

A Bylaw of the Municipal Corporation of the Town of Hay River in the Northwest Territories to provide for the administration of municipal lands, pursuant to the Cities, Towns and Villages Act, S.N.W.T. 2003, c.22, in force April 1, 2004.

WHEREAS the Council of the Town of Hay River deems it to be desirable to establish a uniform process for the acquisition, holding, development and disposal of real property;

NOW THEREFORE be it resolved that the Council of the Town of Hay River, in session duly assembled, enacts as follows:

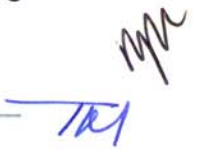
1) SHORT TITLE

This Bylaw may be cited as "The Land Administration Bylaw".

2) INTERPRETATION

In this Bylaw;

- a) **"Acquisition of Land"** means the purchase, lease, or other means of acquiring an interest in land.
- b) **"Additional Administrative Expenses"** means the cost incurred for the following:
 - i) drafting and execution of agreements, options, franchises, licenses, easements and other legal documents.
 - ii) surveying or subdividing of privately owned or leased land.
 - iii) consultative services which are authorized by Council or Town Officers (including by Town Engineers, Town Planners, Town Architect).
 - iv) registration fees, long distance telephone charges, travel expenses and similar costs incurred by the Town in the disposition of land.
- c) **"Agricultural Land"** means land made available or being used for farming, grazing or ranching.
- d) **"Auction"** means a process whereby at a certain time on a certain date at a certain place pursuant to Section 6) of this By-Law eligible applicants may bid on lot(s) or land made available for auction. The auction shall be conducted by an auctioneer selected by Council. Council shall approve the rules of auction.



- e) **"Ballot Draw"** means a process whereby at a certain time on a certain date at a certain place pursuant to Section 6) of this By-Law eligible applicants in attendance may place their name in a hat in order to participate in the draw. The Senior Administrative Officer or designate shall then draw a name from the hat, the person chosen will have first pick of one lot from the lots made available for the draw and so on and so on until all of the names have been drawn or all of the lots have been chosen. In the event that all of the lots have been chosen and there are still names in the hat, the names shall be drawn and a list kept of the order in which they were drawn, this waiting list will be kept on file at the Town Office and in the event that any of the successful applicants do not exercise their option to purchase then the un-purchased lot(s) shall be made available to the persons on the waiting list in the order in which they were drawn.
- f) **"Call For Proposal"** a process pursuant to Section 6) of this By-Law whereby the Town may ask eligible applicants to propose development plans for land or lot(s) that Council has decided to dispose of by proposal call.
- g) **"Commencement Date"** means the date calculated pursuant to Section 26) and 27) of this Bylaw.
- h) **"Commissioner"** means the Commissioner of the Northwest Territories.
- i) **"Completion Date"** means the date calculated pursuant to Section 26) and 27) of this Bylaw.
- j) **"Corridor Development Area"** means the area shown on the map attached to and forming part of this Bylaw as Schedule "A".
- k) **"Council"** means the Council of the Town of Hay River.
- l) **"Development Cost"** means the Town's direct and indirect costs of developing a lot or another specific area of land for disposition to the public, and which may include:
 - i) planning and engineering design;
 - ii) project management;
 - iii) the construction of roads, lanes, parking areas, curbs, gutters, sidewalks, walkways, boulevards, parks and recreational improvements and all necessary appurtenances;
 - iv) land excavation and filling;
 - v) open spaces;



- vi) water, sanitary and storm sewer systems, including all necessary appurtenances;
 - vii) electrical transmission systems, including all necessary appurtenances;
 - viii) gas transmission systems, including all necessary appurtenances;
 - ix) fees for appraisal, legal surveys, legal services;
 - x) land acquisition and disposal costs;
 - xi) financing charges, including interest;
 - xii) environmental studies and or cleanup.
- m) **"Developed Land"** means land in which the necessary municipal infrastructure has been placed to allow improvements to be built or installed thereon.
- n) **"Disposition"** means the sale, lease or other means of disposing of an interest in land.
- o) **"Eligible Applicant"** means a person, corporation or other legal entity or group applying to the Town to purchase, lease or otherwise acquire land whose:
- i) existing taxes, if any, are current.
 - ii) existing lease, if any, is in good standing and the payments of which are current.
 - iii) existing utility account, if any, is current.
 - iv) existing development permits, if any are, in compliance.
- p) **"Incentive Sale"** means a disposition of land at less than its development cost.
- q) **"Land"** means real property or an interest therein, other than an easement or restrictive covenant.
- r) **"Land Development Fund"** means the fund established pursuant to Section 4) of this Bylaw.
- s) **"Lot"** means a specific area of land, the boundaries of which are:



