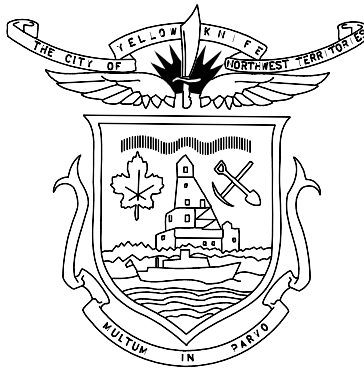


# **THE CITY OF YELLOWKNIFE**

**NORTHWEST TERRITORIES**



**LAND ADMINISTRATION BY-LAW NO. 4596**

Docs#183067-v8

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**CITY OF YELLOWKNIFE  
BY-LAW NO. 4596**

A BY-LAW of the Council of the Municipal Corporation of the City of Yellowknife in the Northwest Territories, authorizing the Municipal Corporation of the City of Yellowknife to repeal and replace City of Yellowknife Land Administration By-law No. 3853, as amended;

PURSUANT TO:

- a) Sections 53, 54 and 55 of the *Cities, Towns and Villages Act* S.N.W.T. 2003, c.22, as amended;
- b) Due notice to the public, provision for inspection of this by-law and due opportunity for objections thereto to be heard, considered and determined;

WHEREAS the Municipal Corporation of the City of Yellowknife has enacted Land Administration By-law No. 3853, as amended;

AND WHEREAS the Municipal Corporation of the City of Yellowknife wishes to repeal and replace Land Administration By-law No. 3853, as amended;

NOW THEREFORE, THE COUNCIL OF THE MUNICIPAL CORPORATION OF THE CITY OF YELLOWKNIFE, in regular session duly assembled, hereby enacts as follows:

**TITLE**

1 This By-law may be cited as "The Land Administration By-law".

**2 DEFINITIONS**

In this By-law:

"Acquisition of Land" means the purchase, lease or expropriation of land.

"Appraised Value" means Market Value.

- "Assessed Value" means a value placed on property (land and buildings) for municipal taxation purposes. The assessed value is determined using standards established by Territorial legislation.
- "City" means the Municipal Corporation of the City of Yellowknife, which is represented by the Senior Administrative Officer or his/her designate, except when decisions of Council are required, pursuant to this or any other by-law of the City of Yellowknife.
- "City Standard" Any standard approved and/or used by the City for the purpose of Development. These standards may include, but are not limited to standards for roads, sidewalks, parks and recreational improvements, water and sewer infrastructure, landscaping, curbing, gutters, etc.
- "Council" means the Council of the City.
- "Developed Land" means land in which the necessary municipal infrastructure has been placed to allow improvements to be built or installed thereon.
- "Development Cost" means the City's direct and indirect costs of developing a lot or another specific area of land for disposition to the public, and which may include:
- land acquisition;
  - fees for appraisal, legal services, surveying, planning and engineering designs and project management;
  - land excavation and filling;
  - roads, lanes, parking areas, curbs, sidewalks, walkways, boulevards and all necessary appurtenances to City Standard;
  - water, sanitary and storm sewer systems, including service connections and all necessary appurtenances to City Standard;

- electrical transmission systems, such as cable and television, including all necessary appurtenances;
- parks and recreational improvements; and
- financing charges, including interest.

"Disposal of Land" means the sale or lease of land, but does not include the granting of an Encroachment Agreement or other license to occupy or use City-owned Lands on a temporary basis.

"Encroachment" means any portion of a building, structure, or land use that is placed, erected, built, or carried out on, under or over City-owned property by a property owner.

"Encroachment Agreement" means an agreement granting an adjoining property owner a license to occupy a portion of City-owned land to authorize an encroachment or to permit an existing encroachment to continue.

"Greenfield Initiative" means the development a piece of land that was previously left to nature with no previous development or contamination on site.

"Granular Material" A Natural Resource defined at sand, black dirt, rock and clay.

"High Impact Use" Means any use that may lead to release of any harmful substance to the air, the City's watershed or City land as a result of the use.

"Land" means real property or an interest therein, other than an easement or restrictive covenant.

"Lot" means a specific area of land, the boundaries of which are:

- shown on a plan registered at the N.W.T. Land Titles Office; or

- described in a certificate of title registered at the N.W.T. Land Titles Office.

"Low Impact Use" Means any use that would not lead to release of any harmful substance to the air, City's watershed or City land as a result of the use.

