
ADMINISTRATIVE PROCEDURE



FIN-005-A

CITY PROPERTY LEASING & LICENSING

Date Issued: XXXXXX

Responsibility: **City Manager**

Current Revision: **January 8, 2020**

Cross Reference:

- **Municipal Government Act**
 - **FIN-005-C City Property Leasing & Licensing Policy**
 - **Grants to Non-Profit Organizations Policy (Gen-029-C)**
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1. PURPOSE

- 1.1. To establish the administrative process for leasing and licensing of City Property, as referenced in Policy FIN-005-C, in manner which:
- 1.1.1. is consistent, equitable and transparent;
 - 1.1.2. enhances the City's financial sustainability;
 - 1.1.3. improves municipal service delivery; and
 - 1.1.4. strengthens community services that contribute to the quality of life in Fort Saskatchewan.

2. DEFINITIONS

- 2.1. *Below Market Rent* – means a Rent which is less than Market Rent.
- 2.2. *City* – means the City of Fort Saskatchewan.
- 2.3. *Capital Replacement Costs* – means the costs associated with the replacement of a property's major components such as structural components, mechanical systems and electrical systems.
- 2.4. *City Property* – means any real property, including land, buildings and structures which are owned by the City.
- 2.5. *City Manager* – means the Chief Administrative Officer for the City.
- 2.6. *For-Profit Organization* – means a person, group, or business which aims to earn profit through its operations and is concerned with its own interests.

- 2.7. *Lease* – means a contractual arrangement between a Lessee and a Lessor for the legal right to exclusive possession of a premises for a period of time in return for payment of Rent.
- 2.8. *Lessee* – means an individual or an organization that enters into a Lease for the use and/or occupancy of a premises or a property.
- 2.9. *Lessor* – means an individual or an organization that owns a premises or property which is for lease.
- 2.10. *Licence* – means a contractual arrangement between a Licensee and a Licensor for the non-exclusive, use of a premises or property in return for payment of a Rent.
- 2.11. *Licensee* – means an individual or an organization that enters into a contractual arrangement for a specific use of a premises or property.
- 2.12. *Licensor* – means an individual or an organization that owns property which is being licensed for a specific use.
- 2.13. *Market Rent* – means a Rent that a property would be expected to realize on the open market, indicated by recent transactions for comparable space, with a willing Lessee and a willing Lessor, both parties being fully informed.
- 2.14. *Market Value* - means the amount that a property might be expected to realize if it is sold on the open market by a willing seller to a willing buyer.
- 2.15. *Minor Entrance & Services Fee* - means a fee for entrance to a property or for services which are equal to or less than ten dollars (\$10.00).
- 2.16. *Nominal Rent* – means a form of Below Market Rent, intended to provide a financial subsidy to a Lessee or Licensee, where nominal consideration (normally \$10.00 per year) of payment is used to satisfy the requirements for the creation of a Lease or Licence.
- 2.17. *Non-Profit Organization* – means the definition included in the *Municipal Government Act*; a society, credit union or co-operative established under a law of Canada or Alberta, a corporation that is prohibited from paying dividends to its members and distributing the assets to its members on a winding-up, or any other entity established under a law of Canada or Alberta for a purpose other than to make a profit.
- 2.18. *Operating Costs* – means the expenses associated with operating a property, including repairs, maintenance, janitorial services, landscape maintenance, utilities, property tax, insurance, legal fees, administration costs and any other rates or services assessed in connection with the use and/or occupancy of City Property.
- 2.19. *Organizational Purpose* – An organization’s foundational reason for existence and primary objective, which guide all aspects of their operation.
- 2.20. *Real Estate Management Officer* - means a person authorized by the City Manager to carry out the provisions of these Procedures and anyone acting on his or her behalf.
- 2.21. *Rent* – means a compensation or fee paid, usually periodically (i.e. monthly, annually) for the occupancy and use of any property, land, or buildings.

- 2.22. *Subsidized Rent* – means a form of Below Market Rent intended to provide a financial subsidy to the Lessee or Licensee while also recovering the Operating Costs and Capital Replacement Costs.
- 2.23. *Term* – means the period of time in which a Lease or Licence is in place.

3. RESPONSIBILITIES

- 3.1. The City Manager shall:
- 3.1.1. Designate a Real Estate Management Officer;
 - 3.1.2. Approve, within signing authority, Lease and Licence agreements; and
 - 3.1.3. Determine the availability of City Property for lease or license.
- 3.2. The Real Estate Management Officer shall:
- 3.2.1. Serve as the City's primary administrator of these Procedures;
 - 3.2.2. Ensure that these Procedures are adhered to;
 - 3.2.3. Ensure that Lessees and Licensees meet the qualification requirements;
 - 3.2.4. Maintain a record of Leases and Licences;
 - 3.2.5. Provide annually to Council, an update on City Property Lease and Licence arrangements, and changes to Market Values;
 - 3.2.6. Post publically on the City's website a summary of all Below Market Rent Leases and Licenses;
 - 3.2.7. Make recommendations to the City Manager regarding availability of City Property, Term, eligibility, qualification, suitability of use, and Rent; and
 - 3.2.8. Recommend changes to these Procedure to the City Manager.

