



The Corporation of the District of North Vancouver

CORPORATE POLICY MANUAL

Section:	Buildings, Facilities and Properties	2
Sub-Section:	Properties (Municipally Owned) – <i>Disposal of land at less than market value</i>	0950
Title:	DISPOSAL OF MUNICIPAL LAND- to Pleasure, Cultural and Recreational Societies	2

POLICY

Full market value for the disposition of any interest in real property is not required where assistance is granted for a purpose benefiting the community.

REASON FOR POLICY

- 1) To ensure that the Municipality is fairly and appropriately compensated for disposal of its real property assets, and to clarify the terms and conditions under which real property shall be considered for disposal by the Manager - Regulatory Services.
- 2) To determine which organizations benefit the community, or some aspect of the community, and to "prevent an arbitrary assistance programme".

AUTHORITY TO ACT

- 1) *Disposition of real property interests pursuant to Section 176 (d) of the Local Government Act shall be exercised by Council resolution, except those which statutorily must be authorized by Bylaw.*
- 2) *Section 176(1)(c) of the Local Government Act authorizes local government to provide assistance for the purpose of benefiting the community, subject to public review.*
- 3) *Section 181 provides that assistance includes disposal of land at less than fair market value.*

DEFINITIONS

The following definitions relate specifically to this non-profit pleasure, cultural and recreational lease policy and procedures:

"Recreational Facility" means land or land and improvements owned by the District and held for community pleasure, cultural and recreational services under lease or other contractual agreements.

"Recreational Facility Lease or Licence" means the form of document prepared by the District for operation of pleasure, cultural and recreational facilities by registered Non-Profit Societies.

"the District" means The Corporation of the District of North Vancouver.

"Non-Profit Society" means a group of individuals having certain common interests incorporated as a society under the Society Act (RSBC, 1980. C.390) for the primary purpose of providing pleasure, cultural and recreational projects and programmes.

EXECUTION OF AGREEMENTS

In accordance with the provisions of Bylaw 7052, the "Officers and Employees Bylaw", the Municipal Manager authorizes the execution of agreements and licences of occupation, or other legal instruments, in respect of District real property by the Director of Planning, Engineering, Parks and Regulatory Services and by the Manager of Regulatory Services but excluding those, which, statutorily, Council must execute.

PROCEDURE FOR DISPOSITION OF ANY INTEREST IN REAL PROPERTY

In the case of the exceptions to a public offering, a Notice of Intention to Dispose of an Interest in Land or Improvements pursuant to Section 187(2) of the *Local Government Act* shall provide:

- a description of the land and improvements;
- the nature of the disposal (freehold, leasehold, the granting of options or rights of first refusal);
- the consideration to be received;
- the process by which the lands are to be acquired;
- the non profit society that is to acquire the property interest;
- the assistance to be granted, if any, pursuant to Section 176(1)(c) and under Section 181, and in accordance with the guidelines for granting assistance below; and
- ***the date and time that Council will hear representations regarding the proposed disposal.***

ADVERTISING

The Notice of Intention to Dispose of an Interest in Land or Improvements pursuant to Section 187 must appear at least twice and occur:

- in a newspaper at least thirty days prior the date the public is given the opportunity to make formal representations to Council, and again in a newspaper within fourteen days before the date the public is given the opportunity to make formal representations to Council;
- must be posted in two conspicuous places in the Municipal Hall for a period of 10 consecutive days prior to the proposed sale /lease and at each public Library;
- must contain a statement that the public shall be given the opportunity to be heard during a Regular Meeting of Council with regard to the intended Disposal;
- must state the assistance, if any, to be given pursuant to Sect 185(1) of *the Local Government Act*.

ASSISTANCE

Assistance may be granted in those situations listed under Section 230 of the former *Municipal Act*, and may include activities run by non-profit groups providing cultural, pleasure or recreational benefits which benefit the community or some aspect of the community.

Assistance to non profit groups under Section 181(a) and (b) of the *Local Government Act* includes:

- A grant
- An exemption from tax (municipal only), fee or charge
- Disposal of land for less than market value

The Notice of Intention to provide assistance pursuant to Section 185(1) of the *Local Government Act*, where there is a disposal of land for less than market value, combined with the required newspaper advertisement under Section 187(2) of the Intention to Dispose of an Interest in Land or Improvements above.

