

**Leasing & License to Occupy
City Owned Parkland****Purpose:**

This policy outlines the guidelines for the possible leasing or issuing of a license to occupy City-owned lands, including some parkland, to non-profit recreational, cultural and community organizations to provide services that are considered beneficial to the City of Red Deer and to Red Deer residents.

Policy Statement(s):

1. The City of Red Deer:
 - a. has the responsibility to hold public lands in trust and ensure public accessibility to these lands, including the protection of certain lands that are considered environmentally sensitive;
 - b. is committed, through the Community Services Master Plan, to the development of partnerships with non-profit recreational, cultural and community agencies in the provision of programs, services and facilities;
 - c. has some existing leases of City-owned parkland and needs consistency in dealing with future requests for land leases.
2. Generally, City-owned parkland is for the enjoyment of all residents without encumbrances or restrictions. Lease requests may only be considered on the merits of each proposal if all sections of this policy are complied with.
3. Proposals for the sale/acquisition of parkland is not dealt with in this policy. Parkland will not be sold or exchanged except for exceptional circumstances where equal or greater amounts of parkland can be acquired/developed through the sale or exchange of said parkland.

Development and/or acquisition proposals for parkland are not generally supported or encouraged, however, proposals may be considered by the Recreation, Parks and Culture Board for recommendation to City Council. All proposals for the possible sale of parkland shall be considered in accordance with existing City Council policy.

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A. General Conditions:

1. The City of Red Deer will consider entering into agreements to lease or license public parkland to non-profit recreational, cultural and community organizations only for the purposes of development, operation and maintenance of parkland or related recreation, parks and/or culture facilities and services.
2. Proposals to lease City-owned parkland to non-profit recreational, cultural and community organizations will only be considered if the organization can clearly demonstrate that the services to the public will at least be retained or increased and the total net operating and capital costs to The City of Red Deer will not be adversely affected by the lease.
3. All recreational, cultural and community organizations applying to lease City-owned parkland must make available use of the land/facility to all persons without discrimination. Fees charged by a lessee of parkland must be reasonable and at such a level which would not unduly restrict public use.
4. Recreational, cultural and community organizations shall be an incorporated, non-profit organization, whose mandate includes the promotion and encouragement of recreation, parks or cultural services.
5. a. As a general rule, the types of uses that will not be considered for the lease or license of parkland include:
 - (i) commercial operations;
 - (ii) private clubs;
 - (iii) industrial, commercial or residential uses.
- b. Under extraordinary circumstances, and as approved by the Recreation, Parks and Culture Board and City Council, private enterprise, concessionaires, and operators may be considered for the lease or license of parkland if they provide an auxiliary or support service to the parkland or facility and the lease does not provide a competitive advantage to the lessor vis-a-vis a private sector operator.

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6. Leases will only be considered for parkland or facilities on parkland that would complement existing services and facilities in the city, and where the intended use is consistent with the values, goals and recommendations contained in the Community Services Master Plan.
7. Leases or Licenses to Occupy shall be considered to organizations subject to leases.
8. Leases may be considered for long term improvements, uses and development of parkland requiring on-going operations and management by the leasee;
 - a. all lease requests will be publicly advertised and posted on-site (applicable to municipal reserve and all non-reserve parkland);
 - b. Municipal Reserve parcels being leased will not have the “MR” designation removed; except in those instances where significant improvements/ developments will take place requiring the leasee to obtain funding assistance from a financial institution, in these instances, the leased parkland cannot be used as security to obtain financial assistance;
 - c. leases shall provide the opportunity of a minimum of 50% of the total time available in the facility for general public use (proportional distribution of public time must be provided in both prime and non-prime times and all days of the week).
 - d. License to Occupy
 - e. Licenses to Occupy may be considered for short-term use of parkland requiring no significant improvements, operations or maintenance;
 - f. requests to obtain a License to Occupy will not be advertised;
 - g. Municipal Reserve “MR” and non-reserve parkland may be considered for a License to Occupy.

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- h. Parkland shall be considered all those lands as outlined in The City of Red Deer's Land Use Bylaw, and the Parks & Public Facilities Bylaw.
- i. Consideration of leasing parkland shall comply with the Municipal Government Act, which requires public advertising of proposed lease areas on municipal or environmental reserve as part of the review process by City Council.