"Market Value" means the most probable price, determined by a professionally qualified land appraiser, which a property should bring in a competitive and open market as of a specified date under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimuli.

"Minister" means the Minister of the Government of the Northwest Territories Department of Municipal and Community Affairs.

"Non-Profit Users" means registered charitable organizations.

"Off-site Levy" means a surcharge levied by the City against the purchaser of land from the City or against a tenant leasing land from the City. This levy is used by the City to pay for all or part of the capital cost of all or any municipal infrastructure located outside the land being purchased or leased, but which is of direct, though not exclusive, benefit to the purchaser or lessee, and which may include:

- new or expanded facilities for the storage, transmission, treatment, or supply of water;
- new or expanded facilities for the transmission, treatment, or disposal of sewage;
- new or expanded storm sewer drainage facilities;
- new or expanded roadways and sidewalks;

- new or expanded facilities for the upgraded electrical or cable systems;
- new or expanded facilities for community or protective services; and
- land required for, or in connection with, any of the facilities described in the points above.

"Planning  
Administrator"

means a City employee responsible for Planning & Lands, or designate, appointed by the Senior Administrative Officer of the City of Yellowknife to administer, coordinate, and promote planning related documents, policies, and by-laws such as the General Plan, development schemes, the Zoning By-law, and other planning documents that have been adopted by Council plus the appropriate sections of the *Planning Act*.

"Property Owner"

means any person, organization, or government body, other than the City of Yellowknife, who owns a fee simple or leasehold interest in land.

"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.

"Revitalization  
Initiative"

means land assembly initiatives undertaken for subsequent land disposal, which support the redevelopment and revitalization of existing neighbourhoods, defined in the zoning by-law and prioritized as follows: CC- Core Area Commercial, OM - Old Town Mix, CS - Commercial Service (Old Airport Road), and I - Industrial (Kam Lake), or as otherwise deemed appropriate by Council.

"Site-specific  
Factors"

means factors which may be used, where applicable, in adding or subtracting to the cost of developed land and which may consist of the:

- size of the parcel;
- site conditions;
- desirability of location;
- existing adjacent land uses; and
- zoning

### APPLICATION

This By-law will, except as otherwise expressly authorized by herein, apply to all acquisitions, sales, leases or other dispositions of land by the City.

### 3 REQUEST FOR LAND WITHIN THE MUNICIPAL BOUNDARY

(a) A request for acquisition of land shall:

- i. be made using the form specified by the Planning Administrator, as amended from time to time.
- ii. include such information as the Planning Administrator may deem necessary or appropriate to consider the request, including but not limited to a sketch delineating the area to be acquired and a detailed development proposal.
- iii. include the application fee, if any, pursuant to the City's Fees and Charges By-law No. 4436, as amended. Such fee shall be applied to the lease/purchase fee or refunded in the event that the lease/purchase is not approved.

(b) Upon receipt of an application for land, the Planning Administrator shall review the request for compliance with this By-law and any other applicable by-law or legislation and shall:

- i. approve the use of a Lease Agreement, without a by-law if the request for a lease is for less than 3 years or a month-to-month tenancy, with the exception of 3(b)iii; or



- ii. refer the request to Council if the type of application or form of disposal would require approval of Council, or if the Planning Administrator otherwise deems the approval of Council to be desirable.
- iii. Notwithstanding Section 3(b)i., refer all waterfront lease requests to Council.

#### 4 ACQUISITION BY THE CITY

- (a) The City shall acquire Head Leases or Title, as applicable, on all Commissioner's or Crown Land required for municipal purposes.
- (b) The City may acquire fee simple or leasehold interest in any real property which is required for municipal purposes.
- (c) The City may acquire real property by expropriation pursuant to the provision of the *Expropriation Act* and *Planning Act*, and through the tax recovery process in accordance with the *Property Assessment and Taxation Act*.
- (d) The acquisition of real property shall be by by-law in accordance with this By-law and the *Cities Towns and Villages Act*.

