

# Urban Reserve Strategy

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## Recommendation

That Executive Committee recommend to City Council:

That the Urban Reserve Strategy, as set out in Attachment 1 of the June 28, 2021, Citizen Services report CS00349, be approved.

## Previous Council/Committee Action

At the January 25, 2021, City Council meeting, the following motion was passed:

That Administration prepare a report to:

1. formally implement an Urban Reserve Strategy for the City of Edmonton, to work with First Nations that would like to establish an urban reserve within the City of Edmonton boundaries,
2. outline how other municipalities in Western Canada have implemented an Urban Reserve Strategy, including bylaw compatibility, municipal service agreements and other considerations, and recommendations of feasibility on implementing a similar model in Edmonton.

## Executive Summary

To develop the Urban Reserve Strategy, Administration established a steering committee with representation from First Nations partners, federal and provincial governments as well as representatives from Administration.

The strategy is intended to guide the City in working with any federally recognized First Nation seeking to develop urban reserves through the federal Addition-to-Reserve / Reserve Creation process. The strategy includes the overall vision, values, and principles for the City, outlines the urban reserve initiation process, and clarifies the City of Edmonton's role in urban reserve creation and servicing agreements.

## Report

An urban reserve is land designated as a First Nations reserve situated within an urban area. Federally recognized First Nations interested in developing urban reserves do so through the federal Addition-to-Reserve / Reserve Creation process to expand their reserve landholdings. At this time, federally unrecognized First Nations are not

eligible for reserve creation through the Addition-to-Reserve/Reserve Creation process. First Nation leadership must consult with and inform its members about the proposal to develop an urban reserve and a band council resolution is required to begin the federal process.

First Nations, as with all orders of government, desire to create economic development opportunities and provide services to uplift their citizenry. First Nations need to ensure access to resources and services to their citizens are offered most efficiently in centres such as municipalities. In some cases, First Nations also seek to obtain lands that have cultural significance. Urban reserves can greatly spur First Nations economic development as they allow First Nations to access economic opportunities that may be unavailable on traditional reserve lands. When neighbouring First Nations are economically successful, and extend that success through an Addition-to-Reserve process, both municipalities and First Nations can benefit through the growth of the local and regional economy.

Edmonton has long been a hub of services, employment, education, and healthcare for First Nations in Treaty Six territory and beyond. The City of Edmonton recognizes the importance of the city for First Nations and welcomes the opportunity to work together for the benefit of First Nations, their membership, and all Edmontonians. The City will work together with all orders of government in the development of urban reserves within our jurisdictional mandate.

The creation of the Urban Reserve Strategy (Attachment 1) was guided by a steering committee with representatives from the Administration, Confederacy of Treaty Six First Nations, Enoch Cree Nation, Indigenous Services Canada, and Alberta Indigenous Relations. Indigenous Services Canada - Alberta Regional Office, and Alberta Indigenous Relations staff participated on an observer/advisory basis only and did not have an approval or recommendation role in strategy development.

The steering committee was supported by a project team that facilitated the development of the Urban Reserves Strategy, the background research, and the development of working groups which created the overall vision, values, and principles, as well as an outline of both the initiation process for urban reserves and the City of Edmonton role in service agreement development.

The process of formally establishing an urban reserve is largely between the Government of Canada and the First Nation; however, the City has an important role to play in working with a First Nation to establish a municipal service agreement for the urban reserve. As a municipality, the City would commit to having a good neighbour approach throughout the creation of urban reserves guided by the strategy. Through informal and formal relationship building with a First Nation seeking to develop an urban reserve, the City of Edmonton would help facilitate the process in alignment with municipal processes. This will include the need to make recommendations or

suggestions related to land selection and negotiate service agreements. Service agreements with a First Nation will account for the fee-for-service provision of municipal-type services, such as water, wastewater, solid waste collection, fire and police protection.

The Urban Reserve Strategy is meant to provide an overview of the City of Edmonton's approach and role in urban reserve creation. The City recognizes that the federal Addition-to-Reserve/Reserve Creation process includes roles for First Nations, federal, provincial and municipal governments.

This strategy is only intended to guide Administration in the areas of urban reserve development for which the municipality is responsible. It is not intended to replace, modify or supersede the roles of any other governments in the Addition-to-Reserve/Reserve Creation process.

In case of any changes to the federal Addition-to-Reserve/Reserve Creation process or legislation, the City will adhere to those changes while continuing to follow the guidance provided by this strategy. This strategy will be reviewed on an annual basis and considered for relevancy, particularly in light of any process or legislative changes.

