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Sponsor/Group:	General Manager Community

## Community Occupancy Policy

### Purpose and scope

1. The purpose of this Policy is to:
  - a. outline the framework for decision making regarding Community Occupancy.
  - b. make Land and/or Buildings available for use by Groups for Purposes outlined in an Occupancy Agreement.
  - c. support the vital role of Groups by providing a significant rental subsidy for Occupancy.
2. This Policy applies to use of Land and/or Buildings by Groups.
3. This Policy does not apply to groups not considered a 'Group' as defined by this policy or casual hireage of Land and/or Buildings.
4. This policy should be read in conjunction with the Hamilton District Plan and Reserves Act 1977.

### Definitions

Definition	Detail
10-Year Plan	Council's adopted Long-Term Plan as defined by the Local Government Act 2002.
Building(s)	Council-owned buildings made available by the Council for use by Groups.
Commercial Activity	Sale of goods or services, aligned to the Purposes e.g. pro-shop, kiosk, canteen.
Commercial Occupancy Agreement	A Community Group Commercial Agreement for occupation of a specified area of Land and/or Buildings for a Commercial Activity operated by a commercial entity.
Group(s)	A Community Group which is a not-for-profit organisation that is incorporated, either under the Incorporated Societies Act 1908 or the Charitable Trusts Act 1957 or established under any other statute, and: <ol style="list-style-type: none"> <li>a) provides a Community Service;</li> <li>b) does not make distributions of profits to its members; and</li> <li>c) does not have a primary purpose of promoting party politics.</li> </ol>
Guidelines	The Community Occupancy Guidelines for the purpose of assisting in the administration of Community Occupancies.
Land	Council-owned or -administered land made available by the Council for use by Groups.

Lease	A Community Group Lease; a legal agreement between a Group as lessee and Council as lessor granting the Group exclusive use and occupation of specified Land and/or Buildings for Purposes and Services.
Licence to Occupy	A Community Group Licence to Occupy; a legal agreement between a Group as licensee and the Council as licensor granting the Group a non-exclusive right to occupy specified Land and/or Buildings.
Occupancy	The community occupancy of Land and/or Buildings by a Group for Purposes pursuant to an Agreement.
Occupancy Agreement	A Community Group Lease or Licence to Occupy.
Outcomes Plan	A strategic direction plan developed in consultation with Council staff, which identifies benefits of the Groups Services aligned to City Strategies and Plans that measures performance.
Purpose(s)	Activities which benefit Hamilton communities rather than being aimed at benefitting a particular individual.
Service(s)	Services, activities and programmes provided by a Group for Purposes.
Staff	Staff of the Council.
Strategies and Plans	Council's adopted Strategies and Plans. These include (but are not limited to): Access Hamilton, Hamilton Arts Agenda, Open Spaces Plan, Sports Park Management Plan, Youth Action Plan.
The Council	Hamilton City Council and includes any committee, subcommittee or person acting under delegated authority.
Valuer	Independent Registered Valuer.

## Principles

5. The Council will support Groups by making Land and/or Buildings available for Occupancy.
6. The Council wishes to enable Groups to support Council's vision and community outcomes as defined in the 10-Year Plan, as well as Strategies and Plans.
7. The Council will endeavour to ensure equity, consistency and transparency in the allocation of Occupancy.
8. The Council will endeavour to maximise community benefit from Occupancy.
9. The Council will set rental at a rate that empowers Groups to be sustainable.
10. The Council will quantify the level of assistance provided to Groups through Occupancy.
11. The Council will encourage shared/multi-use of Land and/or Buildings to optimise community benefit.
12. The Council will aspire to balance maximising open space with enabling growth and responding to future community needs and trends.

