

# CITY OF WHITEHORSE COUNCIL POLICY



## **POLICY: LAND DISPOSITION**

<b>Policy Number:</b>	<b>2017-03</b>
<b>Approved by:</b>	<b>Council</b>
<b>Effective date:</b>	<b>July 2017</b>
<b>Next revision due:</b>	<b>2021</b>
<b>Department:</b>	<b>Land and Building Services</b>

## **PURPOSE**

The purpose of the City of Whitehorse Land Disposition Policy is to provide guidelines for the orderly development and disposition of City owned land

**AUTHORITY** Council Resolution # 2017-15-03 dated July 24, 2017

## **POLICY STATEMENT**

In accordance with the 2006 Land Development Protocol entered into by the City of Whitehorse and the Yukon Government, the City is responsible for undertaking the planning, consultation, design and approvals for both Yukon Government and City-owned new land development projects.

In addition to the development of lots in new development areas, the City may wish to dispose of lots that are within or adjacent to existing neighbourhoods. These lots may be for residential, mixed-use, commercial or industrial uses and will need the proper Official Community Plan and zoning designations for development.

This policy should be read in conjunction with the City's applicable Acts, Bylaws, Policies, Protocols, Procedures, and supporting references.

## **SCOPE**

The Land Disposition Policy applies to all developed lands to which the 2006 Land Development Protocol applies as well as to any City-owned land. There are no exceptions provided in this policy.

### **Consequence of Non-Compliance**

City staff charged with the administration of this policy will be accountable to the provisions under this policy and any related City Bylaws or Policies.

## **DEFINITIONS**

“**appraisal**” means a method of determining market value as of a specified date by a qualified appraiser as outlined by the Appraisal Institute of Canada.

“**eligible non-profit organization**” means a not-for-profit society incorporated or continued under the Yukon *Societies Act* for a minimum of two continuous years in good standing.

“**market value**” means the most probable price, as of a specified date, in cash or in terms equivalent to cash, or in precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, and assuming that neither is under undue duress.

“**upset price**” means the minimum price the City will accept for a parcel of land.

## **BACKGROUND**

Land development within the City of Whitehorse has a complex history in relation to what agency or level of government has the responsibility for the planning, design, approvals and ultimate development. In an effort to provide greater clarity of the roles and responsibilities of each party, the City of Whitehorse and Yukon Government entered into a Land Development Protocol in 2006. This document states that the City of Whitehorse will be responsible for the planning, design, consultation and approvals for land development and the Yukon Government will be responsible for the physical development and ultimate sale of the developed land. Through this process, the City is taking a more active role in development of land in Whitehorse.

The City of Whitehorse and the Yukon Government have strived to maintain a two year supply of building lots on inventory. This goal was to ensure that the building industry would have a supply of lots to draw upon and the general public would be able to purchase a lot of their choice over the counter as opposed to through a lottery process. The sale of land to the private sector facilitates land development and can generate revenue for the City.

The City is working on various residential development projects located on both Yukon Government and City-owned land. This policy is intended to provide guidance on how disposition of City-owned land will take place.

## **DISPOSITION PROCEDURE**

1. The City has several options on how to dispose of land. The process selected will depend on the type, size, zoning and servicing of the lot. Lots will be sold at market value unless otherwise directed by Council, in a manner that will allow all interested parties an equal opportunity to purchase a lot.

### **Lottery Process**

2. The lottery process may be used for single-family, duplex and triplex lots that are serviced, appropriately zoned, and otherwise ready for residential development. The City will establish the sale price for each lot in advance of the lottery.
  - (1) Only one application per person will be accepted and must be accompanied by an application fee and an administration fee.

- (2) Applicants must be at least 19 years of age and must have been a Yukon resident for at least six months prior to the lottery date. Proof of residency must be demonstrated by the applicant's possession of a valid Yukon General Identification Card or a Yukon Driver's Licence.
- (3) Applicants are not eligible to enter a lottery if they hold an existing residential land sale agreement with the City.
- (4) In each lottery, only one lot will be awarded per person.
- (5) Successful lottery applicants will also be required to provide a deposit amount as specified in the lottery package/sale agreement to secure the purchase of the lot being offered. For unsuccessful applicants, the administration fee will be refunded. Successful applicants who are offered a lot and decline to purchase the offered lot will not get the administration fee back. For successful applicants who accept the lot being offered, the administration fee will be applied as a deposit towards the purchase price of the property being purchased.
- (6) Successful lottery applicants will not be eligible to enter into another City land lottery for two years after the date of their successful lottery application.

