

OFFICE CONSOLIDATION

BYLAW NUMBER 17M2016

**BEING A BYLAW OF THE CITY OF CALGARY
TO REGULATE THE PROCESS
FOR ACCESS AND USE
OF MUNICIPAL RIGHTS-OF-WAY**

(Amended by 41M2017, 12M2018)

WHEREAS pursuant to Section 7 of the Municipal Government Act, a Council of a municipality may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS pursuant to Section 7 of the Municipal Government Act, a Council may pass bylaws for municipal purposes respecting people, activities and things in, on or near a public place or place that is open to the public;

AND WHEREAS pursuant to Section 16 of the Municipal Government Act, the title to all roads in a city is vested in *The City*;

AND WHEREAS pursuant to Section 18 of the Municipal Government Act, a municipality has the direction, control and management of all roads within the municipality;

AND WHEREAS pursuant to Section 61 of the Municipal Government Act, a municipality may grant rights, exclusive or otherwise, with respect to its property, including property under the direction, control and management of the municipality, and charge fees for the use of such property;

AND WHEREAS, subject to obtaining the consent of the municipality having jurisdiction over roads located in the municipality, a *utility provider* may access municipal rights-of-way for the purpose of constructing, maintaining or operating its *equipment* provided the *utility provider* does not unduly interfere with the public's use and enjoyment of the roads;

AND WHEREAS Council has approved the recommendations in Report GP2016-0717 and deems it desirable to pass this *Bylaw* to set out the terms and conditions of consent and processes to be followed by a *utility provider* exercising its ability to access municipal rights-of-way;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:

SHORT TITLE

1. This *Bylaw* may be cited as the "Municipal Rights-of-Way Bylaw".

PURPOSE OF BYLAW

2. The purpose of this *Bylaw* is:
- (a) to require every *utility provider* proposing to perform *work within service corridors* or *within City Structures* to:
 - i. comply with all safety and environmental requirements of *Municipal Legislation* and *Other Legislation*;
 - ii. obtain consent from *The City* for the *work* as required by the *Bylaw*; and
 - iii. obtain the associated *permits* from *The City*;
 - (b) to provide *The City* with information on the type and location of *equipment* situated *within the service corridors* or *within City Structures* so that *The City* can manage its *service corridors* and *City Structures* safely, effectively and efficiently;
 - (c) to establish a system of permits and *fees* for administration of the use of *The City's service corridors* and *City Structures* and to enable *The City* to administer such use fairly and equitably for all *utility providers*; and
 - (d) to compensate *The City* for administrative, technical, *inspection* and repair costs, damages, or liability arising from *utility providers'* performance of *work within service corridors* or *within City Structures* and to prevent such administrative, technical, *inspection* and repair costs, damages, or liability being transferred to the citizens of *The City*.

DEFINITIONS AND INTERPRETATION

3. (1) In this *Bylaw*:
- “*abandoned equipment*” means *equipment* of the *utility provider* that the *utility provider* does not utilize and does not require for its future operations;
- “*as-built drawings*” means the drawings provided to *The City* by the *utility provider* showing all plans and specifications of the *equipment* installed in the *utility alignment* in addition to any changes to such plans and specifications made on site during installation;
- “*business day*” means 8:00 a.m. through to 5:00 p.m. Calgary time on any *calendar day* except Saturday, Sunday or a statutory holiday observed in the Province of Alberta or in the City of Calgary;
- “*Bylaw*” means this bylaw as described in section 1, as it may be amended or substituted from time to time, and includes all Schedules attached to it;

“*calendar day*” means any day of the calendar year, including weekends and statutory holidays;

“*Capital Works Coordinating Committee*” means *The City’s* committee consisting of *City* staff and *utility providers’* staff that jointly coordinates and manages *City Works* and the *work* of all *utility providers* that install *equipment within service corridors* or *within City Structures*;

“*City Manager*” means the person appointed by *Council* as its chief administrative officer, or that person’s designate;

"*City Structure*" means any one or both of the following that is located *within a service corridor*.

- i. a bridge, viaduct or tunnel owned by *The City*;
- ii. a pedestrian overpass, underpass, or tunnel owned by *The City*;

but excludes transit infrastructure, streetlights, and sanitary and storm water infrastructure, all of which require a separate agreement between *The City* and the *utility provider* describing the terms and conditions under which the *utility provider* will be allowed to attach its *equipment* to the particular infrastructure;

“*City Works*” means *The City’s* construction of civil works projects such as *service corridors* or *City Structures*;

“*City Permits*” means permits issued under the authority of another bylaw of *The City*;

"*contractor*" means a contractor, subcontractor or worker employed by the *utility provider* or by *The City* (as the context indicates) who performs *work* within a *service corridor* or *within a City Structure*;

“*Council*” means the municipal council of *The City*;

“*Director, Corporate Analytics and Innovation*” or “*Director, CAI*” means the *City Manager*, or the *City Manager’s* designate, or the *City Engineer*;

“*Director, Roads Business Unit*” or “*Director, Roads*” means the *City Manager*, or the *City Manager’s* designate, or the *City Engineer*;

“*Environmental Compliance Plan*” means a form of *Municipal Legislation* that has the purpose of preserving the environment and assists in determining compliance with *Other Legislation* during the performance of *work* approved in a *utility alignment permit* or in an *excavation permit*;

“*emergency*” means an unforeseen situation where immediate action must be taken to:

- i. preserve the environment;

- ii. preserve public health;
- iii. preserve safety;
- iv. address a widespread outage of utility services; or
- v. to reinstate or protect an *essential service*;

“*employee*” means:

- i. with respect to a *utility provider*, any *officer*, employee, *contractor*, agent, licensee, or invitee of the *utility provider* who will be *within a service corridor* or *within a City Structure* in connection with any matter governed by this *Bylaw*; and
- ii. with respect to *The City*, any employee, agent or *contractor* of *The City* but specifically excludes the *utility provider* and any *employee* of the *utility provider* described in “i” above;

“*equipment*” includes:

- i. systems, structures, utilities, and facilities, including telecommunication facilities defined in the *Telecommunications Act* (Canada), electrical facilities as described in the *Electric Utilities Act* (Alberta), natural gas facilities described in the *Gas Utilities Act* (Alberta) and pipelines described in the *Pipeline Act* (Alberta);
- ii. poles, cables wires, governors, regulators, pipes and/or systems of pipes, ducts, conduits, pedestals, vaults, braces, anchors, anchor rods, amplifiers, connection panels, transformers, valves, or metering equipment fittings, whether or not any of them form part of or are accessory to the systems, structures, utilities and facilities referred to in subsection “i” above; and
- iii. *non-compliant equipment* and *abandoned equipment*.

“*essential service*” includes any one or more of the following:

- i. the transmission of energy (including natural gas, steam or electricity);
- ii. the supply of water;
- iii. the removal or carrying of wastewater and stormwater;
- iv. the provision of traffic control;
- v. the re-instatement of City 9-1-1 emergency centre call-in service;

“*excavation permit*” means a permit granted by *The City* pursuant to Street Bylaw 20M88, which authorizes the *utility provider* (in accordance with the terms and

conditions of the excavation permit) to break the surface of a *service corridor* to perform *work*;

"*fee*" means the fees and charges approved by *Council* in relation to this *Bylaw*, as may be amended from time to time;

"*Governmental Authority*" means any agency, board, commission, tribunal, regulatory body or court acting within its jurisdiction;

"*hazardous substance*" includes any solid, liquid, gaseous or thermal irritant or contaminant such as smoke, soot, fumes, acids, alkalis, chemicals, waste and fibrous materials of any kind, and its handling, transport, storage or release, which is subject to the provisions of *Municipal Legislation* or *Other Legislation*;

"*inspection*" includes an authorized representative of *The City* performing any one, or both, of the following activities:

- i. attending on-site where *equipment* of the *utility provider* is being or has been installed to verify the proper installation and placement of the *equipment*;
- ii. attending on-site where *equipment* of the *utility provider* is being installed to determine whether *Municipal Legislation* or *Other Legislation* are being followed;

"*lost productivity costs*" means additional costs incurred by *The City* as a result of the presence of a *utility provider's equipment* within a *service corridor* or within a *City Structure* when *The City* is:

- i. undertaking repairs, maintenance or replacement of the *service corridor*, or of any part of the *service corridor*, or of *The City's* infrastructure located in a *service corridor*; or
- ii. undertaking repairs, maintenance or replacement of a *City Structure*;

"*moratorium period*" means a 2 year period of time as may be designated by the *Director, Roads*, during which *work* cannot be carried out if the *work* involves breaking or disturbing any part of the surface (from property line to property line) of an identified *service corridor*;

"*multi-party installation*" means the coincident installation of *equipment* in a single *utility alignment*, which may include *equipment* for providing electricity, natural gas, or *telecommunications* services;

"*Municipal Government Act*" means the *Municipal Government Act*, R.S.A. 2000, c. M-26, as may be amended or substituted from time to time;

"*Municipal Legislation*" means *The City's* bylaws, rules, policies, standards, protocols and guidelines, and any approvals or *City Permits* granted pursuant to them;

“*non-compliant equipment*” means all *equipment* that is not installed in a *service corridor* or on a *City Structure* in compliance with the *utility alignment permit* granted by *The City* on or after the effective date of this *Bylaw* because:

- i. the placement of the *equipment* is greater than a distance of 35 centimeters horizontally or vertically from the centre line of the location approved in the *utility alignment permit*, or
- ii. the *equipment* does not comply with any other conditions set out in the *utility alignment permit*,

“*notice*” means notice provided in writing by *The City* to a *utility provider* at the address provided by the *utility provider* in accordance with section 119 of this *Bylaw*;

“*notice of non-compliance*” means a written notice issued by *The City* to a *utility provider* informing the *utility provider* that the *utility provider’s equipment*, or some of the *utility provider’s equipment*, is *non-compliant equipment*;

“*Officer*” means a person appointed as a Bylaw Enforcement Officer pursuant to *Bylaw 60M86*, the *Bylaw Enforcement Officers’ Appointment Bylaw*;

“*Other Legislation*” means all applicable federal and provincial statutes, regulations, policies, guidelines and protocols;

“*pavement degradation*” means the diminished lifespan of a paved or concrete surface of a *service corridor* which has been excavated, broken up or otherwise disturbed, resulting in reduced lifespan and increased demand for maintenance of the surface or subsurface of the *service corridor*;

“*pavement quality index*” is a rating that describes the condition of the surface of a *service corridor* and measures the type, extent and severity of pavement surface cracks and ruts and the smoothness and ride comfort of the *service corridor*;

“*Provincial Offences Procedure Act*” means the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34;

“*permit holder*” means a *utility provider* who has been granted a *utility alignment permit*;

“*person*” means an individual or a business entity including a firm, partnership, association, corporation or society;

“*priority application*” means an application for a *utility alignment permit* wherein the *utility provider* submitting the application is in compliance, at the time of the application, with all of the terms and conditions of this *Bylaw*, including the *utility provider’s* payment of *fees*, installation of *equipment*, and provision of *as-built drawings* for any *utility alignment permit* that may have been formerly approved by *The City*;

“relocate” or “relocation” means *work* that involves the permanent removal of *equipment* in its entirety from its current location, or the modification, alteration, installation, or moving of *equipment* that changes the placement or location of the *equipment*:

- i. *within* the same *service corridor* or *within* the same *City Structure* ; or
- ii. from its (current) location *within* a *service corridor* or *within* a *City Structure* to a location *within* a different *service corridor* or *within* a different *City Structure*;

“relocation costs” means the actual cost of *equipment*, materials, labour, engineering and other construction costs for performing a *relocation*;

"relocation notice" means a written notice issued by *The City* to the *utility provider* directing the *utility provider* to *relocate* the *equipment* identified in the notice;

“resolution plan” means a plan agreed to by *The City* and a *utility provider* whereby a *utility provider* fully satisfies *The City*:

- i. that it will fulfill its obligations under this *Bylaw*; and
- ii. the means by which it will fulfill its obligations under this *Bylaw*;

“restore” or “restoration” means to complete the permanent restoration of:

- i. a paved or concrete surface or sub-surface of a *service corridor*, or both, that a *utility provider* has excavated, broken up or otherwise disturbed, in compliance with *The City’s* Standard Specifications for Road Construction for the surface or subsurface (as applicable); or
- ii. a *City Structure*, to the *City Structure’s* original condition, such condition being substantially the same as the condition the *City Structure* was in prior to any *work* being performed by a *utility provider*, in compliance with *The City’s* Design Guidelines for Bridges and Structures;

"service corridor" means any one or more of the following (as applicable in the circumstances):

- i. a road, highway, street, lane, alley, pathway, designated bicycle pathway, or light rail transit corridor owned and managed by *The City* (for additional clarity, excluding other transit infrastructure or *The City’s equipment* located *within* the light rail transit corridor);
- ii. any public utility easement owned and managed by *The City*, but excludes a *City Structure*;
- iii. a road, highway, street, lane, alley, pathway, designated bicycle pathway, or light rail transit corridor in the process of development that will be

(12M2018, 2018 March 21)

owned and managed by *The City* upon registration of a subdivision plan and *within* which *equipment* will be installed when a *utility alignment permit* is granted by *The City*;

“*service drop*” means *equipment* that, by its design, capacity and relationship to other *equipment* of a *utility provider*, is reasonably considered to be for the sole purpose of connecting the *equipment* to not more than one individual customer or building point of presence or real property location;

“*The City*” means both:

- i. the municipal corporation of The City of Calgary; and
- ii. the geographical area within the boundaries of the City of Calgary where the context requires;

“*third party*” means any *person* that attaches its apparatus or *equipment* in, on or to the *utility provider’s equipment* pursuant to an agreement with the *utility provider*;

“*telecommunications*” has the same meaning as stated in section 2 of the *Telecommunications Act* (Canada);

“*temporary repair*” means a repair to the surface of a *service corridor* that is satisfactory to the *Director, Roads*, and:

- i. temporarily returns the surface of the *service corridor* to a safe and useable condition until *restoration* occurs;
- ii. is level with the surface of the surrounding *service corridor*;
- iii. complies with all terms and conditions of the *utility alignment permit*, *The City’s Standard Specifications for Road Construction*, and other applicable *Municipal Legislation*;

“*utility alignment*” means a defined space *within* a *service corridor* or *within* a *City Structure* for the installation of *equipment* as may be approved in a *utility alignment permit*;

“*utility alignment permit*” means *The City’s* written approval, with terms and conditions, which grant a *utility provider*.

- i. a *utility alignment* *within* a *service corridor* or *within* a *City Structure*; and
- ii. the ability to perform all *work* to install its *equipment* in the *utility alignment*;

“*utility provider*” means:

- i. a for-profit corporate *person* that supplies electrical, thermal, or other energy services, *telecommunications* services, or oil and natural gas

services, and requires access and use of a *service corridor* or a *City Structure* to construct, install, maintain, repair, replace or operate its *equipment*; and

(12M2018, 2018 March 21)

- ii. any of the corporate *person's* (as described in "i" above) *employees* or contractors of a for-profit corporate *person*;

"*within*" means in, on, over, under, across or along, as applicable in the circumstances;

"*work*" includes any installation, removal, construction, maintenance, repair, replacement, operation and *relocation*, or adjustment or alteration of *equipment* that may be performed by a *utility provider within a service corridor* or *within a City Structure*, including the excavation, repair or *restoration* of the *service corridor* or repair and *restoration* of the *City Structure*, as applicable.

- (2) Wherever a word used in this *Bylaw* is italicized, the term is being used as it is defined in subsection (1), and where any word appears in regular font, its common meaning in the English language is intended.
- (3) A word or expression and grammatical forms of the same word or expression have corresponding meanings.
- (4) Reference to "includes" and "including", whether or not used with the words "without limitation" or "but not limited to" will, in all cases, be deemed to be without limitation and interpreted to mean "includes without limitation" and including without limitation".
- (5) Headings or sub-headings are inserted for ease of reference and guidance purposes only and do not form part of this *Bylaw*.
- (6) Where this *Bylaw* cites or refers to any other Act, bylaw, or regulation, the citation or reference is to the Act, bylaw or regulation as amended, whether amended before or after the commencement of this *Bylaw*, and includes reference to any Act, bylaw or regulation that may be substituted in its place.
- (7) Each provision of this *Bylaw* is independent of all other provisions and if any provision is declared invalid for any reason by a *Governmental Authority* of competent jurisdiction, all other provisions of this *Bylaw* remain valid and enforceable.