4. PROCEDURE

- 4.1. PROPERTY AVAILABILITY
- 4.1.1. The City Manager has the authority to determine the availability of properties for Lease or License.
 - 4.1.2. The City shall consider the following aspects of a City Property when determining availability for lease or license:
 - a) future municipal requirements;

- b) appropriateness for intended use;
- c) benefit to the public; and
- d) contribution to the City's financial sustainability.

4.2. BIDS & REQUESTS

- 4.2.1. When it is determined that a City Property is available for lease, the City shall administer a public Expression of Interest or Request for Proposal process.
- 4.2.2. Expressions of Interest and Requests for Proposal shall be conducted in a fair and cost effective manner, through publicly accountable, open, and transparent processes.
- 4.2.3. The City will consider and evaluate the relevant criteria prior to commencing competitive processes.
- 4.2.4. The evaluation criteria will be provided to potential Lessees and Licensee at the commencement of the competitive process to allow for open and fair competition.
- 4.2.5. The City shall select an eligible Lessees or Licensee that offers the best value to the City with respect to section 1.1 of these Procedures.

4.3. INELIGIBILITY

- 4.3.1. The following organizations shall be ineligible for a Below Market Rent Lease or Licence:
 - a) For-Profit Organizations or any organization which provides personal financial gain to its members or shareholders;
 - b) individuals;
 - c) political organizations;
 - d) religious societies and organizations; and
 - e) political parties and organizations

4.4. GENERAL LEASE AND LICENCE CONDITIONS

- 4.4.1. The City shall not lease or license a City Property to one organization indefinitely.
- 4.4.2. The City shall not grant a Term which exceed five (5) years, inclusive of renewals, except in instances where a lessee or licensee intends to undertake a major capital construction or improvement project on City Property.

- 4.4.3. Where a lessee or licensee intends to undertake a major capital construction or improvement project on City Property, the City Manager may grant a Term of up to 20 years.
- 4.4.4. If at any time during the Term of an agreement, a Lessee or Licensee fails to satisfy any of the conditions of the agreement, the City shall be entitled to terminate the agreement.
- 4.4.5. Assignment or sub-letting of a Lease or Licence will not be permitted. A leased or licensed City Property which is no longer required by an organization shall be returned to the City's inventory and be assessed for availability in accordance with section 4.1.
- 4.4.6. Non-Profit Organizations that transfer property, such as buildings or other structures, to the City, shall be eligible for compensation of fair value at the time of transfer, which shall be granted in the form of pre-paid Rent.
- 4.4.7. Non-Profit Organizations which have contributed financially to the development and/or construction of a City Property shall be eligible for compensation of fair value, which shall be granted in the form of pre-paid Rent.
- 4.4.8. Operating grants to Non-Profit Organizations, according to the Grants to Non-Profit Organizations Policy (GEN-029-C), shall be taken into consideration when granting Below Market Rent.
- 4.4.9. Non-Profit Organization that are granted Below Market Rent may apply to City for funding to offset the cost of a contracting a Chartered Professional Accountant.
- 4.4.10. Any special exceptions to these Procedures must be made explicitly through a Council resolution.

4.5. NOMINAL RENT CONDITIONS

- 4.5.1. A Nominal Rent will be charged to satisfy the requirement for an agreement.
- 4.5.2. The City shall be responsible for property taxes, should the Lessees or Licensees not be exempted.
- 4.5.3. Organizations must meet and maintain the qualification criteria established in section 4.8.1 in order to be granted Nominal Rent.
- 4.5.4. A Lessee or Licensees shall not be in default of any provision of their Lease or Licence to be granted Nominal Rent.
- 4.5.5. A Lessee or Licensee shall provide an annual report which includes:
 - a) confirmation of continued fulfillment of the Qualification Requirements;
 - b) an annual list of participants and members including resident city and age category;

- c) a list of all board members, including name and contact information; and
- d) a financial statement prepared by a Chartered Professional accountant.

4.5.6. A Lessee or Licensee shall be required to pay Market Rent for leased or licensed areas which are used for commercial activity or for programs and services which compete directly with For-Profit Organizations.

4.6. SUBSIDIZED RENT CONDITIONS

4.6.1. A Lessee or Licensee shall be responsible for all Capital Replacement Costs and Operating Costs attributed to their leased or licensed property, either directly or through Rent.

4.6.2. Unless exempted, a Lessee or Licensee shall be responsible for property taxes, either directly or through Rent.

4.6.3. Organizations must meet and maintain the Qualification Criteria established in section 4.8.2 in order to be granted Subsidized Rent.

4.6.4. A Lessee or Licensees shall not be in default of any provision of their Lease or Licence to be granted Subsidized Rent.

