



TOWN POLICY

POLICY NUMBER: 6604

REFERENCE:
Council 594.11.03

ADOPTED BY:
Town Council

PREPARED BY: Planning & Development

DATE: 5 November 2003

TITLE: Condominium Servicing Agreement Policy

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Policy Statement

The Town of Strathmore will provide building condominium and bareland condominium servicing agreement as the basis for approvals of condominium building development and creation of bareland condominium units where it requires minor extension to existing infrastructure or service connections to existing water, sanitary and storm sewers.

1. **Definitions**

1.1 **Council** means the Council of the Town of Strathmore, in the Province of Alberta.

1.2 **Condominium Development or Bareland Condominium Subdivision** means the creation and registration of building or bareland units under the Condominium Property Act.

1.3 **Developer** means a landowner, or his agent, who intends the new or revised development of land by subdivision.

1.4 Development means the change in use or intensity of use of land.

1.5 Development Agreement means an agreement between a Developer and the Town and includes Servicing Agreements.

1.6 Infrastructure means the systems under the control of the Town necessary for water, sanitary sewer, storm sewer and motorized vehicle transportation and all appurtenances thereto.

1.7 Subdivision means the division of a title or lot into two or more fee simple titles or lots or the creation of building or bareland condominium units.

1.8 Town Manager shall mean the manager of the Town or his designate as employed or retained by the Town.

2. **Responsibilities**

2.1. Council

2.1.1 To review proposed development and subdivision as required as an approving authority

2.1.2 To review and make changes to the servicing agreement as required.

2.2 Town Manager

2.2.1 To provide comment on all servicing agreements to the Planning and Infrastructure Departments.

2.2.2 To be the signing authority for all servicing agreements where development or subdivision has been approved.

2.2.3 To sign all documents and contracts, and to authorize all payments or services provided for, by, or as a result of, the conditions of the development agreement.

2.3 Infrastructure and Operations Department

2.3.1 To provide comment on all development and subdivision referred to the Department by the Town Manager or the Planning Department

2.4 Planning Department

2.4.1 To prepare a servicing agreement based on this policy, negotiations with the Developer, direction by Council, the Town Manager and comments by the Infrastructure and Operations Department.

2.4.2 To submit the servicing agreement, where changes or a departure from the standard agreement is requested by the developer or recommended by Administration to Council for approval.

3. **Basis for Discussion**

3.1 This Policy shall form the basis for discussion with a developer and any or all of the requirements of the Servicing Agreement, and shall be applied to any development or subdivision that has a condition of approval that requires the developer to enter into a servicing agreement with the Town.

3.2 Where the Town considers that a development or subdivision is of a nature that requires special conditions or requirements in addition to those contained within the agreement, those extra conditions or requirements shall form part of the agreement.

4. **Development Agreement**

4.1 The agreement attached as Schedule "A", dated October 15th, 2003 shall be the Condominium Development Agreement for the Town as may be modified to provide for subsections 4.2 and 4.3.

4.2 When the developer services a building or bareland condominium development prior to registration of the condominium plan, the developer

will be required to have Construction Completion Certificates issued for all municipal improvements or set out in the Agreement and a performance security deposit of TEN (10) percent of the construction costs of all said municipal improvements at the time the condominium plan is submitted for endorsement.

- 4.3 When the developer wishes to register the condominium plan prior to the installation of municipal improvements as set out in the agreement, the developer will be required to have a performance security deposit of FIFTY (50) percent of the construction costs of all said municipal improvements at the time the condominium plan is submitted for endorsement.

5. **End of Policy**

SCHEDULE "A"
CONDOMINIUM DEVELOPMENT AGREEMENT

MEMORANDUM OF AGREEMENT dated this day of _____, 200____.