APPLICATION OF BYLAW

- 4. (1) This *Bylaw* applies to all *utility providers* constructing, installing, maintaining, repairing, replacing or operating *equipment* and performing *work within service corridors* or *within City Structures*.
- (2) A *utility provider* must not carry out *work* unless it complies with:
 - (a) the provisions of this *Bylaw*;

- (b) the terms and conditions of any *utility alignment permit* issued by *The City* approving the *work*; and
- (c) all *Municipal Legislation* that applies to the *work*, unless such compliance would result in the inability of the *utility provider* to comply with this *Bylaw*.

GENERAL PROVISIONS

City's Right of Access

- 5. *The City* may exercise, in the public interest, its right as owner and manager of all *service corridors* and *City Structures* to reserve a *utility alignment within a service corridor* or *within a City Structure* for installation of *The City's equipment* prior to granting a *utility provider* a *utility alignment permit within the same service corridor* or same *City Structure*.

Utility Alignment Granted on "As Is" Basis

- 6. *The City* may grant a *utility alignment* to a *utility provider*, subject to the terms and conditions of a *utility alignment permit*, on an "as is" basis. *The City* does not make any representations or provide any warranty as to the state of repair of any *service corridor* or of any *City Structure*, or the suitability of either of them for installation of the *utility provider's equipment* and is not legally, or otherwise, responsible for any of loss of life, personal injury, loss or damage to property, or economic loss arising from or as a result of any *work* carried out by a *utility provider*.

Coordination of Work

- 7. A *utility provider* must coordinate the scheduling of its *work* with *The City* and all other users of a *service corridor* or of a *City Structure* when required, or as may be directed by *The City*. *The City* may require, in facilitation of such coordination, any one or more of the following:
 - (a) participation in a *multi-party installation* if another *utility alignment* is not available *within the particular service corridor* or *within the City Structure*;
 - (b) compliance with any *moratorium period* that applies to a *service corridor*;
 - (c) the submission of construction schedules to *The City* to facilitate *inspections*.

Capital Works Coordinating Committee

- 8. A *utility provider* must maintain membership in *The City's Capital Works Coordinating Committee* and send a representative to attend at least 60% of the meetings of the *Capital Works Coordinating Committee* in each calendar year and remain current in regard to all of the information discussed at the meetings.

Environmental Compliance Plan

9. A *utility provider* must submit an *Environmental Compliance Plan* to *The City* on or before January 31 of each and every year that demonstrates the *utility provider's* compliance with all *Other Legislation* and *Municipal Legislation* relating to the environment.

Third Party Equipment

10. A *utility provider*, at its sole risk, may allow a *third party* to attach the *third party's* equipment to the *utility provider's* equipment, and any related agreement between the *utility provider* and the *third party* must contain terms and conditions that ensure the *third party's* compliance with this *Bylaw*, other *Municipal Legislation* and *Other Legislation*. *The City* takes no legal or other responsibility for any *third party's* equipment attached to the *utility provider's* equipment.

APPLICATION FOR PERMITS

Required Permits

11. (1) A *utility provider* must not undertake *work* that requires excavation, breaking up or otherwise disturbing or cutting the surface of any *service corridor*, or which requires the placement of *equipment* on a *City Structure*, without obtaining:
 - (a) a *utility alignment permit*;
 - (b) an *excavation permit*; and
 - (c) other required *City permits*.
- (2) Prior to submitting an application for a *utility alignment permit*, and subject to payment of a plan review *fee*, a *utility provider* may submit a pre-application design of its proposed *utility alignment* to *The City* for *The City's* review and advisory comments.

Application for Utility Alignment Permit

12. A *utility provider* must complete an application for a *utility alignment permit* and submit the completed application to *The City*. The application for a *utility alignment permit* may be completed online. If an application for a *utility alignment permit* is for *work within a City Structure*, the terms and conditions of Schedule "B" will apply to the *work*.

Submission Must Bind Utility Provider

13. An application for a *utility alignment permit* must be submitted by a *person* who has legal authority to bind the *utility provider*.

Named Applicant

14. The *utility provider* named in the application for a *utility alignment permit* as the applicant must be the owner of the *equipment* that is the subject of the *work*.

Utility Alignment Permit Application Fee

15. The *utility provider* must pay an application *fee* for each application for a *utility alignment permit*. If the *application* for the *utility alignment permit* is approved, the application *fee* will be deducted from the *utility alignment permit fee*.

Priority Application

16. *The City* may process a *priority application* before it processes any other application for a *utility alignment permit* that does not qualify as a *priority application*.

Content of Application

17. The *application* for a *utility alignment permit* must:
- (a) be in an electronic format approved by *The City*, or, alternatively, a plan data entry *fee* will be applied by *The City* if the utility provider submits a paper application and *The City* is required to enter the *utility provider's* plan into *The City's* electronic data system;
 - (b) confirm payment of the application *fee*;
 - (c) submit the *utility provider's* proposed plans and specifications, describing in detail all of the:
 - (i) *work* to be performed;
 - (ii) proposed *utility alignment* for the *work* including area, elevation, and distance;
 - (iii) *work* area;
 - (iv) construction methods and materials;
 - (v) *equipment*, including the configuration, number and size of any pipes, ducts, chambers and manholes;
 - (vi) safety considerations for *work* above ground; and
 - (vii) existing *equipment* and support structures in or about the proposed *utility alignment* that the *work* may affect;
 - (d) include a proposed schedule for performance of the *work*; and

- (e) include any other information relating to the *work* as *The City* may require for setting the terms and conditions of the proposed *utility alignment permit*, such as confirmation that the *utility provider* has submitted its *Environmental Compliance Plan* in accordance with section 9.

Excavation Permit

- 18. (1) After the *utility alignment permit* is approved by *The City*, if the *work* requires excavating, breaking up, or otherwise disturbing the surface of a *service corridor*, the *utility provider* must then submit its *application* for an *excavation permit* to *The City's* Roads Business Unit. The terms and conditions for both the *utility alignment permit* and *excavation permit* must be approved by *The City* prior to any *work* being started by the *utility provider*.
- (2) The *utility provider* must return the completed *excavation permit* to *The City* not later than 10 *business days* after the day on which the excavation for the *work* is completed.

City Provides Single Utility Alignment

- 19. *The City* will grant a *utility alignment permit* for a single *utility alignment* within a *service corridor* or within a *City Structure* to each *utility provider* if capacity is available within the *service corridor* or within the *City Structure* for the *utility alignment*.

Permit for Additional Utility Alignment

- 20. Despite section 19, in the sole discretion of the *Director, CAI*, a *utility provider* may be granted a *utility alignment permit* for a second or additional *utility alignment* within a *service corridor* or within a *City Structure* only if an additional *utility alignment* is available and all of the following terms and conditions apply:
 - (a) at the sole option and request of *The City* (such option to be exercised by *The City* prior to commencement of the *work* approved in the *utility alignment permit*), the *utility provider* will install *The City's* equipment in the *utility alignment* on behalf of *The City* at the same time that the *utility provider* installs its own equipment;
 - (b) *The City* will pay the *utility provider* for *The City's* equipment installed in the *utility alignment* and *The City's* proportionate share of the reasonable and verifiable costs of the installation of *The City's* equipment; and
 - (c) *The City's* equipment installed in the *utility alignment* will be the sole property of *The City* for use as *The City* may determine in its sole discretion.

MULTI-PARTY INSTALLATION

Permits for Multi-Party Trench

- 21. *The City* may grant a *permit* for one or more *multi-party installations* to facilitate efficient use of space within *service corridors* or within *City Structures*.

Appointment of Manager

22. The *Director, CAI* in the *Director, CAI's* sole discretion, may enter into a management agreement with a *person* to manage and coordinate one or more *multi-party installations*.

Obligations of Manager

23. A *person* who enters into a management agreement with the *Director, CAI* to manage and coordinate a *multi-party installation* must:
- (a) submit applications for a *utility alignment permit* on behalf of all members of the *multi-party installation*;
 - (b) pay all *fees* on behalf of all members of the *multi-party installation*;
 - (c) submit all *as-built drawings* for all members of the *multi-party installation*;
 - (d) respond to *relocation notices* issued by *The City* to members of the *multi-party installation*;
 - (e) comply with all terms and conditions of the management agreement for managing a *multi-party installation*; and
 - (f) ensure all requirements of this *Bylaw* are complied with while carrying out *work* for a *multi-party installation*.

