



LAND ADMINISTRATION BYLAW NO. 1065

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LAND ADMINISTRATION BYLAW NO. 1065

A BYLAW of the Council of the Municipal Corporation of the Town of Fort Smith in the Northwest Territories authorizing the Municipal Corporation of the Town of Fort Smith to regulate land administration in the Town of Fort Smith, passed pursuant to sections 53, 54, 55 and 70 of the *Cities, Towns and Villages Act*, SNWT 2003, C. 22;

WHEREAS the Council of the Municipal Corporation of the Town of Fort Smith is authorized to purchase, sell, lease or otherwise acquire and dispose of real property;

AND WHEREAS section 55 of the *Cities, Towns and Villages Act*, SNWT 2003, C. 22, requires the Town to adopt a Land Administration Bylaw to provide for policy and procedures relating to the acquisition, holding and disposal of real property;

NOW, THEREFORE, the Council of the Municipal Corporation of the Town of Fort Smith, in regular sessions duly assembled, enacts as follows:

PART A - GENERAL

1. SHORT TITLE

1.1. This Bylaw may be cited as the "Land Administration Bylaw".

2. APPLICATION

2.1. This Bylaw, except as otherwise expressly authorized by Bylaw, applies to all acquisitions, sales, leases, or other disposition of lands by the Town.

3. DEFINITIONS

3.1. In this Bylaw:

- a. “Acquisition of Land” means the purchase, lease, or other means of acquiring land;
- b. “Council” means the Council of a Municipal Corporation and includes the Mayor and/or Councilor(s);
- c. “Developed Land” means land in which the necessary municipal infrastructure has been placed to all improvements to be built or installed thereon;
- d. “Development Costs” means the Town’s direct and indirect costs of developing a lot or another specific area of land for disposition to the public, and which may include:
 - i. land acquisition costs;
 - ii. fees for appraisal, legal services, surveying, planning, and engineering designs and project management;
 - iii. land excavation and filling;
 - iv. roads, lanes, parking areas, curbs, sidewalks, boulevards, and all necessary appurtenances;
 - v. water, sanitary, and storm sewer systems, including service connections and all necessary appurtenances;
 - vi. electrical, street lighting, gas and communication transmission systems, including service connections and all necessary appurtenances;
 - vii. parks and recreational improvements;
 - viii. financing charges, including interest;
 - ix. environmental studies and/or cleanup; and
 - x. administrative costs associated with the acquisition and disposal of land, including the

related salaries and benefits of municipal administrators;

- e. "Disposal of Land" means the sale, lease, or other means of disposing of land;
- f. "Land" means real property or an interest therein, other than an easement or restrictive covenant;
- g. "Lot" means a specific area of land, the boundaries of which are:
 - i. shown on a plan registered in Land Titles Office, or
 - ii. described in the Certificate of Title to the land;
- h. "Market Value" means the value of land based on the amount that a willing buyer would pay to a willing seller. This value will be determined either by a professionally qualified land appraiser, by auction, or by public tender;
- i. "Minister" means the Minister of Municipal and Community Affairs;
- j. "Off-Site Levy" means a surcharge levied by the Town against a person who has acquired land in the Town. The Town uses this levy to pay for all or part of the capital cost of all or any Municipal infrastructure located outside the land being purchased or leased but which is of direct, though not exclusive, benefit to the purchaser or lessee and which may include, but is not limited to:
 - i. new or expanded facilities for the storage, transmission, treatment, or supply of water;
 - ii. new or expanded facilities for the transmission, treatment, or disposal of sewage;
 - iii. new or expanded storm sewer drainage facilities;
 - iv. new or expanded roadways or sidewalks;
 - v. new or expanded electrical, transmission systems, including all necessary appurtenances; and

- vi. land required for, or in connection with, any of the facilities described in sections 3.j.i-v.;
- k. “Quarry” means any work or undertaking in which granular materials are removed from the ground or the land by any method, and includes all ways, work, machinery, plant, building, and premises belonging to or used in connection with the quarry;
- l. “Replacement Cost” means the cost that the Town would incur if it was to develop a lot itself at the time that the Town acquired the lot.
- m. “Senior Administrative Officer” means the Senior Administrative Officer of the Town of Fort Smith appointed by Council pursuant to the *Cities, Towns and Villages Act*, SNWT 2003, C. 22, or their designate, as amended;
- n. “Site-Specific Factors” means factors which may be used, where applicable, in addition to or subtracting from the cost of developed land and which may consist of:
 - i. the size of the parcel;
 - ii. the site conditions;
 - iii. the desirability of location;
 - iv. the existing adjacent land uses; and
 - v. the land’s zoning;
- o. “Town” means the Municipal Corporation of the Town of Fort Smith in the Northwest Territories, established pursuant to the *Cities, Towns and Villages Act*, SNWT 2003, C. 22;
- p. “Town Standard” means the rules, regulations, practices, and codes of the Town, including but not limited to development and design standards, plans, specifications, general provisions, or processes that are documented in writing or have previously been implemented;
- r. “Undeveloped Land” means land which does not have the municipal infrastructure necessary to use the land for its intended purpose.

