

L. Mary / Kuhl

HAMLET OF REPULSE BAY BY-LAW NUMBER 123

A By-law of the Municipal Corporation of the Hamlet of Repulse Bay in the Northwest Territories to provide for the administration of municipal lands, pursuant to the Hamlets Act, R.S.N.W.T., 1988, c. H-1, section 132.2

AS the Council of the Municipal Corporation of the Hamlet of Repulse Bay deems it to be desirable to establish a uniform process for the disposal of real property owned, leased or otherwise held by the Hamlet;

NOW, THEREFORE, THE COUNCIL OF THE MUNICIPAL CORPORATION OF THE HAMLET OF REPULSE BAY, at a duly assembled meeting, enacts as follows:

Title

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

Interpretation

2. In this By-law:

- a) "Council" means the Council of the Municipal Corporation of the Hamlet of Repulse Bay;
- b) "Development Costs" means the costs directly incurred by the Hamlet in developing land, including, but not limited to, the costs of:
 - (i) planning and engineering design;
 - (ii) project management;
 - (iii) road construction;
 - (iv) land fill;
 - (v) open spaces;
 - (vi) piped water and sewer lines;
 - (vii) electrical distribution lines (and poles);
 - (viii) legal surveys;
 - (ix) land acquisitions and disposal costs;
 - (x) financing charges, including interest, for any loans incurred in developing the land.
- c) "Disposal of Lands" means the lease or other disposition of land;
- d) "Hamlet" means the Hamlet of Repulse Bay;

- e) "Lands" means real property owned, leased or otherwise held or acquired by the Municipal Corporation;
- f) "Lot" means a parcel of land, for which development costs have been incurred and which has been duly described or surveyed for the purpose of acquisition, lease or other disposition;
- g) "Lot Price" means the valuation of a lot;
- h) "Market Value" means the value of a parcel of land based on the amount a willing buyer would pay to a willing seller. This value shall be determined by a professionally qualified land appraiser or by public tender or auction;
- i) "Minister" means the Minister of Municipal and Community Affairs;
- j) "New Lots" means vacant lots which are developed after the date of this by-law;
- k) "Off Site Levy" means a surcharge levied, at the time of lease execution, by the Hamlet to a lessee of municipal lands to assist in the payment of all or part of the capital costs of new or expanded infrastructure, including land, such infrastructure being located outside the lands being leased, but of direct, though not exclusive, benefit to the lessee;
- l) "Replacement Cost" means the estimated development costs for a parcel of land, updated to the current year, representing the costs to develop a similar lot and incorporating site-specific factors;
- m) "Resident" means a person that has resided within the Hamlet at least 12 consecutive months prior to the date of making application for land;
- n) "Site-Specific Factors" means factors which may be used, where applicable, in adding or subtracting up to 25% of the development costs of new lots or the replacement cost for existing developed lots, and which may be composed of:
 - (i) size of land parcel;
 - (ii) site condition;
 - (iii) desirability of location;
 - (iv) adjacent land uses; and
 - (v) proposed land use.

The addition of site specific factors for new lots shall not exceed development cost for the entire subdivision.

- o) "Senior Administrative" means the Senior Administrative Officer of the Hamlet or such other person as may be designated, from time to time, to exercise the powers and perform the duties of the Senior Administrative Officer pursuant to this By-law;

Application of This By-law

3. This by-law shall, except as otherwise expressly authorized by the Minister, apply to all acquisitions, leases or other dispositions of land by the Hamlet.