- i) Shown on a plan registered at the Northwest Territories Land Titles Office; or
 - ii) Described in a certificate of title registered at the Northwest Territories Land Titles Office; or
 - iii) Has been duly described by the Town.
- t) **"Lot Price"** means the total value assigned to a lot as calculated by this By-Law.
- u) **"Market Value"** means the value of land based on the amount that a willing buyer would pay to a willing seller. This value may be an appraised value determined by a professionally qualified land appraiser or by public tender.
- v) **"Minister"** means the Minister of the Government of The Northwest Territories Department of Municipal and Community Affairs.
- w) **"Non-Profit Users"** means Registered Churches and Registered Charitable Organizations.
- x) **"Off-Site Levy"** means a surcharge levied by the Town to a purchaser or lessee of municipal lands to assist in the payment of all or part of the capital costs of new or expanded infrastructure, including land, such infrastructure being located outside the lands being purchased or leased, but of direct, though not exclusive, benefit to the purchaser or lessee and which may include:
- i) new or expanded facilities or costs for the storage, transmission, treatment, or supply of water;
 - ii) new or expanded facilities or costs for the storage, transmission, treatment, or disposal of sewage;
 - iii) new or expanded storm sewer drainage facilities;
 - iv) new or expanded roadways and sidewalks;
 - v) new or expanded facilities or costs for community or protective services;
 - vi) land required for, or in connection with, any of the facilities described in x) i), x) ii), x) iii), x) iv), and x) v).



- y) **"Public Tender"** means a process whereby eligible applicants reply to a public tender call with a sealed bid, stating the price they are prepared to pay for lots or land offered for sale by tender.
- z) **"Quarry"** means any work or undertaking in which granular materials are removed from the ground or the land by any method, and includes all ways, works, stockpiles, machinery, plant, buildings and premises belonging to or used in connection with the quarry.
- aa) **"Senior(s)"** means for the purpose of this By-Law, individuals who are sixty-five (65) years of age.
- bb) **"Site-specific Factors"** means factors which may be used, where applicable, the Town in adding or subtracting up to twenty five percent (25%) of the development costs of new lots or the replacement cost for the existing developed lots, and which may be composed of:
 - i) the size of the parcel;
 - ii) site conditions;
 - iii) desirability of location;
 - iv) existing adjacent land uses; and
 - v) zoning.
- cc) **"Town"** means the Municipal Corporation of the Town of Hay River, which is represented by the Senior Administrative Officer or his/her designate, except when decisions of Council are required.

3) APPLICATION OF THE BYLAW

- a) This Bylaw will apply to all acquisitions, sales, leases or other dispositions of land by the Town.

4) LAND DEVELOPMENT FUND

- a) The Town hereby establishes a fund called the "Land Development Fund".
- b) The Land Development Fund shall be used by the Town to acquire land and to account for all land transactions separate from the General Municipal Fund of the Town.



- c) The Town shall not use the Land Development Fund for any purpose other than for acquisition or development of land unless the Council approves by resolution any other type of expenditures from the Land Development Fund.
- d) All proceeds from the disposition of land shall be deposited in the Land Development Fund.
- e) In the event that the Land Development Fund exceeds a cash surplus of \$500,000.00 Council may, by resolution, transfer the surplus funds in excess of \$500,000.00 to the General Municipal Fund of the Town.

