

# Community Government of Whatì

## BYLAW NUMBER 38-2012

A bylaw of the Community Government of Whatì in the Northwest Territories to provide for the administration of municipal lands in the community, pursuant to the *Tłı̄cho Community Government Act, s. 50 to 54, S.N.W.T. 2004, C*

WHEREAS the Council of the Community Government of Whatì deems it to be desirable to establish a uniform process for the acquisition and disposal of real property owned, leased or otherwise held by the Community Government of Whatì; and

WHEREAS due notice to the public, provision for inspection of this bylaw and due opportunity for objections thereto to be heard, considered and determined.

NOW, THEREFORE, the Council of the Community Government of Whatì, in regular session, duly assembled, enacts as follows:

### 1.0 CITATION OF BYLAW

1.1 This bylaw may be cited as the "Land Administration Bylaw".

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**2.0 DEFINITIONS:**

In this bylaw:

- 2.01 “acquisition of land” shall mean the purchase, lease or other means of acquiring land
- 2.02 “community plan” shall mean the community plan officially adopted by a Motion of Council;
- 2.03 “Council” shall mean the Council of the Community Government of Whatì;
- 2.04 “developed land” shall mean land in which the necessary municipal infrastructure has been placed to allow improvements to be built or installed thereon;
- 2.05 “development costs” shall mean the direct and indirect costs directly of developing a lot or another specific area of land for disposition to the public, which may include:
- 2.05.a planning and engineering design;
  - 2.05.b geomatics;
  - 2.05.c project management;
  - 2.05.d road construction;
  - 2.05.e land fill;
  - 2.05.f open spaces;
  - 2.05.g piped water and sewage lines;
  - 2.05.h electrical distribution lines (and poles);
  - 2.05.i legal surveys;
  - 2.05.j land acquisition and disposal costs; and
  - 2.05.k financing charges, including interest, for any loans incurred in developing the land;
- 2.06 “disposal of land” shall mean the sale, lease, or other disposition of an interest in land;
- 2.07 “land” shall mean real property or an interest therein, other than an easement or restrictive covenant;
- 2.08 “lot” shall mean a specific area of land, the boundaries of which are:
- 2.08.a shown on a plan registered at the N.W.T. Land Titles Office; or
  - 2.08.b described in a certificate of title registered at the N.W.T. Land Titles Office;
- 2.09 “lot price” shall mean the value of the lot as determined by the method described in this bylaw;
- 2.10 “off-site levy” shall mean a surcharge levied under this bylaw against the purchaser of land from Whatì or against a tenant leasing land from Whatì;
- 2.11 “site specific factors” shall mean 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:

- 2.11.a size of land parcel;
- 2.11.b site conditions;
- 2.11.c desirability of location;
- 2.11.d existing adjacent land uses; and
- 2.11.e proposed land use (zoning)

2.12 “SAO” shall mean the Senior Administrative Officer, or their delegate;

2.13 “Whatì” shall mean the corporate entity of the Community Government of Whatì;

### **3.0 APPLICATION OF THE BYLAW**

3.01 Subject to Section 3.02 below, this bylaw shall apply to all acquisitions, sales, leases or other dispositions of lands by Whatì.

3.02 This bylaw does NOT apply to:

- 3.02.a leases of buildings or space within buildings owned by Whatì;
- 3.02.b leases of office space or other property for use by Whatì; or
- 3.02.c short-term leases of Whatì lands, buildings or facilities under one (1) year in duration.

3.03 Nothing in this bylaw authorizes the sale of a fee simple interest in lands where such sale would be prohibited by the *Tìjcho Land Claim Agreement* or the *Tìjcho Community Government Act*

### **4.0 LAND DEVELOPMENT FUND**

4.01 Whatì hereby establishes a fund called the “Land Development Fund”.

4.02 Whatì shall not use the Land Development Fund for any purpose other than for acquisition or development of land.

4.03 All proceeds from the disposition of land (sales or leases) excluding administrative expenses shall be deposited in the Land Development Fund.

4.04 If the Land Development Fund exceeds a cash surplus of five hundred thousand (\$500,000) then Council may, by Motion of Council, transfer the surplus funds in excess of \$500,000 to the General Municipal Fund of Whatì.