Preconditions to Acquisition and Disposal of Land

4. Land speculation will be discouraged.
5. Neither the Hamlet nor any authorized representative of the Hamlet shall make or enter into any offer, agreement or other arrangement for the purchase, lease or other disposition of lands except by by-law in the form of Appendix A or Appendix B attached hereto and each such by-law shall contain;
- a) a complete legal description of the lands to be acquired, leased or otherwise disposed of;
 - b) the minimum consideration to be paid for the acquisition, lease or otherwise disposition of the lands; and
 - c) the terms and conditions, if any, upon which the lands shall be acquired, leased or otherwise disposed of.
6. No by-law for the acquisition, lease or other disposition of land, shall be passed pursuant to Sections 132.2(4) or 132.2(5) of the Hamlets Act, until;
- a) it has been established through a search at the appropriate Land Registry Office, that the Hamlet may lawfully acquire, lease or otherwise dispose of the lands;
 - b) an inspection of the lands has been conducted to determine:
 - (i) if the land is occupied;
 - (ii) if there are any improvements situated on the lands;
 - (iii) if there are any easements affecting the lands; and
 - (iv) such other information as Council may, in its discretion, consider to be relevant;
 - c) the Senior Administrative Officer has advised Council as to the value of the lands and any improvements situated thereon and that the proposed use of the lands shall comply with the Zoning By-law or Land Use Plan in effect in the Hamlet.

Advertising of Land for Disposal

7. a) Subject to subsection 7(c), the Hamlet shall not lease or otherwise dispose of lands until it has published a notice of such proposed lease or disposition:
- (i) by advertisement for two consecutive weeks in a newspaper having weekly circulation in the Hamlet; or
 - (ii) by notice posted in three prominent places in the Hamlet for a period of two weeks.
- b) Each advertisement or notice shall contain:
- (i) a sketch, drawn to scale, identifying the size and location of the lands to be leased or otherwise disposed of;
 - (ii) the minimum consideration for which the lands will be leased or otherwise disposed of;
 - (iii) an indication as to the method to be employed in leasing or otherwise disposing of lands; and
 - (iv) an indication as to where and when applicants may obtain information and application forms.
- c) Subsection 7(a) and 7(b) shall not apply to:
- (i) lands required by the Federal or Territorial Government;
 - (ii) lands which can only be of use to an adjoining owner/lessee;
 - (iii) additional adjacent lands required for expansion of an owner's/ lessee's existing or proposed development.
8. The Hamlet shall re-advertise for lease or other disposition, lands for which:
- a) an application has been made but withdrawn by the applicant after acceptance by the Hamlet;
 - b) a lease has been granted but terminated prior to the construction of any improvements on the lands; or
 - c) re-zoning has taken place and the land remains untenured.

Applications for Land

9. The Hamlet shall only accept a written application for land in the form of Appendix C. This form shall contain, but not be limited to:
- a) the legal name of the applicant or applicants;
 - b) the legal description of the land;
 - c) the purpose for which the land is to be used;
 - d) a request, if applicable, for joint tenancy or tenancy-in-common;
 - e) the signature of the applicant or applicants;

- f) a non-refundable application fee of \$ 50.00; and
 - g) declaration of residency, if required.
10. The Hamlet shall keep a ledger of all lands containing:
- a) a full legal description of the lands;
 - b) the location of the lands within the Hamlet;
 - c) a valuation of the lands for purpose of lease or other disposition;
 - d) the terms and conditions upon which the lands may be leased or otherwise disposed of, and
 - e) an indication of whether the lands have been leased or otherwise disposed of, or whether there is a pending lease or other disposition of the lands.
11. The ledger kept pursuant to Section 10 of this by-law shall be open to inspection by the public at the Hamlet Office during normal business hours.