PART B - APPLICATION

4. ACQUISITION AND DISPOSAL OF LAND

- 4.1. The acquisition or disposition of land will be authorized by Bylaw. Such a Bylaw will contain:
- 4.1.1. a complete legal description of the land to be acquired, sold, leased, or otherwise disposed of;
 - 4.1.2. the minimum consideration to be paid for the acquisition, sale, lease or other disposition of the land; and
 - 4.1.3. in the case of a lease of un-surveyed land, a description of the parcel and sketch sufficient to identify the property to be leased.
- 4.2. No Bylaw for the acquisition, sale, lease or other disposition of land will be passed until:
- 4.2.1. the Senior Administrative Officer has certified the assessed value of the said land and any improvements thereon, and that the zoning requirements relating thereto are appropriate in reference to the proposed sale or other disposition thereof; and
 - 4.2.2. it has been established through a search at the appropriate Land Registry Office, that the town may lawfully acquire, sell, lease, or otherwise dispose of the said land;
 - 4.2.3. an inspection of the said land has been made on behalf of the Town, establishing:
 - 4.2.3.a. the occupancy thereof,
 - 4.2.3.b. the improvements thereon,
 - 4.2.3.c. the easements affecting the same,
 - 4.2.3.d. any circumstances that may delay or prevent the disposition of land; and
 - 4.2.3.e. other pertinent facts relating to the land, if any; and
 - 4.2.4. if the purchaser or lessee is a business, society, or corporation, the purchaser or lessee has provided the Senior Administrative Officer with proof that it is in good standing under the provisions of the *Societies Act*, RSNWT 1988, C. S-11, *Business Corporations Act*, SNWT 1996, C. 19, the Fort Smith Business Licensing Bylaw No. 504, as amended, or other relevant Acts or Bylaws.
- 4.3. Any individual, business, corporation, or society acquiring a leasehold interest in land must maintain public liability insurance with a company licensed and registered to do business in the Northwest Territories, for the land and any improvements to it, in an amount not less than \$2,000,000.00, or such other amount as reasonably directed by the Town from time to time. The individual, business, corporation, or society must provide the Town with documentary evidence of such insurance, in a form satisfactory to the Town, which names the Town as an insured party.

5. ESTABLISHING THE PRICE OF LAND

- 5.1. The price of land developed by the Town will, at minimum, recover the development costs and off-site levies.
- 5.2. The Town may set a price of land developed by the Town that accounts for site-specific factors and the market value of the lot.
- 5.3. The price of land not developed by the Town, but to be disposed of by the Town, will be the greater of the fair market value or the replacement cost of the land and improvements.
- 5.4. If Council is unable to determine the fair market value or the replacement cost of land not developed by the Town, the price will be determined based on the assessed value of the land, including improvements, plus a percentage factor, determined by Council, which would be designated to approximate the fair market value of the land.
- 5.5. Notwithstanding sections 5.1 and 5.2, if the Town is unable to dispose of land that it developed within three years of the initial advertisement for disposal, Council may dispose of the land for a price that is not less than fifty percent (50%) of development costs and off-site levies.
- 5.6. The amounts of capital grants or contributions from the Territorial Government, Federal Government, or other registered non-profit association for the development of land will be deducted from the Town's calculation of development costs.
- 5.7. In determining the amount to be raised by off-site levies for municipal infrastructure, the Town will deduct the amount of any capital grants received from the Territorial or Federal Governments for the completion of any portion of the municipal infrastructure for which the off-site levy is being made.
- 5.8. The annual lease rate for land leased from the Town will not exceed ten percent (10%) of the established price of land.
- 5.9. In determining the development costs or the amounts to be raised by off-site levies, Council may deduct any amounts received from capital grants or contributions from the Territorial, Federal, or Indigenous Governments, or registered charities, for the development of housing and municipal infrastructure in the Town of Fort Smith, if the Town chooses to use that portion of the grants and contributions to offset the price of land.
- 5.10. If Council decides to deduct all or a portion received from capital grants or contributions under section 5.9 from the price of land, Council will disclose in a public meeting, the:
 - 5.10.1 name,
 - 5.10.2 donor,
 - 5.10.3 year, and

5.10.4 amount or proportion

of the grant or contribution that it used.