Determination of net rental subsidy to non profit groups

The subsidy may be calculated as follows:

- a) fair market rental value at 3.75% of vacant land value, based upon the permitted actual use as stated in the lease, or 3.75% of the assessed land value
(the rate of 3.75% per annum and the term vacant land value applies where the society has paid for the buildings and or has incurred all maintenance costs including structural repairs and renovation costs so that the District neither incurs capital costs nor property administration costs)

\$-----

LESS

- b) the negative value of any special constraints and lessee's obligations contained within the lease as shown in a Community Benefit Statement prepared by the Society for Council's consideration. The value of the community benefits may include:
- free use of facilities for community groups/rescue groups, and
 - subsidies for junior or adult training/educational programmes
 - the value of work by volunteers which benefits the general public
 - municipal taxes paid

\$-----

EQUALS FAIR ANNUAL RENT

\$_____

- c) (Being the net rental value of the unimproved site for;
- the non profit activity permitted
 - under quasi public lease restrictions)

d) ANNUAL RENT TO BE PAID

\$10.00

e) DIFFERENCE BETWEEN c) and d)

(IF ANY) EQUALS ANNUAL RENTAL SUBSIDY

\$-----

f) ADD OTHER BENEFITS

Other annual grants toward:

- operating costs or
- capital expenditures

\$-----

TOTAL NET SUBSIDY (e + f)

\$-----

APPLICATION PROCEDURE

Nominal or Reduced Annual Rent

The Application Procedure for new leases or renewals preceding a Notice of Intention to Dispose of an Interest in Land or Improvements pursuant to Section 187(2) of the *Local Government Act* is as follows;

- a) The interested party must complete the standard application form and a Community Benefit Statement to be considered by Council.
- b) Applicants will be are evaluated using the ELIGIBILITY CRITERIA set forth in this Policy.
- c) A Report on the application made is prepared by Property Administration staff and sent to Council for consideration together with Social Planning comments regarding other grants and the Municipal Clerk's comments on any application for a permissive property tax exemption.
- d) If Council considers the applicant favourably and advises staff of the rent to be paid, the Notice of Intention to Dispose of Land or Improvements pursuant to Section 187(2) of the *Local Government Act* and Council Policy will proceed.
- e) The Applicant is notified of Council's decision.
- f) The rule of confidentiality will be followed throughout the application process.

GENERAL ELGIBILITY REQUIREMENTS FOR NON PROFIT SOCIETIES FOR REDUCED RENTS

Council shall consider the following:

1. organisational structure
2. accountability
3. financial requirements

4. Eligible activities which include:

the preservation or enhancement of heritage, traditions and cultures; and/or
 individual fulfilment through scholastic training;
 advancement of a field of performing, visual or literary arts; or,
 dissemination of knowledge within the community.

Provision of programs and services to assist individuals in attaining health or fitness through organized, competitive, physical activity or other recreational activities.

Eligible Organizations

The Society must submit proof of good standing as a non-profit society with the B.C Registrar of Societies. The Society must be an eligible beneficiary in one of the following categories

a) i) Non-Profit Cultural Societies

These organizations provide programs and services to assist in:

- the preservation or enhancement of heritage, traditions and cultures; and/or
- dissemination of knowledge within the community.

Eligible Beneficiaries include:

- societies that promote visual, performing or literary arts;
- societies that promote local and regional activities, which encourage local neighbourhood involvement in social and historical interests.

a)ii) Non-Profit Arts Societies

These organizations provide programs and services to assist in:

- individual fulfilment through scholastic training;
- advancement of a field of performing, visual or literary arts; or
- dissemination of knowledge within the community.

Eligible Beneficiaries include:

- societies formed to operate museums;
- societies formed to operate art galleries;
- societies that promote local and regional activities and which encourage local neighbourhood involvement in the arts.

b) Amateur Athletic Sports Societies and Recreational Societies

Providing Indoor and Outdoor Sporting Facilities and Recreational Activities

- These societies provide programs and services to assist individuals in attaining health or fitness through organized, competitive, physical activity or other recreational activities.

