



## **HERITAGE LAND BANK POLICIES**

### **I. OVERVIEW**

The Municipality of Anchorage's Heritage Land Bank (HLB) is responsible for managing the majority of the municipality's land base, currently consisting of over 7,000 acres. This acreage is distributed from Chugiak to Girdwood and classified as residential, commercial, industrial, open space and recreational areas. The HLB manages this land in a manner designed to benefit the present and future citizens of Anchorage, promote orderly development, and achieve the goals of the Comprehensive Plan (Anchorage Municipal Code section 25.40.010).

All land and resources subject to HLB management should be included in the HLB Inventory. Land transferred to the Municipality from the State of Alaska under separate agreement or as part of the Municipal Entitlement Act is added to the inventory. Land may be withdrawn from the inventory and management transferred to other municipal agencies if such land is needed for the location of public facilities or purposes, including schools and dedicated or designated parks and open space. In addition, if HLB land is determined excess to specific public facilities or purposes, such land may be disposed of through land sales, exchanges, leases, or easements. The HLB also issues permits for a variety of temporary use authorizations on HLB land.

An HLB Fund exists to receive income generated by the HLB land. The HLB Fund is used for HLB operating expenses, to acquire new land needed for municipal use, and for improvements to HLB land. All moneys held in the HLB Fund are managed in a public fiduciary capacity in an account separate from other municipal funds. HLB is not supported on a tax basis and therefore has no impact on property tax revenues.

The HLB Policies and the Anchorage Municipal Charter and Code provide the general principles and guidelines necessary to govern the HLB functions related to the management of HLB land and the HLB Fund.

Any issues not explicitly covered by these policies shall be reviewed and decided on a case-by-case basis by the HLB Director after consultation with the Municipal Attorney and a determination of compatibility with AMC chapter 25.40.

### **II. HERITAGE LAND BANK ADVISORY COMMISSION**

A seven member Heritage Land Bank Advisory Commission from a diversity of geographic residence, occupations, and civic involvement is appointed by the Mayor and confirmed by the Anchorage Assembly. The Advisory Commission generally makes advisory recommendations on proposed HLB actions to the Mayor and Assembly.

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Approved by the HLB Advisory Commission on April 10, 2008  
Amended and Approved by Municipal Assembly on August 12, 2008

Advisory Commission members serve a maximum of two consecutive three year terms. The Commission holds regular monthly meetings to consider proposed actions, except when there is no action pending.

### **III. PUBLIC NOTICE AND HEARING PROCEDURES**

The Heritage Land Bank Advisory Commission provides public notice and holds a public hearing prior to making a recommendation to the Mayor and Assembly regarding actions affecting HLB land or the HLB Fund. Public notice must precede a public hearing by at least 14 days. The public notice is accomplished by: (a) publication of the agenda in one or more newspapers of general circulation; (b) posting a sign on the land proposed for the action; and (c) providing individual notice to all property owners within 500 feet of the outer boundary of the affected HLB parcel (or the 50 parcels nearest the outer boundary of the HLB parcel, whichever is greater). In addition, the HLB also notifies the Community Council where the affected HLB land is located, per AMC 25.40.030.D.1, as well as posts the agendas on the HLB's Commission Information web page (<http://www.muni.org/hlb/advise.cfm>).

### **IV. HLB LAND DISPOSALS**

The HLB periodically makes determinations regarding disposal of land or interests in land, consistent with the Municipal Charter, Municipal Code, the HLB Five Year Management Plan and Annual HLB Work Program, and the HLB Policies and Procedures. All land disposals must also be consistent with the Comprehensive Plan and implementing measures as well as long-term municipal and community development needs. After a public hearing on a proposal, the HLB Advisory Commission submits a written finding and recommendation to the Mayor and Assembly, stating whether or not a proposed land disposal is in the best interest of the Municipality and consistent with the HLB's mission and purpose. Pursuant to AMC section 25.40.025H., "...the disposition shall include additional requirements and conditions to insure the proper development and completion of the project in the public interest. Disposals ... shall be through requests for proposals or through invitations to bid."

#### **A. Land Sales**

All proposed HLB land sales occur by an open competitive bid process for at least the appraised fair market value of the land. An application to purchase HLB land grants the applicant no right of preference or other priority.

#### **B. Land Exchanges**

The HLB may exchange HLB land for other land on at least an equal value basis, as determined by a fair market value appraisal by a certified real estate appraiser.

