



TOWN POLICY

POLICY NUMBER: No. 6607

REFERENCE:
293.09.17

ADOPTED BY:
Town Council

PREPARED BY: Infrastructure & Development Services

DATE: 20 Sep 2017

TITLE: Subdivision, Development Agreement and Subdivision Servicing Agreement Policy

Policy Statement

This policy provides guidance to the processing and administration of subdivisions, Development Agreements and Subdivision Servicing Agreements. It supersedes Policies Nos. 6602 and 6603.

1. TITLE

1.1 This Policy may be cited as the "Subdivision, Development Agreement and Subdivision Servicing Agreement Policy".

2. APPLICATION

2.1 This Policy

- (a) provides broad direction for the processing of any subdivision application that proposes creating 3 or more lots (or 3 or more bare land units on a condominium plan), but it may be adapted to address subdivisions creating 2 or more lots or bare land units (including the residual parcel);
- (b) addresses the preparation of Development Agreements and Subdivision Servicing Agreements;
- (c) must be considered in addition to other requirements and guidelines including but not limited to the Act, the Subdivision and Development Regulation, the Municipal Development Plan, other applicable Statutory

Plans, Conceptual Schemes (subject to the Act), and the Land Use Bylaw;
and

- (d) is based on the premise that the subdivision of land generally must precede development and the issuance of development permits to ensure the effective, efficient and beneficial operation of Alberta's land development process, although there are circumstances, as determined by Development Authority or the Subdivision Authority, where subdivision and development carried out concurrently are beneficial.

3. **DEFINITIONS**

3.1 In this Policy terms and words defined in the Act have the meaning expressed by the Act. Other terms and words used in this Policy are defined below:

- (a) "Act" means the Municipal Government Act, R.S.A. 2000, Chapter M-26, as amended;
- (b) "Bylaw" means a bylaw of the Town;
- (c) "CAO" means the Chief Administrative Officer within the meaning of the Act;
- (d) "Council" means the Mayor and Councilors of the Town of Strathmore;
- (e) Development Agreement means an agreement, authorized by the Land Use Bylaw and described in Section 650 of the Act, that may be required as a condition of issuing a development permit;
- (f) Developer means the person or party named in an Agreement described in Section 4.3(c);
- (g) "Development Authority" means the development authority established in the Land Use Bylaw;
- (h) "Director" means the person responsible for the department that issues development permits and approves subdivisions;
- (i) "Land Use Bylaw" means the current land use bylaw, as amended, of the Town of Strathmore;
- (j) "Regulation" means the Subdivision and Development Regulation A.R. 43/2002 as amended;
- (k) "Subdivision Authority" means the subdivision authority established in the Land Use Bylaw;
- (l) "Subdivision Officer" means a designated officer authorized to function as a subdivision authority;
- (m) "Subdivision Servicing Agreement" means an agreement described in Section 655 of the Act that may be required by the Subdivision Authority as a condition of subdivision approval;
- (n) "Town" means the Corporation of the Town of Strathmore.

4. **RESPONSIBILITY**

- 4.1 Council may from time to time amend this Policy.
- 4.2 The CAO must authorize the templates used for preparing the Agreements identified in Section 4.3(c) below.
- 4.3 The Director
- (a) should ensure that this Policy is reviewed at least once every 3 years;
 - (b) may require that processes be developed to support and ensure its implementation, including consultation;
 - (c) must prepare and administer the following agreements in accordance with the provisions of this Policy and the applicable provincial statutes and regulations¹:
 - (i) a Development Agreement pursuant to Sections 648, 650 and 651 of the Act;
 - (ii) a Subdivision and Servicing Agreement pursuant to Sections 648, 651 and 655 of the Act;
 - (iii) a Special Clauses Agreement to amend or supplement a Subdivision and Servicing Agreement;
 - (iv) an Indemnification Agreement in addition to, or in substitution of a Development Agreement; and
 - (v) such other Agreements as the Director considers appropriate to address Sections 648, 650, 651 or 655 of the Act; and
 - (d) must review the Agreements described in (c) above at least once every 3 years to ensure alignment and consistency with
 - (i) the applicable legislation and regulations;
 - (ii) related Bylaws including but not limited to the Off-Site Levy Bylaw, the Fees Bylaw and the Land Use Bylaw; and
 - (iii) related policies, procedures and requirements of the Town including but not limited to the Engineering and Servicing Standards.
- 4.4 The Subdivision Authority, a Subdivision Officer and the Development Authority in carrying out its functions and responsibilities must have regard to this Policy, support its implementation and advise the Director of issues related its implementation.
- 4.5 Before an Agreement described in Section 4.3(c) is executed by the CAO (or the CAO's designate) and the Developer, the Agreement must be referred to the Director for review and the Director must be satisfied that the Agreement is

¹ See Endnotes

consistent in form and content with the template that the CAO authorized for that Agreement.