#### 5 DISPOSAL BY THE CITY

- (a) The City may dispose of fee simple or leasehold interest in any real property where the land is not required for municipal purposes, and where the intended land use is in accordance with the City's General Plan, a Development Scheme (where applicable) and Zoning By-law, or any other relevant by-laws, plans and studies. Where applicable, adjacent property owners (i.e. those sharing common property lines) may be given first refusal to lease or purchase such lands.
- (b) In the absence of any requirement for municipal purposes, and in accordance with all relevant regulations and legislation, the City may issue leases on public waterfront lands to:

- i. adjacent property owners (i.e. those sharing common property lines) in residential and non-residential zoned areas.
  - ii. individuals, groups or businesses where there are no adjacent property owners.
- (c) The disposal of fee simple or leasehold interest in any real property shall be in accordance with this By-law and the *Cities, Towns and Villages Act*.
- (d) Prior to the City authorizing the sale or lease of property to a business, corporation or society, the society must provide proof of being in good standing in accordance with the provisions of the *N.W.T. Societies Act* or other relevant *Act*, by-law or policy.
- (e) Any business, corporation or society acquiring a leasehold interest in land shall maintain public liability insurance, with a company licensed and registered to do business in the Northwest Territories, for the Land and any improvements to it in an amount of not less than \$2,000,000.00, or such other amount as reasonably directed by the City from time to time. The society shall provide the City with documentary evidence of such insurance in a form satisfactory to the City which names the City as an insured party.
- (f) Where the City disposes real property to a tax-exempt institution, another order of government or a non-profit organization, the City may require the purchaser or lessee to enter into an agreement which gives the City the right of first refusal to reacquire the land and any improvements placed thereon should the purchaser or lessee cease to operate or no longer require the property for its intended purpose.
- (g) Real property disposals by the City will be subject to the terms and conditions of a Purchase or Lease Agreement.
- (h) Real property may be leased where it is not available in fee simple title to the City, or where there is benefit to the City in retaining real property for public purposes.
- (i) All lease agreements shall incorporate clauses relative to remediation of potential environmental damage, including the requirements for remediation, at the lessee's expense,

and the lessee shall be required to deposit security with the City in the form of a bond or irrevocable letter of credit to the noted remediation requirements, pursuant to the Fees and Charges By-law.

- (j) Disposition of land in fee simple or leasehold interest shall be authorized by by-law. Subject to provisions of this By-law, all land disposal by-laws shall state the method by which land shall be disposed of, pursuant to this By-law.
- (k) A by-law for the acquisition or disposal of land shall include the legal description of the land to be acquired, or, in the case of a lease of unsurveyed lands, a description of the parcel and sketch sufficient to identify the property to be leased.

#### **6 ESTABLISHING THE PRICE OF LAND - LEASE RATES**

- (a) The annual lease rate for land disposed of by the City will not exceed ten percent (10%) of the assessed value, unless otherwise authorized by the Minister. Based on this upset limit, all lease fees shall be charged pursuant to the City's Fees and Charges By-law No. 4436, as amended, and all uses shall be categorized pursuant to the Definitions herein.

#### **7 ESTABLISHING THE PRICE OF LAND - FEE SIMPLE DISPOSAL**

- (a) The determination of the price of land for fee simple disposition by the City shall be the appraised value.

#### **8 DEVELOPMENT COSTS & OFF-SITE LEVIES**

- (a) Development Costs and Off-Site Levies shall be determined by the Director of Planning & Development and the Director of Public Works. All Costs and Levies shall be based on current year costs.
- (b) Off-site levies shall be collected and the amount of each levy shall be calculated in accordance with off-site improvements required to service the development. Where

such services are shared amongst existing or future planned developments, the off-site levy shall be prorated amongst the developments.

- (c) All development costs and off-site levies will be recovered by the City.
- (d) Off-site levies shall be collected prior to the issuance of the development permit for any improvement on a lot. If development is phased, then off-site levies, may, at the discretion of the Planning Administrator, be collected prior to the issuance of the building permit.
- (e) All off-site levy revenues will be deposited into the Land Development Fund.

#### **9 LAND DEVELOPMENT FUND MANAGEMENT AND OPERATION**

- (a) All revenues from the disposal of land shall be deposited in the Land Development Fund and utilized for the purchase of strategically identified lands, for the assembly and servicing of lands development and marketed by the City.
- (b) A minimum of 30% of all Land Development Fund revenue from sales shall be targeted for lands which support revitalization initiatives, as defined herein, with the balance targeted to Greenfield Initiatives, as defined herein.
- (c) Off-site levy charges shall be allocated to development costs and/or to development areas in accordance with Section 7.
- (d) The City shall not use the Land Development Fund for any purpose other than for the type of expenditures described herein.

#### **10 LAND DEVELOPMENT FUND REPORTING**

A detailed cash flow statement of the Land Development Fund will be provided to the Planning Administrator with quarterly updates based on current and projected sales and expenditures.