### **C. Leases**

Per Anchorage Municipal Code 25.40.025.F, leases are awarded by open competitive bid process based upon one of three forms of compensation: (a) for at least appraised fair market rental rates as determined by a certified real estate appraiser; or (b) a percentage of gross receipts; or (c) a user fee. Lease rates are adjusted at intervals of no less than every five years, except as otherwise approved by the Mayor and Assembly, to reflect current market conditions. HLB land may also be leased non-competitively to a non-profit agency for less than the appraised fair market value if the municipal benefits projected to accrue are found by the Mayor and Assembly to be in the best interest of the Municipality. An application to lease HLB land grants the applicant no right of preference or other priority.

### **D. Easements**

Easements are a disposal of an interest in land, granted non-competitively for a one-time fee based upon appraised fair market or use value, with approval of the Mayor and Assembly.

### **E. Rights-of-Way (ROW)**

Rights-of-Way are another form of land disposal where the area to be taken may be awarded non-competitively to a specific utility or government body requesting the ROW. As with easements, the HLB allows the disposal for a one-time fee or payment based on fair market or use value of the area to be disposed of as ROW.

### **F. Anchorage School District (ASD)**

AO 2007-124(S), passed 9/25/07, covers specific procedures for site selection and acquisition of properties for school lands, amending AMC chapter 25.40 to include a new section (AMC section 25.40.015D.), detailing selection, acquisition and compensation to HLB for land selected as a school site. Unless the Assembly opts to waive some or all of the acquisition costs, ASD compensates HLB for all land acquisition costs incurred.

## **V. PERMITS**

The HLB administratively issues a variety of use permits for HLB land and resources. These permits are not a disposal of HLB land; rather a permit is a temporary grant to an individual, corporation or agency of the right to use HLB land for a particular purpose for generally one year or less in duration. Permits issued for longer periods, not to exceed three years, will be allowed upon review by the Municipal Attorney's Office and approval of the HLB Advisory Commission. These authorizations include Land Use and Special Event Permits. The HLB Fee Schedule specifies the fees appropriate to various permits and use authorizations (see Section X).

## **VI. INTRA-GOVERNMENTAL AUTHORIZATIONS**

Generally Intra-governmental authorizations are granted to another municipal department or agency for the duration of a construction/utility project; where necessary to complete a specific project, the timeframe may exceed one year.

## **VII. WITHDRAWALS FROM THE HLB INVENTORY**

Some HLB lands are needed by other municipal agencies for specific municipal purposes. If the need is permanent or long-term in duration, the Mayor and Assembly may withdraw the land from the HLB Inventory and transfer it to Real Estate Services. Such withdrawals become effective only after at least 30 days prior written notice to the HLB Advisory Commission and at least one public hearing. If land is withdrawn from the HLB Inventory for the use and management of a public agency not supported by municipal taxes, compensation must be paid to the HLB for at least the fair market value of the land as well as administrative and associated costs. Withdrawals of HLB land for other municipal agencies shall include a date certain reverter clause, as determined by the HLB Director. If the agency does not use the parcel for the requested municipal purpose by the date certain, the Mayor shall designate the land for return to the HLB inventory, and it shall revert back to HLB management. The requesting agency may resubmit a second request for withdrawal at a later date, if necessary.

## **VIII. HLB LAND MANAGEMENT**

HLB land management practices are governed by Anchorage Municipal Code Chapter 25.40. The code requires the adoption by the Anchorage Assembly of a Five-Year HLB Management Plan, an Annual HLB Work Program, and Policies and Procedures covering the management of the HLB land and the HLB Fund. The Five-Year HLB Management Plan is included with the annual work program, and generally identifies the land acquisition, inventory, management, transfer, and disposal objectives anticipated during this timeframe. The Annual HLB Work Program includes more detailed descriptions of the proposed activities for the coming calendar year and related revenue and expenditure projections.

## **IX. HLB POLICIES**

### **A. Land Management Policies**

1. The HLB shall manage land in the HLB inventory with the objective of maximizing municipal purposes and benefits. Its present responsibility is to provide sites for public facilities and uses for the present and future citizens of the Municipality of Anchorage. The HLB shall consult regularly with other municipal agencies and the Municipal Assembly to determine whether HLB land is needed to fulfill various municipal purposes. If an agency has identified a municipal need for HLB land (present or future), and provides sufficient justification in support of the need, the HLB may either (a) initiate a process to remove the land from the HLB inventory

and transfer to Real Estate Services for transfer of management authority to the requesting municipal agency, or (b) create an Intra-governmental Authorization, and retain the land in the HLB Inventory.

