

BYLAW NO. 03-2023

A BYLAW OF THE CITY OF LLOYDMINSTER IN THE PROVINCES OF ALBERTA AND SASKATCHEWAN TO PROVIDE FOR THE REGULATION OF GROUND DISTURBANCES WITHIN CITY CONTROLLED LANDS.

WHEREAS the Council of the City of Lloydminster deems it necessary to establish a Bylaw to deal with the safety, health and welfare of people and the protection of people and property.

AND WHEREAS the *Lloydminster Charter* provides authority to City Council to pass bylaws for municipal purposes;

AND WHEREAS the *Lloydminster Charter* provides authority to the City to pass bylaws respecting the enforcement of bylaws.

NOW THEREFORE the Council of the City of Lloydminster deems it necessary to establish a Bylaw to regulate excavation and ground disturbances within City Controlled Lands; and

NOW THEREFORE, the Council of the City of Lloydminster, pursuant to the authority granted in Section 15 of the *Lloydminster Charter*, enacts as follows:

1. SHORT TITLE

1.1. This Bylaw shall be cited as the Excavation Bylaw.

2. DEFINITIONS

2.1. The definitions listed in Schedule "A" attached to this Bylaw shall apply, unless context otherwise requires.

3. APPOINTMENT, AUTHORITY AND DUTIES OF THE CITY MANAGER

3.1. Except where specific authority is reserved to Council, in the Bylaw the administration and enforcement of this Bylaw is hereby delegated to the City Manager.

3.2. Without restricting any other power, duty or function granted by this Bylaw, the City Manager may carry out anything required for the administration of this Bylaw, including but not limited to the following:

3.2.1. delegate any powers, duties or functions under this Bylaw to an employee of the City;

3.2.2. carry out any inspections that are reasonably required to determine compliance with this Bylaw;

3.2.3. establish any forms required for the administration of this Bylaw.

4. EXCAVATION PERMITS

4.1. No Person shall cause a Ground Disturbance within City Controlled Lands without first obtaining a Permit that has been issued under the authority of this Bylaw.



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- 4.2. Without limiting the generality of the foregoing, a Person carrying out work involving a Ground Disturbance within City Controlled Lands does not require a Permit issued under the authority of this Bylaw if they are:
 - 4.2.1. working within an easement on a lot for which they are the Owner of the lot, or working on behalf of the Owner of the lot; or
 - 4.2.2. performing work on behalf of the City where the contractual terms of that work require restoration of the Ground Disturbance.
- 4.3. The application fee payable by an Applicant for the review of the application and issuance of a Permit under this Bylaw, shall be in the amount set out in in the Development Fee Schedule Bylaw, as amended from time to time.
- 4.4. The Designated Officer may in their sole discretion refuse or approve, with or without conditions, an application for a Permit.
- 4.5. In addition to the application fee, the Applicant for a Permit may be required to provide Security in an approved form, in the amount set out in the Development Fee Schedule Bylaw, as amended from time to time, as security for the performance and satisfactory completion of the surface restoration work.
- 4.6. Notwithstanding Section 4.5, the Designated Officer may in their sole discretion accept Security from the Applicant for all Permits issued under the authority of this Bylaw for the current calendar year, in an amount agreed upon between the City and the Applicant.
- 4.7. Only upon the Designated Officer being satisfied that all conditions of the Permit have been met, shall the Applicant request in writing to the Designated Officer a refund of the Security.
- 4.8. Any Person who obtains a Permit shall only perform the work authorized by the Permit and strictly in accordance with the conditions of the Permit.
- 4.9. Following completion of the work by the Applicant, the Applicant shall restore any disturbed areas in accordance with the conditions of the Permit to the satisfaction of the Designated Officer. The surface restoration work shall be maintained by the Applicant at their sole expense for the full duration of the warranty period as identified within the conditions of the Permit.
 - 4.9.1. Upon completion of the surface restoration work the Applicant shall contact the Designated Officer to arrange for a visual inspection of the surface restoration work completed by the Applicant.
 - 4.9.2. If the Applicant does not complete all surface restoration work required by the conditions of the Permit to the satisfaction of the Designated Officer:



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- i. within four (4) weeks of the completion date stated in the application for the Permit, in addition to any other remedy the City may have available, the City may draw upon the deposit or security provided by the Applicant to cover the cost and expenses of completing any work required by the conditions of the Permit; and/or
- ii. within one (1) year of the completion date stated in the application for the Permit, the City shall retain the deposit or security.

4.9.3. If the proceeds of the Security do not sufficiently cover the cost and expenses incurred by City pursuant to this Bylaw, the Applicant shall pay any shortfall to the City within thirty (30) days of receipt of written notification of the shortfall.

4.10. Only upon meeting all conditions of the Permit issued under the authority of this Bylaw shall the Applicant request, in writing to the City, a release of the Security.

4.11. No Person who owes monies to the City pursuant to Section 4.9.3 shall be issued a Permit under the authority of this Bylaw prior to those monies being received in full by the City.

4.12. Should any Person have failed to meet the conditions of a Permit issued under the authority of this Bylaw in the past, the City in its sole discretion may deny future applications for a Permit under the authority of this Bylaw.