- 5.11. Council may, by way of resolution, approve a policy for payment over time for the sale of specific lots or land.

6. OFF-SITE LEVIES

- 6.1. The Town may charge off-site levies against land being developed, whether by the Town or by a private developer, to pay for all or part of the capital costs of any municipal infrastructure which is located outside the boundaries of the land being developed.
- 6.2. The Town may designate by Bylaw areas of the town in which off-site levies may be imposed. The amount of the off-site levy may be a fixed amount payable for each lot or may be an amount per unit basis on some measurable criteria such as the frontage, area, or fair market value of a lot.

7. TERMS AND CONDITIONS OF LAND DISPOSAL

- 7.1. In disposing of land, the Town will initiate one of the following methods of land disposal:
- 7.1.1. Ballot Draw, or
 - 7.1.2. A Call for Proposals, in the case of General Commercial, Industrial, or Town Centre Lots, as defined in the Zoning Bylaw, as amended.
- 7.2. If, after the completion of a ballot draw or a call for proposal process, the Town has not disposed of a lot, the lot will be disposed of on a first-come, first-serve basis. A lot disposed of on a first-come, first-serve basis will be:
- 7.2.1. listed in the land bank register; and
 - 7.2.2. disposed of to the first person to enter into a completed sale or lease agreement with the Town.
- 7.3. Notwithstanding section 7.2, Council may refuse to dispose of land to a person who owns one or more vacant or underutilized properties in the Town.
- 7.4. The Town will conduct an additional ballot draw or an auction for lots if the Town sets a price that is lower than development costs and off-site levies, in accordance with section 5.5 of this Bylaw and procedures determined by the Town from time to time.
- 7.5. Anyone wishing to purchase or lease land from the Town will submit an application to the Senior Administrative Officer. Applications to the Town must:
- 7.5.1. be in writing and in a format which is acceptable to the Town.

- 7.5.2. indicate the applicant's proposed use of the Land, and, in the case of vacant Land, the improvements proposed to be constructed or placed by the applicant on the Land if the purchase is approved.
 - 7.5.3. include a refundable payment of ten percent (10%) of the value of the land.
- 7.6. If a person pays some amount to the Town in their application to purchase or lease land, but is not selected to purchase or lease the land, the Town will refund the amount paid by that person in its entirety, except for an administrative fee as prescribed in the Consolidated Rates and Fees Bylaw No. 1045, as amended.
- 7.7. A person who acquires vacant and underutilized land from the Town will be required to commence development, add a specific amount of value to, or quarry the Land within twenty-four months of purchase; otherwise, the land will, in accordance with the terms of the agreement dealing with the disposition, revert to the Town.
- 7.8. No lands will be sold by the Town to a tax-exempt institution unless a the Town first makes an agreement with the purchaser, and that agreement requires that subject lands will revert back to the Town for no more than the original purchase price should the institution no longer require the lands.
- 7.9. If a private developer wishes to purchase undeveloped land from the Town and to build or install municipal infrastructure to develop the land, then, before approving the disposal to the private developer, the Town will:
 - 7.9.1. obtain from the private developer a cost estimate establishing the cost at which the private developer will be able to develop and sell lots;
 - 7.9.2. require the private developer to provide a letter from a financial institution confirming that the private developer has sufficient financial resources to complete the development of the subject land;
 - 7.9.3. require the private developer to enter into an agreement with the Town requiring the private developer to dispose of vacant land by way of an auction, ballot draw, or call for proposals, unless a building has been constructed or installed on the land and the building is sold with the land;
 - 7.9.4. require that the developer complete development of the municipal infrastructure within a reasonable period of time to ensure an adequate supply of serviced land is maintained in the Town;
 - 7.9.5. specify by agreement with the private developer any requirements for the development of the land pursuant to the *Planning Act*, RSNWT 1988, C. P-7, including any restrictions on the use of the lands; and
 - 7.9.6. transfer title to the private developer, subject to a caveat to ensure compliance with sections 7.9.2 to 7.9.5, if applicable.

