



THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH
BY-LAW 862

A BY-LAW OF THE MUNICIPAL CORPORATION OF THE TOWN OF FORT SMITH, IN THE NORTHWEST TERRITORIES, TO REGULATE LAND ADMINISTRATION IN THE TOWN OF FORT SMITH, PASSED PURSUANT TO CTV, SNWT 2003, C. 22, SECTION 70 AND SECTIONS 53, 54 AND 55.

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 requires the Town to adopt a Land Administration By-Law 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 session, duly assembled, hereby enacts as follows:

TITLE

1. This By-Law may be cited as "The Land Administration By-Law."

DEFINITIONS

2. In this By-Law:
 - (a) "Acquisition of Land" means the purchase, lease or other means of acquiring land;
 - (b) "Town" means the Municipal Corporation of the Town of Fort Smith, which is represented by the Senior Administration Officer or his or her designate, except when decisions of Council are required;
 - (c) "Council" means the Council of the Municipal Corporation of the Town of Fort Smith;
 - (d) "Developed Land" means land in which the necessary municipal infrastructure has been placed to all improvements to be built or installed thereon;
 - (e) "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;
 - (ii) fees for appraisal, legal services, surveying, planning and engineering designs and project management;
 - (iii) land excavation and filling;



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- (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 transmission systems, including service connections and all necessary appurtenances;
 - (vii) parks and recreational improvements; and
 - (viii) financing charges, including interest;
- and which may be increased or reduced by up to 25% for site specific factors. The amounts of capital grants or contributions from the Government of the Northwest Territories for the development of the land shall be deducted from the Town's costs in determining Development Costs.
- (f) "Disposal of Land" means the sale, lease or other means of disposing of land;
 - (g) "Land" means real property or an interest therein, other than an easement or restrictive covenant;
 - (h) "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;
 - (i) "Market Value" means the value of land based on the amount that a willing buyer would pay to a willing seller. This value shall be determined by a professionally qualified land appraiser or by public tender;
 - (j) "Minister" means the Minister of Municipal and Community Affairs;
 - (k) "Municipal Infrastructure" means those facilities or amenities normally put in place on developed or undeveloped lands to allow improvements to be built or installed and which may include, all or one of the following:
 - (i) roads, lanes, parking areas, curbs, sidewalks, walkways, boulevards and all necessary appurtenances;
 - (ii) water, sanitary and storm sewer systems, including service connections and all necessary appurtenances;
 - (iii) electrical transmission systems, including all necessary appurtenances;
 - (iv) parks and recreational improvements;
 - (v) land required for, or in connection with, any of the facilities described in 2(k) of this By-Law, or any other facilities deemed to be required by Council.



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- (l) "New Lots" means a lot or lots created after the date of passing this By-Law;
- (m) "Off-Site Levy" means a surcharge levied by the Town pursuant to Sections 7 to 11 against the purchaser of land from the Town or against a tenant leasing land from the Town;
- (n) "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;
- (o) "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;
- (p) "Undeveloped Land" means land which does not have the municipal infrastructure necessary to use the land for its intended purpose.

APPLICATION

- 3. This By-law, except as otherwise authorized by By-Law, applies to all sales, leases or other disposition of lands by the Town.

ACQUISITION & DISPOSAL OF LAND

- 4. The acquisition of land by purchase, lease or other means from another party by the Town shall be authorized by By-Law. In the case of a lease of un-surveyed lands, a description of the parcel and sketch sufficient to identify the property to be leased must be attached to the By-Law.
- 5. The sale, lease or other disposition of Town lands shall be authorized by By-Law. Such By-law shall contain:
 - (a) a complete legal description of the lands to be acquired, sold, leased or otherwise disposed of;
 - (b) the minimum consideration to be paid for the acquisition, sale, lease or other disposition of the lands; and
 - (c) in the case of a lease of un-surveyed lands, a description of the parcel and sketch



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sufficient to identify the property to be leased be attached to the By-Law.

6. No By-Law for the acquisition, sale, lease or other disposition of land, shall be passed until:
 - (a) 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 lands;
 - (b) an inspection of the said lands has been made on behalf of the Town establishing the occupancy thereof and the improvements thereon, the easements affecting the same, and other pertinent facts relating to the lands, if any;
 - (c) 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.

OFF-SITE LEVIES

7. The Town may levy charges 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, including, but not limited to:
 - (a) new or expanded facilities for the storage, transmission, treatment , or supply of water;
 - (b) new or expanded facilities for the transmission, treatment, or disposal of sewage;
 - (c) new or expanded storm sewer drainage facilities;
 - (d) new or expanded roadways or sidewalks; and
 - (e) land required for, or in connection with, any of the facilities described in 7(a), 7(b), 7 (c), 7 (d);
8. The Town may designate by By-Law areas of the town in which off-site levies shall be levied. 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.
9. In determining the amount to be raised by off-site levies for municipal infrastructure, the Town shall 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.
10. All off-site levy revenue shall be deposited in a separate fund to be used for the purpose for which the levy was made.



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ESTABLISHING THE PRICE OF LAND

11. The price of new lots shall be determined by development costs, any off-site levies and the allowance, if any, for site specific factors.
12. The annual lease rate for land leased by the Town shall not exceed ten percent (10%) of the established lot price.

TERMS & CONDITIONS OF LAND DISPOSAL

13. The Town shall not dispose of any land until such time as the land has been posted and advertised for sale in a locally circulated newspaper for a minimum of two (2) weeks. Posting shall be in the Town Office and in three (3) prominent locations within the community.