B. Exclusions and Schedules

1. Leases issued for purposes of development and site improvements must have construction commence within twelve (12) months of the signing of the lease unless otherwise negotiated.
2. The term of licenses and leases may vary dependent on the organization, the extent of improvements proposed and the services to be provided. Generally, leases should not exceed fifteen (15) years in length. Significant capital and operational investments and mortgaging requirements proposed by an applicant will be taken into consideration when determining the term of a lease.
3. This policy does not apply to golf courses and curling clubs because of the significant capital associated with these facilities and their ability to generate revenues. Parkland lease requests for golf course and curling facilities will be considered on their own merit and criteria that will be established at that time by the Recreation, Parks & Culture Board and City Council.
4. This policy does not apply to all existing leases and contracts; existing leases and respective renewals will be grandfathered and deemed to comply with this policy.
5. Leases and Licenses to Occupy cannot be assigned to another party without the written approval of City Council.

C. Auxiliary Uses

The following auxiliary uses are considered appropriate activities, however, they may be taxable if they compete with another business or involve the catering of events off-site from the lease area:

- a. sale of goods, services, foods, beverages that cater to users/patrons of that facility;
- b. cater to special events on-site.

D. Lease/Rates Renewals

1. Lease of parkland without the construction of a building shall be set at a minimum of \$100/acre/year or portion thereof or as recommended by the Recreation, Parks & Culture Board.
2. Lease of parkland with an existing building or improvements owned and provided by The City of Red Deer may include rental rates that take into account:
 - a. public services provided;
 - b. assessed value of the buildings and improvements;
 - c. operational/maintenance costs of the facility;
 - d. potential for revenue generation;
 - e. financial assistance provided to the organization by The City of Red Deer;
 - f. preparation and administration of the lease;
 - g. market value of the land contained in the proposed lease area.

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3. Lease of parkland without a building or capital improvements whereby the lessee intends to construct a building(s) or improvements shall be a minimum of \$200/acre/year, or as recommended by the Recreation, Parks & Culture Board and shall take into consideration the seven points outlined in #2 above.
4. Renewals and repetitive extensions of leases may be considered for a term not to exceed 50% of the original term (consent will not unreasonably be withheld) and shall take into consideration:
 - a. bylaws and objectives of the organization;
 - b. membership and public use statistics of the facilities and services;
 - c. rates and fee schedule;
 - d. financial statements;
 - e. business plan;
 - f. long-term goals and objectives.
5. Ongoing activities of recreational, cultural and community non-profit organizations will be monitored by the Director of Community Services, or designate, to ensure that parkland and facilities are being maintained in accordance with established standards, that the financial status of the organization remains solid, and that activities associated with the organization and the land remain compatible with the intent of the agreement. All leases will include a cancellation clause which may be exercised by The City of Red Deer if the lessee does not comply with the terms and conditions of the lease.
6. The preparation and legal costs incurred by The City of Red Deer in drafting/finalizing approved lease agreements shall be the responsibility of the applicant.

E. Eligibility and Approval

1. Non-profit recreational, cultural or community organizations wishing to lease City parkland must make a formal application to the Director of Community Services and shall include the following information:
 - a. A copy of the organization's certificate of incorporation;
 - b. An outline of the organization's intent for use of the land;
 - c. A copy of all objectives, bylaws and mandate for the organization;
 - d. Confirmation from Consumer and Corporate Affairs of the income tax status of the organization;
 - e. Specific site plan showing the area proposed for lease and use;
 - f. Conceptual plans of all proposed site development and/or improvements;
 - g. Financial status of organization;
 - h. 5-Year Business Plan including proposed operational expenses and revenues;
 - i. Statement of justification of need for land/facility and projected community use and support;
 - j. Proposed fee and operational schedule;
 - k. Capital project costs and all funding sources must be identified, all mortgaging requirements shall be indicated and generally should not exceed 30% of the total project cost.
 - l. A plan and cost estimate for the removal of facilities and restoration of the leased area to the original site condition

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upon termination of the agreement (to be considered at the discretion of The City of Red Deer);

