



THE CORPORATION OF THE CITY OF VERNON

**MEMORANDUM**

**TO:** Will Pearce, Chief Administrative Officer **FILE:** 6135-01

**PC:** Kim Flick, Director Community Infrastructure and Development **DATE:** August 2, 2022  
James Rice, Director Operations Services  
K. Kryszak, Manager Parks and Public Spaces  
Maintenance

**FROM:** L. Cordell, Manager, Long Range Planning and Sustainability

**SUBJECT:** **HURLBURT TENURE APPLICATION – RESOLUTION REQUIREMENT**

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The City has received notice of final review on the application for a licence for a community park at Hurlburt Park (Attachment 1). This notice outlines final requirements for the province to consider when deciding on this matter. Administration is completing the majority of the requirements including updating the management plan and site plan as well as signing the tenure documents, pending Council endorsement.

In addition, a Council resolution indicating that Council will agree to acquire the Licence for the term of 30 years is required. This memorandum requests Council endorsement of the required resolution. This resolution is one of the final steps in getting a Licence over this land supporting the continued use of the swimming area at Hurlburt Park.

**RECOMMENDATION:**

THAT, Council agrees to acquire the Licence for tenure of Hurlburt Park for the term of 30 years from the Province over the land described as all the unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Eastside Road and that portion of the North ½ of the North East ¼ Shown on plan B3945, Section 4, Township 13, Osoyoos Division Yale District, containing 2.2 hectares, more or less for the community park purposes as outlined in the memorandum titled “Hurlburt Tenure Application – Resolution Requirement” dated August 2, 2022 and respectfully submitted by Laurie Cordell, Manager Long Range Planning and Sustainability.

Respectfully submitted:

Laurie Cordell,  
Manager, Long Range Planning and Sustainability

Attachment 1 – Notice of Final Review, June 16, 2022  
Attachment 2 – Approximate Area of Crown Tenure



Ministry of Forests  
441 Columbia Street  
Kamloops, BC V2C 2T3

Telephone No: 778-362-4574  
Facsimile No: 250-828-4442

GST Registration No: R107864738

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Your contact is: Erin Smith

Our file: 3413340

Your file: 6135-03

**NOTICE OF FINAL REVIEW**

June 16, 2022

City Of Vernon  
3400-30th St  
Vernon, BC V1T 5E6

Attention: Susan Abbott

Dear Sir/Madam:

**Re: Your Application for a Tenure over Crown Land**

The review of your application for a licence for community park purposes over:

All that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Eastside Road and that portion of the North 1/2 of the North East 1/4 Shown On Plan B3945, Section 4, Township 13, Osoyoos Division Yale District, containing 2.20 hectares, more or less

(the "Land") has reached the stage where we anticipate making our final decision once the various matters described in this letter have been completed.

**1. Deadline for Completion of Requirements**

We ask that you complete the requirements described below by August 16, 2022.

Please complete the Response to Notice of Final Review page attached, indicating whether you will or will not proceed with the application and sign and return that page to us for our records.

**2. Requirements**

### Signing and Return of Tenure Documents

You must sign and deliver to us two copies of the licence document which are enclosed with this letter. You are responsible for ensuring that this is properly completed including, if applicable, obtaining any appropriate corporate authorizations and having any Land Title Act Form C or D witnessed by a solicitor, notary or commissioner.

### Insurance

We confirm receipt of evidence of insurance. Upon request, you must submit to our office proof of continuation of your insurance.

### Management Plan

You must submit to us an updated management plan pertaining specifically to the application area for our review and approval.

### Site Plan

You must submit an updated Site Plan for our review and approval that shows the approximate size and location of any proposed or existing improvements. (e.g. docks, buildings, signage, trails, structures, roads, powerlines, fences, etc.) A north arrow and tenure boundaries are also to be included.

### Additional Requirements

Council resolution must be passed to acquire the Land. The Council resolution must indicate that the Council will agree to acquire the Licence for the term of 30 years from the Province over the land described as all that unsurveyed Crown foreshore being part of the bed of Okanagan Lake and fronting on Eastside Road and that portion of the North 1/2 of the North East 1/4 Shown On Plan B3945, Section 4, Township 13, Osoyoos Division Yale District, containing 2.20 hectares, more or less for the community park purposes.

## **3. Process following completion of Requirements**

If the requirements set out above are completed within the required time we expect to make our decision and advise you of that decision within 30 days.

Please note however that this letter does not constitute an offer by us and we reserve all our rights in connection with the decision making process, including, if appropriate, to disallow your application, to extend the decision making process and to establish additional requirements not set out in this letter.

Upon decision to issue the licence to you we will sign and return one copy of the licence to you.

#### **4. Acknowledgments of the Applicant**

You represent, acknowledge and agree that:

- (a) Your application for a Crown land tenure cannot be transferred to another person.
- (b) This Letter does not obligate us to issue the licence to you and does not give you any right to use or occupy the Land for any purpose.
- (c) You are responsible for, and encouraged to seek, your own legal advice with respect to:
  - (i) any laws, bylaws, orders, directions, ordinances and regulations associated with your use of the Land,
  - (ii) the terms and conditions set out in this Letter, and
  - (iii) the terms and conditions of, and your rights and obligations that will arise under, the licence.
- (d) You are responsible for the costs and expenses incurred by you in pursuing your application, including any cost you incur in connection with satisfying the requirements set out in this letter.
- (e) If you sign and return the licence to us that will constitute your offer to us to enter into the licence.