## 11 METHODS AND TERMS OF LAND DISPOSITION BY THE CITY

(a) In disposing of land, the City shall initiate one of the following methods:

- i. ballot draw;
- ii. call for development proposals; or
- iii. public advertisement.

If there are no offers, or any acceptable offers as a result of a ballot draw, call for development proposal or public advertisement, the City may dispose of land to a specific intended purchaser in accordance with the terms of this By-law.

(b) The City may sell or market land approved for disposal either independently or through a realtor.

(c) The provisions of Section 11(a) shall not apply to the disposal of land to be used for the purpose of:

- i. the Federal or the Territorial Government;
- ii. the installation of electrical power, 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 City's Zoning By-law; or
- iv. special and unique activities which serve the public interests of the City.

(d) Substandard sized properties that cannot be developed on their own, and are not required for municipal purposes, may be offered directly for sale or lease to adjacent property owners (i.e. those sharing common property lines). Appropriate zoning and road closure by-laws, where required, must be adopted prior to any commitment being made to dispose of the parcels. The criteria for determining those properties that cannot be developed on their own shall include, but is not limited to, the following factors:

- i. Lot configuration;
  - ii. Lack of, or barriers to providing street access, water/sewer services, or other services;
  - iii. Not meeting the minimum lot and site area requirements pursuant to the City's Zoning By-law; or
  - iv. Physical limitations related to the natural topography of the site.
- (e) Council may authorize the sale or lease of property at less than appraised value where the recipient is a society registered in accordance with the provisions of the *N.W.T. Societies Act*.
- (f) A person who acquires land from the City may be required to develop, add a specific amount of value to, or quarry the land within a specified period of time; otherwise the land may, by agreement, revert to the City.
- (g) If the disposition of land is to a private developer who is required to build or install municipal infrastructure to develop the land, then, prior to the disposal, the City 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;
  - ii. require the developer to enter into a Development Agreement with the City 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, including any restrictions on the use of the lands; and
  - iv. transfer title to the developer, subject to a caveat to ensure compliance with payment or other requirements detailed in a Purchase Agreement and/or a Development Agreement.
- (h) Where the City is the vendor of single family and/or duplex dwelling residential lots, it shall ensure, during first offering for sale or lease 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.

- (i) All offers to the City and all agreements or other arrangements with the City for the acquisition of City land shall be in writing and in a format which is acceptable to the City.

## **12 PUBLIC NOTICE OF THE DISPOSAL OF CITY OWNED LAND**

- (a) Before disposing of any land to the public by ballot draw, or call for development proposals, the City shall provide public notice by advertising the availability of the land in two consecutive issues of a newspaper having circulation in the City, the City's weekly newsletter and the City website.
- (b) Each advertisement shall include:
  - i. a sketch, drawn to scale, identifying the size and location of the land;
  - ii. the legal description, if any;
  - iii. the minimum purchase price acceptable, if applicable;
  - iv. the process by which the disposal of the land will occur; and
  - v. the location and time at which applicants for the land may participate in the process.
- (c) The disposal of any land may be subject to re-advertisement of a notice, at the sole discretion of the City.

## **13 ENCROACHMENT AGREEMENTS**

- (a) Except as provided herein, the City may enter into Encroachment Agreements in such form, and subject to such conditions, as may be necessary or appropriate, without the necessity of obtaining a by-law to authorize the particular Encroachment Agreement, if the encroachment:
  - i. relates to a sign, canopy or other architectural features for an existing or proposed development in those areas of the city where there is no setback requirement, provided that:

- a. the encroachment is 2.5 metres or more above the average ground level where the encroachment occurs;
    - b. the encroachment is part of or attached to the principal building; and
    - c. all provisions of the Zoning By-law have otherwise been met and adhered to;
  - ii. relates to any portion of the roads closed by By-law No. 2891;
  - iii. is caused or increased as a result of the installation of additional insulation or siding materials to an existing building;
  - iv. relates to an existing or proposed wheelchair ramp or other feature intended to improve access for persons with disabilities to any building provided that, in the opinion of the Planning Administrator, such encroachment will not materially interfere with the use of the City's land by the City or the public; or
  - v. is an existing or proposed encroachment which is, in the opinion of the Planning Administrator, similar to the types of encroachments referred to above.
- (b) An Encroachment Agreement to be executed without Council approval must terminate:
- i. upon the permanent removal or destruction of the encroachment; or
  - ii. upon such earlier date or event as may be specified in the Encroachment Agreement.
- (c) An Encroachment Agreement shall not:
- i. convey a fee simple interest in;
  - ii. grant a fixed-term leasehold interest in; or
  - iii. grant an option to purchase or right of first refusal to purchase City-owned land to a Property Owner unless that Encroachment Agreement has been authorized by by-law.
- (d) A request for an Encroachment Agreement shall:
- i. be made using the form specified by the Planning Administrator, as amended from time to time;
  - ii. include such information as the Planning Administrator may deem necessary or appropriate to consider the request, including, but not limited to, a current Real