BETWEEN:

THE TOWN OF STRATHMORE

a municipal corporation, at 680 Westchester Road, in the
Town of Strathmore in the Province of Alberta
(hereinafter referred to as "the Town")

- and -

1.1 DEVELOPER

a body corporate duly authorized to carry

1.1.1 on business at _____

1.1.2 (Address)

1.1.3 in the Province of Alberta,
(hereinafter referred to as "the Developer")

WHEREAS the Developer is, or is entitled to become, the registered owner of all or a portion of land located within the boundaries of the Town and legally described on Schedule "A" attached to and forming part of this Agreement;

AND WHEREAS the Town and the Developer have agreed to enter into an Agreement to provide services required within and adjacent to the Lands;

AND WHEREAS subdivision approval of the Lands was granted, subject to, among other conditions, the Developer entering into a Development Agreement with the Town;

NOW THEREFORE, in consideration of the mutual terms, conditions and covenants to be observed and performed by each of the parties hereto, the Town and the Developer agree as follows:

1. DEFINITIONS

- 1.1 **“Condominium Plan”** means the creation of bare-land or building units for registration at South Alberta Land Titles Registration District and includes all site services required to service the Units.
- 1.2 **“Construction Completion Certificate”** means a written acceptance, in a form acceptable to the Town, prepared by the Consulting Engineer and approved by the Town that construction of the Municipal Improvement (s) has been completed in accordance with this Agreement.
- 1.3 **“Development”** means the project approved by the development authority and includes structures, landscaping parking, Municipal Improvements and Site Services to service the “Lands”.
- 1.4 **“Development Area”** means the area of land that includes the “Lands” and those lands adjacent that are required to be developed to serve the subdivision or development and are outlined in red on Schedule “A” attached to and forming part of this agreement.
- 1.5 **"Developer's Consultant"** shall mean the consulting professionals, identified in **Schedule "F"** retained by the Developer and shall include, but not be limited to professional engineers, landscape architects or designers, urban planners, and land surveyors.
- 1.6 **"Engineering Standards"** means the procedures, standards, and specifications respecting construction of Municipal Improvements as set forth in the "Town of Strathmore Design Standards and Procedures" latest revision as at the time of commencement of construction.
- 1.7 **"Final Acceptance Certificate"** means a written acceptance, in a form acceptable to the Town, prepared by the Consulting Engineer and approved by the Town for

the Municipal Improvements, or a portion thereof, upon the completion of any repairs for defects or deficiencies and the expiration of the Guarantee Period.

1.8 **"Guarantee Period"** means a period of time, as set out in the "Town of Strathmore Design Standards and Procedures ", for which the Developer accepts all responsibility for the repair and maintenance for all Municipal Improvements.

1.9 **"Lands"** means those lands for which the Bare Land Condominium Plan or Building Condominium Plan has been approved and to which the developer will or is entitled to become the Owner and as outlined in green on the attached as **Schedule "A"** and forming part of this Agreement.

1.10 **"Off-Site Levies"** means money to be paid to the Town for the provision of infrastructure upgrades, present and future, to serve the development and as set out in the Town's Off-site Levy Bylaw as amended.

1.11 **"Municipal Improvements"** means those municipal services to service the "Lands" which are installed in public streets and right of ways are as follows:

- (a) Alberta Survey Control Monuments complete with survey ties;
- (b) Concrete curbs and gutters;
- (c) Concrete sidewalks;
- (d) Landscaping including grading of boulevards;
- (e) Lanes with gravel base and surface (if applicable);
- (f) Natural gas distribution mains;
- (g) Power distribution;

- (h) Roads with gravel base and asphalt surface;
- (i) Sanitary sewer connections from the sanitary mains to the property as noted in the Design Standards;
- (j) Sanitary sewer mains including all manholes and other related appurtenances;
- (k) Storm sewer system including catch basins, culverts, manholes and other related appurtenances;
- (l) Storm water retention facilities;
- (m) Street lighting with underground wiring;
- (n) Traffic signs, street name signs and subdivision identification signs;
- (o) Uniform fencing;
- (p) Water connections from water mains to the property as noted in the Design Standards; and
 - (q) Water mains including all fittings, valves, pressure reducing valves, hydrants and other related appurtenances.

1.12 **"Site Services"** means those services installed within the "Lands" and controlled by the Condominium Association and are as follows:

- (a) Concrete or asphalt curbs and gutters;
- (b) Concrete or asphalt sidewalks;

- (c) Landscaping including grading of boulevards, common areas and irrigation systems;
- (d) Natural gas distribution mains and communication services;
- (e) Parking areas with gravel base and asphalt surface (if applicable)
- (f) Power distribution;
- (g) Pressure Irrigation System;
- (h) Roads with gravel base and asphalt surface;
- (i) Sanitary sewer connections, manholes, and other related appurtenances from the site sanitary mains to the Municipal sewer mains;
- (j) Storm sewer system and retention facilities including catch basins, culverts, manholes and other related appurtenances from the site storm sewer mains to the Municipal storm sewer main;
- (k) Street lighting with underground wiring;
- (n) Traffic signs, street name signs and neighbourhood or development identification signs;
- (o) Uniform fencing;

(p) Water connections including all fittings, valves, pressure reducing valves, hydrants and other related appurtenances from the site water mains to the Municipal water main.