AUTHORITY OF DIRECTOR

24. The *Director, CAI* may do any one or more, or all of the following:
- (a) implement, administer, and calculate *fees* as may be approved by Council for *The City's* services provided in accordance with this *Bylaw*;
 - (b) if applicable, calculate and recover from a *utility provider* *The City's* costs arising from the presence of a *utility provider's equipment* installed in a *service corridor* that are attributable to *lost productivity costs* or lost parking revenues, or both;
 - (c) implement administrative processes where necessary or desirable to facilitate the provision of the services described in this *Bylaw*, including the implementation of processes for tracking and managing compliance by *utility providers* with this *Bylaw* to identify *priority applications*;
 - (d) perform any of the *Director, CAI's* obligations or authorized actions as described in this *Bylaw*, including the demanding of a letter of credit or other performance security from the *utility provider*;

- (e) approve the *application* for a *utility alignment permit* for installation of *equipment within a service corridor* or *within a City Structure* and place any conditions on the performance of the *work* as the *Director, CAI* determines is necessary in the circumstances, taking into consideration safety and environmental matters, as well as facilitating equitable access by all *utility providers within the service corridor* or *within the City Structure*;

- (f) refuse to grant a *utility alignment permit* to a *utility provider* until the *utility provider*:
 - i. rectifies any breach by the *utility provider* of any term or condition of:
 - A. this *Bylaw*;
 - B. any other *Municipal Legislation* that applies to the proposed *work* or to the use of the *service corridor* or the use of the *City Structure*; or
 - C. the terms and conditions of an existing *utility alignment permit* held by the *utility provider*; or
 - ii. rectifies or completes the application for the *utility alignment permit* if the application is:
 - A. incomplete or inaccurate; or
 - B. not compliant with *Municipal Legislation*; or
 - iii. is able to perform the *work* proposed in the application for the *utility alignment permit* in a safe manner; or
 - iv. proposes a reasonable schedule for performance of the *work* that is acceptable to *The City*.

- (g) assist the *utility provider* in developing options for installation of the *utility provider's equipment*, but may refuse to grant a *utility alignment permit* to the *utility provider* as proposed in the *utility provider's application* if, in the reasonable opinion of the *Director, CAI*, any one or more of the following circumstances apply:
 - i. there is no available *utility alignment* within the *service corridor* or within the *City Structure* (whichever is applicable) as may be proposed in the *utility provider's application* for a *utility alignment permit*;
 - ii. the proposed *work* would prevent other *utility providers* from using the *service corridor* or the *City Structure* for installation of their *equipment*; or
 - iii. the proposed *utility alignment* or proposed *work* area described in the *application* for the *utility alignment permit* conflicts with other existing or

planned *work* approved in an existing *utility alignment permit* held by another *utility provider*.

25. The *utility provider* must pay to *The City* all reasonable and verifiable costs and *fees*, including design costs or additional construction costs, incurred by *The City* as a result of *The City's* approval of the *utility provider's* application for a *utility alignment permit* for installation of *equipment* on a *City Structure*.

UTILITY ALIGNMENT PERMITS

Application Fee Non-Refundable

26. If *The City* rejects the *utility provider's* application for a *utility alignment permit* in accordance with subsection 24(f), the *utility provider's* application *fee* is non-refundable and will not be deducted from any subsequent approved *utility alignment permit fee*.

Issuance of Utility Alignment Permit

27. *The City* will issue a *utility alignment permit* to a *utility provider* if:
- (a) no ground for refusal in accordance with subsection 24(f) applies to the *utility provider's* application or the *utility provider* rectifies the circumstances that create a ground of refusal as described in subsection 24(f); and
 - (b) no ground for refusal in accordance with subsection 24(g) applies to the *utility provider's* application.

Utility Alignment Permit Fee Deduction

28. *The City* will apply a *fee* at the time *The City* approves a *utility alignment permit*. The application *fee* described in section 15 will be deducted from the fee for the *utility alignment permit* for each *utility alignment permit* that is approved.

Terms and Conditions of Utility Alignment Permit

29. The *Director, CAI* may attach to a *utility alignment permit* one or more terms and conditions that apply to the performance of the *work* approved in the *utility alignment permit*, including:
- (a) any specific requirements for performance of the *work*, including requirements of the *utility provider* to make reasonable efforts to share an *utility alignment* with other *utility providers* if it is necessary to facilitate the efficient administration and use of the *service corridor* or of the *City Structure*;
 - (b) a date by which the *work* approved in the *utility alignment permit* must be completed;
 - (c) any date or dates during which the *work* must be temporarily suspended;

- (d) requirements relating to the scheduling of the *work*;
 - (e) requirements relating to the location of *equipment* that are necessary to accommodate other *utility providers* or users of *service corridors* or *City Structures*, or other municipal purposes;
 - (f) the identification of any *City Works* that will require *relocation* of the *equipment* that is the subject of the *utility alignment permit* to another approved *utility alignment* at a future date; and
 - (g) a requirement that the *utility provider* provide written verification that it, or the *contractor* the *utility provider* is hiring to perform the *work*, accepts all responsibilities of prime contractor as set out in the *Occupational Health and Safety Act* (Alberta); and
 - (h) a requirement that the *utility provider* provide a letter of credit or other performance security, as described in section 101 or section 102, that meets the requirements set out in Schedule “A” and in the amount prescribed by *The City*.
30. Upon request, the *utility provider* must provide to *The City*:
- (a) written verification from the Worker’s Compensation Board (Alberta) that the *utility provider* has an account in good standing with the Worker’s Compensation Board;
 - (b) a statement of any outstanding orders from Occupational Health and Safety (Alberta);
 - (c) a certificate of insurance in the form described in section 108 prior to the *utility provider’s* performance of the *work* approved in a *permit*.

EFFECT OF UTILITY ALIGNMENT PERMIT

Non-Exclusive License

31. Subject to the terms and conditions of this *Bylaw* and the terms and conditions of a *utility alignment permit*, a *utility alignment permit* gives the *permit holder* a non-exclusive license to:
- (a) enter *within* a *service corridor* or *within* a *City Structure* to do the *work* approved in the *permit*; and
 - (b) carry on with the form of use described in the approved *utility alignment permit*.

Limits of Utility Alignment Permit

32. A *utility alignment permit* does not:
- (a) confer any exclusive rights or privileges on the *permit holder*;
 - (b) restrict the grant of similar or concurrent rights or privileges to other *persons*, whether or not the grant of such rights or privileges would enable another person to carry on a use competitive with the *permit holder's* use;
 - (c) give the *permit holder* priority over the existing rights of any other *person* who does *work* or carries on a use in or about the approved *utility alignment*;
 - (d) give any interest in land to the *permit holder*;
 - (e) entitle the *permit holder* to register or file in any government office any instrument, claim, or notice with respect to the *work* that is the subject of the *permit*, the approved *utility alignment*, or the use;
 - (f) constitute consent for the *permit holder* to do *work* on a *City Structure* unless the *permit* expressly sets out such consent and conditions that are to apply to such *work*;
 - (g) make the *equipment* that is the subject of the *work* the property of *The City*;
 - (h) constitute approval or waiver of approval of the *work* under any one or more of:
 - i. any other *City Permit* required for performance of the *work*;
 - ii. any other requirements of *Municipal Legislation*;
 - iii. any additional requirements of *Other Legislation*;
 - (i) constitute permission to interfere in any manner with any existing *equipment*.

Non-Disposition of Utility Alignment Permit

33. A *utility provider* that has been granted a *utility alignment permit* must not dispose of or transfer the *utility alignment permit* or any of the *utility provider's* rights under the *utility alignment permit*, to another *person* unless the transfer occurs in accordance with section 34.

Disposition of Ownership of Equipment

- 34. (1) If a *utility provider* disposes of ownership of the *equipment* that is located *within* an approved *utility alignment* to another *utility provider*, then, at least 30 *calendar days* prior to the effective date of the disposition, the *utility provider* must deliver a *notice* to *The City* of the disposition and the effective date of the disposition.
- (2) Subsection 34(1) does not apply to a change in the effective voting control of the *utility provider* or a consolidation, merger, or amalgamation of the *permit holder* with another *person*.