Property Report or site plan showing the location and extent of the existing or proposed encroachment; and  
iii. include the application fee, if any, set by by-law from time to time.

- (e) Upon receipt of an application for an Encroachment Agreement, the Planning Administrator shall review the request for compliance with this By-law and any other applicable by-law or legislation and shall:
- i. approve the use of an Encroachment Agreement, without a by-law, if the encroachment is of a type referred to in Section 12 of this By-law and the creation or continuation of the encroachment is necessary or desirable; or
  - ii. refer the request to Council if the type of encroachment or form of the encroachment agreement would require the approval of Council under this By-law, or if the Planning Administrator otherwise deems the approval of Council to be desirable.

#### **14 QUARRY MANAGEMENT**

- (a) The City shall manage quarries in accordance with the statutes of the Government of the Northwest Territories.
- (b) The acquisition and disposal of land for quarry purposes will be subject to the requirements of this By-law.
- (c) Subject to authorization by by-law, the City may apply for quarry permits and land use permits from senior governments for quarry purposes, and issue quarry permits to other parties.
- (d) Any agreement executed by the City to lease or sell land for quarry purposes shall require the purchaser or lessee to restore the land at the quarry operator's own expense in accordance with the policies and guidelines established by the Government of the Northwest Territories and any other requirements of the City.
- (e) Before executing a lease agreement or transfer for quarry lands, the City shall require the lessee or purchaser to deliver and deposit security with the City to ensure

complete restoration of the site. The terms and amount of this security shall be determined by the City's Director of Corporate Services. The security shall consist of cash or an Irrevocable Letter of Credit issued by a Chartered Bank or a Surety Company.

#### **15 EXECUTION OF AGREEMENTS**

All Agreements shall be duly executed and sealed by Planning Administrator upon the Property Owner's payment of the fee, if required, for execution of the agreement, as set by by-law from time to time.

#### **16 STANDARD FORM OF AGREEMENTS**

The Planning Administrator may approve standard forms of agreement for the acquisition or disposal 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.

#### **17 AMENDING LAND AGREEMENTS**

- (a) Council may amend any of the terms of any agreement for the purchase or lease of land by resolution, except the legal description or the description and identifying sketch of the affected land, which may be amended only by by-law.
- (b) 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 be amended only by by-law.

#### **18 BY-LAW ADMINISTRATION**

The forms, procedures and agreements required for the administration of this By-law shall be as prescribed from time to time by the Planning Administrator.

**19 REPEALS**

Land Administration By-law No. 3853, as amended, a by-law to provide for the administration of municipal lands, is hereby repealed.


**20 SEVERABILITY**

Each provision of this by-law is independent of all other provisions. If a Court of competent jurisdiction declares any provision invalid for any reason, all other provisions of this By-law shall remain valid and enforceable, and the By-law shall be interpreted as such.

**EFFECT**


This By-law shall come into effect upon receiving Third Reading and otherwise meeting the requirements of Section 75 of the *Cities, Towns and Villages Act*.

READ a First time this 13 day of SEPTEMBER, A.D. 2010.

  
MAYOR

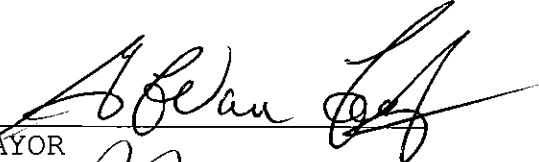
  
CITY ADMINISTRATOR

READ a Second time this 13 day of SEPTEMBER, A.D. 2010.

  
MAYOR

  
CITY ADMINISTRATOR

READ a Third time and Finally Passed this 12 day of  
OCTOBER, A.D. 2010.

  
MAYOR

  
CITY ADMINISTRATOR

I hereby certify that this by-law has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the by-laws of the Municipal Corporation of the City of Yellowknife.

  
CITY ADMINISTRATOR

DM# 183067v8