1.13 “**Subdivision**” means the creation of bare land or building units for registration at South Alberta Land Titles Registration District and includes all Municipal Improvements required to service the “Lands”.

1.14 “**Town**” shall mean the municipal corporation of the TOWN OF STRATHMORE and the Town shall be represented by those persons delegated by Council to perform such duties and responsibilities, namely the Town Manager, Director of Infrastructure, Planning and Development Officer and the Town’s Consultant Engineer.

2. **APPROVAL**

2.1 The Developer shall comply fully with all conditions of the Subdivision or Development Approval as set out in **Schedule “B”**.

2.2 Immediately following or concurrent with the issuance of Certificate Of Completion Certificates for Municipal Improvements referred to in this Agreement or the subdivision or development approval, the Developer shall cause a Condominium Plan of the said Lands to be prepared and submitted for endorsement to the Town together with all consents by landowner(s) and those parties having an interest registered on Title and utility right of way plans and agreements thereto.

2.3 The Developer shall register the Condominium Plan within twelve (12) months of the date of endorsement in the Land Titles Office for the South Alberta Land Registration District. The Developer shall provide the Town with two copies of all registered plans.

3. **PLANS**

- 3.1 Prior to commencing construction and installation of the Municipal Improvements or Site Services, the Developer shall submit plans and specifications drafted by a professional Engineer (unless otherwise agreed to in writing by the Town) to the Town for review and comment.
- 3.2 The plans and specifications for the construction and installation of the Municipal Improvements for the proposed development shall conform to municipal standards as set out in the Town's Land Use Bylaw, Strathmore Engineering Standards, applicable City of Calgary Engineering Standards, and Alberta Environment and Alberta Transportation Standards where applicable.
- 3.3 The plans and specifications for the construction and installation of the Site Services for the proposed development shall conform to Environment standards and good engineering practice. Storm retention and discharge shall conform to the City of Calgary standards.
- 3.4 In the event that the plans and specifications required to be submitted by the Developer to the Town pursuant to this Agreement are unacceptable to the Town, the plans and specifications shall be amended or corrected by or on behalf of the Developer and resubmitted to the Town.
- 3.5 The Developer agrees that Three (3) Months prior to applications being submitted for Final Acceptance Certificates the Developer shall submit to the Town copies of all "as built" Plans and profile record drawings in a form and to standards specified by the Town.

4. CONSTRUCTION AND INSTALLATION OF MUNICIPAL IMPROVEMENTS

- 4.1 The Developer shall, on or before one calendar year from the date of signing of this agreement commence construction and installation of the Municipal Improvements with the Development Area and shall complete the construction and installation of the Municipal Improvements, at the Developer's own cost and expense, within one year from the commencement of construction and installation of the Municipal Improvements.

- 4.2 The Developer agrees to construct and install, at his expense and to Engineering Standards, all Municipal Improvements as set out in **Schedule "E"**.

5. ACCEPTANCE OF MUNICIPAL IMPROVEMENTS

- 5.1 The Developer shall allow the Town upon the Town's reasonable request, to enter onto the Lands so that the Town may satisfy itself that the Developer is complying with the terms and conditions of the Agreement.
- 5.2 The Developer shall during the course of the construction and installation of the Municipal Improvements provide and maintain adequate inspection services, supervised by a professional engineer.
- 5.3 The Developer shall submit an application for Construction Completion Certificate, in the form as set out in the Town's Engineering Standards, to the Town when the Developer claims that the Municipal Improvements have been constructed and installed in accordance with this Agreement.
- 5.4 Within thirty (30) days after inspection of the Municipal Improvements, the Town shall advise the Developer in writing of its acceptance or rejection of the Municipal Improvements.
- 5.5 If the Municipal Improvement is not acceptable to the Town, the Developer shall take all steps necessary to rectify the deficiencies. If the Municipal Improvements are acceptable to the Town, it shall issue a Construction Completion Certificate.
- 5.6 After the issuance of the Construction Completion Certificate of the Municipal Improvements by the Town, there shall be a Guarantee Period, the Town shall assume normal operation and maintenance (excluding repairs or matters arising from inadequate or deficient design or construction) of the Municipal Improvements.
- 5.7 Three (3) months prior to the expiration of the Guarantee Period, the Developer shall request an inspection by the Town of the Municipal Improvements.