8. PUBLIC NOTICE OF SALE

- 8.1. The Town will not dispose of any land until such time as the land has been advertised for a minimum period of three weeks in the Town Office and three prominent locations within the community, and:
- 8.1.1. in a locally circulated newspaper; or
 - 8.1.2. on the Town's website, on its home page.
- 8.2. An advertisement for sale will include, but not be limited to, the following:
- 8.2.1. date of posting;
 - 8.2.2. closing date of posting;
 - 8.2.3. legal description of land;
 - 8.2.4. a sketch or survey of the land;
 - 8.2.5. location of the land;
 - 8.2.6. price of land;
 - 8.2.7. the zone of the land per the Zoning Bylaw; and
 - 8.2.8. local improvement charge and/or off-site levies, if any;
 - 8.2.9. the process for the disposal of the land, and how participants can participate in it; and
 - 8.2.10. contact information to obtain more information about the property.
- 8.3. Sections 7.1 to 7.6 and 8.1 to 8.2 will not apply to the disposal of land to:
- 8.3.1. the Federal Government or the Territorial Government;
 - 8.3.2. be used for the installation of electric power, telephone, or other communication utilities, if the utility company is a Crown corporation or government regulated monopoly;
 - 8.3.3. be consolidated with adjoining land when the land being disposed of does not comply with the minimum lot size requirements as the Town's Zoning Bylaw;
 - 8.3.4. a person or persons with a leasehold interest who wish to purchase the freehold interest in the same land; or
 - 8.3.5. an assignment of an existing lease.

9. LAND SALE REGISTER

- 9.1. A register of all land which has been approved for disposal by the Town will be maintained. The information in the register will include:
- 9.1.1. a sketch, identifying the size and location of the land;
 - 9.1.2. the full legal description, if any;
 - 9.1.3. the price of the land;
 - 9.1.4. conditions of disposal; and
 - 9.1.5. a record of pending disposals.
- 9.2. The register will be open for inspection by the public at the Town Office during normal business hours.

10. LAND DEVELOPMENT FUND

- 10.1. All revenues from the disposal of land and off-site levies will be held in the Land Development Fund.
- 10.2. The Land Development Fund is managed and operated in accordance with the Financial Administration Bylaw No. 972, as amended.

11. QUARRY MANAGEMENT

- 11.1. Where the Town manages quarries, it will be in accordance with the Statutes of the Governments of the Northwest Territories and Canada.
- 11.2. The acquisition and disposal of land for quarry purposes will be subject to the requirements of this Bylaw.
- 11.3. Subject to authorization by Bylaw, the Town may apply for quarry permits and land use permits from senior governments for quarry purposes, and issue quarry permits to other parties.
- 11.4. Any agreement executed by the Town to lease or sell land for quarry purposes will require the purchaser or lessee from the Town to restore the land at their own expense in accordance with the policies and guidelines established by the Government of the Northwest Territories and any other requirements of the Town.
- 11.5. Before executing a lease agreement or transfer for quarry lands, the Town will require the lessee or purchaser to deliver and deposit security with the Town to ensure complete restoration of the site. The terms and amount of this security will be determined by Council.

This security will consist of cash or an Irrevocable Letter of Credit issued by a Chartered Bank or a Surety Company.

12. BYLAW ADMINISTRATION

- 12.1. Council may adopt standard forms, agreement, fees, and procedures required for the administration of this Bylaw.
- 12.2. The Senior Administrative Officer may make such minor amendments to any such standard forms of agreement or procedures as may be necessary to adapt the agreement to the requirements of any particular transaction.

13. SEVERABILITY

- 13.1. Each provision of this Bylaw is independent of all other provisions. If a Court of competent jurisdiction declares any provision invalid for any reason, all other provisions of this Bylaw will remain valid and enforceable, and the Bylaw will be interpreted as such.

PART C – REPEALS AND EFFECT

14. REPEAL

- 14.1. Bylaw No. 862 is hereby repealed.

15. EFFECT

- 15.1. That this Bylaw will come into effect upon receiving Third Reading and otherwise meets the requirements of sections 53, 54, 55 and 70 of the *Cities, Towns and Villages Act*, SNWT 2003, C. 22.

READ A FIRST TIME THIS _____ DAY OF _____, 202_, A.D.

READ A SECOND TIME THIS _____ DAY OF _____, 202_, A.D.

READ A THIRD TIME THIS _____ DAY OF _____, 202_, A.D.

MAYOR

SENIOR ADMINISTRATIVE OFFICER