2. All HLB land management decisions shall be based upon a finding of compatibility with municipal interests and the overall mission of the HLB. It is anticipated the majority of the land in the HLB inventory shall continue to be held for future municipal use. Where retained, HLB land shall be managed in a manner to protect and enhance its present and future economic and other municipal values. The HLB shall ensure all HLB lands are reasonably protected from adverse impacts, including fire, insect damage, plant disease, illegal dumping, Off-Road Vehicle damage, hazardous or contaminated materials, trespass, vandalism, theft, etc.

3. The HLB may allow temporary use permits on HLB land, provided such permits do not exceed one year (12 months). Such temporary use includes Special Land Use Permits (SLUP's), Temporary Construction Permits (TCP's), and such other specific use authorizations as approved in advance by the HLB.

4. The HLB may also allow Intra-governmental Authorizations (IGA's) between HLB and other municipal agencies requesting temporary uses that may exceed one year. A fee for the use may be charged at the discretion of the HLB Director.

5. All land use permits shall be based upon prevailing market rates, unless otherwise provided by AMC Chapter 25.40 or the HLB Fee Schedule. All payments due to the HLB and all terms of the permit shall remain current, or the HLB shall take appropriate action to ensure payment or terminate the permit.

6. The HLB shall regularly update and maintain complete and accurate land records in the HLB Inventory. The HLB shall continue integrating its land records with the Municipality's Geographic Information System (GIS) to enhance the ability of the HLB to make land use decisions based upon the best available information.

7. To the extent possible, the HLB shall strive to acquire and assemble additional HLB land to achieve more efficient and cost effective land management. The HLB shall explore land exchange opportunities with other landowners where doing so benefits municipal interests.

8. The use of HLB land for wetlands mitigation approved by the U.S. Army Corps of Engineers (COE) is allowed, provided the mitigation is consistent with the mission of the HLB and is approved by the HLB Advisory Commission and Assembly.

- a. HLB may execute an **In Lieu Fee Agreement** with the COE allowing the sale of credits to public or private developers. The funds received pursuant to an In Lieu Fee Agreement shall be used for subsequent wetland and/or riparian acquisition, restoration, creation, enhancement, and preservation in accordance with plans authorized by the COE.

- b. HLB may create a **mitigation bank** by placing conservation easements on lands already owned by the MOA. HLB may then sell the mitigation credits generated by this preservation to developers needing credits to satisfy COE permit requirements.
- c. HLB may enter into **permit-specific agreements** with developers to provide mitigation credits on an ad hoc basis, when approved by the COE.

9. HLB may issue long term leases on HLB land provided the lease use is approved by the Assembly and clearly reflects the value of the site for current and potential future use. Such potential leases should be actively considered prior to sale of HLB properties.

## **B. Land Use Planning Policies**

1. The HLB shall manage land and resources consistent with approved comprehensive plans and implementing measures. If it cannot be determined whether a proposed land management or disposal action is consistent with the appropriate comprehensive plan or implementing measures, the HLB shall complete a site specific land use study prior to taking action on the proposal; the land use study and process may be coordinated with the Planning Department. A site specific land use study shall address, at a minimum, the following information:

- a. The need for community facilities such as roads, parks, trails, schools, satellite municipal offices, etc.
- b. Identify historical and natural landmarks, natural hazards, and environmentally sensitive areas.
- c. Public utility needs.
- d. Potential residential, commercial and industrial uses.
- e. Land use compatibility with adjacent areas.
- f. Consistency with land uses identified in the Comprehensive Plan and with zoning in the area.
- g. Potential municipal, public and community development needs.

Site specific land use studies shall be adopted through a public process, including public notice, opportunity for public comment, public hearing, and HLBAC and Assembly adoption.

2. The Heritage Land Bank shall initiate prudent management practices as appropriate in order to increase the value of an HLB parcel including, but not limited to, rezoning and re-platting.

## **C. Land Disposal Policies**

1. The HLB regularly reviews land in the HLB Inventory to identify parcels that are potentially excess to municipal needs as part of drafting the annual HLB Work Program and Five-year Plan. If market conditions warrant, the HLB may take advantage of unforeseen opportunities not identified in the work program or five-year plan. If a proposed disposal is included, the HLB may initiate the disposal process.

2. The HLB may dispose of land when it is determined there is no current or considered municipal use for the land and market conditions are determined to be favorable. A decision to dispose of HLB land shall be based upon written findings addressing how the disposal is in the best interest of the Municipality and consistent with the purpose and mission of the HLB. The written finding shall also identify the details associated with the disposal, including method, timing, terms, projected effects on the neighborhood and public facilities, and other relevant information.