- 5.8 If the inspection reveals no deficiencies, the Town shall issue a Final Acceptance Certificate.
- 5.9 In the event that the Town is of the opinion that any repair or replacement required during the Guarantee Period is of a major nature, the Town shall be entitled, in its discretion, to require a further full Guarantee Period for the particular Municipal Improvements or portion thereof and such further Guarantee Period shall commence upon the Town issuing written notice to the Developer of its acceptance of the repair or replacement work.

6. UTILITY EASEMENTS AND OTHER INSTRUMENTS

- 6.1 The Plans, as reviewed by the Town, shall designate rights-of-way of widths adequate to meet the needs of the Town and utility companies for the construction and installation of Municipal Improvements, and shall be of a width and in such locations as required by the Town and in accordance with the Town's Engineering Standards.

7. OFF-SITE LEVIES

- 7.1 The Developer agrees that the development of the Lands will benefit from new or expanded off-site water, sanitary sewer, roadway and storm drainage facilities which will be utilized to provide Municipal services to the Lands, and accordingly, the Developer covenants and agrees to pay the Town off-site levies as established by the Town.
- 7.2 The Developer covenants and agrees that the off-site levies currently established by the Town and payable by the Developer to the Town are the amounts specified in **Schedule "D"** of this Agreement and that off-site levies shall be paid in accordance with the terms as set out in **Schedule "D"**.
- 7.3 The off-site levy is valid for a period of two years from the date of this agreement. In the event of Condominium Plan cancellation or extension to the subdivision or development approval period, the off-site levy shall be recalculated in accordance

with the current rate in effect on the date the Condominium Plan is endorsed for registration.

- 7.4 The Developer agrees that the Lands will benefit from storm drainage to the Western Irrigation District Canals, the Developer covenants and agrees to pay the Town Storm Capital levies as established by the Town.
- 7.5 The Developer covenants and agrees that the Storm Capital levies currently established by the Town and payable by the Developer to the Town are the amounts specified in **Schedule "D"** of this Agreement and that Storm Capital levies are to be payable at the time the Condominium Plan is submitted for endorsement.
- 7.6 The Storm Capital levy is valid for a period of two years from the date of this agreement, in the event of Condominium Plan cancellation or extension to the subdivision or development approval period, the Storm Capital levy shall be recalculated in accordance with the current rate in effect on the date the Condominium Plan is endorsed for registration.

8. FEES

- 8.1 Inasmuch as the Town will incur costs and expenses in the review of the Engineering Plans and Landscaping Drawings for the Municipal Improvements and costs and expenses for the testing and inspection of the Municipal Improvements, and inasmuch as such costs and expenses are properly part of the costs of constructing and installing the Municipal Improvements and should properly be borne by the Developer, the Developer agrees:
- (a) upon the execution of this Agreement, pay to the Town, \$2500 for the preparation of this Development Agreement and Two (2) Engineering Plans and Landscape Drawing reviews;
 - (b) all subdivision and rights-of-way plan and related document preparation and registration fees;
 - (c) all Engineering Plans and Landscape Drawing reviews undertaken by the Town Administration and Town's Consultant Engineer subsequent to the

initial Two (2) reviews and all changes or amendments to the Engineering Plans or Landscape Drawings within 30 days of the date of invoice;

- (d) all inspection fees conducted by the Town Administration or the Town's Consultant Engineer within 30 days of the date of invoice;
- (e) all legal fees, expenses and disbursements incurred by the Town in negotiation for, in the preparation of, in the execution of and throughout the performance and all collateral services required to complete this Agreement and to ensure the performance hereof within 30 days of the date of invoice. The Developer further agrees that the charges by the Town's solicitors shall be subject to taxation against the Developer on a solicitor-client basis as provided for in the Alberta Rules of Court.