5) ACQUISITION OF LAND BY THE TOWN

- a) The acquisition of land by purchase, lease or other means from another party by the Town shall be authorized by by-law.
- b) A by-law for the purchase or lease of land by the Town shall include the legal description of the land to be acquired or in the case of a lease of un-surveyed lands, a description of the parcel and sketch sufficient to identify the property to be leased.
- c) All land acquisition by-laws shall state the prices, terms and conditions of the acquisition. If the acquisition is by way of lease then the by-law shall state the term of the proposed lease.
- d) Council may amend any of the terms of any agreement for the purchase or lease of land by a resolution of Council, except the legal description or the description and identifying sketch of the affected land, which may only be amended by by-law.
- e) The Town may acquire land for municipal purposes from the Commissioner in accordance with the Land Pricing Policy of the Government of the Northwest Territories.
- f) The Town may enter into agreements to lease land from the Commissioner, the Crown or any other third party for the purpose of sub-leasing the said land.
- g) Council shall by resolution adopt standard forms of agreement for the acquisition of land and may authorize Administration to make such minor amendments to any such standard form agreement as may be necessary to adapt the agreement to the requirements of any particular transaction.



6) DISPOSITION OF LAND BY THE TOWN

- a) Disposition of land in fee simple or leasehold interest shall be authorized by By-Law. Subject to the provisions of Section 7) f), all land disposal by-laws shall state the method by which land shall be disposed of, such methods are outlined in Section 7) b).
- b) Town of Hay River lots that are owned or leased from the Commissioner, by the Town and are immediately adjacent to the ordinary high water marks of the Hay River (East and West Branches) or Great Slave Lake shall only be made available for lease to the registered owner or leaseholder as the case may be of the land abutting the Commissioners Land.
- c) Where it is the opinion of Council that leasing of land(s) rather than the selling of land(s) is in the best interests of the Town then Council shall issue such instructions to Administration.
- d) All land disposition by-laws shall state the prices, terms and conditions of the disposition. If the disposition is by way of lease then the by-law shall state the term of the proposed lease.
- e) Council may amend any of the terms of agreement for the sale, lease, or other disposition of land by resolution except the legal description of the land affected, which may only be amended by by-law.
- f) A bylaw referred to in Section 5) a) shall not be introduced for first reading until:
 - i) A search of title has been made in reference to the said lands establishing that the Town may lawfully dispose of the same;
 - ii) An inspection of the said lands has been made on behalf of the Town to determine the occupancy, improvements and other pertinent facts relating to the land; and
 - iii) The Senior Administrative Officer has confirmed that the market value of the land, the assessed value of the land, any improvements, and the zoning requirements relating thereto are appropriate to the proposed disposition.
- g) Council shall by resolution adopt standard forms of agreement for the disposition of land and may authorize Administration to make such minor amendments to any such standard form agreement as may be necessary to adapt the agreement to the requirements of any particular transaction.



7) METHODS AND TERMS OF LAND DISPOSITION BY THE TOWN

- a) Land shall be disposed of by:
 - i) Sale;
 - ii) Equity Lease; or
 - iii) Lease.
- b) In disposing of land, the Town shall initiate one of the following methods of land disposal:
 - i) Ballot Draw;
 - ii) Public Tender;
 - iii) Auction;
 - iv) Call for Proposal;
 - v) Public Advertisement; or
 - vi) Engage a Realtor.
- c) Land disposed of by Public Advertisement shall, after advertising, be disposed of on a first come first served basis.
- d) Land not disposed of as a result of a Ballot Draw, Public Tender, Realtor, Auction or Call for Proposal shall be disposed of on a first come first served basis.
- e) Council may, at any time, offer any land in its inventory for disposition subject to this By-Law.
- f) The provisions of Section 7) b) shall not apply to the disposal of land to be used for the following purposes:
 - i) The Federal or Territorial Government;
 - ii) The installation electric power, gas, telephone or other communication utilities, if the utility company is a Crown Corporation or a government regulated monopoly;
 - iii) Consolidation with adjoining land, when the land being disposed of does not comply with the minimum lot size requirements of the Town's Zoning By-Law;



- iv) Special and unique circumstances or activities which in the opinion of Council serve the public interests of the Town;
- g) A person who acquires land from the Town may be required to develop, add a specific amount of value to, or quarry land within a specified period of time, otherwise the land may, by agreement revert to the Town.
- h) If the disposition is to a private developer who is required to build or install municipal infrastructure to develop the land, then prior to the disposal the Town shall:
 - i) Require the developer to provide a letter from a financial institution confirming that the developer has sufficient financial resources to complete the development of the subject land or lands;
 - ii) Require the developer to enter into a Development Agreement with the Town for the provision of municipal infrastructure and supply of serviced land within a reasonable period of time;
 - iii) Specify by agreement with the developer any requirements for the development of the land pursuant to Section 37 of the Planning Act, R. S. N. W. T. 1988, c.P-7;
 - iv) After payment in full for the lot, transfer title to the developer, subject to a caveat to ensure compliance with subsections 7) h) ii) and 7) h) iii) if applicable.