Stop Work Order

- 35. An *Officer* or other *person* having proper jurisdiction, in consideration of the public interest and any affected 9-1-1 services, may issue a verbal order or a written order pursuant to section 113 of this *Bylaw* to a *utility provider* to stop performing *work* otherwise approved in a *permit* if the *utility provider* is in violation of *Municipal Legislation* or *Other Legislation*.

Compliance With Stop Work Order

- 36. The *utility provider* must comply with any verbal order or *notice* given pursuant to section 35 and immediately cease performing the *work* at the location described in the order.

Reasons for Issuing Order

- 37. If a verbal order to stop performing *work* is issued pursuant to section 35, *notice* will be provided by *The City* to the *utility provider* setting out the reasons for issuing the order no later than one *business day* after the day on which the verbal order was issued.

Resuming Stopped Work

- 38. The *utility provider* must not resume any stopped *work* which is the subject of an order pursuant to section 35 until all violations of *Municipal Legislation* or *Other Legislation* have been rectified to the satisfaction of *The City*.

PERFORMANCE OF WORK

Performance of Work

- 39. A *utility provider* must perform *work* approved in a *utility alignment permit*:
 - (a) by locating *equipment* only in the *utility alignment* approved in the *utility alignment permit*;
 - (b) in accordance with all terms and conditions set out in the *utility alignment permit*;
 - (c) in compliance with traffic control safety and management standards as may be imposed by *Municipal Legislation* and any traffic management plan as may be approved by *The City*;

- (d) in compliance with all other *Municipal Legislation* and *Other Legislation*;
- (e) without creating a nuisance as described in *Municipal Legislation*;
- (f) in a manner that safeguards all *City Structures* or *The City's equipment* in or around the approved *utility alignment* or area for performing the *work*; and
- (g) in a manner that does not unduly interfere with the public use and enjoyment of any *City Structure* or *service corridor* within which the *utility provider* is performing the *work*; and
- (h) in a good and workmanlike manner, including removing all tools, construction equipment and materials from the affected portion of the *service corridor* or *City Structure* upon completion of the *work*.

Contact Name of Representative

- 40. A *utility provider* must provide the name and contact information for the *utility provider's* representative who is supervising the performance of the *work* approved in a *utility alignment permit*.

Availability of Representative

- 41. While the *work* approved in a *utility alignment permit* is being performed, the *utility provider's* representative, or their designate, must be available at the physical location of the *work* within 2 hours of being contacted by *The City*.

Modification of Schedule

- 42. Subject to *Other Legislation*, *The City*, at the request of the *utility provider* or for any municipal purpose, may modify the schedule for performance of the *work* approved in a *utility alignment permit*. If a revised schedule for performance and completion of the *work* is approved by *The City*, the *utility provider* must comply with the revised schedule.

Repair of Damage

- 43. If, during the performance of *work* described in a *utility alignment permit*, the *utility provider* damages *The City's equipment* or other property, *The City* may either:
 - (a) elect to repair the damage and provide the *utility provider* notice of its election to undertake the repairs within 48 hours, and if *The City* fails give notice of its election within the time specified, *The City* will be deemed to have elected to undertake the repairs; or
 - (b) elect to have the *utility provider* repair the damage and return the damaged property to its prior condition before the damage occurred, without improvements, which the *utility provider* will carry out at its sole cost in a manner approved by *The City* and within such time period as specified by *The City*.

Failure to Complete Repairs

44. If the *utility provider* fails to complete the repairs in accordance with section 43(b) within the time period specified by *The City*, *The City* may carry out the repairs at the *utility provider's* sole cost and expense, and
- (a) the costs will be calculated in accordance with *The City's* normal practices and procedures;
 - (b) the invoice issued by *The City* to the *utility provider* to recover the costs as calculated in subsection (a) above will specify in reasonable detail the allocation of the costs; and
 - (c) the *utility provider* must pay the invoice for the costs within 30 *calendar days*.

Location of Equipment

45. Subject to *Other Legislation* or *Governmental Authority*, at *The City's* request:
- (a) a *utility provider* must, at no cost to *The City*, provide any information relating to the placement of its *equipment*, including line and elevation of the *equipment within its utility alignment*, to *The City* within 5 *business days* of receiving the request from *The City* unless the reason for the request is the result of an *emergency* in which case the requested information must be provided within 24 hours; or
 - (b) if the information described in subsection (a) is not available to the *utility provider*, the *utility provider* must, at its own expense, employ whatever means available to obtain line and elevation of the *equipment within its utility alignment* and provide the requested information to *The City* within a reasonable time frame.

Identifying Location of Equipment

46. At the request of *The City*, the *utility provider* must physically identify the location of its *equipment* by marking the *service corridor* and using paint, staking or another suitable method for identification.

COMPLETION OF WORK

Notice of Completion of Work

47. A *utility provider* must provide *The City* notice of the completion of *work* approved in a *utility alignment permit* within 10 *calendar days* of completing the *work*.

Completion of Work

48. A *utility provider* must complete the *work* approved in a *utility alignment permit* within either:

- (a) 180 *calendar days* from the day on which *The City* granted the *utility alignment permit*; or
- (b) an alternative time frame approved in a schedule or in a revised schedule agreed to by *The City* for performance of the *work*.

Failure to Proceed with Work

49. A *utility provider* must notify *The City* if the *utility provider* fails to proceed with the *work* approved in a *utility alignment permit* prior to expiry of the *utility alignment permit*.

Cancellation of Utility Alignment Permit

50. *The Director, CAI* may cancel a *utility alignment permit* if the *work* approved in the *utility alignment permit* has not been started prior to the expiry of the *utility alignment permit*.

LOCATION OF EQUIPMENT

Submission of As-Built Drawings

51. (1) The *utility provider* must submit *as-built drawings* to *The City* within 60 *calendar days* following completion of installation of *equipment* in the same electronic format as shown in the approved *application* for the *utility alignment permit*.
- (2) The *as-built drawings* submitted by the *utility provider* will be reviewed by *The City* for compliance with the requirements of section 52. *The City* may apply an *as-built drawing compliance fee* for performance of its review of the *utility provider's as-built drawings*.

Compliance with CSA Standard

52. *As-built drawings* submitted by the *utility provider* to *The City* must comply with the requirements of CSA Standard S250 and the terms and conditions of the *utility alignment permit*.

Deficiencies in As-Built Drawings

53. (1) If *The City* delivers *notice* to the *utility provider* that the *as-built drawings* submitted by the *utility provider* do not comply with the requirements of section 52 and specifies the deficiencies of the *as-built drawings*, the *utility provider* must correct the *as-built drawings* until they comply with the requirements of section 52 and return them to *The City* within the time period specified by *The City*.
- (2) *The City* may apply an additional *as-built drawing compliance fee* for each subsequent review of the *utility provider's as-built drawings* required to be performed by *The City* as a result of the *utility provider's* failure to submit

compliant and accurate *as-built drawings*, as described in section 52, in the first instance.

Cancellation of Permit

54. If *The City* does not receive the *as-built drawings* in accordance with section 52 from the *utility provider* within 60 *calendar days* following completion of installation of the *equipment*, or within the time period that may be specified pursuant to subsection 53(1), the *Director, CAI* may cancel the *utility alignment permit* and the installed *equipment* will be deemed *non-compliant equipment*.

Service Drop

55. A *utility provider* must obtain a *utility alignment permit* for a *service drop* for *equipment* if either one or both of the following applies:
- (41M2017, 2017 September 13)
- (a) the *service drop* is located parallel to the backbone of the *utility provider's* existing *equipment*; or
 - (b) the *service drop* is partially or completely in the *service corridor* for a distance greater than one metre.

Requirements for Service Drop

56. A *service drop* must:
- (a) be placed within one-half metre inside the property line of the *service corridor* that is adjacent to the property receiving service;
 - (b) be buried to avoid interference with traffic and other operations along the *service corridor*; and
 - (c) not be laid on top of, or over, a *service corridor*.

