

Non-Profit Leasing Guidelines - Approved by City Council March 16, 1999

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Statement of Intent

The purpose of these Guidelines is to formalize a process for providing less than market rent leases of City-owned property to qualified non-profit organizations.

Principles

- The City is responsible to hold public lands in trust and ensure public accessibility.
- The City has an obligation to the taxpayers to prudently manage its land holdings.
- The City acknowledges a need to provide qualified non-profit organizations with leases of City property at less than market rent.
- The City recognizes the contributions of non-profit organizations towards the improvement of the quality of life in Edmonton. Contributions are made in the form of:
 1. the donation of volunteer time, money and commitment,
 2. the provision of services and programming that would otherwise be an expense to the City or not be provided, and
 3. maintaining or increasing the asset value of the property occupied through upkeep, maintenance and capital improvements.
- It is recognized the City of Edmonton contributes to the strength of the non-profit sector through a variety of means including grants, less than market rents and tax exemptions. Boards or committees making recommendations of support will consider the receipt of all forms of City assistance.
- Non-profit organizations provide a useful caretaking function when leasing properties that are not suitable for civic or commercial use, or that are highly specialized or unique. However, it should be noted that the City would not necessarily operate such facilities or provide the services offered by the non-profit community.

Guideline Exclusions and Exceptions

- The following will be excluded from these Guidelines:
 1. Community Services Department Enterprise Facilities.
These facilities were mandated by City Council under the City '97 Initiatives to operate as one management entity. The facilities are the Muttart Conservatory, the Valley Zoo, Kinsmen Sports Centre, Commonwealth Stadium, Clarke Park, Fort Edmonton Park,

Non-Profit Leasing Guidelines – Approved by City Council March 16, 1999

2. Management/Operating Agreements.
The organization is operating the facility on behalf of the City and, in some cases, may obtain an operating subsidy. Examples include the Snow Valley Ski Hill, the Edmonton Ski Club, and the Millwoods Golf Course.
 3. Permits, concessions and contracts in Community Services Department facilities.
These agreements are not leases and are normally tendered for bids through Materials Management of the Corporate Services Department.
 4. Licenses.
These agreements are for temporary, non-exclusive use of property.
 5. Leases held by the Edmonton Public Library Board.
The Library operates under an independent board and is not considered a City department.
 6. Leases to Community Leagues.
These leases are currently under review.
 7. Leases to non-profit organizations where the property is used for commercial, semi-commercial, or religious assembly purposes.
 8. Residential/Social Housing.
These uses are currently operating under City Policy C437.
 9. Leases of Tax Recovery Properties.
Tax Recovery properties are required by law to be leased at market value.
- Leases where the non-profit organization alone or in partnership with the City proposes to construct or has constructed a facility of a unique or complex nature, will be dealt with on an individual basis by City Council. Examples include the Citadel Theatre, Winspear Centre, Kinsmen Twin Ice Arenas, and the Edmonton Indoor Soccer Centres.

Definitions

- For the purposes of these Guidelines the following are defined but not limited to:
 1. Operating Costs – costs and/or pro-rated costs for common areas associated with the day-to-day running and upkeep of a property:
 - a) utilities - electricity, water, sewer, natural or propane gas, telephone;
 - b) repair and maintenance – heating, ventilating, air conditioning, electrical, structural, roof, plumbing, fire, life or safety systems, painting, decorating, drywall, flooring, other maintenance;
 - c) cleaning – janitorial, materials, garbage and waste removal;
 - d) roads and grounds – maintenance, repair landscaping;