Eligible Beneficiaries include;

- societies that promote organized sporting activities at a local and regional level and which encourage local neighbourhood involvement in sporting events

- societies that promote recreational activities which improve health and fitness through physical activity and which promote organized activities at a local and regional level and which encourage local neighbourhood involvement

Ineligible Activities and Organizations

Organizations with political, partisan or commercial activities as one of their primary purposes are not eligible.

Volunteer Requirements

1. An organization is eligible where:
 - a. it has a significant volunteer component directly involved in governance of the organization;
 - b. members of the Board of Directors are elected from the volunteer members of the organization so that management and effective control of the organization and its activities are held by volunteer members of the organization resident in British Columbia;
 - c. no voting members of the executive or board of directors receive remuneration or other financial benefits for their services to the organization, regardless of the type of service performed except that honorariums may be paid, by special resolution of the Society, on account of particularly onerous duties which are far in excess of the normal volunteer duties expected of the general membership;
 - d. no voting members of the executive or board of directors are in a direct relationship with key senior staff that could be perceived as leading to a conflict, e.g., spouses, business partners;
 - e. the organization's services have been and will be of significant benefit to the local community and the society has plans for on-going active community volunteer involvement and community programmes for which membership is not required to be benefit;
 - f. Membership must be open to all residents of the District who meet clearly stated criteria set out in the Constitution and Bylaws of the Society.
2. When reviewing organizations and their structure, District staff consider the following criteria in determining the acceptability of the volunteer component:
 - a. There must be access for membership, usually in the constitution and bylaws, which will allow for individuals to be voting members of the organization.
 - b. There must be knowledge in the community of the opportunity to become a member, generally in the form of newsletters, notices posted on the leased building and other public buildings in the locality, or word of mouth.
 - c. There must be opportunity for the membership to vote on issues of significance to the organization and for the board of directors.
3. The District will not assist any non profit society whose objectives, programs, services or expenditures do not comply with all applicable laws and regulations and with the general public policies of the Province of British Columbia, or whose programs or services promote racial or ethnic superiority, religious intolerance, persecution or social change through unlawful action.

Dissolution

Where all a Society's fixed assets are affixed solely to municipal leased site(s), the Society's Constitution and/or Bylaws must include an unalterable dissolution clause which provides that upon dissolution its assets must firstly be distributed to another District of North Vancouver non profit pleasure or recreational society with similar objectives and only failing to transfer to another society with similar objectives would the assets be distributed to the District of North Vancouver or to the Provincial Minister of Finance.

Community Benefit

- The District will consider applications from organizations that include a community purpose in its constitution or bylaws.

Financial Eligibility

1. The eligibility for subsidy will take into consideration the combined assistance given through Federal and Provincial sources. Member donations and "in-house raffles" are exempt.

An organization has no financial requirement for assistance if it has more than 50 per cent of the previous year's operating expenses on hand in the form of unrestricted cash and investments except that reserves may be set aside to meet;

- the repayment of debentures
- the cost of special capital projects
- provision for replacement of capital equipment and improvements as shown in a detailed depreciation schedule
- to meet extra ordinary operating expenses that cannot be usually anticipated or covered by the operating budget.

Access Parameters

Council may set access parameters for applicant categories and organizations, which may change from time to time.

CHECKLIST OF STANDARD LEASE TERMS AND CONDITIONS
WITH EXPLANATIONS OF REQUIREMENTS

The following terms and conditions will be included in all leases granted to non-profit pleasure, cultural and recreational societies operating on municipal lands;