8) DISPOSAL OF RESIDENTIAL LAND

- a) Where the Town is the vendor of single family and/or duplex dwelling residential lots, it shall ensure during the first offering for sale of the lots, that those purchasers wishing to acquire only one lot shall have priority over those purchasers who wish to acquire more than one lot at a time.
- b) Subject to 6) b) the Town shall dispose of residential land by sale.
- c) Subject to 6) b) the Town may only lease residential land if it does not and cannot obtain title to the land.
- d) Where the Town leases land to an eligible applicant, the term of the lease shall not exceed five (5) years.

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- e) Where for mortgage purposes, a Financial Institution requires a longer term lease, Council may authorize a term not to exceed the remaining term on the Head Lease.

9) DISPOSAL OF NON-RESIDENTIAL LAND

- a) Subject to Section 6) b) The Town shall prefer a sale to lease of non-residential land, however, where the Town leases land to an eligible applicant, the term of the lease shall not exceed five (5) years. Each lease shall contain an option to renew for a further period as contained in the original Lease or for a minimum term as determined by term remaining in the Head lease.
- b) Subject to Section 6) b) non-residential land owned by the Town already under lease from the Town may be purchased by the current lessee under the terms and conditions contained in Section 13) of this By-Law, such leases may be extended only pursuant to the terms of such lease in the name of the current lessee, the terms and conditions of the extension shall be determined by this By-Law.

10) LEASE FEES FOR COMMISSIONERS LAND

- a) Lease fees for Commissioners land shall be determined as follows:
 - i) ten percent (10%) of the Assessed Value per annum. The Assessed Value shall be reviewed annually on the anniversary date of the lease;
 - ii) in any event, a minimum of \$600.00 per annum.
- b) Specifically, lease fees for agricultural land shall be five percent (5%) of the Assessed Value per annum. The Assessed Value shall be reviewed annually on the anniversary date of the lease;
 - i) in any event, a minimum of \$600.00 per annum.
- c) Where the terms of payment for any contract are not met, the contract is subject to cancellation unless an extension of time is granted, in writing, by the Senior Administrative Officer.
- d) Interest charges on late payments, shall be charged after a period of thirty (30) days.
- e) The interest rate for late payments shall be one point five percent (1.5%) per month.

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- f) The annual lease rate for Commissioners land leased out by the Town will not exceed ten percent (10%) of the Assessed Value, unless authorized by a resolution of Council

11) LEASE FEES FOR TOWN OWNED LAND

- a) Lease fees for Town owned land shall be determined as follows:
 - i) Twenty percent (20%) of the Assessed Value per annum. The Assessed Value shall be reviewed annually on the anniversary date of the lease.
 - ii) In any event, a minimum of \$600.00 per annum.
- b) Where the terms of payment for any contract are not met, the contract is subject to cancellation unless an extension of time is granted, in writing, by the Senior Administrative Officer.
- c) Interest charges on late payments, shall be charged after a period of thirty (30) days.
- d) The interest rate for late payments shall be one point five percent (1.5%) per month.
- e) Where Council leases land for a term of less than 3 years then Council may instruct administration to apply special lease rates. Such lease rates to be established by motion of Council.

12) LEASE RENEWALS

- a) Subject to Section 13) at the termination of the term or terms of a lease, no new lease shall be granted by the Town except in accordance with the provisions of this By-Law.