Terms and Conditions of Land Disposals

12. a) The standard term of residential lease documents shall be a minimum of :
50 years for Residential 25 years for Commercial
- b) The term of lease, referred to in 12 a) may be increased at Council's discretion based on the nature and value of improvements to be constructed.
 - c) The term of all other leases will be at Council's discretion.
 - d) Renewal of leases will not be unreasonably denied.
13. Applications for residential lots will only be accepted from Repulse Bay residents.
14. The Hamlet, in leasing or otherwise disposing of new lots for residential purposes, shall ensure that prospective private home owners have preference over lessees who wish to acquire more than one lot at a time, except when lots are required by:
- a) the Federal or Territorial Government;
 - b) the Northwest Territories Housing Corporation, or their clients; or
 - c) The Canada Mortgage and Housing Corporation.
15. Every disposal of land shall be in writing.
16. The Hamlet, in leasing or otherwise disposing of new lots, shall require that commencement of construction must begin within 6 (six) months of the effective date of the lease or the lease may be canceled. Completion of construction must be within 24 (twenty-four) months of the effective date of the lease or the lease may be canceled.

Subject to section 17, if construction is not initiated or completed within this time period, the land may revert back to the Hamlet.

17. The Hamlet may allow a 12 month extension to either term outlined in Section 16. The following criteria will be used by the Hamlet in order to grant an extension:
 - a) a detailed written explanation for the delay in construction;
 - b) written plans that outline the complete construction within the extension period; and
 - c) proof that approved financing is in place; and
 - d) all outstanding debts to the Hamlet have been paid in full.
18. The Hamlet shall not lease or otherwise dispose of new lots by auction.
19. The Hamlet shall lease lands by one or a combination of the following means:
 - a) ballot draw, where demand indicates that a draw is required;
 - b) development proposal call, as set out in Section 20;
 - c) first-come-first-serve basis;The means to be employed for any disposition of land will be at the Council's discretion. Prior to disposing of land through means of a ballot draw, Council shall, by resolution, establish guidelines for such a process.
20. The Hamlet shall decide whether, and under what circumstances, formal development proposals or bids will be asked from prospective lessees and may use the proposal call tender system outlined in Appendix D.

Pricing of New Lots

21. The lot price for new lots shall be determined by development cost including any allowance for site specific factors.
22. The Hamlet shall recover all development costs in the valuation of lands for disposal, subject to Section 23.
23. The Hamlet, may, when it is unable to lease or otherwise dispose of a lot, reduce the price of the lot below its development cost:
 - a) when the lot has not been developed through financing from the Government of the Northwest Territories or a financial institution; or
 - b) when the lot has been developed through financing from the Government of the Northwest Territories or a financial institution and the reduced land valuation is

approved by the Minister.

Pricing of Existing Lots

24. The Hamlet in leasing or otherwise disposing of existing developed lands shall determine lot price by either of the following:
- a) replacement cost; or
 - b) the market value as determined by:
 - (i) a qualified land appraiser or assessor; or
 - (ii) a call for bids, (by public tender or auction) in which the advertised minimum price is not less than the replacement cost.

Lease Rates

25. a) The annual lease rate shall be as follows:
- (i) residential : 2 percent of lot price per annum,
 - (ii) commercial : 5 percent of lot price per annum,
 - (iii) industrial : 5 percent of lot price per annum, and
 - (iv) other land uses: as decided by Council.
- b) Council may vary the lease rate for dispositions of land to nonprofit organizations.
26. The Municipality may permit leases to accumulate value, through the issuance of equity leases, at terms and conditions to be approved by Council.

Off Site Levies

27. When disposing of land the Hamlet may levy a surcharge to a lessee of lands to help pay for all or part of the Hamlet's Capital Cost for all or any of the following:
- a) new or expanded facilities for the storage, transmission, treatment or supply of water;
 - b) new or expanded facilities for the storage, treatment, movement or disposal of sewage;
 - c) new or expanded storm sewer drainage facilities;
 - d) new or expanded roadways and sidewalks; and
 - e) land required for, or in connection with, any of the facilities described in a), b), c), and d).
28. The Hamlet shall not include, as part of any off site levy, any costs paid for by grants or

contributions received from the Government of the Northwest Territories.

29. The Hamlet shall clearly identify to the public that any off site levy is a separate surcharge above the lot price, which is collected together with the lot price.
30. The Hamlet shall place all off site levy revenues in a separate account, to be used for the purposes set out in Section 27.