## Policy

### Eligibility Criteria for Community Occupancy

13. To be eligible for consideration for Occupancy, Groups shall:
  - a. meet the definition of 'Group' as defined by this Policy;
  - b. provide a 'Service' as defined by this Policy;
  - c. provide and demonstrate a Service that supports the Council's vision and outcomes as defined in the 10-Year Plan, as well as Strategies and Plans;
  - d. not impose restrictions that may unreasonably exclude people who might want to participate;
  - e. be sustainable for the term of the Occupancy in terms of:
    - financial viability to fulfil obligations, and;
    - membership and/or users of the service.
  - f. demonstrate a clear and effective governance structure;
  - g. demonstrate accountability through reporting requirements ;
  - h. any other requirements as determined by Staff from time to time.
14. The eligibility criteria must be met throughout the term of the Occupancy Agreement.
15. Staff may monitor activities of the Group to ensure that the eligibility criteria continue to be fulfilled.

### Application Process

16. If a Group is considered eligible for Occupancy, the application shall be assessed by Staff in accordance with this Policy and the Guidelines.
17. All applications will be presented to the Council with a recommendation from Staff .
18. The Council have the discretion to approve or decline any application.

### Guidelines for administration of Community Occupancies

19. Staff may from time to time update or amend the Guidelines to assist in the administration of Occupancies and will inform Groups of any changes.

### Community Occupancy Agreements

20. Occupancy Agreements shall be in place prior to Occupancy.
21. Occupancy Agreements shall take the form of either a Licence to Occupy or a Lease.
22. Occupancy Agreements in relation to Land that is subject to the Reserves Act 1977 will reflect the requirements of the Reserves Act 1977 and any applicable regulations.
23. A Group must not assign, sublet or dispose of their interest in an Occupancy Agreement without approval from the Council.

### Maximum Tenure

24. Occupancy Agreements shall be granted for a defined period no greater than the maximum occupancy as outlined in the following table:

TYPE OF AGREEMENT	CATEGORY	MAXIMUM OCCUPANCY
Community Group Licence to Occupy	Non-exclusive occupation of Council-owned (or administered) land only or land and buildings or space within a multi occupancy Council-owned building	Five years
Community Group Lease	Council-owned (or administered) land only	10 years
	Council-owned (or administered) land and building	10 years
	Space within a multi Occupancy Council-owned building	10 years
	Community Group-owned building on Council-owned (or administered) land	15 years

25. A shorter occupancy term may be recommended to the Council by Staff as deemed appropriate.

26. Occupancy Agreements shall have no automatic right of renewal.

#### Rental

27. The rental that shall be paid by a Group for use of Buildings and/or Land is calculated by first determining a market rate (Step 1) and then applying a rental subsidy (Step 2).

#### Market Rates (Step 1)

28. Market rates for Buildings and Land, as well the category ranks for all Buildings shall be reviewed by a Valuer three months prior to a policy review.

29. A Building is assessed against the following criteria to determine a category rank:

- a. Amenity (décor, fit out, heating, ventilation, air conditioning, lighting, accessibility, security, car parking, surrounds)
- b. Location
- c. Market Value (taking into account any restrictions on use)
- d. Quality (age, construction, presentation, maintenance, design, utilisation)
- e. Best and Highest Use
- f. Type (office, commercial, industrial, other use)

30. The Building category rank assigned to a Building will determine the square metre market rate as set out in the following table:

Building Category Rank	Market Rate/m2 (per annum)
1	\$120.00
2	\$80.00
3	\$55.00
4	\$40.00
5	\$22.50

6	\$15.00
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31. A full description of each category rank is outlined in the Guidelines.
32. The land area square metre market rates for Land are set out in the following table:

Land Area (m <sup>2</sup> )	Market Rate/m <sup>2</sup> (per annum)
0 - 100	\$6.75
101 – 500	\$5.75
501 – 1000	\$4.50
1001 – 10,000	\$1.30
10,001 – 100,000	\$0.60
100,001 +	\$0.05

33. The square metre market rate for Land will be calculated using a sliding scale. For example, the rental for 500m<sup>2</sup> of land would be calculated at \$6.75/m<sup>2</sup> for the first 100m<sup>2</sup> and \$5.75/m<sup>2</sup> for the remaining 400m<sup>2</sup>.