Such notice shall include but not be limited to the following:

- (a) date of posting;
 - (b) closing date of posting;
 - (c) legal description of land;
 - (d) location;
 - (e) price of land;
 - (f) local improvement charge and/or off-site levies, if any; and
 - (g) zoning
14. Subsection 13(a) shall not apply to:
 - (a) lands required by the Federal or Territorial Government;
 - (b) lands which can only be of use to an adjoining owner(s);
 - (c) additional adjacent lands required for expansion of an owner's lot;
 - (d) proposals for the use of crown land which are, in the view of Council, unique or specialized to the degree that advertising for wider disposal would not be in the best interests of the Town;
 - (e) lands required for the installation of electric power, telephone or other communication utilities.
 15. All persons wishing to purchase or lease land from the Town shall submit an "Application to Purchase Land" or an "Application to Lease Land".
 16. The Town will conduct a bidding process in accordance with its procedures for all lots available at a given time. Following the completion of the procedure, remaining lots will be



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sold on a first-come, first-serve basis. Effectively this means that the first individual to enter into a completed agreement including deposit will be sold the respective property.

17. In the case of Commercial, Industrial or Town Centre lots, Council may entertain proposals for the disposal of land.
18. In the event that no offers are received for the purchase of the advertised property, the lot(s) shall be listed in the land bank register and may be disposed of on a "first come first serve" basis.
19. 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 shall:
 - (a) have first obtained a cost estimate establishing that the private developer will be able to develop and sell lots at a lower cost than the price the Town would be required to charge under this by-law;
 - (b) require a developer to provide a letter from a financial institution confirming that the developer has sufficient financial resources to complete the development of the subject land;
 - (c) require the developer to enter into an agreement with the Town requiring the developer to dispose of vacant land by way of a bidding process, tender or proposal call, unless a building has been constructed or installed on the land and the building is sold with the land;
 - (d) specify by agreement with the developer any requirements for the development of the land pursuant to Section 37 of the Planning Act, R.S.N.W.T., 1988, c.P-7 including any restrictions on the use of the lands;
 - (e) transfer title to the developer, subject to a caveat to ensure compliance with subsections 19 (c) and 19 (d) if applicable; and
 - (f) require that the development of the municipal infrastructure be completed with a reasonable period of time to ensure an adequate supply of serviced land is maintained in the Town.
20. No lands shall be sold by the Town to a tax exempt institution unless an agreement has first been made with the purchaser, providing that subject lands will revert back to the Town for the original purchase price should the institution no longer require the lands.
21. If a parcel of land is re-zoned and thereby becomes available for sale, it must be posted before sale, as per Section 13, and may not be committed for sale in advance even though re-zoning was done at the request of an applicant.



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LAND SALE REGISTER

22. A register of all land which has been approved for disposal by the Town shall be maintained. The information in the register shall include:
- (a) a sketch, identifying the size and location of the land;
 - (b) the full legal description, if any;
 - (c) the price of the land;
 - (d) conditions of disposal; and
 - (e) a record of pending disposals.
23. The register shall be open for inspection by the public at the Town Office during normal business hours.

LAND DEVELOPMENT FUND

24. All revenues from the disposal of land shall be held in the Land Development Fund.
25. Procedures for the management and operation of the fund shall be established by Council.
26. The Town shall not use the Land Development Fund for any purpose other than for the acquisition or development of land.

QUARRY MANAGEMENT

27. (a) Where the Town manages quarries, it shall be in accordance with the Statutes of the Governments of the Northwest Territories and Canada.
- (b) The acquisition and disposal of land for quarry purposes shall be subject to the requirements of this By-Law.
- (c) Subject to authorization by By-Law, the Town may apply for quarry permits and land use permits from senior governments for quarry purposes, and issue quarry permits to other parties.
- (d) Any agreement executed by the Town to lease or sell land for quarry purposes shall require the purchaser to lessee from the Town to restore the land at his or her own expense in accordance with the policies and guidelines established by the Government of the Northwest Territories and any other requirements of the Town.
- (e) Before executing a lease agreement or transfer for quarry lands, the Town shall 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 shall be determined by Council. This security shall consist of cash or an Irrevocable Letter of Credit issued by a Chartered Bank or a Surety Company.



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BY-LAW ADMINISTRATION

28. Council may, by resolution, adopt standard forms of agreement for the acquisition or disposal of land and may authorize administration to make such minor amendments to any such standard form of agreement as may be necessary to adapt the agreement to the requirements of any particular transaction.
29. The fees, procedures and agreements required for the administration of this By-law shall be as determined from time to time by resolution of Council.

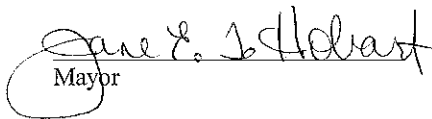
REPEAL

30. By-Law #599 is hereby repealed.

READ A FIRST TIME THIS 25th DAY OF October, 2011, A.D.

READ A SECOND TIME THIS 22nd DAY OF November, 2011, A.D., FOLLOWING A PUBLIC MEETING CONVENED TO REVIEW THIS BY-LAW.

READ A THIRD TIME AND PASSED THIS 13th DAY OF December, 2011, A.D.


Mayor


Senior Administrative Officer

I hereby certify that this bylaw has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the bylaws of the Municipal Corporation of the Town of Fort Smith.


Senior Administrative Officer