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## Amendments to Council Policy No. C09-006, Residential Lot Sales – General Policy

### Recommendation

That the Standing Policy Committee on Finance recommend to City Council:

1. That the proposed amendments to Council Policy No. C09-006, Residential Lot Sales – General Policy, be adopted; and
2. That the City Clerk be requested to update Council Policy No. C09-006 as outlined in the report of the CFO/General Manager, Asset and Financial Management Department, dated August 7, 2018.

### Topic and Purpose

The purpose of this report is to obtain City Council approval of the proposed amendments to Council Policy No. C09-006, Residential Lot Sales – General Policy (Policy), regarding the cancellation of Agreements for Sale. This report also responds to Recommendations 5 and 17 of the internal auditor.

### Report Highlights

1. Single-family Agreements for Sale contain a cancellation clause as per the Policy.
2. The Administration has procedures in place to collect on overdue accounts which can be enhanced with the ability to initiate cancellations and negotiate appropriate fees.
3. The Administration reviewed the lot return calculation and compared it to the calculation used by the City of Red Deer.
4. The Administration is proposing changes to the policy as recommended in the internal audit.

### Strategic Goals

This report supports the long-term strategy of increasing productivity by being more efficient in the way the City of Saskatoon (City) does business under the Strategic Goal of Continuous Improvement.

This report also supports the long-term strategy of creating a business-friendly environment where the economy is diverse and builds on the city and region's competitive strengths under the Strategic Goal of Economic Diversity and Prosperity.

### Background

At its August 28, 2017 meeting, when considering the Saskatoon Land Internal Audit report, City Council resolved, in part:

- “4) That the Administration adhere to approved policy in the administration of Saskatoon Land, and bring forth recommendations for policy changes when necessary.”

The internal auditor made two recommendations in relation to the cancellation of lot sales (Attachment 1). In Recommendation 5, the internal auditor noted that instances of the allowances made to initiate cancellations and negotiate fees and penalties are not addressed in policy and require significant discretion. Their recommendation is as follows:

“A formal policy should be in place either disallowing these types of negotiations entirely or providing clear guidelines and approval limits if Saskatoon Land and the SPC on Finance wish to continue allowing exceptions to C09-006 3.7.”

Furthermore, Recommendation 17 suggested that the Administration consider changes to the lot return calculation, with specific reference to the model used by the City of Red Deer.

## **Report**

### Cancellation of Agreements for Sale

Single-family lot Agreements for Sale contain a cancellation fee clause as per Policy. The fee is used to ensure that purchasers are serious about committing to the purchase and construction of a new home and to deal with the rare circumstance in which the purchaser can no longer proceed with the sale. The cancellation fee also provides compensation to the vendor (City) to account for the period of time the lot was off the market and unable to be sold to another purchaser.

### Overdue Accounts

Current Policy does not contain any provision for the Administration to initiate cancellation of an Agreement for Sale. Cancellations can only be initiated by the purchaser.

When dealing with outstanding accounts, Saskatoon Land follows a procedure to collect on overdue payments, and goes to great lengths to communicate with the purchaser to achieve a positive outcome. In most instances, this communication is successful in securing final payment. Experience in dealing with outstanding accounts and the cancellation of Agreements for Sale has demonstrated that beneficial outcomes can also be achieved if the Administration initiates the cancellation through negotiation. Currently, the Policy does not clearly outline this practice.

### Lot Return Calculation – City of Red Deer

The internal auditor recommended the Administration consider the lot return calculation as used by the City of Red Deer. The main difference between the two calculations is that the City of Red Deer has a higher initial fee for lots that are returned earlier, while the cancellation fee in the Policy has a higher penalty for lots that are held for a longer

period of time. Calculations for the City of Saskatoon and City of Red Deer are as follows:

- Saskatoon Land has a \$500 administration fee for lots returned within the first 30 days under Agreement for Sale. After 30 days, the fee is 1% of the lot purchase price per month plus the \$500 administration fee.
- City of Red Deer’s return fee is greater of \$5,000 or an amount equal to 10% per year of the total purchase price multiplied by the number of days elapsed from the agreement date. Table 1 provides an example of return fees for a \$150,000 lot.
- City of Red Deer also has a separate repurchase agreement that provides the opportunity to repurchase the property for 80% of the original purchase price and/or forfeit of deposit.
- Under both calculations, the purchaser may be entitled to a refund if the deposits placed on the purchase are greater than the lot return calculation.

Table 1: Return Fee Examples (based on a purchase price of \$150,000)

<b>Municipality</b>	<b>First 30 Days</b>	<b>First 3 Months</b> (includes admin fee)	<b>First Year</b> (includes admin fee)
City of Saskatoon	\$ 500	\$3,500	\$17,000
City of Red Deer	\$5,000	\$5,000	\$15,000

Saskatoon Land is not recommending any changes to the lot return calculation at this time due to the following reasons:

- The model currently used by the City gives purchasers more incentive to return the lot earlier in the process if they decide not to proceed with construction of a home or if other unforeseen circumstances arise.
- The City of Red Deer’s calculation may cause builders to hold on to lots for a longer period of time since the initial penalty is much larger.
- In a survey conducted by the Administration (Attachment 2), builders preferred the calculation currently in use.

Proposed Policy Amendments

Consistent with the internal auditor’s recommendations, Saskatoon Land is proposing the following amendments to clarify the Administration’s role in initiating the cancellation of an Agreement for Sale:

- removal and replacement of the existing agreement cancellation wording;

- clarification of when the purchaser's down payment will be reimbursed and how the 1% of the purchase price penalty fee will be calculated and applied;
- clear policy directive granting the Administration the ability to initiate and negotiate a cancellation of an Agreement for Sale in the best interest of the City when all other efforts have failed; and
- approval of the CFO/General Manager, Asset and Financial Management Department, for any cancellations initiated by the Administration.

Attachment 3 shows the proposed amendments to the Policy. Past examples have proven that having a clear directive in the Policy to consider initiating agreement cancellations will be beneficial to the City and lot-purchasing customers.

### **Options to the Recommendation**

City Council can choose not to proceed with the recommended policy amendments. Saskatoon Land does not recommend this option as the purpose of the amendments address concerns brought forward by the internal auditor's recommendations.

### **Public and/or Stakeholder Involvement**

A survey was sent to Saskatoon Land's Eligible Contractors with questions relating to the lot cancellation fees. While responses varied, the majority of Eligible Contractors responded with keeping the current lot cancellation fees in effect.

### **Policy Implications**

Pending City Council approval, Council Policy No. C09-006 will be amended.

### **Other Considerations/Implications**

There are no financial, environmental, privacy, or CPTED implications or considerations and a communication plan is not required.

### **Due Date for Follow-up and/or Project Completion**

There is no follow-up required.

### **Public Notice**

Public Notice pursuant to Section 3 of Policy No. C01-021, Public Notice Policy, is not required.

### **Attachments**

1. Internal Audit Report – Recommendations 5 and 17
2. Builder Survey – Lot Return Calculation
3. Proposed Amendments – Council Policy No. C09-006, Residential Lot Sales General Policy

**Report Approval**

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