regarding the title or any other matters relating to the land to be sold. Surplus Land is sold 'as is'.

11. **ERRORS AND OMISSIONS**

11.1 It is acknowledged that any error or omission in following the procedures, in which error or omission was not the result of bad faith on behalf of the Municipality will not necessarily render such disposal invalid or void.

12. **PRIVACY**

12.1 The disclosure of information relevant to the sale of Surplus Land shall be in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O 1990, c. M.56, as amended.

13. **NOTES**

13.1 By-law number 2007-34 of the Township of Nairn and Hyman is hereby repealed.

13.2 This By-law may be referred to as the "Sale of Surplus Lands By-law".

13.3 This By-law is not retroactive and does not include properties currently in the disposition process.

13.4 This By-law shall come into full force and effect immediately upon passing.

**READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED IN OPEN COUNCIL
THIS 7TH DAY OF NOVEMBER, 2011.**

Laurier Falldien, Mayor

Robert Deschene, CAO Clerk-Treasurer



The Corporation of the Township of Nairn and Hyman

SCHEDULE "A"

TENDER TO PURCHASE SURPLUS LAND

To: Name: The Corporation of the Township of Nairn and Hyman
 Address: 64 McIntyre Street, Nairn Centre, Ontario P0M 2L0
 Telephone: (705) 869-4232
 Website: www.nairncentre.ca

Re: Sale of: (Description and roll number)

A minimum bid of \$_____ has been set.

1. I/We hereby tender to purchase the land described above, for the amount of \$_____, plus the Harmonized Sales Tax (HST), in accordance with the terms and conditions of By-law 2011-33.
2. I/We understand that this tender must be received by the above office no later than 4:00 p.m. local time, on (date of closing).
3. I/We enclose a deposit in the form of a certified cheque, bank draft or money order for the sum of \$_____ dollars in favour of the Corporation of the Township of Nairn and Hyman representing twenty (20) percent or more of the tendered amount which will be forfeited if I/we are the successful tender(s) and I/we do not pay the balance of the tendered amount, any land transfer tax and the HST within fourteen (14) days of the municipality notifying me/us that I/we are the highest tenderer.
4. I/We shall be responsible for all costs incurred or required to acquire this property including, but not limited to legal fees, survey costs, appraisal costs, encumbrances, advertising, improvements and administration fees.

Dated at _____ this _____ day of _____, (year)

Name of Tenderer	Name of Tenderer
Signature of Tender	Signature of Tender
Address of Tenderer	Address of Tenderer
Telephone Number	Telephone Number