### **Bid Process**

3. The bid process will be used on multiple-family, townhouse, commercial, industrial and mixed-use lots or parcels of un-serviced land for future development and subdivision by a private developer. A Request for Bids will be issued and lots will be sold to the highest bidder.
  - (1) A Request for Bids will be issued describing the lots, setting an upset price and listing any specific conditions that may apply. Each bid must be accompanied by a deposit in the form of a certified cheque equalling 10% of the total lot price. The details of this requirement will be set in the Request for Bids.
  - (2) Once the highest bidder has been identified, the City and the successful bidder will then enter into a sale agreement.
  - (3) Bidders can submit bids on more than one lot. This may, for example, be desirable as it allows for a larger building which could take advantage of an economy of scale and be more efficient in terms of heating costs when compared to several stand-alone buildings.
  - (4) In the event of a tie, the first bid received will be deemed successful.

### **Proposal Process**

4. This process is similar to the bid process except that prospective purchasers will be required to submit a proposal outlining the planned development. A Request for Proposals will be issued outlining the City's specific development goals,

evaluation criteria and upset prices for all lots up for sale. Proposals may be submitted for more than one lot.

- (1) The proposals will be reviewed and the lot awarded to the proposal that best satisfies the established development criteria. The City and the selected purchaser will then enter into a sale agreement.
- (2) In some cases, bringing an amendment forward to City Council for the appropriate zoning may be the responsibility of the purchaser.

### **Lot Enlargement Process**

5. In some instances, land may be sold to the public for lot enlargements to existing properties. Each lot enlargement request is reviewed on a case by case basis by the City's Development Review Committee (DRC). When requests for public land are received, the merits of the development initiatives are evaluated by the DRC along with factors which might warrant the land's restricted use and/or retention by the City.
6. Reasons to deny or limit the disposition of land for a lot enlargement might include anticipated City land needs, projected land requirements by other government agencies, local community interests, compatibility with adjacent land uses, and environmental risks. Upon review of the application for land, the DRC will make a recommendation on whether the land application merits presentation to Council.
  - (1) Application criteria that is taken into consideration as part of a lot enlargement request includes but is not limited to the following:
    - (a) Enlargements that legitimize historical land use that dates back to the origins of the property.
    - (b) Enlargements that result in an increase to a lot's conformity in relation to the City's Official Community Plan and/or Zoning Bylaw.
    - (c) Enlargements that correct an unusual development related hardship that has been imposed upon an owner through the irregular configuration or shape of a lot or through unusual topographic constraints.
    - (d) Enlargements involving land that is not viable for sale on its own or could not be developed as a stand-alone parcel.
  - (2) As a general rule, administration will refuse lot enlargement applications where one or more of the following criteria exist:
    - (a) Rear yard enlargements to existing single family residential lots located in established neighbourhoods.
    - (b) Lot enlargements that would enable subdivision potential which did not exist prior to the enlargement process.

- (c) Enlargements to country residential lots where the lot area meets or exceeds the minimum lot area required under the current zoning regulations.
- (3) If a lot enlargement application is supported by this policy, administration will prepare a disposition sketch that will be used by the applicant to acquire an appraisal. The appraised value will be incorporated into a draft sale agreement that will specify the closing date and terms applicable to the sale and require the endorsement of the applicant prior to presentation to Council.
- (4) City Council makes the final decision on the land disposition through the bylaw process. Land will be sold at market value. All costs associated with the land appraisal, land surveying and preparation of the land transfer documents will be paid for by the applicant in addition to the value of the land.

### **Unsold Lots from Lottery and Bid Processes – Over-the-Counter Sales**

- 7. Lots not sold through the lottery and bid processes may be sold over the counter in the Land and Building Services Department after notification is provided in newspapers for two successive weeks.