### **Next Steps**

If approved, Administration would activate the strategy when it is approached by or becomes aware of federally-recognized First Nations interested in developing urban reserves through the Addition-to-Reserve/Reserve Creation process within Edmonton.

The strategy identifies several areas for future learning and growth related to the urban reserve development process. These areas would be explored with partners including prospective First Nations, Indigenous Services Canada - Alberta Regional Office, Alberta Indigenous Relations and other First Nations and municipalities that have successfully undertaken urban reserve development in other jurisdictions.

### **Budget/Financial Implications**

Administration anticipates any financial impact related to the urban reserves creation process and relationship building itself can be absorbed by operational budgets. There may be a human resources need to ensure there is appropriate City support in urban reserve creation.

Municipal service agreements with a given First Nation will account for the fee-for-service provision of municipal-type services, such as water, wastewater, solid waste collection, fire and police protection. Research has indicated that through service agreements most municipalities are able to recover what they would have obtained through municipal property tax (Attachment 2).

### Legal Implications

In Canada, reserve land is regulated under the federal *Indian Act* and held by the Crown, but set apart for the use and benefit of a First Nation. The *Indian Act* sets out a number of rules that apply to reserve land, which will impact municipalities that create urban reserves. These impacts include:

- A municipality does not have jurisdiction over reserve land governance and decisions on development, management, use, and possession of reserve land;
- A municipality cannot enforce its bylaws on reserve land; and
- A municipality cannot sell, seize, tax, or expropriate reserve land.

A municipality can mitigate some of these impacts, such as how urban reserve land will be developed and how bylaws will be harmonized and enforced, through the negotiation of a municipal services agreement with the First Nation. Municipalities have the authority to enter into a municipal services agreement with a First Nation to provide municipal services pursuant to Section 54(2) of the *Municipal Government Act*.

### Public Engagement

Given the specific eligibility criteria and applicability for urban reserve development through the Addition-to-Reserve/Reserve Creation process, public engagement was not conducted during the development of the Urban Reserve Strategy.

Targeted engagement with the City’s First Nation Memoranda partners (Confederacy of Treaty Six First Nations and Enoch Cree Nation) and with Indigenous Services Canada - Alberta Regional Office, and Alberta Indigenous Relations was an important part of the strategy development process.

Representatives of Enoch Cree Nation and the Confederacy of Treaty Six First Nations played a participatory role, and representatives of both Indigenous Services Canada and Alberta Indigenous Relations played an observer/advisory role, on the steering committee and working groups.

Targeted public engagement is anticipated in the future when the City works directly with First Nations on specific urban reserve proposals.

### Corporate Outcomes and Performance Management

<b>Corporate Outcome(s):</b> Edmontonians are connected to the city in which they live, work and play			
Outcome(s)	Measure(s)	Result(s)	Target(s)

Edmonton is seen as a leader in collaborating with First Nations that are interested in the establishment of urban reserves	Number of eligible First Nations that discuss urban reserve creation with the City of Edmonton	N/A	Increase following approval of strategy
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## Risk Assessment

Risk Element	Risk Description	Likelihood	Impact	Risk Score (with current mitigations)	Current Mitigations	Potential Future Mitigations
<b>If recommendation is approved</b>						
Corporate Governance	The City is unable to facilitate the development of service agreements in a timely fashion, or there is disagreement about service	3 Possible	3 Major	9 Medium	Continue to have an open dialogue with First Nations about the City's role in urban reserve creation and take a relationship-based approach to their development	Continue to develop a robust service agreement template and dispute resolution process
Public Perception	Certain Indigenous communities that are not eligible Nations may feel they are not supported by Edmonton	4 Likely	1 Minor	4 Low	Continue to have an open dialogue with and work with Indigenous communities that are not recognized by the <i>Indian Act</i>	Work with Indigenous communities that are not included in the federal process to find ways to support their desires and needs through other mechanisms within our jurisdiction
<b>If recommendation is not approved</b>						
Public Perception	First Nations, Indigenous peoples, and key partners will feel that Edmonton is not committed to reconciliation with Indigenous peoples	4 Likely	2 Moderate	8 Medium	None	Work with First Nations and all Indigenous peoples as described within the Indigenous Framework to address their desires and needs through other mechanisms

## Attachments

1. Urban Reserve Strategy
2. Urban Reserve Initiative - Research Findings 2021

## Others Reviewing this Report

- S. McCabe, Deputy City Manager, Urban Planning & Economy

- M. Persson, Chief Financial Officer and Deputy City Manager, Financial & Corporate Services
- C. Owen, Deputy City Manager, Communications & Engagement
- G. Cebryk, Deputy City Manager, City Operations
- K. Fallis-Howell, Acting City Solicitor