5. PROCESSING OF SUBDIVISION APPLICATIONS

- 5.1 The processing of subdivision applications is subject to a variety of provincial and municipal requirements. The process outlined in Section 5.3 below
- (a) must not be construed to conflict with any of these requirements and is intended to complement them; and
 - (b) outlines in general terms the process to be followed in administering applications subject to more detailed operational requirements or procedures.
- 5.2 As a general guiding objective, the Subdivision Authority must ensure that the subdivision of land and its servicing are coordinated. As such, the Authority should ensure, as far reasonably possible, that the processing of subdivision applications supports the coordinated consideration and approval of the subdivision, related drawings and plans, (including but not limited to engineering drawings and utility rights-of-way) as well as the coordinated consideration, as required, of a Subdivision Servicing Agreement.
- 5.3 The following outlines the subdivision process, subject to Sections 5.1 and 5.2 above.
- (a) An application for subdivision is received and reviewed to ensure it is complete.
 - (b) The applicant is notified whether or not an application for subdivision is complete, subject to the Act and the Regulation and recognizing that
 - (i) the Regulation prescribes information that must be submitted for a complete application as well as, pursuant to Section 4(5), additional information that the Subdivision Authority may require to address the requirements of the Act; and
 - (ii) the submission of additional information may be required either as a condition of subdivision approval or in accordance with the Subdivision Servicing Agreement.

The timing of the submission all drawings related to the subdivision including but not limited to utility rights-of-way, engineering, landscaping should be confirmed with the applicant as soon as possible, as well as the estimated time of subdivision registration and commencement of the installation of roads, public utilities and infrastructure.

- (c) Engineering and related drawings must be submitted in support of a subdivision application and not prior to, or independent of the submission of an application for subdivision. Plans respecting utility rights-of-way, surface

drainage and related matters must be submitted as early as possible and prior to subdivision approval.

- (d) On receipt of a complete application, the Subdivision Officer completes a Preliminary Evaluation confirming same and notifies the applicant. The application is circulated, requesting comments from the following:
 - (i) adjacent landowners as required by the Act;
 - (ii) external agencies (with or without comments or questions) in accordance with the Regulations; and
 - (iii) other Town staff together with the Preliminary Evaluation and questions or comments identifying key issues.
- (e) The comments arising from the circulation are reviewed, including comments respecting the engineering and related drawings. Potential issues and information required by the Subdivision and Servicing Agreement should be identified. Any prospective specific or unique requirements or conditions warranting “Specific Clauses and Additional Provisions” in Schedule C-4 of the Agreement should be identified.
- (f) A report and draft subdivision decision is prepared, based on the above and shared with engineering and other key Town staff. Unless all engineering and landscaping drawings are acceptable for approval, or have been approved, outstanding issues should be identified in the subdivision decision.
- (g) If a subdivision approval requires entering into a Subdivision Servicing Agreement with the Town, the Subdivision Officer must, in addition to preparing a report and a draft decision,
 - (i) prepare either a draft or outline of the Subdivision Servicing Agreement; in consultation with, or as required by the Director; and
 - (ii) consult with the appropriate staff to address servicing of the Developer’s lands, including the residual parcel(s), servicing of public or privately-owned lands beyond the Developer’s lands, boundary conditions and endeavors to assist, unique or additional conditions (as described in Schedule C-4 Specific Clauses and Additional Provisions), and payment of off-site levies, fees and securities.
- (h) The Subdivision Authority together with the appropriate staff should discuss the draft decision with the applicant to address, subject to Part 6 below,
 - (a) any potential issues;
 - (b) the timing of the completion of the Subdivision Servicing Agreement, to support coordinating its completion with the approval of the subdivision; and
 - (c) the likely timing of the request by the applicant for final approval (i.e. “endorsement”) of the subdivision.

- (i) The Subdivision Authority issues a decision on the application in accordance with the Act and issues the mandatory notifications.
- (j) The applicant requests final approval of the subdivision and submits the required plans, information and fee. The Subdivision Authority issues final approval if the conditions and requirements of the subdivision approval have been addressed. Final approval involves endorsing the plan of subdivision and preparing all the necessary and related documents for registration or discharge as appropriate.

6. PREPARING AND COMPLETING THE SUBDIVISION SERVICING AGREEMENT

- 6.1. The principles stated below apply to, or guide the preparation and completion of Subdivision Servicing Agreements. These Agreements and the obligations contained therein
- (a) should be aligned with all of the Town's current procedures and policies;
 - (b) should provide full certainty and clarity for the benefit of both the Developer and the Town as well as any future parties or individuals not present during preparation and execution of the Agreement, recognizing that
 - (i) the Agreement is a contract between the signatories to the Agreement (subject to the specific terms of the Agreement); and
 - (ii) the Town's obligations under the Agreement may not expire for a lengthy period. Typically, but subject to the terms of the Agreement, certain obligations may not expire for 20 years from the date a Notice of Acceptance of the Construction Completion Certificate is issued by the Town for roads, public utilities or other infrastructure;
 - (b) must monitored and recorded by the Director or the Director's designate; and
 - (c) the financial obligations and related matters must be reviewed on an annual basis by the Director of Corporate Services or the designate of the Director of Corporate Services.
- 6.2 If the Subdivision Authority, as a condition of subdivision approval, or as a requirement of a Subdivision Servicing Agreement, requires a Developer to oversize, or oversize and extend public utilities or infrastructure that benefit lands other than the Developer's lands, then the Subdivision Authority, subject to Section 6.3 must ensure that the Subdivision Servicing Agreement authorizes and the Schedules thereto must:
- (a) provide detailed information respecting the obligations of the Developer to install the oversized, or oversized and extended public utilities or infrastructure including but not limited to
 - (i) a description of the type and size of the oversized service compared to the size of the required service without oversizing and the size of the

required oversized and extended service recognizing that a required oversized and extended service does not benefit any of the Developer's Lands;