13) TERMS AND CONDITIONS FOR RENEWING OR AMENDING EXISTING LEASES DESCRIBED IN THE "MEMORANDUM OF UNDERSTANDING – LAND ADMINISTRATION TOWN OF HAY RIVER" BETWEEN THE TOWN OF HAY RIVER AND THE COMMISSIONER OF THE NORTHWEST TERRITORIES UNDER THE HEADING TRANSFER OF COMMISSIONER'S LAND SECTIONS 5, 6, AND 7 AND IDENTIFIED IN APPENDIX "A" OF THE MEMORANDUM OF UNDERSTANDING

- a) Application of the terms and conditions for renewing or amending existing contracts shall be the same as for new contracts except for the determination of the lot price.
- b) The Lot Price used for renewing or amending existing contracts shall be determined through the application of Section 20) of this By-Law and then by:
 - i) Applying a discount factor of three percent (3%) per year (being an inflation factor), back to the year that the lot was constructed;
 - ii) Deducting all previous lease payments made.
- c) No interest shall be charged for any existing contract which is converted to an equity lease.
- d) Where existing contracts are reviewed, annual lease payments shall not be less than what is being paid prior to review.
- e) The minimum lease rental for any parcel shall be \$600.00 per year and the minimum lot price shall be \$2,000.00.

14) OTHER DISPOSITIONS

- a) Licenses of occupation and other dispositions of land that do not convey exclusive possession to the land, such as easement agreements and right-of-way agreements, shall be valued at the minimum rate of \$250.00 per annum, \$15.00 per annum per kilometer or five percent (5%) per annum of the lot price, whichever is greater.

15) QUARRIES

- a) Quarry sites may be leased for an annual payment of \$600.00. Any costs directly related to the development of the site shall be recovered from the lessee.

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16) LEASE FEES FOR LARGE LAND HOLDERS

- a) Notwithstanding anything else herein, in the event that an individual or corporation or group holds more than \$3,000,000.00 in total Assessed Values of leased land, as established at commencement of lease and due for review each five (5) years, the Town may negotiate such terms of a lease or leases as it sees fit.

17) LEASE FEES FOR SENIORS RESIDENTIAL USE AND NON- PROFIT USERS

- a) Where Seniors or Non-Profit Users renew an existing lease or formalize an existing occupancy by way of lease for the purpose of calculating lease fees, the Assessed Value shall be reduced by fifty percent (50%). Where there is joint tenancy, only one eligible applicant need qualify as a senior. The minimum payment shall be \$300.00 per year.

18) TAX-EXEMPT INSTITUTIONS

- a) No lands shall be sold by the Town to a tax-exempt institution unless a written agreement has first been made with the purchaser providing that the Town will have the first right to acquire the subject lands for the original purchase price in the event that the purchaser desire to dispose of the land.

19) PUBLIC NOTICE OF THE DISPOSAL OF TOWN OWNED LAND

- a) The Town shall not dispose of any land until it has been advertised at least twice in a weekly newspaper which has local circulation, or in notices posted in six (6) prominent places for a minimum of two (2) weeks, except as provided hereunder:
 - i) Proposals for lease of un-surveyed parcel(s) of land which are, in the opinion of Council, unique or specialized to the degree that advertising for wider disposal would not be in the best interests of the Town.
- b) Subject to Section 7) b) Council shall decide the method by which land or lots are initially offered for disposition.
- c) Each advertisement for the disposition of land shall include:
 - i) The legal description, if any;



- ii) The civic address if any;
 - iii) The current zoning;
 - iv) The minimum purchase price acceptable, if applicable;
 - v) The process by which the disposal of the land will occur;
 - vi) The location and time at which eligible applicants for the land may participate in the process; and
 - vii) Such other information as the Senior Administrative Officer deems appropriate.
- d) If an application for land is withdrawn or if any lease or sale agreement is terminated prior to the construction of improvements and the Senior Administrative Officer deems it prudent in the circumstances, the land may be disposed of without further public notice.

20) ESTABLISHING THE PRICE OF LAND

- a) In order to ensure fair, consistent and economical land prices, the Town shall determine prices taking into consideration an evaluation of development costs, off-site levies, site-specific factors and market value.
- b) All development costs and off-site levies will be recovered by the Town unless the Town is unable to dispose of the land within a reasonable period of time, as determined by Council.
- c) Setting a fair market value based on valuation of the land by a professional property assessor or appraiser or by public tender or auction.
- d) Notwithstanding anything else herein, the Town shall not sell land for less than its Development Cost, except in accordance with the provisions contained in Section 21) a).

