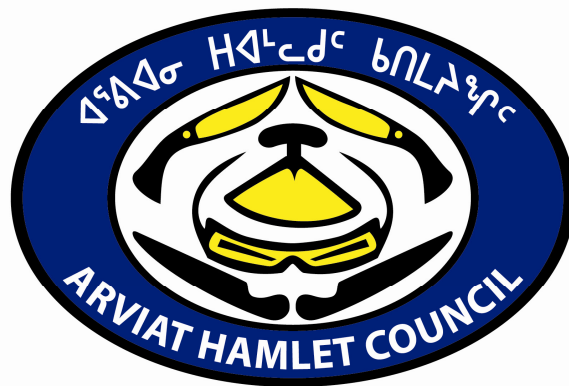


THE HAMLET OF ARVIAT

NUNAVUT



CONSOLIDATION OF LAND ADMINISTRATION BY-LAW NO. 111

Adopted February 13, 1996

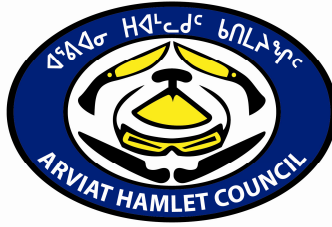
AS AMENDED BY

BY-LAW NO. 172 – March 9, 2005

(This Consolidation is prepared for convenience only.
For accurate reference, please consult the Hamlet of Arviat)

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Hamlet of Arviat, NT
By-Law Number 111

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

WHEREAS the Council of the Municipal Corporation of the Hamlet of Arviat 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 MUNICIPAL CORPORATION OF THE HAMLET OF ARVIAT, 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 Arviat;
 - 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 changes, including interest, for any loans incurred in developing the land;
- c) “Disposal of Land” means the lease, or other disposition of land;
- d) “Hamlet” means the Hamlet of Arviat
- 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 that a willing buyer would pay to a willing seller. This value shall be determined by a professionally qualified land appraiser or 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 acquired specifically for its creation, which although located outside the lands being leased, provides a direct, although not exclusive benefit to the lessee;
- l) “Replacement Cost” means the estimated development costs of a parcel of land, updated to the current year, representing the costs to develop a similar lot and incorporating site-specific factors;
- m) “Site-Specific Factors” means factors which may be used, where applicable, in adding or subtracting up to 25 percent 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 conditions;
 - (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 of the entire subdivision.

- n) "Senior Administrative Officer" 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 the By-Law

3. This By-Law shall, except as otherwise expressly authorized by the Minister, apply to all acquisitions, leases or other dispositions of lands 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 to the purchase, lease, or other disposition of land, 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 or otherwise disposed of;
 - b) the minimum consideration to be paid for the acquisition lease or other 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 land;
 - b) an inspection of the lands has been conducted to determine:
 - (i) if the lands are occupied;
 - (ii) if there are any improvements situate 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 to Council as to the value of the lands and any improvements situate thereon and that the proposed use of lands shall comply with the zoning by-law requirements of the Hamlet in effect in the Hamlet.

Advertising of Land for Disposal

- 7. a) Subject to subsection 6 (c), the Hamlet shall not lease or otherwise dispose of lands until it has published a notice of such proposed lease or other disposition:
 - (i) by notice posed in three prominent places in the Hamlet for a period of two weeks;
or
 - (ii) by advertisement for two consecutive weeks in a newspaper having weekly circulation in the Hamlet.
 - 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 application forms.
 - c) Subsection 6 (a) and 6 (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/lessee existing or proposed development.
8. The Hamlet shall readvertise for lease or other disposition land 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 lands remain untenured.

Applications for Land

9. The Hamlet shall only accept a written application for land in the form of Appendix C. Such application shall, at minimum, include information respecting:
- 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; and
 - f) a non-refundable application fee.
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 lands.
11. The ledger kept pursuant to Section 8 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

12.1. a) The standard term of all lease documents shall be:

Residential - 30 years

Commercial - 20 years

Industrial - 20 years

b) The term of lease referred to in Section 12 (a) may vary at Council's direction based on the nature of improvements to be constructed.

c) Terms of all other leases will be at Council's discretion.