Application for a Temporary Service Drop

57. A *utility provider* must provide written notification to *The City* of the *utility provider's* placement of a temporary *service drop* no later than 5 *business days* after the installation of the *equipment*. The notification must be submitted in the electronic format set by *The City* in its web interface with *utility providers*, and include the specific location of the temporary *service drop* and the date on which the temporary *service drop* was placed.
- (41M2017, 2017 September 13)

RELOCATION OF EQUIPMENT

Requirement for Relocation

58. *The City* may, at any time, for a municipal or public purpose, require a *utility provider* to relocate any of the *utility provider's equipment* located *within a service corridor* or *within a City Structure*.

Relocation Notice

59. *The City will issue a relocation notice to the utility provider in the event The City requires relocation of any of the utility provider’s equipment.*

Permit for Relocation

60. Subject to Schedule “C”, upon receipt of a *relocation notice*, a *utility provider* must apply for a *utility alignment permit* and perform the *relocation* described in the *relocation notice* and any other required and associated *work* within 180 *calendar days* after receipt of the *relocation notice*, or within such other time as may be agreed to by the *utility provider* and *The City* and specified in the *utility alignment permit*.

Failure to Relocate Equipment

61. If a *utility provider* fails to perform a *relocation* in accordance with *the utility alignment permit* granted for the *relocation* under section 60 and in accordance with the terms and conditions of this *Bylaw*, *the utility provider* will be subject to a penalty of not less than \$500.00 for each *calendar day* after the date stated in the *relocation notice* by which the *relocation* was to have been performed until the date on which the *relocation* is completed by the *utility provider*.

Relocation Costs

62. If the date of the *relocation notice* referred to in section 59 is prior to the end of the sixteenth year after the date *The City* issued a *utility alignment permit* for the installation of the *equipment* contemplated in the *relocation notice*, *The City* will refund to the *utility provider* a portion of the *relocation costs*, as set out in the table below:

Year(s) After <i>utility alignment permit</i> for Installation of Equipment Issued	<i>The City</i> will refund:
1	100% of the costs of the <i>relocation</i>
2	100% of the costs of the <i>relocation</i>
3	100% of the costs of the <i>relocation</i>
4	90% of the costs of the <i>relocation</i>
5	80% of the costs of the <i>relocation</i>
6	70% of the costs of the <i>relocation</i>
7	65% of the costs of the <i>relocation</i>
8	60% of the costs of the <i>relocation</i>
9	55% of the costs of the <i>relocation</i>
10	45% of the costs of the <i>relocation</i>

11	40% of the costs of the <i>relocation</i>
12	35% of the costs of the <i>relocation</i>
13	30% of the costs of the <i>relocation</i>
14	20% of the costs of the <i>relocation</i>
15	10% of the costs of the <i>relocation</i>
16	5% of the costs of the <i>relocation</i>
17 onwards	0% of the costs of the <i>relocation</i>

Relocation Costs of Utility Provider

63. Despite section 62, if the date of the *relocation notice* referred to in section 59 is after the end of the sixteenth year after the date of the *utility alignment permit* for the work of installing the *equipment* was issued, the *utility provider* must comply with section 60 at its own cost.

Relocation Costs for City Works

64. Despite section 62, if the *relocation notice* referred to in section 59 involves the removal of *equipment* from an approved *utility alignment* that was granted subject to, and with notice of, proposed *City Works* in accordance with subsection 29(f), the *utility provider* must comply with section 60 at its sole cost.

Relocation Costs for Non-Compliant Equipment

65. The *utility provider* must pay for 100% of the *relocation costs* for *relocations* of all the following:
- (a) *non-compliant equipment*;
 - (b) *third party equipment* attached to a *utility provider's non-compliant equipment*; and
 - (c) any damages, liabilities, re-design costs and associated delay costs incurred by other occupiers of a *service corridor* or *City Structure* resulting from the *utility provider's non-compliant equipment*.

Notice of Non-Compliance

66. If *The City* identifies *non-compliant equipment* within a *service corridor* or within a *City Structure*, *The City* will issue a *notice of non-compliance* to the *utility provider*.

Relocation Notice for Non-Compliant Equipment

67. Subsequent to issuing a *notice of non-compliance*, *The City* may issue a *relocation notice* to the *utility provider* if the *non-compliant equipment* must be *relocated* for a municipal or public purpose or to allow another *utility provider* to install its *equipment*.

Relocation of Non-Compliant Equipment

68. On receipt of a *relocation notice*, the *utility provider* must *relocate* the *non-compliant equipment* that is the subject of the *relocation notice* as follows:
- (a) above-ground *non-compliant equipment* must be *relocated* within 90 *calendar days* from the date the *relocation notice* is issued;
 - (b) below-ground *non-compliant equipment* must be *relocated* within 180 *calendar days* from the date the *relocation notice* is issued.

Other Requirements for Non-Compliant Equipment

69. A *relocation* of *non-compliant equipment* is subject to section 61 of this *Bylaw*.

REMOVAL OF EQUIPMENT

Responsibility for Abandoned Equipment

70. A *utility provider* will be liable for all *abandoned equipment* located *within a service corridor* or *within a City Structure* and for all matters that arise as a result of the *abandoned equipment* until the *abandoned equipment* has been removed to the satisfaction of *The City*.

Notice of Abandonment

71. *The City* may issue a *notice* to a *utility provider* that the *utility provider's equipment* located in a *utility alignment* is considered to be abandoned if the *utility provider*:
- (a) delivers *notice* to *The City* that it has ceased to carry on with the use of the *equipment*; or
 - (b) has ceased to carry on with the use of the *equipment* and of the *utility alignment* and *The City* has observed the cessation of the use of the *equipment* and the *utility alignment*.

Presumption of Abandonment

72. If, within 60 *calendar days* of the date *The City* issues a *notice* to a *utility provider* in accordance with section 71, the *utility provider* informs *The City* that the *equipment* is not abandoned, the *equipment* will not be considered to be abandoned. However, if the *utility provider* does not respond to *The City's notice*, *The City* may presume that the *equipment* is *abandoned equipment*.

Notice for Removal of Abandoned Equipment

73. (1) *The City* may issue a *notice* to a *utility provider* for removal of above-ground *abandoned equipment* at any time.
- (2) *The City* will issue a *notice* to a *utility provider* for removal of below-ground *abandoned equipment* when the below-ground *abandoned equipment* interferes with any one or more of the following:
- (a) a project approved by *The City* (including the project of a *third party* as may be approved by *The City*) that requires excavation or otherwise disturbs that part of the *service corridor* in which the *abandoned equipment* is located;
 - (b) preservation of the *service corridor* in which the *abandoned equipment* is located;
 - (c) preservation of the environment in compliance with *Municipal Legislation* or *Other Legislation*; or
 - (d) *The City's* safety requirements or obligations under *Municipal Legislation* or *Other Legislation*.

Removal of Abandoned Equipment

74. Subject to *Other Legislation*, on receipt of a *notice*, the *utility provider* must remove the *abandoned equipment* that is the subject of the *notice* as follows:
- (a) above-ground *abandoned equipment* must be removed within 90 *calendar days* from the date the *notice* is issued;
 - (b) below-ground *abandoned equipment* must be removed within 180 *calendar days* from the date the *notice* is issued.

Removal of Temporary Service Drop

75. A *utility provider* must remove any *equipment* installed in a *service corridor* that is installed for the purpose of providing a temporary *service drop* within one year of the day on which it was installed and provide confirmation of such removal to *The City*.

Failure to Remove Equipment

76. Subject to *Other Legislation*, if the *utility provider* fails to remove any *equipment* for which *The City* has issued a *notice* for removal under section 73, the *utility provider* will be subject to a penalty of not less than \$500.00 for each *calendar day* after the date stated in the *notice* by which the removal of the *equipment* was to have been performed until the date on which the removal of the *equipment* is completed by the *utility provider*.

TEMPORARY REPAIRS AND RESTORATION

Restoration of Service Corridor

77. If a *utility provider* has excavated, broken up or otherwise disturbed a *service corridor*, the *utility provider* must, at its cost, *restore* the *service corridor* in accordance with the requirements of the *Director, Roads*.

Restoration Carried Out Jointly

78. The costs of carrying out a *restoration* may be apportioned between one or more *utility providers* or between the *utility provider(s)* and *The City* (as applicable) on the basis of their respective cuts if the *service corridor* has been excavated, broken up or otherwise disturbed to jointly provide services to the public.