- (ii) the location of these facilities, including maps and plans respecting their location, points of commencement and termination;
 - (iii) the drawings or plans that the Town approved in respect to these facilities;
 - (iv) the estimated capital cost of the oversized services and the cost of services without oversizing to determine the net cost of oversizing;
 - (v) the estimated total capital cost of oversized and extended services since these services are for the sole benefit of lands other than the Developer's lands; and
 - (vi) the sum that the Developer is entitled to recover from benefitting parties being the net cost and the total cost derived from (iv) and (v) above, plus administration and engineering costs as required by the Town;
- (b) identify the following:
- (i) the lands that benefit from the oversized, or oversized and extended services; and
 - (ii) an endeavor to assist, namely the actions that the Town will take to assist the Developer in recovering the costs for installing or paying for the installation of either oversized, or oversized and extended services, or both.

6.3 In all cases, the Subdivision Authority and a Subdivision Services Agreement must not require a Developer to oversize public utilities or infrastructure, unless that Agreement contains provisions respecting an endeavor to assist as described in Section 6.2(b) above.

6.4 A Subdivision Services Agreement must require sufficient security from the Developer to ensure that services are installed to the satisfaction of the Town and in accordance with the Town's Engineering and Servicing Standards.

7. SPECIAL CLAUSES AND OTHER AGREEMENTS

7.1 This Policy seeks to ensure fair, consistent and reasonable administration of the Development Agreements and Subdivision and Servicing Agreements by the using templates that are approved by the CAO in accordance with Section 4.3 of this Policy. But if the Development Authority or the Subdivision Authority has determined that it is appropriate to address specific matters and obligations in respect to public utilities, infrastructure, matters required pursuant to the Town's Engineering and Servicing Standards, or Bylaws of the Town, and it is impractical to address those matters within the Development Agreement or the Subdivision

Servicing Agreement (or the Schedule thereto that deals with specific clauses), then the Development Authority or the Subdivision Authority may require an applicant or the owner of lands, as appropriate, that is the subject of

- (a) a development permit; or
- (b) an approved subdivision

to enter into a Special Clauses Agreement or other Agreement as described in Section 4.3(c) to the satisfaction of the Director, subject to Section 8.1.

8. DEVELOPMENT AGREEMENT

8.1 If a condition of a development permit requires the applicant to enter into Development Agreement before the permit is issued, the Development Officer must, subject to Section 9.1,

- (a) endeavor to coordinate the issuance of the permit with the preparation of the Agreement;
- (b) ensure that servicing, security and related requirements including but not limited to rehabilitation of adjacent lands is addressed by consulting with the appropriate Town staff;
- (c) ensure that the Agreement is prepared in accordance with operational requirements or procedures to the satisfaction of the Director;
- (d) ensure that the Agreement requires sufficient security from the Developer to ensure that roads, public utilities, and infrastructure are constructed, installed or rehabilitated to the satisfaction of the Town and in accordance with the Town's Engineering and Servicing Standards; and
- (e) ensure that the development permit is not issued until the Agreement is executed by both parties and securities are received by the Town.

9. OVERSIZING AND ENDEAVORS TO ASSIST

9.1 If the Development Authority or the Subdivision Authority is of the opinion that a Developer is, or will be required to oversize, or oversize and extend public utilities or infrastructure, the Developer's obligations respecting these matters should be addressed as early as possible and in accordance with a Subdivision Servicing Agreement required as a condition of subdivision approval. But if there are circumstances where these matters warrant addressing in an Agreement as described in Section 4.3(c), other than a Subdivision Servicing Agreement, then that Agreement must address the matters described in Section 6.2 (a) and (b) to the satisfaction of the Director.

10 AUTHORITY TO COLLECT FEES AND CHARGES

- 10.1 In addition to any fees or charges required by the Off-Site Levy Bylaw or the Fees Bylaw, this Policy authorizes the collection of fees for administration, engineering and the review of documents as stated in an Agreement described in Section 4.3(c) above.

ENDNOTES

1. Common applicable or related Provincial Statutes include the following
 - a) Condominium Property Act C-22 R.S.A. 2000
 - b) Land Titles Act L-22 R.S.A 2000
 - c) Municipal Government Act M-26 R.S.A 2000

2. Common applicable or related Provincial Regulations include the following:
 - a) Condominium Property Regulation A.R. 168/ 2000
 - b) Subdivision and Development Regulation A.R. 43/ 2002
 - c) Subdivision and Development Forms Regulation A.R. 44/ 2002

3. See also Land Titles Procedures Manual (Service Alberta)