3. All land sales shall occur by an open competitive bid process for at least the appraised fair market value of the land. The HLB shall provide at least a 14 day period for accepting qualified bids to purchase land. The successful bidder shall be the applicant submitting the highest qualified bid. Unless otherwise authorized, sealed bid offerings shall be the preferred method of disposal. An application to purchase HLB land shall grant the applicant no right of preference or priority.

4. HLB land may also be leased non-competitively to a non-profit agency for less than the appraised fair market value, if the municipal benefits projected to accrue are found by the Mayor and Assembly to be in the best interest of the Municipality. HLB land may be leased to other than non-profit agencies only through an open competitive bid process. The method of compensation to the HLB shall be one of the following:

- a. At least appraised fair market value;
- b. A percentage of the annual gross receipts as determined by the HLB;
- c. A user fee as determined by the HLB; or
- d. Any combination of the above.

Lease rates shall be adjusted at intervals of no more than five years, except as otherwise authorized by the Assembly, to reflect current market conditions. An application to lease HLB land grants the applicant no right of preference or priority. Lease terms shall generally be commensurate with the length of the proposed uses, although no lease shall be for less than one year or longer than 55 years except as specifically authorized by the Assembly.

5. Lessees shall be consulted on proposed activities affecting their authorized uses or any proposed changes in lease terms and conditions. The HLB shall encourage lessees to make improvements to HLB land, consistent with lease purposes. However, any lessee proposing such improvements must obtain HLB authorization prior to making the improvement, and must agree in writing to maintain the improvement in good working order over the term of the lease.

6. If there is reason to believe HLB land proposed for disposal may contain hazardous or contaminated waste or other materials, the HLB shall complete an environmental assessment of the property prior to offering the land for disposal. If the assessment reveals the potential presence of hazardous or contaminated waste or materials, the HLB may exclude the land from the proposed disposal and address the problem in accordance with applicable law.

7. HLB land may be exchanged for other land of equal or greater fair market appraised value with greater potential value or attributes for municipal use. The HLB may accept or pay cash to another party in order to equalize land values.

8. The HLB shall authorize easements at the current fair market rate, although another public agency may obtain an easement at less than fair market value if determined to be in the best interest of the municipality.

9. A lessee or easement recipient shall indemnify or hold the HLB/MOA harmless from any third-party liability, damages, or claims arising from the disposal.

#### **D. Land Acquisition Policies**

1. The HLB shall seek to obtain the highest quality land available when acquiring new land by exchange or by selection from the state under the Municipal Entitlement Act. Particular priority and emphasis shall be placed upon obtaining lands to satisfy present or future municipal needs and purposes.

2. The HLB shall ensure all prior land agreements, court settlements, and legislative acts are fulfilled as intended to result in the conveyance of land to the Municipality.

3. The HLB may accept donations of land, consistent with the mission of the HLB.

4. If there is reason to believe land proposed for acquisition by the HLB may contain hazardous or contaminated waste or other materials, the HLB shall ensure an environmental assessment of the property is conducted prior to making a recommendation to acquire the land.

#### **E. HLB Fund Management**

1. The HLB Fund shall be used only for HLB operating expenses, acquisition of land for municipal purposes, and for maintenance and improvements to HLB land.

2. The HLB shall manage the HLB Fund in a fiduciary manner, seeking to increase the value of the Fund corpus over the long-term.

3. The HLB Fund may be used to acquire land for municipal purposes if alternative means of acquisition have been explored and determined to be untimely, impractical or unfeasible.

4. The HLB may invest HLB capital in land improvements on HLB land, subject to HLBAC and Assembly approval, in such direct capital investments and value enhancement activities including but not limited to site planning, rezoning, platting, access and utility acquisition. (AMC section 25.40.035F.)



## **X. HLB FEE SCHEDULE**

**The Heritage Land Bank shall establish administrative and other fees associated with processing land disposals and permits. Please refer to Section IV for an overview of the types of land disposals and general procedures. All fees may be reduced or waived at the discretion of the Heritage Land Bank Director.**

### **A. Application Review Fee.**

Applicants seeking to acquire HLB land are required to pay the HLB a non-refundable \$500 fee to initiate the application review process. The application fee must be submitted with the application. An additional \$500 fee may be charged by HLB for acquisitions or disposals where an expedited review, to be completed within ten business days, is requested. NOTE: An application to purchase HLB land grants the applicant no right of preference or other priority. (AMC section 25.40.025A.)