### **5.0 PRECONDITIONS TO ACQUISITION AND DISPOSAL OF LAND**

5.01 All offers, agreements or other arrangements for the acquisition, sale, lease or other disposition of lands shall be done by Council motion, and each such Council

motion shall contain:

- 5.01.a a complete legal description of the lands to be acquired, sold, leased or otherwise disposed of or in the absence of an available legal description, a sketch of the lands on an approved community map detailing the dimensions and location relative to other lands in the community; and
  - 5.01.b the terms and conditions, if any, upon which the lands shall be acquired, sold, leased or otherwise disposed of.
- 5.02 No Council bylaw pursuant to s. 53 (1) of the *Tłı̄cho Community Government Act*, for the acquisition of land or bylaw for the sale, lease or other disposition of land, shall be made until:
- 5.02.a it has been established through a search at the Northwest Territories Land Titles Office, that Whati may lawfully acquire, sell, lease or otherwise dispose of the lands;
  - 5.02.b an inspection of the lands has been conducted to determine
    - 5.02.b.i if the lands are occupied,
    - 5.02.b.ii if there are any improvements situate on the lands,
    - 5.02.b.iii if there are any easements affecting the lands, and
    - 5.02.b.iv such other information as Council may, in its discretion, consider to be relevant.

## **6.0 APPLICATIONS FOR LAND**

- 6.01 Whati shall accept only a written application for municipal land. This application must contain, but is not be limited to:
- 6.01.a the legal name of the applicant or applicants;
  - 6.01.b the legal description of the land or an acceptable sketch;
  - 6.01.c the purpose for which the land is to be used;
  - 6.01.d a request, if applicable, for 'joint tenancy' or 'tenancy-in-common';
  - 6.01.e the signature of the applicant or applicants;
  - 6.01.f a non-refundable application fee, the rate of which may be periodically set from time-to-time by Council;
  - 6.01.g declaration of residency, if required; and
  - 6.01.h declaration of any accounts payable to Whati in excess of Ninety (90) days due.
- 6.02 Whati shall, within sixty (60) days after the receipt of a complete application, notify the applicant by registered mail whether the application is approved or rejected.
- 6.03 The successful applicant has thirty (30) days for a lease or sixty (60) days for a purchase, after the mailing of approval notification, to sign the agreement for sale or lease and pay the remainder of all required fees. If the applicant fails to comply, the application is rejected. No agreement for sale or lease documents will be completed until all of the required fees are received.



## 7.0 TERMS AND CONDITIONS OF LAND DISPOSALS

- 7.01 The standard term of all municipal land lease documents shall be thirty (30) years.
- 7.02 Council may, in its discretion, enter into a lease of municipal lands for a term, shorter or longer than thirty (30) years, based on the nature and value of the improvements to be constructed on such land.
- 7.03 Whatì shall not approve an interest in municipal lands for a term exceeding ninety-nine (99) years or an interest arising ninety-nine (99) years or more after the approval.
- 7.04 Unless otherwise stated in the bylaw authorizing the disposal of land by lease, a bylaw authorizing the disposal of land by lease either before or after coming into force of this bylaw shall be deemed to include the initial term plus additional terms or renewals of up to an additional thirty (30) years beyond the expiry of the initial term, provided that the total of the initial term and any subsequent renewals or extensions shall not exceed ninety-nine (99) years.
- 7.05 Subject to Section 7.04, the SAO shall have authority and may approve extensions or renewals of land leases on terms consistent with this bylaw.
- 7.06 Whatì shall, in selling, leasing or otherwise disposing of land for residential purposes, ensure that prospective private home owners have preference over land applicants who wish to acquire more than one lot at a time, except when residential lots are required for social housing purposes.
- 7.07 A bylaw for the disposal of land must be in writing and all documents must be executed in a format acceptable to Whatì.
- 7.08 In selling, leasing, or otherwise disposing of new lots, Whatì shall require that all improvements proposed in the application shall begin within twelve (12) months and must be completed within sixty (60) months after the effective date of the lease or agreement for sale. Subject to Section 7.09, if construction is not undertaken as outlined in this section after thirty six (36) months, the lease or agreement for sale may be cancelled at the sole discretion of Council.
- 7.09 Council may allow a maximum extension of twenty-four (24) months to either the commencement or completion term provided for in Section 7.08. The following may be required before Council considers an extension:
- 7.09.a written explanation for the delay in construction;
  - 7.09.b written plan to complete construction within the extension period including a Development Permit application or Building Permit, if applicable;
  - 7.09.c proof of approved financing; and
  - 7.09.d no outstanding debts to Whatì other than current payables.