21) INCENTIVE SALES OF LAND

- a) The Town may sell land for less than the cost of development only if the difference between the sale price and the Development Cost is recovered directly from the General Municipal Fund of the Town.
- b) Council may by way of resolution approve "payment over time schemes" for the sale of specific lots or land.



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22) POLICY AND PRACTICE OF GNWT

- a) The Town hereby adopts the Municipal Land and Land Pricing Policies of the Government of the Northwest Territories for disposition of land.

23) RE-ZONED LAND

- a) If a parcel of land is re-zoned, and thereby becomes available for sale, it must be publicly advertised before sale, in accordance with Section 19) of this Bylaw, and shall not be committed for sale in advance.
- b) Any costs of re-zoning will be borne by the final purchaser.

24) COMMITMENT FOR DISPOSAL PRIOR TO RECEIPT OF TITLE

- a) The Town may, upon resolution of Council in attendance at a duly convened session, and with written consent of the Commissioner, advertise and make commitment for the disposal of land not yet under title to the Municipality, which is being acquired in accordance with Section 5) of this Bylaw.

25) DEVELOPMENT PLANS

- a) All land applications excluding single family residential must be accompanied by an attached proposal for use and plans for improvements.

26) RESIDENTIAL DEVELOPMENTS

- a) All agreements for sale of residential lots shall contain the following:
 - i) A provision requiring a non-refundable deposit of ten percent (10%) of the purchase price. The Deposit shall be forfeited to the Town in the event that any condition of the agreement for sale is substantially breached;

27) COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL DEVELOPMENTS

- a) All Agreements for Sale of Commercial, Industrial or Institutional lands shall contain the following:

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- i) A provision requiring a non-refundable deposit of thirty percent (30%) of the purchase price. The Deposit shall be forfeited to the Town in the event that any condition of the agreement for sale is substantially breached;

28) RECOVERY OF ADMINISTRATIVE EXPENSES

- a) The Town shall recover Additional Administrative Expenses related to the disposition of land by the Town and shall include recovery of such expenses as a condition of disposition.

29) LAND LEDGER

- a) The Town shall maintain a land ledger, which must be kept open to the public during normal working hours, listing all lands which have been acquired and which lands are being held for disposal, setting forth the identification and location of each parcel, the valuation for disposition, the conditions for disposal and any disposition or commitment made.

30) OTHER ACTS TO APPLY

- a) The provisions and definitions of the *Cities, Towns & Villages Act*, S.N.W.T. 2003, c.22, in force April 1, 2004, the *Planning Act*, R.S.N.W.T. 1988, c.P-7 and the *Interpretation Act*, R.S.N.W.T. 1988, c.I-8, shall apply to this Bylaw, *mutatis mutandis*.

31) BY-LAW ADMINISTRATION

- a) The forms, fees, procedures and agreements required for the administration of this By-Law shall be as prescribed from time to time by resolution of Council.

32) REPEALED

- a) Bylaw Number 1913 is hereby repealed.

33) EFFECT

- a) This By-Law comes into effect, on the date of its final passing,



READ A FIRST TIME this 29th day of June, 2009.



Mayor



Senior Administrative Officer

After a public meeting held on the 20th day of July, 2009.

READ A SECOND TIME this 20th day of July, 2009.

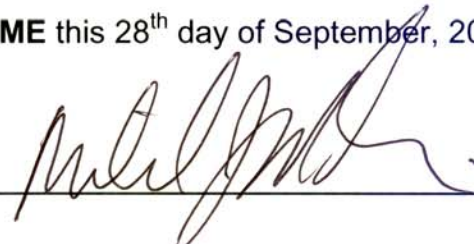


Mayor



Senior Administrative Officer

READ A THIRD AND FINAL TIME this 28th day of September, 2009.



Mayor



Senior Administrative Officer

CERTIFIED that this bylaw has been made in accordance with the requirements of the Cities, Towns and Villages Act, S.N.W.T., 2003, and the bylaws of the Municipal Corporation of the Town of Hay River this
2 day of October, 2009.



Senior Administrative Officer