4.6.5. A Lessee or Licensee shall provide an annual report which includes:

- a) confirmation of continued fulfillment of the Qualification Requirements;
- b) an annual list of participants and members including resident city and age category;
- c) a list of all board members, including name and contact information; and
- d) a financial statement prepared by a Chartered Professional accountant.

4.6.6. The City and the Lessee or Licensee will have the right to terminate the Lease should the Capital Replacement Costs of a major building component exceed the expected economic life of the building.

4.6.7. Lessees and Licensees are required to pay Market Rent for leased or licensed areas which are used for commercial activity or programs and services which compete directly with For-Profit Organizations.

4.7. MARKET RENT CONDITIONS

4.7.1. A Lessee and Licensee, which is not eligible for Nominal Rent or Subsidized Rent, shall pay a Market Rent.

4.7.2. Prior to renewing or entering into a new Lease or Licence at Market Rent, an independent appraiser shall be used to assist the City in determining the current Market Value.

4.8. QUALIFICATION REQUIREMENTS

4.8.1. A Non-Profit organization shall meet the following requirements in order to be eligible for Nominal Rent:

a) Appropriate Use	The intended use of the City Property must be appropriate as determined by the City Manager.
b) Non-Profit Status	Must be in good standing as a non-profit in accordance with Section 241(f) of the <i>Municipal Government Act</i> .
c) Community Benefit	Must provide benefit to the community in one of the following areas: i. charitable and benevolent activities; ii. arts/cultural activities; iii. multicultural/ethnocultural activities; iv. youth or senior citizen activities; v. amateur sports and recreation activities; vi. museums and interpretive exhibits; or vii. aid to persons with disabilities.
d) Organizational Capability	Must demonstrate, in writing that it has the experience, financial capability, and resources to carry out its operation within the proposed City Property.
e) Volunteer Involvement	Must demonstrate, in writing, that there is volunteer involvement in the organization's programs & services.
f) Commercial Activity & Competition	Must not use leased or licensed areas for commercial activity or programs and services which compete directly with For-Profit Organizations.
g) Organizational Purpose & Mission	Must not use leased or licensed areas for programs and services that do not form part of their Organizational Purpose.
h) Public or Private Benefit	The organization must provide programs and services which primarily benefit the public of Fort Saskatchewan and not the organization's members, shareholders or private individuals
i) Public Access	Must provide and actively encourage use of the property by the public.
j) Unrestricted	Must not provide services which are restricted based on race, culture, ethnic origin, religious belief, or property ownership.
k) Fees	Must provide programs and services without the requirement to pay fees, other than Minor Entrance & Services Fees.
l) Membership	Must provide programs and services without the requirement of membership or payment of membership fees.

4.8.2. An organization shall meet the following requirements in order to be eligible for Subsidized Rent:

a) Appropriate Use	The intended use of the property must be appropriate as determined by the City Manager.
b) Non-Profit Status	Must be in good standing as a non-profit in accordance with Section 241(f) of the Municipal Government Act.
c) Community Benefit	Must provide benefit to the community in one of the following areas: i. charitable and benevolent activities; ii. arts/cultural activities; iii. multicultural/ethnocultural activities; iv. youth or senior citizen activities; v. amateur sports and recreation activities; vi. museums and interpretive exhibits; or vii. aid to persons with disabilities.
d) Organizational Capability	Must demonstrate, in writing, that it has the experience, financial capability, and resources to carry out its operation within the proposed City Property.
e) Volunteer Involvement	Must demonstrate, in writing, that there is volunteer involvement in the organization's programs & services.
f) Commercial Activity & Competition	Must not use leased or licensed areas for commercial activity or programs and services which compete directly with For-Profit Organizations.
g) Organizational Purpose & Mission	May use a portion of the leased or licensed areas for programs and services that do not form part of their Organizational Purpose.
h) Public or Private Benefit	Provides some programs and services which primarily benefit the organization's members, shareholders or private individuals.
i) Public Access	Will limit or restrict use of the property by the public.
j) Unrestricted	Must not provide services which are restricted based on race, culture, ethnic origin, or religious belief.
k) Fees	Must provide programs and services at fees which are at or below market.
l) Membership	If membership is required in order to benefit from programs and services, membership fees must not exceed a Minor Entrance and Service Fees.

4.8.3. Prior to entering into a Market Rent Lease or Licence:

- a) The organization must be registered a legal entity within the province of Alberta.
- b) The intended use of the property by the organizations must be appropriate as determined by the City Manager.

- c) The organization must possess a valid Fort Saskatchewan Business Licence.

4.9. AGREEMENTS

- 4.9.1. A written agreement shall be required for any Lease or Licence.
- 4.9.2. Standardized agreements shall be developed for Leases and Licences.
- 4.9.3. Standardized agreements shall be updated at the discretion of the City Manager to protect the interest of the City.
- 4.9.4. Agreement terms may be negotiated at the discretion of the Real Estate Management Officer.
- 4.9.5. Agreements shall be approved by the City Manager.

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