

Proposed Real Property Bylaw

RECOMMENDATION:

That the Infrastructure and Planning Committee recommend that Council REPEAL Bylaw 52M2009 and give Three Readings to the proposed Bylaw (Attachment 2).

RECOMMENDATIONS OF THE INFRASTRUCTURE AND PLANNING COMMITTEE, 2022 OCTOBER 14:

That Council give three readings to **Proposed Bylaw 49M2022** and following first reading, **amend the proposed bylaw** as follows:

1. By deleting “November 1, 2022” in section 31 and substituting in its place: “December 1, 2022”;
2. By adding the following authorized employees to the third column labelled “Position(s)” in Schedule “A” in the rows for 8(1)(c) and 8(1)(d): **“GMIS, DREDS, MLAM, MMREU, MSA”**;
3. By deleting the following from subsection 8(1)(a): “an occupation by lease at or above market value where:” and substituting in its place: “an occupation by lease at or above market value where the City is the landlord, or at or below market value where the City is the tenant, and where:”; and
4. By deleting the following from subsection 8(1)(a)(i): “whether the City is the landlord or the tenant,”.

HIGHLIGHTS

- **Reason for the recommendations** – The Real Property Bylaw ##M2022 (“Proposed Bylaw”) provides an updated and comprehensive framework to support Administration in delivery of real property transaction services for The City by providing:
 - Efficiencies and streamlined process to provide speed of business to customers;
 - More delegated authority to approve and complete transactions within Administration, and reduce Council time on many approvals; and
 - Flexibility to manage, accommodate changes and complete transactions quicker.
- **What does this mean to Calgarians?** This demonstrates The City’s commitment to continuous improvement by streamlining transaction processes and enabling greater Administrative authorities, while maintaining a framework of accountability and appropriate oversight of City interests. Changes will facilitate reduced approval timelines and administration costs, support City project delivery, and improve outcomes for The City, its customers, and citizens.
- **Why does this matter?** Clear procedures and greater delegated authorities will allow Administration to manage and complete more real property transactions that support broader corporate outcomes. It will reduce Council time on approving lower risk, operational approvals while ensuring decisions on high value and complex transaction decisions remain with Council.
- The Real Property Bylaw 52M2009 (“Bylaw 52M2009”) is one of The City’s most intricate Bylaws. It details Council’s delegation of powers, duties, and functions to Administration to manage real property transactions (acquisition, disposition, and occupations (lease and license) and assets).

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- Bylaw 52M2009 has served The City well, providing a transparent and consistent approach to deliver real property transactions, with strong oversight by senior Administration and Council. To better meet customer expectations, Administration has reviewed Bylaw 52M2009 and identified challenges and gaps that impact the delivery of transactional services. The review identified opportunities to update the Bylaw to create better process efficiencies, improving transaction services and outcomes for customers.
- The Proposed Bylaw expands Council's delegation of authorities to Administration to manage and complete a broader range of transactions to achieve these outcomes. The Proposed Bylaw increases the thresholds of authorized employees to approve more transaction decisions, within a tiered delegation framework appropriate to the employee position and risk of the transaction. Updated and new direction is added to address changing customer needs and emerging transaction types. The Proposed Bylaw supports the efficient processing and approval timelines by Administration, while maintaining oversight by the Management Real Estate Review Committee. Council will receive fewer reports for straightforward, low risk transactions. Council approval will still be required for high value, high risk, and most below-market value sale transactions.
- Strategic Alignment to Council's Citizen Priorities: A well-run city
- Background and Previous Council Direction is included as Attachment 1.

DISCUSSION

Real property transactions include the acquisitions (purchase), dispositions (sale), occupations (lease and license) and exchanges of land and buildings. The Municipal Government Act (MGA) permits Council to delegate its authority to approve these transactions to Administration. The Real Property Bylaw "Bylaw 52M2009") is an internally focused bylaw that defines the delegated authorities and threshold limits of Administration to approve and complete these transactions on behalf of Council. As one of The City's more intricate bylaws, it maintains Council oversight in direction, process, and approval of transactions.

Bylaw 52M2009 has served The City's interests well, ensuring transparency of processes and accountability in decisions. Business practices have evolved and matured under the Bylaw and Administration has continued to monitor Bylaw 52M2009 against service performance, customer expectations and changing needs, and market conditions. In 2017, Bylaw 52M2009 was amended ("Stage 1") to integrate the newly formed Real Estate & Development Services (RE&DS) business unit and to provide limited new authorities to allow Administration to process and approve more frequent, low value and low risk transactions. At that time, Council was informed that a "Stage 2" amendment would be brought forward to address broader process changes. This report addresses the Stage 2 review.