Restoration Arising from a Situation Deemed to be in the Public Interest

79. *The City* will not require the *utility provider* to grind, mill or plane the surface of a *service corridor* if the surface of the *service corridor* is being *restored* as a result of *work* arising from a situation deemed by the *Director, Roads* to be in the public interest.

Completion of Temporary Repair

80. Despite section 77, if weather limitations or other external conditions beyond the control of a *utility provider* prevent the *utility provider* from *restoring* the *service corridor*, the *utility provider* may complete a *temporary repair*, but must complete the *temporary repair* in accordance with the time period specified by *The City*.

Warranty of Temporary Repair

81. A *utility provider* must warrant a *temporary repair* completed by the *utility provider* until:
- (a) the *utility provider* completes the *restoration* of the *service corridor* in the location of the *temporary repair*, or
 - (b) until *The City* completes the *restoration* of the *service corridor* in accordance with section 85 at the location of the *temporary repair*.

Restoration of City Structure

82. If a *utility provider* has disturbed a *City Structure*, the *utility provider* must *restore* the *City Structure* at its sole cost and within the time period specified by *The City*.

Replace Temporary Repair

83. The *utility provider* must replace a *temporary repair* with a *restoration* within the time period specified by the *Director, Roads*.

Warranty of Restoration

84. A *utility provider* must provide a warranty for a *restoration* for a period of 2 years from the date the *restoration* is completed.

Temporary Repair or Restoration by The City

85. *The City* may undertake and complete a *temporary repair* or complete a *restoration* and the *utility provider* must pay to *The City* the reasonable and verifiable costs of completing the *temporary repair* or *restoration* within 30 *calendar days* after receipt of *The City's* invoice for such costs if the *utility provider*:
- (a) does not complete a *temporary repair* within 90 *calendar days* of being given notice by *The City*;
 - (b) does not complete a *restoration* within 90 *calendar days* of being given notice by *The City*;
 - (c) does not complete the *temporary repair* described in subsection 85(a) or complete the *restoration* described in subsection 85(b) in accordance with the applicable standards of *The City*; or
 - (d) agrees that *The City* will complete the *temporary repair* or complete the *restoration*, as may be applicable.

Failure to Pay Invoice for Temporary Repair or Restoration

86. If the *utility provider* fails to pay, when due, an invoice issued by *The City* in accordance with section 85, *The City*:
- (a) without notice to the *utility provider*, may realize on any security obtained from the *utility provider* for *The City's* costs for completing a *temporary repair* or completing a *restoration* to satisfy payment for the costs;
 - (b) may collect from the *utility provider* on demand any deficiency between the costs of completing a *temporary repair* or the costs of completing a *restoration* and the amount realized under the security; and
 - (c) must return to the *utility provider* any balance remaining under the security.

Moratorium Period for Service Corridor

87. (1) The *Director, Roads* may identify a *service corridor* as subject to a *moratorium period* and the *moratorium period* will be calculated starting from December 31 of the calendar year in which the improvement of the identified *service corridor* was completed.
- (2) Despite subsection 87(1), under special circumstances the *Director, Roads* in the *Director, Roads's* sole discretion, may provide a *utility provider* written approval for work that breaks up or disturbs the *service corridor* during a *moratorium period*.

PAVEMENT DEGRADATION

Calculation of Pavement Degradation Fees

88. After completion of any *work* that involves excavating, breaking up or otherwise disturbing the surface of a *service corridor*, *The City* will:
- (a) calculate the *pavement degradation fees* resulting from the *work* based upon the classification of the *service corridor* under the *pavement quality index*, and
 - (b) invoice the *utility provider* for the *fees*.

Payment of Pavement Degradation Fees

89. The *utility provider* must pay the invoice for *pavement degradation fees* within 30 *calendar days* after receipt of the invoice.

INSPECTIONS

On-Site Inspections

90. *The City* may perform *inspections* on-site at the location identified in the *utility alignment permit* where the *work* described in the *utility alignment permit* is performed and the *utility provider's equipment* is installed.

Notice of On-Site Inspections

91. *The City* may either:
- (a) at the time it issues a *utility alignment permit*, inform the *utility provider* that it will be performing an on-site *inspection* of the *work* approved in the *permit*, whereby the *utility provider* must give *The City* 10 *calendar days'* notice prior to completion of the *work* to allow for scheduling of the *inspection*; or
 - (b) at any time after issuing a *utility alignment permit* to a *utility provider*, perform an on-site *inspection* of the *work* that is approved in the *permit*, and if *The City* gives notice to the *utility provider* that it is proceeding to carry out an on-site *inspection*, the *utility provider* must give *The City* 3 *calendar days'* notice prior to completion of the *work* to allow for scheduling of the *inspection*.

Calculation of On-Site Inspection Fee

92. The *Director, CAI* will determine the *fee* for an on-site *inspection* carried out in accordance with section 91 and will invoice the *utility provider* for the *utility provider's* share of the cost of the *inspection*.

Payment of Inspection Fees

93. The *utility provider* must pay the invoice for any *inspection fees* within 30 *calendar days* after receipt of the invoice.

Failure to Perform Inspection

94. If *The City* does not perform an *inspection*, as described in section 91, on or before 3:00 p.m. Calgary time on the date that the *inspection* is scheduled, the *utility provider* may close any excavation and complete the *work* unless the *utility provider* has been given *notice* by *The City* that the inspection will occur after 3:00 p.m. Calgary time.

Discovery of Deficiencies During Inspection

95. If, during an *inspection*, or at any other time, *The City* identifies deficiencies in the *utility provider's* compliance with the terms and conditions of a *utility alignment permit* issued by *The City*, *The City* may:
- (a) first, direct the *utility provider* by *notice* to correct the *work* approved in the *utility alignment permit* until the *work* complies with all terms and conditions of the *utility alignment permit*; and
 - (b) then, if the *utility provider* fails to correct and complete the *work* as required in (a) above within the period of time designated for completion, *The City* may:
 - i. deem any *equipment* installed under the authority of the *utility alignment permit* to be *non-compliant equipment*; or
 - ii. take whatever actions are necessary to correct the *work* so that the *work* complies with the terms and conditions of the *utility alignment permit* as issued and the *utility provider* must reimburse *The City* for *The City's* reasonable and verifiable costs of correcting and completing the *utility provider's work*.

EMERGENCIES

Emergency of The City

96. If *The City* must undertake work *within* a *service corridor* or *within* a *City Structure* as a result of an *emergency*, *The City* will:
- (a) if it is practicable and feasible in the circumstances, notify *utility providers* with *equipment* located *within* the *service corridor* or *within* the *City Structure* to allow the *utility provider* an opportunity to remove, *relocate*, or protect its *equipment* before interrupting the *utility provider's* services; and
 - (b) if any of *The City's* work related to the *emergency* involves the repair of the *utility provider's equipment*, *The City* may recover the reasonable and verifiable costs

of the repairs from the *utility provider*, unless *The City's work* is made necessary solely by a negligent act or omission of *The City*.

Emergency of the Utility Provider – Service Corridor

97. If a *utility provider* must perform *work within a service corridor* as a result of an *emergency* and a temporary *service drop* will not resolve the *emergency*, the *utility provider* must do all of the following:
- (a) give notice to *The City* of the *emergency* and the *work* performed during the *emergency* as soon as reasonably practicable;
 - (b) perform only the *work* that is necessary to deal with the *emergency* and comply with all provisions of this *Bylaw* and all *Municipal Legislation* related to performance of the *work* as is reasonably possible in the circumstances; and
 - (c) comply with all other requirements of this *Bylaw* within 5 *business days* of completing the *work* if the *work* involves breaking the surface of the service corridor as described in section 11(1).

Emergency of the Utility Provider – City Structure

98. If a *utility provider* must perform *work within a City Structure* as a result of an *emergency*, the *utility provider* must do all of the following:
- (a) obtain prior approval of *The City* before carrying out any *work* on the *City Structure*;
 - (b) perform only the *work* that is necessary to deal with the *emergency* and comply with all provisions of this *Bylaw* and *Municipal Legislation* related to the *work*.