12.2. Residential lots are only available to the residents of Arviat. A business or company applying for land should have a head office in Arviat, unless otherwise under special direction from the hamlet council.

12.3. Nunavut Housing Corporation is exempt from section 12.2.

13. The Hamlet, in the leasing or otherwise disposing of new lots for residential purposes, shall ensure that prospective private home owners have preference over applicants 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.

14. Every disposal of land shall be in writing.

15. The Hamlet in leasing or otherwise disposing of new lots, shall require that commenced construction must begin within 12 months of the effective date of the lease and improvements must be complete within 24 months of the date of the agreement. The Hamlet may cancel a lease for failure to commence or complete construction of the improvements within the time frame specified above. Subject to section 13, if the Hamlet cancels a lease due to non-compliance of this clause, the land may revert back to the Hamlet.

16. The Hamlet may allow a maximum extension of twelve (12) months to either term outlined in Section 12. The following may be required prior to consideration by Council:

- a) written explanation for the delay in construction;
- b) written plan to complete construction within the extension period;
- c) proof of approved financing;
- d) development permit application
- e) no outstanding debts to the Hamlet;
- f) a written request for extension must be received by the Hamlet not later than 3 months/days prior to the expiration of the application period.

17. The hamlet shall not lease or otherwise dispose of new lots by auction.

18. The Hamlet shall lease land by one or a combination of the following means:

- a) Public Draw, where demand indicates that a draw is required;
- b) Development Proposal Call, as set out in Section 16;
- c) First-come-first-served basis;
- d) Lease, in the form of Appendix B.

Council will decide, at its discretion, as to the means to be employed to lease land. Prior to disposing of land through means of a ballot draw, Council shall, by resolution, establish guidelines for such a process.

18.1. The Municipal Corporation shall, when disposing of land through means of a lot allocation, give preference to prospective applicants by a point system. Businesses or companies are exempt from the residency status. The applicants will be awarded points as per the following categories;

<u>Residency:</u>		<u>Points</u>
Arviat	1-5 years	5
	6-10 years	7
	Over 10 years	9

Development Status:

First time home owner/builder 5

Proof of Intent:

Building plans (engineer) 3

Contractor's contract 2

Sketch drawing 1

19. The Hamlet shall decide whether, and under what circumstances, and under what terms and conditions, formal development proposals may be solicited from prospective developer-lessees and may use a proposal call tender system outlined in Appendix D for this process.

Pricing of New Lots

20. The lot price for new shall be determined by development costs, including any allowance for site specific factors.

21. The Hamlet shall recover all development costs in the valuation of lands for disposal, subject to Section 22

22. The Hamlet may, when it is usable to lease or otherwise dispose of a lot, reduce its price valuation of the lot below its true 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

23. 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 calling for bids, (by public tender or auction) in which the advertised minimum price is not less than replacement cost.

23.1. New Leases

- a) Equity leases permit accumulation of value and recover 100% of lot development costs over a set period of time.
 - b) For new leases of new lots, Council may issue equity leases, which permit the accumulation of value.
 - c) Nunavut Housing Corporation and development corporations shall be issued equity leases.
 - d) Where equity leases are required for new lots, leases have a choice of two payment methods: 10% of the lot price must be paid at the time of signing the equity lease and the remainder must be paid within 90 days of the signing date, or 10% of the lot price must be paid at the time of signing the equity lease and entering into a financing agreement with the municipality.
 - e) After full payment of equity lease, lease rates shall be \$1.00 per annum.
 - f) All new land development projects will be self financed.
- 4) Conversion of existing leases to equity leases
- a) Council shall consider requests for conversion of existing leases to equity leases, at terms and conditions to be established and approved by Council.
 - b) New lease assignments may, which the agreement of the lessee, be based on an equity lease for the assignee.