9. DEFAULT BY THE DEVELOPER

- 9.1. In the event that the Town claims that the Developer is in default in the observance and performance of any of the terms, covenants or conditions of this Agreement, the Town may give the Developer thirty (30) days notice in writing of such claimed default and require the Developer to rectify the same within the said period of thirty (30) days.
- 9.2 In addition to its other rights, the Town shall be entitled to terminate this Agreement if the Condominium Plan is not registered on or before twelve (12) months from the date of this Agreement. The termination of this Agreement shall be effective upon the Town serving written notice of termination on the Developer. The Developer shall not be entitled to register a Condominium Plan for any portion of the Lands unless and until a further written Agreement is entered into between the Developer and the Town.
- 9.3 In the event the Town terminates this Agreement pursuant to paragraphs 9.1 and 9.2, it is understood and agreed that any financial obligations of the Developer to the Town shall survive and the Town shall be entitled to enforce such financial obligations as if this Agreement remained in full force and effect.

- 9.4 In the event that the Developer **commences construction but does not complete the construction or terms of this agreement**, the Town shall have the right, in its sole discretion, to enter upon the Development Area to ensure Municipal Improvements are installed to Engineering Standards, including any repair or replacement work, and have been connected to Site Services to provide safe and adequate services to occupied units. Where the Town has carried out the required work, it may at its discretion:
- (a) cause the costs and expenses incurred to be placed on the tax roll as an additional tax against the Lands concerned; or
 - (b) draw upon the Letter of Credit, to the extent required, to obtain compensation for the costs and expenses incurred; and
 - (c) to the extent that the Letter of Credit is insufficient to pay for the said costs and expenses, cause the excess to be placed on the tax roll as an additional tax against the Lands concerned; and
 - (d) the Developer hereby consents, pursuant to the Act, to an authorized person (as that term is used in the Act) entering the Lands or Development area or both for the purpose of ensuring compliance with the Act, its Regulations, the Lands Use Bylaw, or for the purpose of enforcing an Order of the Bylaw Enforcement Officer or the Subdivision and Development Appeal Board .

10. **INDEMNITY AND SECURITY**

- 10.1 The Developer shall indemnify and save harmless the Town from any and all losses, costs, damages, actions, causes of action, suits, claims and demands resulting from anything done or omitted to be done by the Developer in pursuance or purported pursuance of this Agreement.
- 10.2 The Developer covenants and agrees that it shall carry comprehensive liability insurance and including the Town as a named insured. The insurance policies shall have the following minimum limits of coverage:
- (a) a comprehensive general liability insurance policy for bodily injury (including death) and property damage in an amount of not less than Two Million Dollars (\$2,000,000.00) inclusive limit for any one occurrence and shall include:

- (i) the Town as a Named Insured (our right to claim as named insured if Developer defaults on clause in insurance cannot claim back on the Town.);
 - (ii) a cross liability clause;
 - (iii) a waiver of subrogation clause;
 - (iv) products and completed operations coverage;
 - (v) a broad form of a contractual liability clause;
 - (vi) non-owned automobile liability extension, and;
 - (vii) an operation of attached machinery clause.
- (b) an automobile third party liability insurance policy (owner's form) for bodily injury (including death) and property damage in an amount of not less than Two Million Dollars (\$2,000,000.00) inclusive limit covering all vehicles used in the performance of this Agreement and such insurance shall include the passenger liability extension.
- 10.3 Upon submission of the Condominium Plan for endorsement the Developer shall deliver and deposit with the Town security in the form of an irrevocable letter of credit, cash or performance bond in an amount equal to **10% of the estimated costs** of constructing and installing all of the **Municipal Improvements** (excepting gas and communication systems) as set out in **Schedule "E"**, and the security shall be in the form acceptable to the Town.
- 10.4 The performance security will be refunded after the warrantee period has expired as set out in the Engineering Standards and Final Acceptance Certificates for the Municipal Improvements have been issued.

11. COMPLIANCE WITH LAW

- 11.1 This Agreement does not constitute approval of any subdivision or development permit or other permits granted on behalf of the Town.
- 11.2 Any provision that is contrary to the law, the same shall be severed and the remainder of this Agreement shall be in full force and effect.
- 11.3 The Developer shall at all times comply with all legislation, regulations and Municipal Bylaws and resolutions relating to the development of the Lands by the Developer.