Land Development Reserve Account

31. The Hamlet shall open and maintain a separate financial account, in which all revenue obtained from the leasing or otherwise disposing of lands will be placed.
32. The Hamlet shall, in regards to the account identified in Section 31:
 - a) establish clear procedures for the management and operation of the account; and
 - b) use all expenditures from the account for the sole purpose of acquiring and/or developing land by the Hamlet, unless written approval by the Minister is obtained for other types of expenditures.

Private Sector Development of Lands

33. The Hamlet shall encourage the utilization of the private sector in the development of lands only if:
 - a) the Hamlet has prepared a cost estimate of the project as if it were to develop the land; and
 - b) the private sector can develop the land such that the lot price is the same as, or less than, the Hamlet would charge under its estimate in a).
34. If, in the opinion of the Hamlet, the private sector can develop the lands in a cost-effective manner as outlined in Section 33, the Hamlet shall call for proposals.
35. The Hamlet, in disposing of vacant lands to a private developer, shall:
 - a) do so by way of a lease to which a subdivision agreement may be attached;
 - b) require the developer to establish a land disposal procedure that is consistent with this by-law;
 - c) require the developer provide a list of the prices of the lots to be developed;
 - d) specify, in the lease, the standards to which the land must be developed; and
 - e) specify in the lease that in cases for non-performance with regard to 35 a), 35 b)

or 35 c) above, the lease will be canceled.

Easements

36. The Hamlet may, in the public interest, establish easements through, under or over any portion of the land for any public utility purpose, but the said easement shall not interfere with the rights granted to the lessee or any improvements made by the lessee on the lands.

Lease Assignments (Transfers)

37. Annual lease rental owing to the Hamlet and any taxes owing to the Government of the Northwest Territories must be paid in full prior to the assignment of a lot. The lessee must provide proof of ownership of the improvements. Assignment of a lease will not be allowed when the improvements to the land have not been completed as per the lease agreement.

Lease Surrenders

38. Annual lease rental owing to the Hamlet and any taxes owing to the Government of the Northwest Territories must be paid in full prior to the surrender of a lease. Also, the Lessee must remove all improvements from the land and return the lot to a state which is satisfactory to the Hamlet. The Lessee must deliver up to the Hamlet the duplicate leasehold title, where one exists.

Cancellation of Lease

39. If the Hamlet cancels a lease due to noncompliance with any terms and conditions of a lease:
- a) where there is a debt owed to the Hamlet, the Hamlet may seek an order to retain the right to any improvements upon the leased lands.
 - b) where there is no debt owing to the Hamlet, the Lessee shall remove any improvements and restore the site within 60 days, failing which the Hamlet may seek an order allowing for the removal of the improvements.
 - c) where the duplicate leasehold title for the land has not been surrendered in accordance with the Land Titles Act, the Hamlet shall seek an order canceling the leasehold title.

Quarries

40. The Hamlet may issue quarry permits for the temporary use of a quarry site. Application for Quarry Permit will only be accepted using the form shown in

Appendix E. A fee structure for quarrying will be adopted by resolution of Council and is a prerequisite to any quarry permits being issued. The Hamlet of Repulse Bay is exempt from paying any quarry fees. Quarry fees shall reflect the cost of development, operation, maintenance, administration, and restoration of quarries. All fees shall be placed in a separate financial account. The Hamlet will establish clear procedures for the management and operation of the account.

Land Use Permits

41. The Hamlet may issue land use permits, for the temporary use of lands, in accordance with Appendix F. Operations for which a land use permit is required are outlined in this Appendix. Application for land use permit will only be accepted using the form shown in Appendix G.

By-Law Administration

42. Council may by resolution, adopt standard forms of agreement for the administration of land, and the Hamlet may make minor changes not affecting the intent of these forms of agreement as may be necessary for such administration.