Non-Profit Leasing Guidelines – Approved by City Council March 16, 1999

- e) security – wages or contract fees;
 - f) taxes, licenses and license fees, insurance;
 - g) administration costs - supplies, wages and salaries; and
 - h) accounting - advertising and promotional costs.
2. Capital Replacement Costs – costs associated with the replacement of major building components:
 - a) structural – roof, foundation, paving;
 - b) mechanical - heating, air conditioning and ventilating systems; and
 - c) electrical – change of service or complete replacement of all wiring, fire alarm or security systems.
 3. Tenant improvements – those that benefit only the non-profit organization and its uses, such as flooring coverings, interior painting, interior partitions and doors, window coverings, stages, seating, fixtures, etc.
 4. Long Term Leases – leases where the term is more than five years, but no greater than 10 years.
 5. Short Term Leases – leases where the term is five years or less.
 6. General Manager – the General Manager of Asset Management and Public Works and, where the property is held in the inventory of Community Services Department, also includes the General Manager of Community Services.

Restrictions on Property Availability

- The General Manager has the right to determine the availability of properties for lease to non-profit organizations.
- Factors determining the availability of property include, without restriction, future civic requirements, marketability, suitability, and appropriateness for the intended use.

General Terms and Conditions for Less than Market Rent Leases

- Less than market leases to qualified non-profit organizations will be at an annual rent of \$1.00.
- The General Manager shall determine the length of lease available for any property.
- Long Term Leases will require the non-profit organization to be responsible for all costs associated with the use of the property including, but not limited to, operating costs, capital replacement costs, subdivision, servicing, and redistricting.

Non-Profit Leasing Guidelines – Approved by City Council March 16, 1999

- Short Term Leases which include multi-tenant properties, will have the City responsible for capital replacement costs. All operating costs associated with the use of the property will be borne by the non-profit organization. Further, the City and the non-profit organization will have the right to terminate the lease should the capital replacement cost of a major building component exceed the expected economic life of the building. Short term tenants will have the option of undertaking a capital replacement at their own expense or vacating the building.
- Any lease wherein the non-profit organization has constructed the building, undertaken major capital improvements, or was previously under long term lease; all costs including operating and capital costs associated with the use of the property, will continue to be the responsibility of the tenant regardless of the number of years of the lease term.
- All non-profit organizations will be responsible for payment of all operating costs attributable to their leased property, either directly or as additional rent.
- Leases with operating costs billed by the City as additional rent may have those costs reviewed annually. Operating costs may be adjusted as required to account for inflation or other increased costs.
- In all leases, the non-profit organization will be fully responsible for all tenant improvements and the associated costs.
- Unless exempted, all non-profit organizations shall be subject to property assessment and taxation for the leased property.
- The non-profit organization must be in good standing and not be in default of any provision of their current lease with the City, in order to qualify for a less than market rent lease.
- Leases will not allow for a change in use, assignment, or sub-letting, without the consent of the General Manager, and such consent may be unreasonably and arbitrarily withheld.
- Capital replacement projects which are the responsibility of the City, will be undertaken as budget funds are available.
- All leases shall be acceptable as to content by the General Manager and be acceptable as to form by the Law Branch of Corporate Services Department.
- These Guidelines are subject to:
 1. all City approved policies, procedures, and bylaws, except for City Policies C187 and C423;
 2. all applicable federal and provincial statutes and regulations; and
 3. all current agreements between the City and other parties such as school boards or governmental authorities.

Non-Profit Leasing Guidelines – Approved by City Council March 16, 1999

- The City Manager is delegated the authority to approve and to sign all documents relating to leases of City-owned property to non-profit organizations, for a term not to exceed 10 years in accordance with the Non-Profit Leasing Guidelines. The City Manager will provide a listing of the approved non-profit leases on an annual basis.

Treatment of Existing Leases

- The Non-Profit Leasing Guidelines will be effective January 1, 1999.
- Existing leases to non-profit organizations will be treated as follows:
 1. Non-profit organizations paying rent in excess of the Guidelines may apply to have their leases amended, effective January 1, 1999.
 2. Non-profit organizations paying rent less than the Guidelines will comply with the Guidelines on renewal of the lease or upon entering into a new lease.