- 7.10 Where an extension is granted, Council may impose any conditions it deems appropriate as a condition of the extension, including a requirement that the applicant pay a penalty in an amount set by Council not to exceed ten percent (10%) of the assessed value of the land.
- 7.11 Subject to Section 7.12, Council shall dispose of lands owned by Whatì by one or more of the following means:
- 7.11.a public tender;
  - 7.11.b development proposal call; or
  - 7.11.c first-come-first-served basis.
- 7.12 If a parcel of land, because of its size or location, is of use only to an adjoining property owner, Whatì may offer it to the adjoining property owners without first offering the land to the General Public.
- 7.13 Prior to disposing of community government lands through means of a ballot draw, Council shall, by motion, establish any additional conditions on the process thought necessary.

## **8.0 PRICING OF NEW LOTS**

- 8.01 New Lots are any lots developed after August 4, 2005. The lot price for New Lots shall be determined by development costs, including any allowance for site-specific factors and off-site levies.

## **9.0 PRICING OF EXISTING LOTS**

- 9.01 Existing Lots are lots established before August 4, 2005. The lot price for Existing Lots shall be based on the Assessed Value of Land as indicated in the most recent Certified Assessment Roll for the Community Government of Whatì.
- 9.02 An Existing Lot includes lots approved after August 4, 2005, if the lot is adjacent to a road right of way existing on August 4, 2005. For these lots, Assessed Value will be estimated for the purposes of concluding a lease and lease rental will be adjusted accordingly once the lot is assessed and appears on the Certified Assessment Roll.

## **10.0 LEASE RATES FOR NEW LOTS**

- 10.1 Standard Leases – No standard leases will be issued for New Lots.
- 10.2 Equity Leases
- 10.2.a Where a lessee is acquiring a mortgage, the lessee shall pay the lot price **in full** at the time of signing an equity lease, after which the annual payment shall be \$1.00.



- 10.2.b Where a lessee is not acquiring a mortgage, the lessee may request Council approval for the granting of an equity lease where payments are made **over time**. If the equity lease is to be paid over time, the initial payment shall be a minimum of ten percent (10%) of the lot price. Payment of the balance will include an annual interest charge of seven and one-half percent (7.5%) per year, plus the annual lease administration fee and must be made in equal payments, over a maximum period not to exceed ten (10) years from the commencement date of the equity lease.
- 10.2.c The unpaid balance of the equity lease may be paid at any time without penalty and with no further interest due. After payment of the balance is complete, the annual payment shall be one dollar (\$1.00).

## **11.0 LEASE RATES FOR EXISTING LOTS**

### **11.1 Standard Leases for Existing Residential Lots**

- 11.1.a The annual fee for standard leases on Existing Residential Lots for individuals who have lived in the community for more than five (5) years shall be two hundred fifty dollars (\$250.00).
- 11.1.b The annual fee for standard leases on Existing Residential Lots in all other cases shall be six hundred dollars (\$600.00).

### **11.2 Standard Leases for Existing Commercial and Industrial Lots**

- 11.2.a Annual fees for standard leases on Existing Lots shall be five percent (5%) of the Assessed Value of Land as indicated in the most recent Certified Assessment Roll available however the annual fee for standard leases on Existing Lots shall not be less than six hundred dollars (\$600.00).

