



CITY OF EDMONTON

BYLAW 12513

CITY STREETS DEVELOPMENT CONTROL BYLAW

(CONSOLIDATED ON JANUARY 22, 2019)

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Whereas, pursuant to Sections 7 and 8 of the *Municipal Government Act*, Council may pass bylaws dealing with the use and management of its property, prohibiting or regulating any development, providing for a system for permits or approvals for any development and terms and conditions that may be imposed, establishing fees for such permits and approvals, and enforcement provisions.

Whereas, pursuant to Sections 16, 17, 18, 61 and 651.2 of the *Municipal Government Act*, Council may dispose of an interest in or grant rights with respect to property and roads under its direction, control, and management, may charge fees and charges for the use of its property, and may register a caveat under the Land Titles Act in respect of any encroachment agreement entered into by the municipality with the registered owner of a parcel of land that adjoins a road that is under the direction, control and management of the municipality.

Whereas, pursuant to Section 35 of the *Public Highways Development Act*, Council may pass bylaws designating any of its streets as a controlled street and pursuant to Section 36 may make bylaws regulating the placing, erecting, re-erecting, enlarging on extending of buildings, structures, fixtures or roads, within any distances from controlled streets as the bylaw prescribes.

Edmonton City Council enacts:

PART I - PURPOSE, DEFINITIONS AND INTERPRETATION

PURPOSE	1	The purpose of this Bylaw is to regulate Development of a permanent nature onto, over or under Streets under the direction, management and control of the City.
DEFINITIONS	2	In this Bylaw, unless the context otherwise requires: <ul style="list-style-type: none"> (a) “Applicant” means a Person applying for a Permit; (b) “City” means the municipal corporation of the City of Edmonton; (c) “City Council” means the municipal council of the City of Edmonton; (d) “City Manager” means the Chief Administrative Officer

of the City or his delegate;

- (e) **“Controlled Street”** means, for the purpose of this Bylaw only, and in accordance with Section 1(e) of the *Public Highways Development Act*, all Streets under the direction control and management of the City, including those Streets created after this Bylaw comes into force;
- (f) **“Department”** means the Planning and Development Department of the City;
- (g) **“Development”** means any building, structure, fixture, excavation or other installation of whatever nature, which is permanent in nature, and is placed, constructed, enlarged, extended, erected or re-erected on, above or below ground level, and without restricting the generality of the foregoing includes building foundations, underground parking structures or their entrances and exits, entrance and exit features to private property, pedestrian bridges, and pedway connections between buildings or properties;
- (h) **“Owner”** means a Person who is registered under provincial legislation as the owner of a freehold estate in the land, is entitled to become the registered owner of the land or is the lessee under a long term lease of the land for which lease period a leasehold title has been issued;
- (i) **“Owner’s Land”** means the land from which a Development extends or connects;
- (j) **“Permit”** means a Permit issued under this Bylaw for Development onto, over or under a Controlled Street;
- (k) **“Person”** includes one or more individuals, partnerships, bodies corporate, unincorporated organizations, governments, government agencies, trustees, executors, administrators or legal representatives, other than the City or its legal representatives;
- (l) **“Street”** means any highway or road under the direction, management, or control of the City including land used, dedicated or surveyed for use as a public highway or road and including the air space above and/or the ground below the surface thereof;
- (m) **“Temporary Structure”** means any Structure that is not intended to be permanently placed on a Controlled Street,

- (n) **“Violation Ticket”** means a violation ticket as defined in the *Provincial Offences Procedure Act*.

EXCEPTIONS	3	This Bylaw does not apply to Temporary Structures for which a permit or license of occupation is required and may be obtained pursuant to City of Edmonton Traffic Bylaw No. 5590, Bylaw No. 7829 (Being a Bylaw Concerning Boulevards, Flankages, Utility Lots and Boulevard Trees), or utility and service installations governed by any other Bylaw.
RULES FOR INTERPRETATION	4	The marginal notes and headings in this Bylaw are for reference purposes only.

PART II - UNAUTHORIZED DEVELOPMENT PROHIBITED

PERMIT REQUIRED	5	No person shall erect or place any part of a Development within any distance from the centre line of a Controlled Street to the adjacent property line on either side of the Street without a Permit.
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PART III - PERMITS

APPLICATION FOR A PERMIT	6	<p>(1) An Applicant who desires a Permit to erect or place any part of a Development within the distance of a Controlled Street prescribed in Section 5 must</p> <ul style="list-style-type: none"> (a) Submit a written request to the Department for a Permit that includes the name and address of the Applicant and the Owner if the Owner and Applicant are not the same; (b) Provide a copy of the Certificate of Title for the Owner’s Land; (c) Submit any plans, designs and specifications or other information that the City Manager may require; and (d) Pay any application fee prescribed by Schedule “B” of this Bylaw. <p>(2) An Applicant who desires a Permit to leave a Development erected or placed without a Permit within the distance of a Controlled Street prescribed in Section 5 must comply with all the items listed in Section 6(1) excepting only that the City Manager may accept a copy of a real property report or survey by a registered Alberta Land Surveyor for the Owner’s Land showing the existing</p>
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Development in lieu of plans, designs and specifications.