Appendices

43. The following appendices shall form part of this by-law:
- | | |
|-------------|--|
| Appendix A: | Land Acquisition By-law |
| Appendix B | Land Disposal By-law (Lease) |
| Appendix C | Land Application Form |
| Appendix D | Guidelines for Proposal Call/Tender System |
| Appendix E | Quarry Application Form |
| Appendix F | Land Use Operations |
| Appendix G | Application for Land Use Permit |

Minor changes to the appendices can be made by Council, without amending this by-law, provided the revisions do not alter the intent of this by-law.

Read a first time this 19th day of October, 1995.

Read a second time this 23th day of November, 1995.

Donat Misset
Hamlet Mayor

Sheldon Corey
Senior Administrative Officer

Approved by the Minister of Municipal and Community Affairs this 9th day of
January, 1996.

R. Smith Thompson
Minister of Municipal and Community Affairs

Read a third time and finally passed this 28th day of May, 1996.

Donat Misset
Hamlet Mayor

Sheldon Corey
Senior Administrative Officer



APPENDIX "C"

(Sample Application Form)
HAMLET OF REPULSE BAY, NT
BY-LAW NUMBER 123

Application for land in the Hamlet of Repulse Bay

Part 1

1. Mr. Ms. Age 19+ yes ___ no ___

Mrs. Miss _____
(Surname) First Name

Address: _____

Home Phone Number: _____ Work: _____

Occupation _____
Employed by _____

Mr. Ms. Age 19 +Yes ___ No ___

Mrs. Miss _____
(circle one) (Surname of Applicant's Spouse)
(First and Other Names of Spouse)

Occupation _____ Employed by _____
(Spouse's Job Title, Trade, Business, etc.)

Mr. Ms.
Mrs.

Miss _____
(circle one) (List the Full Name of the Contact Person for this Application if different
than the applicant, or if the applicant is a business etc.)

Address _____

Phone# _____
(contact person's full mailing address if different than applicant's)

9. The construction of buildings and improvements must conform to local by-laws and building standards.
10. If there are building and/or other improvements proposed by the applicants, he must, on his own responsibility, submit to the Territorial Fire Marshal's Office a plot plan showing location of all present and proposed buildings and improvements concerning the said land, and also such drawings and specifications as will indicate accurately to scale all floor plans, heating and fire safety systems and the applicant's responsibility to furnish the same information to the local council or public health authorities if deemed necessary by them on which to base their recommendation.
11. This application will not be considered unless accompanied by a non-refundable application fee of \$50.00 and plot plan of proposed improvements.
12. The submission of this application and payment of the \$50.00 application fee do not in themselves convey any right to land.
13. If this application is refused, the application fee will not be refunded; if a lease is approved, but not executed by the applicant, the application fee is forfeited; if executed, the full amount of the application fee goes toward the first payment, the remainder, if any, to be paid when the document is executed.
14. All rights to Municipal Land exclude the following;
 - a) All mines and all minerals whether solid, liquid, or gaseous which may be found to exist within, upon, or under the land together with the full powers to work the same and for that purpose to enter upon, use and occupy the land or so much thereof and to such as extent as may be necessary for the effectual working and extracting of the said minerals;
 - b) The rights of the recorded holders of mineral claims and any other claims or permits affecting the land;
 - c) The right to enter upon, work and remove any rock outcrop required for public purposes;
 - d) Such right or rights of way and entry as may be required under the regulations in force in connection with construction, maintenance and used of works conveyance or water for use in mining operations; and
 - e) The right to enter upon the land for the purpose of installing and maintaining any public utility.

Signature of Applicant

Date

Signature of Co-Applicant

Date

APPENDIX "D"

**HAMLET OF REPULSE BAY, NT
BY-LAW NUMBER 123**

PROPOSAL CALL/TENDER SYSTEM

This system is usually employed for the lease or other disposition of lots and takes the following form:

A set price is established for such lots and applicants submit with their applications a proposal which sets out the types of improvements that the applicant proposes to construct or make on the lots and an indication as to the type of business, on the lots. The successful applicant is usually determined by the hamlet on the basis of the best proposal submitted.