### **B. Disposal Fees.**

**1. Land Sales** - All HLB land sales shall be awarded competitively for no less than the fair market appraised value of the land plus costs and a \$500 administration fee. Land sales shall be awarded to the highest qualified bidder through a procedure determined by HLB to be the most appropriate for a given sale. Details for this process shall be provided in advance in the bidding instructions. In the case of identical highest qualified bids, the HLB shall obtain a best and final offer from among the highest identical qualified bids. (AMC section 25.40.025D.)

**2. Leases** – Leases shall be awarded by an open competitive bid process, unless issued under Section IX.C.4., and HLB shall determine the most appropriate compensation method for the particular property, with details described in the bidding instructions, and may include one or more of the following:

- i. At least the fair market appraised value of the land; or
- ii. A percentage of the gross receipts anticipated to be received by the bidder and attributed to the leasehold; or
- iii. A user fee attributed to the leasehold; or
- iv. Any combination of the above.

An administrative fee of \$500 shall also be paid by the successful bidder upon completion of the lease award. The successful bidder shall be the applicant proposing the method of compensation providing both the greatest monetary return to the HLB and the most consistent with the HLB mission and the best interests of the municipality.

Lease rates shall be adjusted by the HLB at intervals of no less than every five years to reflect current market conditions, except as otherwise specifically authorized by the Assembly.

### C. Disposals to Non-Profit Agencies.

The HLB may lease or sell HLB land non-competitively, where the lessee or purchaser is a non-profit or governmental agency, for less than its appraised fair market value, if the projected municipal benefits are found by the Mayor and the Assembly to be in the best interest of the municipality.

A \$500 administrative fee shall apply for processing non-competitive or less than fair market value disposals to non-profit agencies or groups.

Other non-competitive disposals include:

1. **Exchanges** – HLB may conduct an equal value land exchange for other land on at least an equal value basis plus \$500 administrative fee. (AMC section 25.40.025E.)
2. **Easements** – Easements are awarded non-competitively for a one-time fee equal to the fair market value of the easement interest to be conveyed; a \$500 administrative fee shall be paid by the requestor.

### D. Permit Fees.

1. Permits may generally be issued for terms of up to one year. A non-refundable application fee is applied as the initial use fee, with fees for each authorization necessarily reflective of the nature and limited duration of the use. An additional administration fee of \$250 may be charged by HLB for issuance of permits on an expedited basis, i.e., within 10 working days.

Intra-governmental Authorizations requested by non-tax based municipal agencies, including but not limited to AWWU, ML&P, Port of Anchorage and ACDA, shall pay a minimum \$500 administration fee or 10% of the property's assessed value, whichever is greater.

<u>Type of Permit</u>	<u>Use Fee</u>
a. Special Event Permit (race, tournament, etc.)	\$500/day
b. Short-term Land Use Permit	10% of Appraised Value per year, or minimum of \$750 per week for up to four weeks; \$250/week for remaining 48 weeks.
c. Long-term Permit (longer than 12 months	\$15,600 initial 12-month

and not to exceed 36 months)

period, then \$200/week for the next 12 months, then \$250/week in the remaining months.

- d. Intra-governmental Authorization  
(Tax-based municipal agencies only)

None (\$0)

Renewals, amendments, subleases, assignments or extensions of existing HLB leases and permits require a minimum administrative fee of \$250 for each action (includes subleases and assignments).

## XI. DEFINITIONS

**Appraised Fair Market Value.** The most probable price in cash, terms equivalent to cash, or in other precisely defined terms, for which the appraised property will sell in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming neither is under duress. Professional services may be obtained to coordinate an agreed upon purchase price and/or terms.

**Disposals.** Per AMC section 25.40.025A., HLB land disposals include “land sales, land exchanges, leases and easements.”

**Fair Market Lease/Rental Value.** The rental income a property most probably commands in the open market, indicated by the current rents paid for comparable area or space as of the effective date of agreement.

**Gross Receipts.** All money, income, revenue and any and all other things of value received by, paid to or transferred for the benefit of a lessee on HLB land, without offsets or deductions of any sort whatsoever, where such receipts or payment(s) are made as a result of or in connection with the lessee’s interest in the leasehold.

**Improvements.** A valuable addition to HLB property or an amelioration in its condition, intended to enhance its value or utility or adapt it for new or further purposes, including expenditures to extend the useful life of the property asset, to improve its performance, or for off-site mitigation necessary to improve HLB land.