In seeking to understand how the current processes and delegated authorities impact transactions, approvals timelines, and needs of customers, the review identified challenges and gaps, as well as opportunities to streamline delegations and processes, as highlighted below:

- Purchasers of City land want quicker approvals to provide certainty for business investment.
- Tenants are seeking longer lease and license periods to support business investment and property improvements. This could also support long-term revenue certainty for The City.

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- RE&DS spends significant time and resources to renew short-term, nominal value leases with civic partners and non-profit organizations.
- Bylaw 52M2009 does not adequately differentiate the range of occupations being requested of The City today, including extended leases for long-standing civic partners, approval for over 10,000 wireless license applications, and short-term licenses to the film industry.
- Complex property transactions could be integrated into the overall decision-making of major infrastructure projects. This should include expedited land acquisitions, land exchanges, short-term leases and licenses, and expropriation settlements. The Green Line project governance provides a model for this opportunity.
- Creating consistency between business units by clarifying roles and responsibilities for short-term occupations and licenses under this Proposed Bylaw and other City bylaws that allow short-term licensing, fee collection, etc. (e.g., Parks and Pathways Bylaw, Streets Bylaw).
- Bylaw 52M2009 currently restricts Administration's ability to approve many low value, low risk transactions or make operational decisions to support file management. These transactions require Council approval.
- Experience and trust have been gained over the years through the implementation of Bylaw 52M2009. The Proposed Bylaw provides the opportunity for Council to delegate more authorities to Administration to improve upon its delivery of real property transactions on behalf of The City.

Bylaw ##M2022 (the "Proposed Bylaw") (**Attachment 2**) builds from the strengths of Bylaw 52M2009, while addressing challenges and opportunities noted above. Major changes are summarized below, with details provided in **Attachment 4**. The Proposed Bylaw:

- Reorganizes sections for clarity and ease of implementation. It consolidates relevant direction by transaction type and by process/operational function.
- Updates sections as necessary to improve interpretation, clarify directions and support transparency and implementation.
 - **Section 2 Purpose** – defines the limitations of the Proposed Bylaw and exceptions for real property transactions permitted through other City bylaws.
 - **Section 3 Definitions** – new and updated terms are provided to add clarity and support interpretation and implementation.
 - **Schedule "A" - List of Authorized Employees** – replaces the current City Manager's "Delegation of Authority" letter. It specifies Council powers, duties and functions that are being delegated to identified "Authorized Employees" within a tiered framework. Given the scale of authorities being delegated to many positions, formalizing these within the Bylaw creates clarity for Council and Administration.
- Consolidates and updates direction to better facilitate the delivery of real property transactions.
 - **Increase delegated approval limits, by transaction** - to allow Administration to approve a greater number of transactions within Bylaw limits. Changes include:
 - Increase the maximum Acquisition limits from \$5 million to \$10 million.
 - Remove the maximum dollar value limit for a disposition for surplus parcel that has been publicly marketed and is sold at market value

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- Increase the maximum base rent for an Occupation from \$500,000 to \$1,000,000.
 - Increase the maximum length of an Occupation from five (5) years to 15 years, with ability to renew up to a total occupation of 25 years.
 - Increase the maximum length of an occupation for civic partners from five (5) years to 50 years.
- **Section 6 Acquisitions** – guidance is added to allow Administration to acquire options, rights of first refusal and rights of first offer if these are in The City’s favor.
- **Section 7 Dispositions** – allows Administration to dispose City-owned property without seeking a Council-approved Method of Disposition (MOD), provided the property is surplus to City needs, is publicly marketed for sale, and is sold at or above market value. Direction is added to allow Administration to dispose City-owned property to civic partners, wholly owned City entities, and other orders of government.
- **Section 8 Land Exchanges** – new guidance is provided to allow Administration to consider requests for a land exchange when acquiring land required for municipal purposes and disposing of surplus real property.
- **Section 9 General Occupations** – provides expanded guidance to address a wider range of occupation types, including longer terms for market value leases, licenses for patios, parking, non-profits, civic partners, film purposes etc. Specific guidance is provided for each occupation type, providing greater flexibility to accommodate customer requests and optimize return on value from the property.
- **Section 10 Occupation for Telecommunications Installations** – a distinction is added to include licenses for infrastructure mounted on City streetlight standards. Authority is delegated outside of RE&DS to the Mobility Business Unit, to coordinate license approvals with detailed technical review of installations. This is in anticipation of over 10,000 applications for wireless service applications in the next 5 years.
- **Section 12 Occupations for Film** – new section to guide the licensing of City properties for use by the film industry.
- **Section 14 - “Major Real Estate Undertaking”** – new section to allow Council to designate a capital project as a “major real estate undertaking” to provide flexibility and enable faster transaction approvals as part of the overall project management decision making. This is modelled on the Green Line Stage 1 process.
- **Section 15 Expropriations** – This section is updated to allow Administration to negotiate and complete expropriations and settlements that align with the limits and terms approved by Council in the initiation of expropriation.
- **Section 16 Other Transactions** – new section to allow Administration to approve of other real property transactions under \$10M that are not covered in other sections. Additionally, this section includes the limited ability for Administration to approve of below market transactions, in cases where the value of the land is less than \$25,000 and no objections are raised through the public advertising required pursuant to the MGA.
- Updates, streamlines, and clarifies the processing and approvals of all transactions:

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- **Section 19—20 Rectifications** – authorities are expanded to provide greater flexibility to Administration to manage negotiations and approve changes needed to complete a transaction, within the limits defined.
- **Section 21 – Land Authorization Forms and Reporting** – this section expands the type of frequent, short-term, or low risk transaction that can be documented and approved by way of the Land Authorization Form process. This simplifies the process and timing by removing the need for a detailed Land Report and approval at Management Real Estate Review Committee. Procedures for reporting on Administration’s use of the delegated authorities are aligned and quarterly reporting to Council for information is removed. Reporting is still required to the Management Real Estate Review Committee and reports are available to Councillors upon request.
- **Section 22 Approvals by Email** – email approvals are added to expedite time-sensitive, low risk transactions and rectifications.
- **Section 33 Effective Date** – the Effective Date is 2022 November 01. This provides Administration four weeks to complete training and ensure system readiness following Third Reading.

The Proposed Bylaw builds upon the strengths of Bylaw 52M2009. With the scale of changes and reorganization of sections, it is being presented as a “new” Bylaw versus an amendment. This will require Council to repeal Bylaw 52M2009 and replace it with Bylaw ##M2022 (**Attachment 2**). A blackline version comparing the changes between the Bylaw 52M2009 and the Proposed Bylaw is included as **Attachment 3**. A table summarizing the sections of the Proposed Bylaw, major changes, rationale, and benefits is in **Attachment 4**.

In light of these changes and the greater authorizations to Administration, a strong framework of accountability with Council is maintained through the following checks and balances:

- Administration’s use of delegated authority must meet the limits set in the Proposed Bylaw.
- Council approval is required on all transactions that exceed those limits.
- Management Real Estate Review (MRER) Committee will continue to provide senior Administration oversight on major transactions prior to approval by delegated authority.
- Administration will continue to pre-inform Ward Councillors of the potential sale of surplus property under delegated authority.
- Reporting on transactions approved by delegated authority is available to members of Council.
- Administration always has the option to bring complex, high risk transactions to Council, even if these transactions can be approved under delegated authority of the Proposed Bylaw.

STAKEHOLDER ENGAGEMENT AND COMMUNICATION (EXTERNAL)

- Public Engagement was undertaken
- Public Communication or Engagement was not required
- Public/Stakeholders were informed
- Stakeholder dialogue/relations were undertaken

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As with Bylaw 52M2009, the Proposed Bylaw is an inward-facing bylaw defining Council's authorities to Administration to complete real property transactions on behalf of The City. Engagement focused on RE&DS management and transaction teams, Law, and internal customers to understand current service challenges, customer needs and opportunities. GM Thompson and ELT were engaged for corporate perspective, support for the scale of changes proposed and alignment to other Administration initiatives.

IMPLICATIONS

Social

The Proposed Bylaw provides greater flexibility to transact with civic partners and not-for profit agencies who require The City's real property to provide social programming for Calgarians.

Environmental

The Proposed Bylaw will allow Administration to manage contaminated properties and accommodate environmental remediation as part of market value considerations.

Economic

The Proposed Bylaw allows Administration to meet needs of businesses that leverage The City's real property to support economic diversification and broaden the assessment base. Broader delegated authorities will facilitate quicker approval of market value sales, longer lease periods, and provide greater certainty to customer investments in property improvements.

Service and Financial Implications

Existing operating funding - base

Resources to complete the review, preparation and implementation of the Proposed Bylaw are covered in Real Estate & Development Services Operating Program 488, funded by RE&DS reserves.

RISK

The additional authorities to Administration and new processes being recommended in the Proposed Bylaw to support efficiency, quicker approvals and meet customer expectations, will reduce Council involvement in real property transactions. This risk is mitigated by maintaining clearly defined authorities within the Proposed Bylaw. The tiered delegation framework ensures senior level oversight and review by MRER Committee on major transactions and regular review of the use of delegated authorities within the Proposed Bylaw. Council oversight of real property transactions is maintained through well-established, mandatory reporting mechanisms. Administration will continue to bring complex, high-risk files and most below-market value transactions to Council for approval.

ATTACHMENTS

1. Background and Previous Council Direction
2. **Proposed Bylaw 49M2022**
3. Blackline - Bylaw 52M2009
4. Proposed Real Property Bylaw – Section Descriptions
5. Presentation

**Infrastructure Services Report to
Infrastructure and Planning Committee
2022 September 9**

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IP2022-1003
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Department Circulation

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