12. GENERAL

- 12.1 The validity and interpretation of this Agreement and of each clause and part hereof shall be governed by the laws of the Province of Alberta.
- 12.2 A waiver by either party hereto of the strict performance by the other of any covenant or provision of this Agreement shall not constitute a waiver of any subsequent breach of such covenant or provision or any other covenant or provision of this Agreement.
- 12.3 The Developer acknowledges and agrees that the Town shall be at liberty, pursuant to the ***Municipal Government Act, R.S.A 2000*** as amended, upon the execution of this Agreement, to file at the South Alberta Land Titles Registration District a caveat against the said Lands for the purpose of protecting the Town's interest and rights pursuant to this Agreement.
- 12.4 The Town acknowledges and agrees that the said caveat must be discharged when the terms of this Agreement have been complied with.
- 12.5 This Agreement shall not be assignable by the Developer without the express written approval of the Town, which will not be unreasonably withheld.

12.6 Time shall in all respects be of the essence in this Agreement.

12.7 The Developer shall be responsible for and within thirty (30) days of the presentation of an account, pay to the Town any legal and engineering, Plan review costs, fees, expenses and disbursements incurred by the Town through its solicitors and engineers for all services rendered in connection with the preparation, fulfillment, execution and enforcement of this Agreement.

13 **EXECUTION OF AGREEMENT**

13.1 The Developer agrees to pay to the Town upon signing of this Agreement all fees applicable under the Town’s fee rate Bylaw and Policy associated with the preparation of this Agreement.

13.2 Whenever under the provisions of this Agreement any notice, demand or request is required to be given by either party to the other, such notice, demand or request may be given by delivery or registered mail to the following address:

TOWN OF STRATHMORE
680 Westchester Road
Strathmore, AB T1P 1J1

and

DEVELOPER

1.1.4 _____(Address)

1.1.4.1 _____

13.3 The Developer hereby acknowledges that it is hereby executing this Agreement having been given the full opportunity to review the same and seek proper and independent legal advice and that the Developer is executing this Agreement freely and voluntarily and of its own accord without any duress or coercion whatsoever and that the Developer is fully aware of the terms, conditions and covenants contained herein and the legal effects thereof.

IN WITNESS WHEREOF the parties hereto have affixed their corporate seals, duly attested by the hands of their respective proper officers in that behalf, as of the day and year first above written.

TOWN OF STRATHMORE

DEVELOPER

Town Manager

PER: _____

PER: _____

SCHEDULE "A"

Development Area (outlined in red)
and Condominium Plan Area and Lands (outlined in green)

SCHEDULE "B"

Approving Authority Decision

SCHEDULE "C"

Municipal Improvements

1. All those Municipal Improvements as shown on the Engineering Consultant Ltd. Plans Strathmore Date Stamped Received, _____, 200__ as revised as per comments forwarded _____200__ and as more specifically stated as follows:
 - a)
 - b)
 - c)
 - d)

2. In addition to those Municipal Improvements as shown on the Engineering Consultant Ltd. Plans Strathmore Date Stamped Received _____, 200__, including all revisions to date, the following improvements have been agreed to:
 - a)
 - b)

SCHEDULE "D"

Offsite Levy Calculation and Payment Schedule

Area as per Plan to be registered:

Offsite Levy based upon 2003 Residential Levy Rate = \$ 20,470 per ha UP FRONT or
 \$ \$22,042 per ha PAYMENT PLAN

\$ 20,470 X _____ ha = \$ _____ UPFRONT

or

\$22, 042 X _____ ha divided by # lots _____ = \$ _____ per lot.

Storm Capital Levy Calculation

Area as per Plan to be registered:

Offsite Levy based upon 2002 Levy Rate = \$ 2,000.00 per acre

\$2000.00 X _____ ha = \$ _____ to be paid on the day of endorsement of this agreement.

SCHEDULE "E"

Estimated Cost of Municipal Improvements and Security Deposit Calculation

a)		
b)		
c)		
d)		
e)		
f)		
	TOTAL	

Performance Security Deposit amount: 50% of \$ = \$

SCHEDULE "F"

CONSULTANT ENGINEER

Engineering Consultant Ltd. at anywhere