Lease Rates

24. The Hamlet shall, in the leasing of lands, charge rent based on a rate of not more than ten percent (10%) of the lot price a year, unless otherwise authorized by the Minister.

25. 1) The annual lease rate shall be:

- a) residential: 3 percent of lot price per annum.
- b) commercial: 3 percent of lot price per annum.

- c) industrial: 3 percent of lot price per annum.
 - d) other land uses: 7 percent.
- 2) Council may vary the lease rate for disposition of land to non-profit organization.

Off Site Levies

26. When disposing of land, the Hamlet may levy a surcharge to a lessee of lands to help the municipality 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), or d).
27. 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.
28. The Hamlet shall clearly indemnify to the public that an off site levy is a separate surcharge above the basic lot price, which is collected together with the lot price.
29. The Hamlet shall place all off site levy revenues in a separate account, to be used for the purpose set out in Section 26

Land Development Reserve Account

30. 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.
31. The Hamlet shall, in regards to the account identified in Section 30;
- a) establish clear procedures for the management and operation of the account;

- 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

32. The Hamlet shall encourage the utilization of private sector in the development of land 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).
33. If in the opinion of the Hamlet, the private sector can develop the lands in a cost-effective manner as outlined in Section 31, the Hamlet shall call for proposals.
34. 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 that the developer provide a list of the process 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 33 (a), 33 (b), or 33 (c) above, the lease will be cancelled.

Easements

35. The municipality 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 may by the lessee on the lands.

Lease Assignments (transfer)

36. Assignments may be granted subject to the following:

- a) annual lease rental owing to the Municipality must be paid in full;
- b) any taxes owing to the Government of the Northwest Territories must be paid in full;
- c) proof of ownership of improvements;

Lease Surrenders

37. Surrenders may be granted to the following:

- a) annual lease rental owing to the Municipality must be paid in full;
- b) any taxes owing to the Government of the Northwest Territories must be paid in full;
- c) the lessee must remove all improvements from the land and return the lot in a state satisfactory to the Municipality;
- d) the lessee must deliver up to the Municipality the duplicate leasehold title where one exists.

Cancellation of Lease

38. If the Municipality cancels a lease due to non-compliance with any terms and conditions of a lease;

- a) where there is a debt owed to the Municipality, the Municipality may seek an order to retain the right to any improvements upon the leased lands;
- b) where there is no debt owing to the Municipality, the lessee shall remove any improvements and restore the site within 90 days, failing which the Municipality may seek an order allowing for the removal of the improvements; and
- c) where the duplicate leasehold title for the lands has not been surrendered in accordance with the Land Titles Act, the Municipality shall seek an order cancelling the leasehold title.

Quarries

39. a) The Municipality may issue quarry permits for the temporary use of a quarry site. Applications for a quarry permit shall be in the form of Appendix "E".

- b) Prior to the issuance of a quarry permit, the Municipality shall, by Council resolution, establish quarry fees and any exemptions to such fees;
- c) Fees established under Section 39 (b) shall reflect the cost of development, operation, maintenance, administration and restoration of quarries;

Land Use Permits

- 40. a) The Municipality may issue land use permits for the temporary use of land.
- b) The temporary land uses for which a permit is required are set out in Appendix "F".
- c) Application for a land use permit shall be in the form of Appendix "G".
- d) Any environmental impacts of the proposed use must be addressed by the applicant to the satisfaction of the Municipality prior to the issuance of a permit.

By-Law Administration

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

42. 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 Calls
APPENDIX "E"	Quarry Application Forms
APPENDIX "F"	Land Use Operations
APPENDIX "G"	Application for Land Use Permit
APPENDIX "H"	

43. Minor changes to the Appendices of this By-Law can be made by Council, without amending this By-Law provided the changes to the Appendices do not alter the intent of this By-Law.