Lease term	<p>a) For established societies the lease term including, options to renew, to be determined on a case by case basis taking into account the investment made by members in capital improvements to the leased land</p> <p>b) For recently incorporated Societies the lease term shall be for a maximum of 5 years with quasi options to renew, if approved by Council, in the following form; "The Society shall request a renewal in writing delivered to the District not earlier than ____ days and not later than ____ days prior to the expiration of the then current term. Upon receipt of a notice requesting renewal, the District, in its discretion, acting reasonably, will consider granting the renewal to the _____ Club. In making its decision, the District will take into account the following factors...(to be considered on a case by case basis) If the District decides in its discretion acting reasonably not to grant a requested renewal then the Lease will terminate at the end of the then current term"</p>
Rent	The nominal rent shall be \$10.00 plus a documentation fees(see District's Fees & Charges Bylaw), will be payable upon each lease renewal or exercise of any option to renew
Performance Bond	Irrevocable Letter of Credit may be required in an amount to be determined by the District.
Use	The Society shall not use the Facility in any way that is contrary to the permitted use stated in the lease
Public Accountability	<p style="text-align: center;"><i>Within thirty days of its year end, the Society shall submit the following;</i></p> <ul style="list-style-type: none"> - Annual Financial Statements which shall be audited upon request by the District - A copy of the society's audited annual return required by the Provincial Ministry of Finance - A list of members with addresses - A list of employees - A review of Community Programmes and initiatives to promote membership. - a schedule of its Sub-Lessees, Licensees, annual dues and initiation fees - if applicable a schedule of fees payable for the use of the facilities by other groups and individuals who are not members of the Society and the method used to calculate such fees. <p>Lessees will:</p> <ul style="list-style-type: none"> - Give priority for membership to District residents - Maintain the Society in good standing - Not allow any supplier of services to the Society to hold office in the Society unless authorised by special resolution of the Society