### **11.3 Equity Leases**

- 11.3.a Payment for an equity lease shall be equal to the Assessed Value of Land as indicated in the most recent Certified Assessment Roll. The entire value of the equity lease may be paid upon signing the equity lease or the value may be paid off over time. If the equity lease is to be paid over time, the initial payment shall be a minimum of ten percent (10%) of the lot price.
- 11.3.b Payment of the balance will include an annual interest charge of seven and one half percent (7.5%) per year, plus any annual lease administration fee in effect and must be made in equal payments, over a maximum period not to exceed ten (10) years from the commencement date of the equity lease.
- 11.3.c The unpaid balance of the equity lease may be paid at any time without penalty and with no further interest due. After payment of the balance is complete, the annual payment shall be one dollar (\$1.00).

## **12.0 ANNUAL LEASE ADMINISTRATION FEE**

- 12.01 Council may, by motion, set an Administration Fee to be applied to all standard leases. This fee should be the anticipated averaged cost for the administration of all community government leases.

12.02 Once an equity lease has been paid in full, there shall be no further Annual Lease Administration Fees for that lease.

### **13.0 LATE PAYMENT FEES**

13.01 Where any portion of the lease payment is unpaid for more than ninety (90) days, Council may determine a late payment fee on the arrears for every thirty (30) additional days in arrears.

### **14.0 OFF-SITE LEVIES**

14.01 Whatì may levy charges against land being developed, whether by the Community Government or by a private developer, to pay for all or part of the capital costs for all or any of the following:

- 14.01.a new or expanded facilities for the storage, transmission, treatment, or supply of water;
- 14.01.b new or expanded facilities for the storage, treatment, movement or disposal of sewage;
- 14.01.c new or expanded storm sewer drainage facilities;
- 14.01.d new or expanded roadways and sidewalks; and
- 14.01.e land required for, or in connection with, any of the facilities described above.

14.02 Whatì shall place all off-site levy revenues in a separate account, to be used for the purposes for which the levy is intended.

### **15.0 EASEMENTS AND OTHER DISPOSITIONS**

15.01 Other dispositions of land that do not convey exclusive possession to the land, such as easement agreements and right-of-way agreements, shall be valued at the minimum rate of

- 15.01.a two hundred fifty dollars (\$250) per year, or
  - 15.01.b at fifteen dollars (\$15.00) per year per kilometre, or
  - 15.01.c five percent (5%) per year of the lot price,
- whichever is greater.

### **16.0 LEASE ASSIGNMENTS/TRANSFERS**

16.01 An assignment or transfer of a lease may be considered by the SAO and such consent shall not be unreasonably withheld but subject to the following:

- 16.01.a annual lease fees owing to Whatì must be paid in full;
- 16.01.b any property taxes relating to the property must be paid in full;
- 16.01.c provision of the duplicate original lease if available or completion of a statutory declaration of loss form;
- 16.01.d \$100.00 payment for administrative expenses incurred by Whatì.



## **17.0 CONSENTS**

- 17.01 The SAO shall be authorized to consent and sign, on behalf of the Council, "Consent to Mortgage of Lease" documents with respect to land leased by Whatì and such consent shall not be unreasonably withheld.

## **18.0 LEASE SURRENDERS**

- 18.01 Full or partial surrender of a lease may be granted subject to the following:
- 18.01.a the lease fees owing to Whatì must be paid in full;
  - 18.01.b any property taxes relating to the property must be paid in full;
  - 18.01.c the lessee must deliver up to Whatì the duplicate original lease surrendered for the property, if in the possession of the lessee, for full or partial cancellation as the circumstances require; and
  - 18.01.d no improvement are located on the property being surrendered, unless a new lease is being issued to the owner or intended owner of any improvements on the property being surrendered.

## **19.0 CANCELLATION OF LEASE**

- 19.01 Whatì may cancel a lease due to non-compliance with any terms and conditions of a lease.

## **20.0 QUARRIES**

- 20.01 Whatì may, upon receipt of a quarry application, issue quarry permits for the temporary use of a quarry site.
- 20.02 Prior to the issuance of a quarry permit, Council shall, by motion, establish quarry fees and any exemptions to such fees.
- 20.03 Fees established under this article shall reflect the cost of development, operation, maintenance, administration and restoration of quarries.

## **21.0 LAND USE PERMITS**

- 21.01 Whatì may issue land use permits for the temporary use of land.
- 21.02 Any environmental impacts of the proposed use must be addressed by the applicant to the satisfaction of Whatì prior to the issuance of a permit, and such approvals will be subject to the review and approval of other regulatory authorities, if applicable.

