

Leases and licenses to Occupy Municipally Owned Property

Effective Date: June 7, 2005

Last Revised: November 7, 2023

1. Purpose

Leases and licenses to occupy agreements are created to provide revenue to the City, which may offset some servicing costs, or alternately to provide a service to the community that Council finds appropriate which may generate revenue.

2. Scope

This policy applies to City owned property available for use and rental with the appropriate approval as outlined within this policy.

3. Definitions

In this policy,

- (a) **Administrative Procedures** means those procedures issued by a City staff member that set out the procedural requirements to be carried out in fulfillment of this policy.
- (b) **Assistance** means disposing of land or improvements, or any interest or right in or with respect to them, for less than market value;
- (c) **Disposition** means disposing of an interest in land to any party including entering into leases and licenses to occupy as a landlord;
- (d) **Lease** is an agreement between a landlord and a tenant for exclusive occupancy for a specified period of time and for a specified consideration. Examples include:
 - (i) **Market Value** means the fair market rental rate per square feet of floor space in the Leased Premises
 - (ii) **Percentage Rent** means an agreement to pay base rent plus a percentage of gross sales over a certain minimum.
 - (iii) **Gross Rent** means an agreement to pay a single amount that covers base rent and all incidental expenses, including property taxes and utilities.



- (iv) **Triple Net** means:
 - (1) A type of commercial real estate under which you typically pay the base rent, plus property taxes, building insurance and utilities, as well as other operating and maintenance costs. The landlord assumes no costs, other than those for structural repairs.
 - (2) A lease with conditions including the payment of utilities, taxes, and base rent.
- (v) **Cost Recovery** means the rate is set at the cost recovery value as determined in consideration of the terms of the use of the space.
- (vi) **Nominal** means a below the market rental rate (normally \$1.00 per year) to satisfy the requirements for the creation of a lease.
- (e) **Lease Term** is the specific period of time in which the contracted lease is in place, not to exceed 5 years.
- (f) **License to Occupy** is used to formalize permissions given to use the premises for a particular purpose and does not grant exclusive possession.
- (g) **License to Occupy Term** is the specific period of time in which the license to occupy contract is in place, not to exceed 3 year.
- (h) **Significant Change** means where new terms or considerations to the license to occupy or lease agreement are added and increase risk to the City. Examples include: requests for lease improvements, expansion of leasing or licensed use of space, restrictions on annual fee increases, etc.

4. Policy Statements

The City of Pitt Meadows manages its real property assets to optimize their use and maximize value to the community, which includes provision of those assets to third parties as leases or licenses to occupy.

5. Roles and Responsibilities

- 1. Council to:
 - a. Approve this policy;
 - b. Approve future amendments to this policy; and.
 - c. Approve or deny all lease or license to occupy agreements as per Schedule B of the Officers and Delegation of Authority Amendment Bylaw No. 2960, 2023.



- d. Approve or deny all lease or license to occupy agreements requesting to exceed their maximum term, as defined within this policy.
 - e. Approve or deny all Nominal Leases and Zero Fee based Licenses to Occupy Agreements.
2. Chief Administrative Officer to:
- a. Implement this policy;
 - b. Bring forward future amendments for Council's consideration; and
 - c. Approve and issue Administrative Directives required to implement this policy.
 - d. Approve and negotiate lease or license to occupy terms as per Schedule B of the Officers and Delegation of Authority Amendment Bylaw No. 2960, 2023.
3. Director of Financial Services to:
- a. Ensure compliance with this policy as required;
 - b. Approve and issue Administrative Procedure(s) required to implement this Policy; and
 - c. Review agreement and lease documents and provide recommendations to the Chief Administrative Officer.
4. Department Directors to:
- a. Ensure compliance with this policy; and
 - b. In collaboration with Financial Services (Contract Administration), commence pre-consultation meetings with requestors to determine opportunity.
 - c. Negotiate and review lease or license to occupy terms as per Schedule B of the Officers and Delegation of Authority Amendment Bylaw No. 2960, 2023.
 - d. Ensure Property Tax and Utility Fees are discussed and mentioned in the negotiation process and clearly outlined in the agreement, in alignment with Section 5(f) below.