<p>Constitution & Bylaws</p>	<p>Constitution & Bylaws of the non-profit society to be attached to the lease. The Society shall not change its registered stated purpose without approval of the District and the Province.</p> <p><u>Explanation</u></p> <p>To qualify under this policy, the society must be both organized and operate exclusively for "cultural activities, pleasure or recreation" purposes and must include general community purposes in its constitution or bylaws.</p> <p>In general terms Cultural Activities, Pleasure or Recreation means that which provides a state of gratification or a means of refreshment or diversion. Examples include social clubs, golf clubs, curling clubs, badminton clubs, squash clubs, and so on, that are organized and operated to provide recreational facilities for the enjoyment of members and their families.</p> <p>The constitution has to include at least the following items:</p> <ul style="list-style-type: none"> • the society's name; • the society's purposes; • a clause stating that the society shall be carried on without purpose of gain for its members, and any profits or other accretions to the organization shall be used solely to promote its objectives; • the society's structure (president or chair, secretary, treasurer, etc.); • a provision that explains how the society replaces directors
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<p>Non Profit Status must be maintained</p>	<p><u>Explanation</u></p> <p>It will be a question of fact whether a non-profit society is not operated exclusively for non-profit purposes.</p> <p>A society may earn income in excess of its expenditures. However, if a material part of the excess is accumulated each year and the balance of accumulated excess at any time is greater than the association's reasonable needs to carry on its non-profit activities, profit will be considered to be one of the purposes for which the society is operated. This will be particularly so where assets representing the accumulated excess are used for purposes unrelated to its objects such as the following:</p> <ul style="list-style-type: none"> • long-term investments to produce property income; • enlarging or expanding facilities used for normal commercial operations; or • loans to members <p>However, it is conceivable that there would be situations where an accumulation equal to one year's reasonably anticipated expenditures on its non-profit activities may not be considered excessive, while in another situation, an accumulation equal to the reasonably anticipated expenditures for a much shorter period would be considered more than adequate.</p> <p>A society may annually set aside funds to provide for a special project such as the construction of a new building or to replace an existing building when it deteriorates or no longer meets the society's needs. In such cases, any funds accumulated for this purpose should be clearly identified and all transactions concerning a special project should be clearly set out in the society's accounting records.</p> <p>The "Non-Profit" financial status will be assessed through cash flow analysis of financial statements and estimated budgets, using accepted accounting methods (for example, relationship of administrative or overhead costs to costs of services provided; allocation of "surplus revenues", etc.).</p>
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<p>Unalterable dissolution clause and Personal Benefit to Members</p>	<p>Where all a Society's fixed assets are affixed solely to municipal leased site(s), the Society's Constitution and/or Bylaws must include an unalterable dissolution clause which provides that upon dissolution its assets must firstly be distributed to another District of North Vancouver non profit pleasure or recreational society with similar objectives. If a transfer to another society with similar objectives cannot be achieved then the unalterable dissolution clause shall provide that such assets would be transferred to the District of North Vancouver or to the Provincial Minister of Finance.</p> <p><u>Explanation</u></p> <p>On winding-up, a society that operates solely on a municipal site, will not comply with the above requirement, if an amount will become payable to, or otherwise available for the personal benefit of members.</p> <p><u>Personal benefit to members</u></p> <p>No member of the Board and no member of the Society or family member may receive remuneration, directly or indirectly, for the provision of services, such as dance or sports lessons, or supplies for the operation of the programs or projects delivered by the Society <u>unless</u>, by special resolution of the Society such remuneration is authorised to be paid.</p> <p><u>Explanation</u></p> <p>The eligibility provisions for a Community lease include a requirement that a significant volunteer component is directly involved in governance and in day-to-day operations of the society's activities.</p> <p>Certain types of payments made directly to members, or indirectly for their benefit, will not, in and by themselves, disqualify a society. Such payments include payments made to employees or members of the association to assist them in covering their expenses to attend various conventions and meetings as delegates on behalf of the society, provided attendance at such conventions and meetings is to further the aims and objectives of the society.</p> <p>Other payments which have to be by special resolution may occur, under exceptional circumstances, where to a member or family member is employed to provide for services such as sports lessons which are related to the stated purposes set out in the Constitution and Bylaws of the registered Society or an honorarium is paid to a member of the Board on account of particularly onerous duties, which are far in excess of the normal volunteer duties expected of the general membership or the office held.</p>
<p>Indemnification</p>	<p>Lessee to indemnify the District</p>
<p>Insurance</p>	<p>Lessee to obtain comprehensive general liability insurance in the amount determined by the District, naming the District as an additional insured.</p>
<p>Building</p>	<p>In some cases the Lessee may have the option to remove a building and chattels within 6 months of expiry of lease, if the building has been paid for and fully maintained by the society</p>
<p>Alterations</p>	<p>Lessee cannot make any major or material changes to building or facilities without District's prior consent and obtaining all necessary building permits.</p>
<p>Maintenance/Operating costs</p>	<p>Lessee to maintain building, grounds and all facilities and pay for all capital improvements and operating costs including but not limited to property taxes, if eligible, and utilities except that where the buildings and facilities have been constructed at the District's cost, the lessee's maintenance obligations will be considered on a case by case basis.</p>
<p>Assigning / Subletting</p>	<p>Lease cannot be assigned without District's consent. Lease cannot sublet without the District's consent.</p>
<p>Rental of the Premises or community use</p>	<p>The Society may make provision for the use of the premises by other District residents, where appropriate, on the basis that such groups must be sponsored by a member and providing the resident(s) contribute towards the cost of maintenance and operation on an equitable basis and that such subletting does not jeopardize the non profit status of the Society with Canada Customs and Revenue Agency. The method of calculation fee taken for subletting shall be subject to review by the District.</p> <p>The Society may also make premises available without charge, at its sole discretion, where the activity and purpose is for the general benefit of the community.</p>

Environmental Provisions	<p>Lessee to comply with all statutes, bylaws etc, and pay for any remedial action for any pollution caused by them Lessee to provide certificates, reports from environmental consultant and environmental audit 60 days prior to termination Lessee will not sell or encumber buildings unless they have provided environmental audit.</p>
Priority for District residents	<p>The Society shall give priority for membership to residents of the District where appropriate. There must be knowledge in the community of the opportunity to become a member, generally in the form of newsletters, notices posted, or word of mouth.</p>
Default	<p>The lease may be terminated if and whenever, during the Term, the Tenant fails to observe or perform any of its obligations in this lease and such failure is not remedied within 60 days next after the giving of written notice by the District to the Society of the nature of such failure (or within such further period of time as may be necessary to cure the default if the default is one which cannot with due diligence be cured within said 60 days provided that the Tenant is proceeding promptly and with all due diligence to cure the default). The lessee will also be in default if the Premises are abandoned or left vacant for more than 30 days.</p>

Approval Date:	November 25, 2002	Approved by:	Regular Council
1. Amendment Date:		Approved by:	
2. Amendment Date:		Approved by:	
3. Amendment Date:		Approved by:	