### Rental Subsidy (Step 2)

34. A rental subsidy shall be applied to the market rate to determine a rental for an Occupancy.
35. To assist Staff in determining a rental subsidy, financials for the past three year-end periods must be provided upon application for Occupancy.
36. A standard rental subsidy to the Buildings and/or Land market rates will apply to all Groups unless a Group meets the following criteria:
- The Group has a total revenue more than \$2,000,000; **AND**
  - The Group has a financial surplus more than \$100,000; **AND**
  - The Group receives Central Government Funding
37. A reduced rental subsidy to the Buildings and/or Land market rates will apply where a Group meets the criteria in the above clause.
38. A Commercial Occupancy Agreement (for an approved commercial activity operated by a commercial entity), will receive a further ¼ reduction in rental subsidy for that area of the Occupancy.
39. The subsidy percentages are set out in the following table:

Type of Agreement	Standard Subsidy	Reduced Subsidy
<b>Occupancy Agreement (may include an approved commercial activity operated by a Group)</b>	87.5%	50%
<b>Commercial Occupancy Agreement (with an approved commercial activity operated by a commercial entity)</b>	65.5%	37.5%

40. The Council may use its discretion to approve a further rental subsidy where exceptional

circumstances apply.

41. An application for exceptional circumstances will be assessed in accordance with the criteria outlined in the Guidelines.

#### **Rental Reviews**

42. Where agreements allow for rent review, any change in annual rental shall be applied from 1 January on the anniversary of the Occupancy Agreement, following approval of the change.

#### **Occupancy Responsibilities**

43. Groups standard outgoing occupancy responsibilities (e.g utilities, rates, building repairs) are set out in the Guidelines.

#### **Shared/multi-use**

44. Groups will be encouraged to share/multi-use Land and/or Buildings in order to;
  - a. optimise use and resources;
  - b. improve sustainability;
  - c. acknowledge the community benefits of co-locating services and activities.

#### **Community Outcomes Plan**

45. Upon the Council's approval of an Occupancy Agreement, the Group must develop an Outcomes Plan with Staff prior to entering into an Agreement.
46. The Outcomes Plan shall form part of the Community Occupancy Agreement.
47. The Outcomes Plan shall be monitored by Staff in partnership with the Group.
48. If Staff identify any issue(s) that may prevent an Outcomes Plan from being met then Staff will discuss with the Group possible options for dealing with such issues.

#### **Commercial Activity**

49. All applications to operate a Commercial Activity shall be assessed in accordance with the Guidelines.
50. Any Commercial Activity operated by a commercial entity must be approved by the Council before it can be operated within an Occupancy.
51. Any Commercial Activity operated by a Group must be approved by Staff before it can be operated within an Occupancy.
52. If the Land is subject to the Reserves Act 1977, the proposed Commercial Activity must enable the public to obtain benefit and enjoyment of the reserve and/or for the convenience of persons using the reserve.
53. A Commercial Activity that the Council considers to exclusively occupy a significant part of a Building within an Occupancy will be considered a commercial lease and therefore does not apply under this Policy.

#### **Facility Development Proposals**

54. All facility development proposals will be assessed in accordance with the criteria outlined in

the Guidelines.

55. Any new or significant facility development or redevelopments within an Occupancy will require approval by the Council.
56. Any minor facility development or redevelopments within an Occupancy will require approval by Staff.

### Accountability

57. Groups are required to report annually on the following;
  - a. achievements in line with an Outcomes Plan;
  - b. statement of service performance (where applicable);
  - c. annual report;
  - d. annual accounts (Council may require these to be audited accounts);
  - e. adopted budget for the forthcoming year.
58. Groups may be required by Staff to provide further information on their activities upon request from time to time.

### Monitoring and Implementation

59. The Policy shall be effective from the date it is adopted by the Council.
60. The General Manager Community will monitor the implementation of this Policy.
61. The Policy will be reviewed every three years or at the request of the Council or in response to changed legislative and statutory requirements or in response to any issues that may arise.

### References

- Community Group Lease
- Community Group Licence to Occupy
- Community Occupancy Guidelines
- Local Government Act 2002
- Reserves Act 1977