#### **Freedom of Information**

Personal information is collected under the *Land Act* for the purpose of administering Crown land. Information on your application, and if issued, your tenure, will become part of the Crown Land Registry, from which information is routinely made available to the public under Freedom of Information and Protection of Privacy legislation.

Yours truly,



Authorized Representative

**Response to Notice of Final Review**

File No. 3413340

Ministry of Forests  
441 Columbia Street  
Kamloops, BC V2C 2T3

Dear Erin Smith:

**Re: Application for licence**

- I/We wish to proceed to obtain a licence in accordance with the letter dated June 16, 2022 from the Ministry of Forests and enclose all copies of the licence which I/We have signed.
  
- I/We do not wish to proceed to obtain a licence in accordance with the letter dated June 16, 2022 from the Ministry of Forests.

DATED the \_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Applicant's signature/Applicant's  
representative's signature

\_\_\_\_\_  
Applicant's signature/Applicant's  
representative's signature

\_\_\_\_\_  
Print name of person signing

\_\_\_\_\_  
Print name of person signing

### **For Your Information**

- You must use and occupy the land in accordance with and for the purposes set out in the Management Plan.
- You must not construct, place, or affix any Improvement on or to the Land without prior written consent.
- Tenure holders are expected to abide by local government zoning, bylaws, and guidelines.
- Be advised the tenure area overlaps with the Species at Risk: American Badger and Critical Habitat for Federally Listed Species: Western Rattlesnake & Great Basin Gophersnake. Any future works may require referrals with relevant agencies to determine appropriate provisos, management and mitigation strategies.
- Ecosystems recommended the following conditions:
  - There is potential for several small species-at-risk to be present on site. We recommend the City of Vernon retain a qualified environmental professional (QEP) to search for the following in areas where soil disturbance will occur (e.g. creation of parking lot, picnic shelter, trails etc.)
  - gopher snakes and hibernacula—gopher snakes often den in abandoned mouse burrows and are known to occur within 2 km of this property, so may be on site
  - badger dens—if any are located, please contact regional biologist Jamie Leathem at [Jamie.Leathem@gov.bc.ca](mailto:Jamie.Leathem@gov.bc.ca) or 250-490-8294. Destruction of dens is prohibited under the Federal Species at Risk Act (SARA)
  - wildlife trees--dead/dying trees that provide excellent nesting and foraging habitat for several types of animals. Wildlife trees should be retained if possible.
  - Ensure that any clearing activities do not result in the introduction and spread of invasive weed species into previously undisturbed areas. Under Section 2 of the provincial *Weed Control Act*, an occupier of land is responsible for controlling noxious weeds growing or located on that land. To aid in meeting this requirement, The Invasive Plant Council of BC has prepared a best management practice (BMP) document<sup>i</sup> for managing invasive plants on roadsides that is also generally applicable to other clearing activities.

- Nesting birds are protected from harm under Section 34 of the provincial *Wildlife Act*, along with year-round protection of nests of eagles, peregrine falcons, gyrfalcon, osprey, heron, and burrowing owls. Any vegetation clearing should avoid in the following nesting windows:
    - February 1 to August 15 for raptors and herons
    - April 1 to August 31 for most other bird species.
  - If clearing must occur during the above time periods, the proponent must hire a qualified professional to survey for active nests within the proposed disturbance areas and provide appropriate mitigation.
  - Portions of the foreshore are kokanee spawning Red and Yellow Zones—consider signage prohibiting dogs in the lake within these zones between Oct 1 and May 31.
- It is the proponent's responsibility to ensure his/her activities are in compliance with all relevant legislation, including the *Water Sustainability Act* and the *Wildlife Act*.
  - A moorage structure exists within your Licence area. A Specific Permission is required for any dock or floating structure that does not meet the General Permission Guidelines. Please ensure that the dock meets the General Permission Guidelines.
  - Please review the information at the following website, and if your dock does not meet the General Permission guidelines, please contact FrontCounter BC at 1-877-855-3222. <https://www2.gov.bc.ca/gov/content/industry/crown-land-water/crown-land/crown-land-uses/residential-uses/private-moorage>
  - You must comply with the Private Moorage guidelines that are in effect at the time improvements are constructed, repaired, or replaced.
  - You must obtain a "*Water Sustainability Act*" Section 11 notification from the Ministry of Forests prior to initiating any work within the natural boundary (below high-water mark).
  - An application for a Section 11 to conduct "works in about a stream" can be made through Front Counter BC at the following link: <http://www.frontcounterbc.gov.bc.ca/>
  - Construction in or around water must only take place during the appropriate timing windows specified by Fisheries and Oceans Canada
  - You must ensure your activities are in compliance with all relevant Transport Canada legislation, including the *Navigation Protection Act*.

- Refer to Fisheries and Oceans website, which also includes regional freshwater timing windows: <https://www.dfo-mpo.gc.ca/pnw-ppe/timing-periodes/index-eng.html>
- Be advised the tenure area overlaps with an archaeological site. You must take all reasonable precautions to avoid disturbing or damaging any archaeological material found on or under the Land and, upon discovering any archaeological material on or under the Land, you must immediately notify the ministry responsible for administering the *Heritage Conservation Act*.
- Please be advised we have granted Telus Communications Inc. a Licence on File No. 3407658 for telecommunication line purposes with in the area.





ATTACHMENT 2: APPROXIMATE AREA OF CROWN TENURE - HURLBURT PARK 2022-08-09