- m. A profile of users of the site/facility.
2. Requests for a License to Occupy parkland must make a submission to the Director of Community Services and should include the following:
 - a. outline of the intent for use of the land;
 - b. specific site plan showing the license area and use;
 - c. statement of need for the license and impact on the community;
 - d. proposed start and termination date for the license.
 3. All applications for the lease or license of City parkland or amendments of existing agreements will be reviewed by the Recreation, Parks and Culture Board and other boards and committees, as appropriate, to make recommendations to City Council.
 4. In considering the lease of City parkland, the City Administration will include a review of the compatibility of the intended use with the surrounding area, existing land uses, possible municipal taxation or exemption and traffic/parking generation. When deemed necessary by The City of Red Deer, a public meeting must be held by the proposed organization to present the proposed lease to the community.
 5. Generally speaking, City parkland is not available for lease or license, however, if the criteria set out in this policy is met, the following lands as identified in The City of Red Deer's Land Use Bylaw may be potentially considered for lease/license:
 - a. (A1) Future Urban Development District - may be considered pending the length of term and compatibility with the long-term intent of the land as may be identified in an area structure plan.
 - b. (A2) Environmental Preservation District - if designated as E.R. - Environmental Reserve (in accordance with the Province of Alberta Planning Act) it will not be considered for lease.

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- c. (P1) Parks & Recreation District - leases may be considered within this district; if the land is designated M.R. - Municipal Reserve (in accordance with the Municipal Government Act) the parkland must firstly be advertised for lease and a public meeting held.
 - d. (PS) Public Service District - leases may be considered within this district. Consideration to lease land in this category must firstly be advertised for sale or lease and a public meeting held.
 - e. (HP) Historical Preservation District - leases are generally not supported in this district except where the lessee's objectives and mandate is for the perpetual preservation of historic resources.
 - f. Other Land Use Designations - City land in residential, commercial and industrial areas are generally not considered appropriate for lease to organizations, appreciating, however, that there may be exceptions where the intended recreational, cultural or community use is compatible with the use in the area.
6. Preferential consideration may be given to requests to lease City parkland that demonstrate the following criteria in addition to the details provided in Sections 1 & 2 of Eligibility and Approval:
- a. a multi-use facility;
 - b. a partnership of more than one organization or agency;
 - c. a timely development consistent with existing utility services, development sequences, land uses and development plans of The City of Red Deer;
 - d. a facilitative agreement with The City of Red Deer for the delivery of recreational, parks, cultural or community services that are considered beyond the basic needs as identified in the Strategic Plan and the Community Services Master Plan.

F. Conditions of Agreement

1. An irrevocable letter of credit or other acceptable instrument of compensation and security is required to cover the loss of continued operation of the facility or open space if the organization becomes insolvent or does not perform the conditions outlined in the lease. The amount and duration of the instrument of compensation/security will be negotiated at the time of finalizing the agreement.
2. Where agreements include a commitment from The City of Red Deer to fund 30% or more of capital project costs or operation of the project/facility, The City of Red Deer should have a minimum of one director appointed to the board of directors. (The actual number of City representatives on a non-profit board of directors will be proportionate to the amount of City funding provided.) Where no City contribution is required, no representation on the board is required.
3. Potential revenue projections will be considered at the time of signing an agreement. A revenue-sharing formula for all net profits may be predetermined as a requirement of the agreement.
4. Upon expiration or termination of an agreement, all improvements shall be removed from the leased lands and the leased area restored to the original site condition except in those instances where approved by City Council. At the discretion of City Council and upon the termination of a lease, all improvements on the leased land may become the property of The City of Red Deer. In any dispute related to any matter contained in the lease, City Council shall make the final determination.
5. All or a portion of a lease by a non-profit organization may be subject to taxation if:
 - a. revenues exceed annual operating costs;
 - b. the property/facility is used for a business that competes with any other business.
6. All utility costs, servicing, license, permits and ongoing repairs and operations would be the responsibility of the lessee.

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7. General liability insurance must be obtained by the lessee in an amount not less than \$1 million, listing The City of Red Deer as an additional named insured related to the operation of the organizations in City owned land.

8. All appeals/proposals for improvements, developments, changes in use and facility construction on City-owned parkland leased to a non-profit organization must first be reviewed and approved by the appropriate City departments, the Recreation, Parks & Culture Board and City Council.

Authority/Responsibility to Implement:

The City Manager will ensure the policy requirements are met and updated as required.

Document History:

Approved: October 21, 1996
Administrative Revision (new template): March 9, 2010