## 22.0 BYLAW ADMINISTRATION

- 22.01 Council shall, by motion, prescribe the forms, procedures and agreements required for the administration of this bylaw.
- 22.02 Whatì shall charge a fee, to be established by Council from time-to-time, for the issuing of documents for the registration of mortgages, and the preparation of other related documents requiring research by Whatì staff.
- 22.03 Subject to Section 7.04, the SAO may approve applications to extend or replace existing land leases for community government lands, without the necessity of bringing the application to Council for approval, in cases where:
- 22.03.a the Council has previously authorized the lease of the land;
  - 22.03.b the applicant is the current lessee under the lease
  - 22.03.c the applicant is not in default under the existing lease;
  - 22.03.d the applicant's use of the land is permitted under the current Zoning Bylaw (if applicable);
  - 22.03.e the replacement lease will be in the standard form then in use by Whatì for lands of that use; and
  - 22.03.d the applicant has provided all documents and fees required to process the application.

## 23.0 LAND LEASE APPLICATION WAIVER

- 23.01 To assist long-term residents in completing their land lease applications *for residential parcels only*, Council establishes a Land Lease Application Waiver as follows:
- 23.01.a Where a Whatì resident, who was in their residence on an existing parcel of land since 2005 or before, and does not have a current land lease in place, Council authorizes the SAO to waive the Land Lease Application Fee to assist the resident in the application process.
  - 23.01.b The Land Lease Application Waiver can only be applied to the application fee for a residential land lease.
  - 23.01.c The **Land Lease Application** waiver is **ONE-TIME ONLY**, and can only be applied to the initial land lease on a residence that existed at the time when the Community Government of Whatì was incorporated (August 2005).
  - 23.01.d This grant does NOT apply to NEW LOTS (see Section 10), or for residences constructed, on lease land after August 2005.
  - 23.01.e This grant does NOT apply for Land Lease Amendments or Assignment of Land Lease agreements.
  - 23.01.f No resident shall receive more than ONE WAIVER without Council's prior approval via a Motion of Council.



**24.0 SENIORS GRANT - ANNUAL LAND LEASE GRANT**

- 24.01 To assist senior residents in the Community Government of Whatì, Council establishes an **Annual Land Lease Grant** as follows:
  - 24.01.a Where the land lease holder is a full-time Whatì resident, residing in the community for more than six (6) months each year, and who has reached the age of sixty-five (65) years of age, Council authorizes the SAO to provide for an Annual Land Lease Grant.
  - 24.01.b The Annual Land Lease Grant shall be no more than two hundred fifty (\$250.00) and can only be applied against the annual land lease fee.
  - 24.01.c The Annual Land Lease Grant is a ONE-TIME grant applicable each land lease year.
  - 24.01.d The Annual Land Lease Grant applies **ONLY** to residential land lease applications.
  - 24.01.e No resident shall receive more than ONE Annual Land Lease Grant without Council's prior approval via a motion of Council.


**25.0 GENERAL**

- 25.01 This Bylaw shall come into effect upon Third and Final Reading.
- 25.02 Bylaw 03/05, Bylaw 76-05 and Bylaw 13-07 shall be repealed upon this bylaw coming into effect.

READ a first time this 19<sup>th</sup> day of, November 2012.

READ a Second time this 19<sup>th</sup> day of, November 2012.

*I CERTIFY that this bylaw was posted in the community for two (2) weeks at Community Government of Whatì Administration Office and the Tìjcho Government Administration Building.*

  
\_\_\_\_\_  
Larry Baran, SAO

Read a Third and Final time this 3<sup>rd</sup> day of, December 2012.

  
\_\_\_\_\_  
Chief Alfonz Nitsiza

  
\_\_\_\_\_  
Larry Baran, SAO

As per Section 71(1)(d) of the *Tłı̄cho Community Government Act*, I hereby certify that this bylaw has been made in accordance with the requirements of *Tłı̄cho Community Government Act*, and the bylaws of the municipal corporation of the Community Government of Whatı̄.



Larry Baran, SAO