5. Finance Department - Procurement and Contract Administration to
 - a. Develop Administrative Procedure(s) required to implement this policy;
 - b. Co-ordinate proposed property disposition notice requirements;
 - c. Execute all approved contracts on behalf of the City covered under this policy;
 - d. Maintain a repository of lease and license to occupy agreements in accordance with the Local Government Management Association (LGMA) file plan and retention practices in consultation with Legislative Services;
 - e. Review and track mandatory documents and insurance requirements as stated on the agreement ;
 - f. Work with Taxation Services (Finance) and the Department Director to incorporate property tax and utility fees payment consideration into the contract.
 - g. Co-ordinate invoice issuance and track the payment of rent;
 - h. Maintain a complete list of lease and license to occupy agreements on file to manage timing of renewal, termination, etc. as well as other changes in the terms of the contract(s).
 - i. Bring forward a report to Council with recommendations of the completed annual review of the City's leases and license to Occupy agreements;
 - j. Bring forward contracts missing property tax and utility fees consideration to the Director of Financial Services attention;
 - k. Bring forward contracts requesting significant changes to the Department Director and/or CAO as per Schedule B of the Officers and Delegation of Authority Amendment Bylaw No. 2960, 2023.
6. Finance Department Taxation Services to
 - a. Where applicable, contact BC Assessment and submit required documentation for the purposes of assessing property tax and utility fees.

6. Prohibitions

Prohibitions include:

1. Committing the City to agreements without the authority to do so; and

2. Providing assistance to business per section 25 of the *Community Charter*.
3. Leases and Licenses to Occupy cannot be assigned to another party without written approval of Council.

7. Procedures and Guidelines

Notice of Proposed Property Disposition

Before the City enters into a lease as a landlord, it must publish notice of the proposed disposition in accordance with section 94 of the *Community Charter*.

Section 26 of the *Community Charter* sets out the notice requirements.

The notice is to advise the public of the disposition occurring. There is no legislated requirement to provide for public input.

Notice of Assistance

Where disposition is less than market value, the City must publish notice of its intention to provide assistance under an agreement per *Community Charter* section 24.

Notice under this section is only required when the City intends to provide assistance to either

- a) a society or
- b) a business under a partnering agreement under section 21 of the *Community Charter*.

Otherwise, the City is prohibited from providing assistance to business per section 25 of the *Community Charter*.

Reporting

A report shall be prepared and presented to Council annually by Financial Services which identifies the current leases and license to occupy agreements for the upcoming year. At that time, Council will review the proposed annual increase, if applicable, based on either the most current CPI rate for Vancouver or as otherwise resolved by Council to be applied to agreements that have an annual review of fees.

Fee Structure and Applicable Taxes

Base rent rates for most agreements are based on fair market value, based on square footage. Renewals may include a combination of applicable CPI and fair market value if a lease is determined to be under market value.

Additionally, depending on the changes being requested upon renewal of leases or license to occupy agreements, Council may be required to approve the agreement(s). See Table 1 below.

Table 1 – Agreement Type and Required Approval

AGREEMENT TYPE	FEE TYPE	TERM LENGTH	REQUIRED APPROVAL
LICENSE TO OCCUPY	Zero Fee	ALL	Council
	Set Fee	Greater than 3 years	Council
		Up to 3 years	Chief Administrative Officer: Contract value up to \$250,000 Council: Contract value over \$250,000
LEASES			
Nominal Lease	Nominal Fee	ALL	Council
All other Leases as Defined within this Policy	Set Fee	Greater than 5 years	Council
		Up to 5 years	Chief Administrative Officer: Contract value up to \$250,000 Council: Contract value over \$250,000

5. Related Policies

Other related policies include:

- (a) Schedule B of the Officers and Delegation of Authority Amendment Bylaw No. 2960, 2023.