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| FORM OF PERMIT | 7 | A Permit issued under this Bylaw may be in the form of any document or agreement as the City Manager deems advisable and appropriate to the Development under consideration. |
| TERMS AND CONDITIONS | 8 | <p>(1) A Permit issued under this Bylaw may be for any length of time and subject to any terms and conditions as the City Manager may require with respect to the Development under consideration.</p> <p>(2) Without restricting the generality of the foregoing, the terms and conditions may provide for:</p> <ul style="list-style-type: none"> (a) Fees or charges for the use of the space within a Controlled Street for a Development and ongoing fees or charges for the continuing existence of the Development therein; (b) Indemnification to the City by the Applicant and his successors and assigns for any and all claims arising from the erection or placement and continuing existence of the Development within a Controlled Street; (c) Insurance coverage to be maintained by the Applicant and his successors or assigns during the erection or placement and continuing existence of the Development within a Controlled Street; (d) Waiver of any entitlement to compensation under any applicable legislation upon the expiry or earlier termination of the Permit and removal of the Development; (e) The Applicant retaining a professional engineer registered in the Province of Alberta for design of the Development and preparation of plans and specifications for the Development affixed with the engineer's professional stamp or seal, and field review of the Development by the professional engineer during erection or placement of the Development, in full compliance with the Alberta Building Code then in force; (f) Prior Development Permit approval under the Zoning Bylaw for any necessary or incidental development on the Owner's Land; and (g) The registration of a caveat against the Owner's Land pursuant to Section 651.2 of the Municipal Government Act. |

- PERMIT REFUSAL** 9 The City Manager reserves the right to refuse to issue a Permit.
- DESIGN GUIDELINES** 10 The City Manager may establish design guidelines for particular types of Development and may establish different design guidelines for different areas of the City.
- PERMIT FEES AND DEVELOPMENT CHARGES** 11 (1) Fees and charges for a Permit application shall be as prescribed by Schedule “B” of this Bylaw.
- (2) Fees or charges for the use of the space within a Controlled Street for a Development and ongoing fees or charges for the continuing existence of the Development therein shall be at market value.
- (3) Fees or charges for the use of the space within a Controlled Street for a Development and ongoing fees or charges for the continuing existence of the Development therein at less than market value shall be approved by City Council in accordance with the provisions of Section 70 of the Municipal Government Act.

PART IV - COMPLIANCE WITH PERMITS

- COMPLIANCE REQUIREMENTS** 12 (1) Every Person who obtains a Permit from the City for a Development on a Controlled Street shall comply with the terms and conditions of that Permit.
- (2) Only the Development permitted by the Permit or the uses stated in the Permit shall be allowed and no revision, modification or expansion of the Development or use allowed by the Permit or any erection or placement of additional Development shall commence unless covered by an additional Permit issued by the City Manager.

PART V - REMOVAL OF UNAUTHORIZED DEVELOPMENT

- REMEDIES** 13 In addition to any other remedies at law, the City Manager may elect to enforce the removal of unauthorized Development within a Controlled Street under Sections 542,543, 545 and 549 of the *Municipal Government Act*, or by obtaining an injunction from the Court of Queen’s Bench pursuant to Section 554.

PART VI - PENALTIES

- OFFENCES AND** 14 (1) A Person who contravenes a provision of this Bylaw is guilty of an

PENALTIES

offence.

- (2) A Person who is found guilty of an offence is liable to a fine in an amount not less than that established by this Bylaw in Schedule A, and not exceeding \$10,000.00, and to imprisonment for not more than one year for non-payment of the fine.
- (3) A Person who commits an offence may:
- (a) if a Violation Ticket is issued in respect to the offence; and
 - (b) if the Violation Ticket specifies the fine amount established by this Bylaw for the offence;
- make a voluntary payment equal to the specified fine.
- (4) In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day or part of a day on which it continues.

PART VII - GENERAL**SEVERABILITY**

- 15 (1) If any portion of this Bylaw is, for any reason, declared invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion.
- (2) A declaration of invalidity will not affect the validity of the remaining portions, which will remain in full force and effect.

INSPECTIONS AND DELEGATION

- 16 (1) The City Manager may carry out whatever inspections are reasonably required to determine compliance with this Bylaw.
- (2) The City Manager may delegate any of his powers, duties or functions under this Bylaw to an employee of the municipality, who may delegate and authorize further delegations to any other City employee upon the approval of the City Manager.