### **Counter Draw on Initial Over-the-Counter Offering**

- 8. Applicants will have until 2:00 p.m. on the first day of lots being released over the City counter to express their interest in a specific lot (or lots). No lots will be sold until this time. If by 2:00 p.m., two or more applicants are interested in the same lot, a draw process will be utilized to ensure fairness in the land disposition process. Applicants (or their authorized agents) must be present at the City counter in order to qualify for the draw process. The draw will occur on the same day at 2:00 p.m.
- 9. Any lots remaining will be available over the counter until sold or withdrawn by the City.

### **Land Valuation**

- 10. Prices for the lots will be based on market value as determined by an appraisal completed by an independent appraiser or on the cost of development, whichever is higher. For lots sold by lottery, prices for each lot will be listed in the lottery information package. For lots sold using a bid or proposal process an upset price will be established.
- 11. Council may decide to use prices below market value for the purposes of facilitating a below-market price development or to expedite the sale of any land.

### **Sale Agreements and Closing Schedules**

12. Once a lot is awarded through a lottery, bid process, proposal process or an over-the-counter sale, the purchaser will enter into a sale agreement with the City of Whitehorse.

### Single Detached, Duplex and Triplex Lots

13. Sale agreements for single detached, duplex or triplex lots will specify a closing date of 90 days and will require that a non-refundable deposit of \$5,000.00 be provided.

### Multiple-family, Townhouse, Commercial, Industrial, Mixed-use and Un-serviced Land

14. Sale agreements for multiple family, townhouse, commercial, industrial and mixed-use lots or parcels of un-serviced land will specify a closing date of 90 days and will require that a deposit equalling 10% of the purchase price be provided.
  - (1) A purchaser will have the option of returning the lot prior to the established 90 day closing date and having the 10% deposit refunded, less a \$500.00 administrative charge that will be retained by the City from the deposit amount being held.
  - (2) A purchaser, or any individual or corporate entity affiliated with the purchaser, may not re-apply for the same lot within 30 days of the lot being returned to the City.
  - (3) Sale agreements may also include a provision for a time extension to the first closing date.
15. Time extensions for sale agreements for multiple-family, townhouse, commercial, industrial and mixed-use lots or parcels of un-serviced land shall be for an aggregate of no more than 180 days, subject to the purchaser providing a non-refundable deposit equalling 5% of the purchase price. The non-refundable deposit will be retained by the City if the lot is returned at any time during the extended period.
16. In the event that the holder of an extended sale agreement determines that a more time may be required before the closing date, such agreement holder may apply to City Council for an additional extension. Council may by resolution grant such a time extension to a maximum of 60 additional days if the proposed development for the property supports priorities established by Council in the City of Whitehorse Strategic Plan.
17. The non-refundable deposit provisions of section 15 of this policy will not apply to eligible non-profit organizations.

### **Proposals**

18. Sale agreements for proposals can specify timelines for closing and development and can include an "option" for the City to re-acquire the lot or lots at the original

purchase price less fees and costs if the purchaser does not comply with the terms of the agreement. Additional terms not covered by this policy may be added as directed by Council. A Development Agreement may also be required to set out further conditions such as servicing standards, residential densities and timelines.

### **Payment**

19. Payment for the lots will occur according to timelines set out in the sales agreement. Title to the lots will be transferred to the purchaser once full payment has been received.

### **REPEAL OF EXISTING POLICY**

20. The Land Disposition Policy adopted by council resolution #2010-15-08, including all amendments thereto, is hereby repealed.

◆ *July 2017*

### **Supporting References**

Please note that some of the items below may not be publicly available.

Related Council Policies, bylaws, Administrative Directives and other applicable Acts and Regulations

Yukon Government *Municipal Act and Regulation* (Act: SY 2002, c.154) and (Regulation: O.I.C. 1988/43)

Contact the Land and Building Services Department for additional applicable Administrative Directives, Procedures, Bylaws, Acts and supporting references.

### **History of Amendments**

<u>Decision Date</u>	<u>Resolution #</u>	<u>Description</u>
May 12, 2008	2008-09-03	Motorways Policy approved
July 14, 2009	2008-15-09	Initial approval of City-wide policy
August 23, 2010	2010-15-08	Revised policy adopted and Motorways Land Disposition Policy repealed
July 24, 2017	2017-15-03	New policy adopted