The advertisement printed in connection with the Proposal Call should include, in addition to those items identified in the Land Administration by-law, the following:

- a) the last date and time for the submission of applications;
- b) the time, date and place at which the Hamlet will announce the successful application;
- c) the criteria to be employed by the hamlet in selecting the successful application;
- d) a request for documents or information which will be required by the Hamlet in support of applications (estimated cost of construction, drawings, specifications, etc.)
- e) a request for any deposit that is required;
- f) the terms and conditions of any Lease which the successful applicant will be required to enter into;
- g) building standards which must be employed in the construction of improvements; and
- h) the amounts of any bonds that the successful applicant may be required to pay the Hamlet to guarantee the completion of the construction of improvements.

APPENDIX "E"

HAMLET OF REPULSE BAY, NT

BY-LAW NUMBER 123

Application for Quarry Permit

Name in full: _____

Address: _____

Occupation: _____

Does hereby apply for a quarry permit for the purpose of taking ____ cubic metres of _____ (type of material) from the lands indicated on a sketch or described as follows: _____

_____ to be used for _____

1. Is any part of the land occupied? If so, by whom and for what purpose?

2. Permit Fee:		\$ _____
Quarry Fees	\$ _____ per cubic metre	\$ _____
Restoration Fee:	\$ _____ per cubic metre	\$ _____
Road maintenance fee:	\$ _____ per cubic metre	\$ _____
Quarry Administration fee:	\$ _____ per cubic metre	\$ _____

Total fees due \$ _____

The Hamlet of Repulse Bay is exempt from paying any fees outlined in Section 2 above.

Date

Signature of Applicant

APPENDIX "F"

HAMLET OF REPULSE BAY, NT

BY-LAW NUMBER 123

LAND USE OPERATIONS

The Hamlet may issue Land Use Permits for those uses of land that will be short term (temporary) in nature. A permit may be issued for site investigation, the temporary storage of materials, etc. One of the main concerns when issuing a permit is the environmental impact of the temporary use. A permit should not be used for any undertaking that will be long term or permanent (construction of a building, etc.)

Operations for which a land use permit is required include:

1. The use of any form of explosive.
2. The use, except on public roads or trails maintained wholly or in part by public funds, of any vehicle that exceeds 4500 kgs (10,000 lbs) net vehicle weight, or the use of any vehicle of any weight that exerts pressure on the ground in excess of 35 KPa (5 lbs per square inch).
3. The use of any self propelled power driven machine for moving earth or clearing land.
4. The use of any power driven machinery for earth drilling purposes, the operating weight of which exceeds 450 Kgs (1000 lbs).
5. The establishment of any campsite that is to be used in excess of 50 man days.
6. The leveling, grading, clearing or cutting of any line trail or right-of-way exceeding two metres in width (6 feet).
7. The establishment of any petroleum cache in excess of 1300 litres (300 gallons).

APPENDIX "G"

HAMLET OF REPULSE BAY, NT

BY-LAW NUMBER 123

Application for Land Use Permit

1. Name in full: _____
2. Address: _____

3. Address of Head Office _____

4. Location and description of operation:
 - a) Attach a description and proposed techniques
 - b) Attach map and sketch of area
5. Equipment - type, size and purpose
6. Fuel
 - a) Type, volume, method of storage containment
 - b) Method of emptying and filling containers
7. Method of waste disposal

Arrangements planned for disposal of garbage, sanitary waste and debris
8. Contractors and functions
9. Time schedule
Start:
Completion:
10. Name and address of field supervisor
11. Number of employees

12. Area used (hectares)

Signature

Title

Date

Office Use