



City of St. Albert
CITY COUNCIL POLICY

City Owned Building Lease Rates

AUTHORITY	APPROVED	Res. No.	mm dd	REVISED	Res. No.	mm dd
City Council		C374-2014	07 14		AR-19-003	01 21

Purpose

To establish standards and guidelines related to the lease terms and rates of City owned buildings with Not-for-Profit and For-Profit entities.

Policy

In a consistent, transparent, and equitable manner, and as prescribed by this policy, the City shall administer lease arrangements with Not-for-Profit and For-Profit entities for the use and/or occupancy of City owned buildings.

Definitions

In this policy:

“For-Profit Entity” means a person, group, or business with a primary goal of making a profit.

“Lease” means a contractual arrangement between a lessee and a lessor for the use and/or occupancy of property.

“Lessee” means a person, group, or business that enters into a lease for the use and/or occupancy of property.

“Lessor” means a person, group, or business who owns property that is for lease.

“Market Value Lease” means the highest price (value) a willing lessee would pay and a willing lessor would accept, both parties being fully informed, for the use and/or occupancy of property marketed for a reasonable period of time.

“Nominal Lease” means a nominal consideration (normally \$1.00 per year) of payment used to satisfy the requirements for the creation of a lease.

“Non-Market Value Lease” means a lease with a rate or payment (value) being 50 percent of a Market Value lease.



“Not-for-Profit Entity” means an organization incorporated under the *Societies Act* or *Companies Act* of Alberta.

“Operating Cost” means the costs for provision of electricity, gas, water, sewer, telecommunication, cable and any other rates or services assessed in connection with the use and/or occupancy of City owned buildings.

“Right Of First Refusal” means a contractual right that gives a lessee the option to enter a lease with the lessor (City) for the use and/or occupancy of City owned buildings, according to specified terms, before the lessor is entitled to enter into that transaction with a third party.

Responsibilities

The Chief Administrative Officer shall ensure that all applicable standards and legislative requirements associated with this policy are satisfied.

Standards

1. Lease Rate Analysis

The Chief Administrative Officer shall at least once every three (3) years, retain an independent appraiser to determine a current Market Value for comparable lease spaces within the city and present to Council a report on current City owned building lease arrangements, changes in appraised market values and any proposed modifications to this policy.

2. Nominal and Non-Market Value Lease Guidelines

As a means to support Not-for-Profit entities within the community, and to enhance the quality of life while delivering services economically to the residents of St. Albert, the City may consider a Nominal or Non-Market Value lease of City owned buildings under the following circumstances:

- a. where Not-for-Profit entities provide suitable recreation, sport, cultural, and community-oriented activities, programs, or services which provide the greatest benefit to the community as a whole, in addition to their direct benefit to individuals;
- b. where the primary services offered by the Not-for-Profit entity provide a demonstrable public benefit;
- c. where participation is available to a broad demographic in the community, or the Not-for-Profit entity services an identified need to an at risk demographic in the community;
- d. where the Not-for-Profit entity provides the only opportunity for the service, activity, or benefit in the community;



- e. where the Not-for-Profit entity's services do not compete directly with the business community in the service it provides, or if its services compete with those of the business community, where the services are be accessible to persons who do not normally have access to the services or facilities in the private sector; and
- f. services provided to residents can be substantiated by a membership list or other suitable client records.

3. Nominal and Non-Market Value Lease Eligibility

Provided the Not-for-Profit offer programs or services that meet the Guidelines established under section 2 of this Policy, the City may grant a Nominal or Non-Market Value lease to a Not-for-Profit entity where all of the following conditions are met:

- a. the City owned building or space to be utilized will be operated by a registered Not-for-Profit entity;
- b. the Not-for-Profit entity must provide proof of Not-for-Profit registered status and be in good standing with the Province of Alberta Corporate Registry;
- c. the City does not need the subject property for alternate purposes during the proposed lease term; and
- d. the Not-for-Profit shall meet the exemption from taxation requirements in Section 362 of the *Municipal Government Act*.

4. Lease Rate Classification

Lease rate classification shall be determined in accordance with the following at the discretion of the Chief Administrative Officer:

- a. Nominal Lease Rate – An organization that is a registered Not-for-Profit that is providing a public Recreation, Culture or Social Service within the community that is not in direct competition with a Private entity shall be entitled to a nominal lease for City owned space subject to space availability.
- b. Non-Market Value Lease Rate – A Not-for-Profit entity that primarily offers a direct service for private benefit or is in direct competition with a Private Entity and services offered demonstrate a public benefit shall be eligible for a non-market lease rate of 50% of the established market value rate, subject to space availability.
- c. Market Value Lease Rate – All For-Profit entities shall pay a lease rate that is equal to or greater than market value as determined via a lease rate analysis in accordance with the *Municipal Government Act*. The Chief Administrative Officer may approve a Market Value lease agreement for use and/or occupancy of City owned Buildings provided that:
 - i. selection of the lessee is based on a competitive process;
 - ii. the lease amount to be charged is at and/or exceeds Market Value;
 - iii. the term of the lease does not exceed ten (10) years including renewals;



- iv. the basic rent amount (excluding operating costs, shared revenue and other additional rent) to be paid to the City, does not exceed \$100,000 per year.

5. Operating Cost Allocation

A lease agreement shall be subject to a cost allocation for the operating costs of the leased premises as a condition of the lease; this allocation may be subject to an annual cost escalation (inflation) factor as agreed to upon execution of the agreement.

6. Lease Agreements

The Chief Administrative Officer shall ensure that standardized Lease Agreement templates exist for both Market Value and Non-Market Value Lease arrangements; these templates shall be updated at the discretion of the Chief Administrative Officer reflecting applicable terms and provisions to protect the interest of the City where possible and where necessary, lease agreement terms may be negotiated at the discretion of the Chief Administrative Officer.

7. Pre-Existing Leases

The provisions contained within this policy shall be subject to new leases or renewal of lease at their expiration.

8. Lease Opportunities

- d. Upon the expiration of a lease term with a Not-for-Profit entity, the entity shall have Right of First Refusal for a new lease, provided, at the discretion of the Chief Administrative Officer the City does not require the building or any portion thereof for municipal purposes.
- e. When it is determined that a building in the City's inventory is available for lease, the Chief Administrative Officer shall administer public Expression of Interest and/or Request for Proposal processes.

Legal References: *Municipal Government Act (MGA), Societies Act, Companies Act*
Cross References: Policy C-ED-03, Land Transactions; Policy C-P&E-06, Affordable Housing