EFFECTIVE DATE	17	This Bylaw takes effect on January 15, 2002.
ANNEXATION IMPLEMENTATION	18	The City Manager may approve exemptions or modifications to this bylaw, including the power to waive fees, where such exemptions or modifications are consistent with inter-municipal negotiations resulting in Order in Council 359/2018. (S.11 , Bylaw 18666, January 22, 2019)

(NOTE: Consolidation made under Section 69 of the *Municipal Government Act*, R.S.A. 2000, c.M-26 and Bylaw 16620 Section 16, and printed under the City Manager's authority)

Bylaw 12513, passed by Council January 15, 2002,

Amendments:

- Bylaw 13876, January 1, 2005
- Bylaw 14169, January 1, 2006
- Bylaw 14427, January 1, 2007
- Bylaw 14833, January 1, 2008
- Bylaw 15040, January 1, 2009
- Bylaw 15327, January 1, 2010
- Bylaw 15596, January 1, 2011
- Bylaw 15933, January 1, 2012
- Bylaw 16308, January 1, 2013
- Bylaw 16538, August 28, 2013
- Bylaw 18666, January 22, 2019

SCHEDULE A – OFFENCES AND PENALTIES

OFFENCE	SECTION	PENALTY
Development without a Permit	5	\$1,000.00
Non-compliance with terms & conditions of a Permit	12	\$2,500.00

SCHEDULE B - APPLICATION AND ENCROACHMENT FEES

A.1 APPLICATION FEES

A.1.1 Application fee for circulation of encroachment permission request to Civic Departments, utility companies and any other related parties, as well as the preparation of Encroachment Agreements:

- A.1.1.1 For encroachments which do not protrude into the City Lands by more than 0.05 meters and are covered by a Letter of Consent rather than an Encroachment Agreement.....No Charge
- A.1.1.2 For applications that do not require circulation to Civic Departments, utility companies or any other related parties..... \$300
- A.1.1.3 For all other applications.....\$500
- A.1.1.4 For pedways with a gross floor area up to 500 m² (5381.95 sq. ft.)\$600
Plus, for each additional 100 m² (1076.39 sq. ft.) of gross floor area or part thereof\$45

A.2 ENCROACHMENT FEES

A.2.1 Encroachments onto Easements.....\$50

A.2.2 For proposed aerial encroachments that do not have structural supports beyond the property line of the Owner’s Land and are designed to provide significant weather protection for pedestrians on the City sidewalk below, or projecting signs \$50

A.2.3 For Encroachments onto City owned land except those covered in A.2.1 and A.2.2:

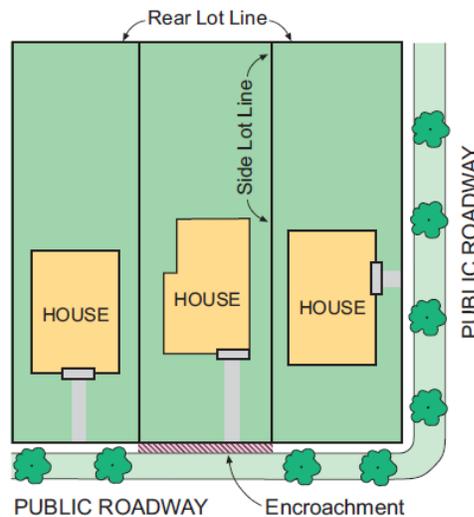
- A.2.3.1 For encroachments which do not protrude into the City Lands by more than 0.05 meters and are covered by a Letter of Consent rather than an Encroachment Agreement..... \$100
- A.2.3.2 For those encroachments which do not protrude into the City Lands by more than 0.3 meters and which cover not more than 2 square meters \$100
- A.2.3.3 For those encroachments which do not protrude into the City Lands by more than 0.3 meters and which cover more than 2 square meters but not more than 5 square meters \$350

A.2.3.4 Except as outlined in A.2.3.6, for those encroachments which protrude more than 0.3 meters into the City Lands and/or which cover more than 5 square meters

Fee equals the assessed value of the Owner's Land, divided by the area of the Owner's Land times the area of the encroachment

A.2.3.5 The fee in A.2.3.4 may be paid as an annual fee, equal to 10% of the fee calculated in A.2.3.4

A.2.3.6 Those encroachments located adjacent to a front yard (as generally shown in the diagram below), and which do not exceed 0.6 meters in height, will be addressed by a Structure on City Streets Agreement rather than an Encroachment Agreement. The fees payable pursuant to a Structure on City Streets Agreement will be \$500.00.



- (S.5.(a), Bylaw 14833, January 1, 2008)
- (S.5(a), Bylaw 15040, January 1, 2009)
- (S.5(a), Bylaw 15327, January 1, 2010)
- (S.5(a), Bylaw 15596, January 1, 2011)
- (S.4(a), Bylaw 15933, January 1, 2012)
- (S.2, Bylaw 16308, January 1, 2013)
- (S.2-3, Bylaw 16538, August 28, 2013)