Criteria for Qualifying Non-Profit Organizations

- The criteria previously approved by City Council as a measurement of benefit to the community for use in determining property tax exemption will be used to qualify non-profit organizations wishing to lease City property at less than market rents (as outlined on Page 7 of Attachment 1).
- In addition, non-profit organizations must meet criteria established by Administration which are as follows:
 1. The intended use of the property by the non-profit organizations must be considered suitable, appropriate, and meet the needs and requirements of the community as determined by the General Manager of the Community Services Department and the General Manager of the Asset Management and Public Works Department.
 2. The organization has demonstrated that it has the experience, financial capability, and resources to carry out its proposed major renovations to, or construction on, City-owned property as determined by the General Manager of the Asset Management and Public Works Department the General Manager of the Community Services Department.
- If a non-profit organization was previously granted a property tax exemption, the non-profit organization will be deemed to qualify for a less than market lease, provided the additional criteria established by Administration are met.
- Non-profit organizations currently leasing City property that have not previously been granted a property tax exemption will be required to apply and qualify for a property tax exemption from the Assessment and Taxation Branch of the Corporate Services Department, before becoming eligible for a less than market lease.

Non-Profit Leasing Guidelines – Approved by City Council March 16, 1999

- In the event of disagreement on a qualification issue, between a non-profit organization and Administration, the Peer Review Panel, which was established by City Council authority to make recommendations on property tax exemptions, shall review the qualifications and provide recommendations to Administration.
- In exceptional circumstances, should a non-profit organization not qualify for a property tax exemption but be considered a desirable tenant by the General Manager, the Community Services Department or the Asset Management and Public Works Department or both shall prepare a report and bring it forward to the appropriate Committee for consideration and determination.

Non-Profit Leasing Guidelines – Approved by City Council March 16, 1999

In order to qualify for a lease at less than market rent, a non-profit organization would need to meet the following fundamental principles:

FUNDAMENTAL PRINCIPLES	DESCRIPTION	v
COMMUNITY BENEFIT	<ul style="list-style-type: none"> Organizations are of community benefit if they provide programs or services in the following areas: <ul style="list-style-type: none"> *charitable and benevolent activity *neighborhood community association or community league activity *arts/cultural activity *multicultural/ethnocultural activities *youth or senior citizen associations *amateur sports and recreation organizations *museums and interpretative exhibits *non commercial child care *aid to the disabled & handicapped, or The programs and services provided by the organization are deemed of public benefit to citizens of Edmonton serving them either as a geographic community or community of interests; or The organizations ability to provide those services is either more efficient, effective, accessible, or of a higher quality than would be provided by the city or the private sector; or The benefits of the programs and services improve the quality of life of citizens of Edmonton. 	
INCORPORATION	<ul style="list-style-type: none"> The organization must be incorporated as a non-profit in accordance with Section 241(f) of the Municipal Government Act. The organization must be in good standing under the applicable act of legislation. 	
MISSION	<ul style="list-style-type: none"> The mission or goals of the organization are considered to serve the community. 	
VOLUNTEER	<ul style="list-style-type: none"> There is volunteer involvement in the organization's programs, activities or services. 	
ACCESSIBLE	<ul style="list-style-type: none"> The organization actively promotes participation of the community in the programs, activities and facilities. The programs are not considered elite in nature and freely accessible to members of the community. The programs, activities and fees do not restrict community access or participation. 	
CHIEF USE	<ul style="list-style-type: none"> Utilized for the most part in a given way or for a given purpose, or more specifically utilized in a given way or for a given purpose at a level representing approximately 60% of the usage of the property or the part of the property. 	
QUALITY PROGRAMMING	<ul style="list-style-type: none"> The programs are considered of a quality meritorious to warrant public support. 	
COMMERCIAL IN NATURE	<ul style="list-style-type: none"> Normally, an organization would be not be considered for tax exemption if it is commercial in nature however if a non-profit organization is offering a competitive service but only to serve the mission or purpose of the organization it should be considered. For example, if food is served but as part of an organization's program to encourage socialization programs it would be deemed tax exempt. 	