4.13. The issuance of a Permit under this Bylaw shall not relieve a Person of their responsibility to comply with any other federal, provincial and municipal legislation and policies that apply, including but limited to having the location of buried utilities marked prior to commencing work involving a Ground Disturbance.

5. PENALTIES

5.1. Any person who contravenes this Bylaw is guilty of an offence.

5.2. Persons having contravened certain sections of this Bylaw shall be liable for the penalties set out in such section or set out in Schedule "B" hereto.

5.3. A notice or form commonly called a Notice of Violation having printed wording approved by the City Manager, may be issued by a Bylaw Enforcement Officer to any person alleged to have breached any provision of this Bylaw, and the said notice shall require the payment of the City of Lloydminster in the amount specified in Schedule "B" hereto.

5.4. A Summary Offence Ticket or a Violation Ticket shall be deemed to be sufficiently served:

5.4.1. if served personally on the accused; or



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5.4.2. if mailed to the address of the person accused by regular mail.

5.5. The amounts specified in Schedule "B" hereto shall be the specified penalties for the purposes of the *Provincial Offences Procedures Act* (Alberta) or the *Summary Offences Procedure Act 1990* (Saskatchewan).

6. NUMBER AND GENDER REFERENCES

6.1. All references in this Bylaw will be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female person, or a corporation or partnership.

7. SEVERABILITY

7.1. Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

This Bylaw shall come into force and effect upon upon the final passing thereof.

INTRODUCED AND READ a first time this 6th day of February, 2023, A.D.

READ a second time this 27th day of March, 2023, A.D.

READ a third time this 27th day of March, 2023, A.D.

March 28, 2023
Date Signed

March 28, 2023
Date Signed

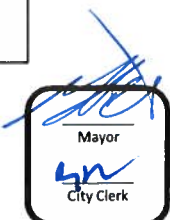


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SCHEDULE "A"

Definitions

Applicant	A Person who makes an Application for a Permit under the provisions of this Bylaw.
Bylaw Enforcement Officer	A Person appointed by the City pursuant to the <i>Lloydminster Charter</i> to enforce City Bylaws, including a member of the Royal Canadian Mounted Police and, when authorized, a Community Peace Officer appointed under the Peace Officer Act S.A. 2006, c. P-3.5, as amended or repealed and replaced from time to time.
Charter	Refers to the <i>Lloydminster Charter</i> .
City	The City of Lloydminster and the area contained within the corporate boundaries of the City.
City Controlled Lands	Lands that the City has an interest in, either by ownership (parcels of land and/or roads) or by an easement or right-of-way registered in favour of the City.
City Manager	The Commissioner of the City of Lloydminster as appointed by Council or designate.
Council	The Municipal Council of the City of Lloydminster.
Designated Officer	A person to whom powers, functions or duties under this Bylaw have been delegated by the City Manager.
Ground Disturbance	Any work, operation or activity, on or under the existing ground surface, resulting in, or reasonably expected to result in, a disturbance or displacement of the surface of the ground, including but not limited to: digging, excavation, trenching, ditching, tunnelling, boring/drilling/pushing, auguring, topsoil stripping, land levelling/grading, plowing to install underground infrastructure, tree planting, clearing and stump removal, driving fence posts, bars, rods, pins, anchors, signs or pilings, or crossing the land with vehicles or equipment.
Order	Any written notice or letter that requires a Person to remedy a contravention of this Bylaw or the <i>Lloydminster Charter</i> .
Owner	Any Person who is registered under the Saskatchewan or Alberta Land Titles Act as the Owner of the lot, or any other Person who is in lawful possession thereof or who is in lawful possession or occupancy of any buildings situated thereon, or any agent of, or Person acting on behalf of the Owner.
Permit	The authorization or consent in a format as developed by the City for carrying out the work of the Person who applied for the Permit and binding that Person to abide by the terms and conditions of the Permit.



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Person	Any individual, a group of individuals, a corporation, firm, partnership, proprietorship, association, society or co-operative organization.
Security	A cash deposit or irrevocable letter of credit to secure the fulfillment of an obligation, such as meeting the City's predefined terms of the conditions of a permit. Non-compliance will result in the retention of the financial security.
Summary Offence Ticket	As defined by the <i>Summary Offences Procedures Act</i> (Saskatchewan), as amended from time to time.
Violation Ticket	As defined by the <i>Provincial Offences Procedure Act</i> (Alberta), as amended from time to time.



Mayor

City Clerk

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SCHEDULE "B"

Penalties

SECTION	OFFENCE	FINE
4.1	Causing a Ground Disturbance within City Controlled Lands without first obtaining a Permit.	\$1000 for the first offence \$1500 for subsequent offences
4.8	Failure to carry out the work in accordance with the terms and conditions of the Permit, <i>or</i> , carrying out work other than what is authorized by the Permit.	\$500 for the first offence \$750 for subsequent offences
4.9	Failure to maintain any restored areas in accordance with the terms and conditions of the Permit.	\$500 for the first offence \$750 for subsequent offences