INDEMNITY

Indemnity by Utility Provider

99. Subject to section 100, the *utility provider* must indemnify *The City* from and against all losses incurred by *The City* as a result of any claim, action, suit or proceeding based on a claim of injury to the *person* or property of another third party if:
- (a) the claim is a result of the willful misconduct or negligence of the *utility provider* while performing *work within a service corridor* or *within* or *City Structure*;
 - (b) the claim is caused by the *utility provider* while it is repairing any damage to *The City's* property in accordance with section 43(b); or
 - (c) the claim is caused by the *utility provider* in the course of transporting any products or goods which are *hazardous substances within a service corridor* or *within a City Structure*.

Waiver of Legal Responsibility

100. *The City* will not be legally responsible to a *utility provider*, and a *utility provider* will not be legally responsible to *The City*, for any indirect, consequential or economic losses (including business losses) arising from or out of any occurrence *within* a *service corridor* or *City Structure* while the *utility provider* is performing *work* for which a *utility alignment permit* has been issued.

SECURITY

Letters of Credit or Other Security

101. The *Director, CAI* or the *Director, Roads* may require a letter of credit or other form of performance security prior to a *utility provider's* performance of any *work* at any time the *utility provider's* proposed *work* as described in an application for a *utility alignment permit* requires excavating, breaking up or otherwise disturbing or cutting the surface of any *service corridor*.
102. In lieu of a penalty issued in accordance with this *Bylaw* under section 112, the *Director, CAI*, in the *Director CAI's* sole discretion, may issue a *notice* to the *utility provider* that the *utility provider* is in violation of this *Bylaw* and if the *utility provider* fails to become compliant with this *Bylaw* within 5 *business days*, the *Director, CAI* may issue a subsequent *notice* to the *utility provider* that the *utility provider* must deliver a letter of credit or other performance security to *The City*, in a form consistent with Schedule "A" of this *Bylaw*, within 5 *business days* of the date the subsequent *notice* was issued and in an amount not less than \$10,000.00, or in an amount equal to the estimated:
- (a) cost of a *temporary repair*;
 - (b) cost of *restoration*;
 - (c) cost of a *relocation*;
 - (d) *pavement degradation fees*;
 - (e) cost of any repairs, correction, or completion of *work* performed by *The City* as a result of the failure of the *utility provider* to comply with this *Bylaw*, or
 - (f) amount of any outstanding *fees* that are more than 60 *calendar days* overdue.

No Interest

103. The *utility provider* is not entitled to any interest from *The City* on the amount of the letter of credit or other performance security required or obtained by *The City* in accordance with section 101 or in accordance with section 102.

Realization of Security

104. *The City* may draw on the letter of credit or other performance security required or obtained from the *utility provider* in an amount to cover the costs related to any of the items described in subsections 102(a), (b), (c), (d), (e) or (f) if *The City* has given the *utility provider* notice of 5 business days that *The City* will be realizing on the letter of credit or other performance security.

Resolution Plan

105. If the *utility provider* receives notice from *The City* as described in section 104 and agrees to a *resolution plan* with *The City* prior to the expiry of 5 business days after receipt of the notice described in section 104, *The City* will not draw on the letter of credit or other security.

Failure to Perform Resolution Plan

106. If the *utility provider* fails to comply with the terms and conditions of the *resolution plan*, *The City* may draw on the letter of credit or other performance security immediately, without any further notice, on the expiry of the day when the *utility provider* is to have performed all terms and conditions of the *resolution plan*.

Deficiency of Security

107. *The City* may collect from the *utility provider* on demand any deficiency in costs between the amount of the letter of credit or other performance security and the reasonable and verifiable costs of completing the *temporary repair*, the *restoration*, the *relocation*, the *pavement degradation fees*, or the costs of repair or correction or completion of *work*, as may be applicable. *The City* will return to the *utility provider* any balance remaining under the letter of credit or other performance security.

INSURANCE

Insurance Requirements for Utility Alignment Permit

108. The *utility provider* must obtain and maintain comprehensive/commercial general liability insurance with an insurer licensed to operate in the Province of Alberta:
- (a) in an amount of not less than \$5,000,000.00 (FIVE MILLION DOLLARS) inclusive for each occurrence and in the aggregate annually and composed of any combination of primary and umbrella insurance policies;
 - (b) that will be considered primary and will not bring into contribution any other valid and collectible insurance;
 - (c) that is on an occurrence basis form;
 - (d) that names *The City* as an additional insured for all claims arising out of the performance of *work*;

- (e) that will require the insurer to make best efforts to provide *The City* with at least 30 *calendar days* prior notice by registered mail of cancellation, lapse or material change;
- (f) that includes all extensions of coverage customarily included in such a policy, including all of the following:
 - i. blanket contractual liability;
 - ii. cross liability;
 - iii. contingent employer's liability;
 - iv. broad form property and completed operations; and
 - v. non-owned automobile liability.

Certificate of Insurance

109. Prior to commencing *work* in accordance with a *utility alignment permit*, *The City* may require the *utility provider* to deliver to *The City* a certificate issued by the insurer or its authorized representative, in a form satisfactory to *The City's* Manager, Risk Management, evidencing the insurance described in section 108. The *utility provider* must maintain the insurance as long as the *utility provider's equipment* remains *within the service corridor*.

DELEGATION OF AUTHORITY

Director's Power to Delegate

110. The *Director, CAI* may delegate any or all of the powers granted to the *Director, CAI* under this *Bylaw*.
111. The *Director, Roads* may delegate any or all of the powers granted to the *Director, Roads* under this *Bylaw*.

ENFORCEMENT

General Penalty

112. (1) Any *person* who contravenes a provision of this *Bylaw* is guilty of an offence if the *person*:
- (a) does any act or thing that the *person* is prohibited from doing under this *Bylaw*; or
 - (b) fails to do any act or thing the *person* is required to do under this *Bylaw*.

- (2) Any *person* who is convicted of an offence pursuant to this *Bylaw* is liable on summary conviction to a fine not less than \$1,500.00 and not exceeding \$10,000.00, and in default of any fine imposed, to imprisonment for not more than six (6) months or judgement in default.

Authority of Officer

113. If an *Officer* believes a *person* has contravened a provision of this *Bylaw*, the *Officer* may do any one of the following:
- (a) issue to the *person* a violation ticket in accordance with the *Provincial Offences Procedure Act*;
 - (b) issue to the *person* an order to remedy the contravention in accordance with the *Municipal Government Act*;
 - (c) both (a) and (b).

Mandatory Court or Information

114. Section 113 does not prevent an *Officer* from issuing a violation ticket requiring the court appearance of the *person* contravening this *Bylaw* in accordance with the provisions of the *Provincial Offences Procedure Act*, or from laying an information instead of issuing a violation ticket.

Continuing Offence

115. Any *person* who is convicted of an offence of a continuing nature pursuant to this *Bylaw* is liable on summary conviction to a fine not exceeding \$500.00 for each day the offence continues.

Liability for Fees

116. The levying and payment of any fine for any contravention of this *Bylaw* will not relieve a *person* from the necessity of paying any *fees*, charges or costs for which that *person* is responsible under the provisions of this *Bylaw*.

Proof of Approvals

117. If, on prosecution of an offence pursuant to this *Bylaw*, a *person* believes that written approval of the *Director, CAI* or the *Director, Roads* provides that *person* with a defence, the onus of verifying such approval rests with the *person* relying on the approval.

NOTICES OR ORDERS

118. Any *notice* or order to a *utility provider* made by mail will be deemed to have been given or served on the fifth (5th) *business day* after it is deposited in any post office in Canada. Any *notice* given by electronic mail or by personal delivery will be deemed to have been given on the day following the day it is sent or delivered. Any *notice* to a *utility provider*

may also be served in person by delivering the same to a responsible *person* in the offices of the *utility provider* to be served at the address of notification given to *The City*.

119. A *utility provider* must, within 10 *calendar days* of the effective date of this *Bylaw*, provide to *The City*:
- (a) an address and an electronic email address with the name of the *person* or *persons* to which *notices* or orders may be sent or delivered, and
 - (b) a list of 24-hour emergency contact personnel.

The *utility provider* must ensure the foregoing information remains current. The *utility provider* may change its address for service and or list of 24-hour emergency contact personnel at any time by *notice* to *The City* at the address below:

The City of Calgary
P.O. Box 2100
Station "M", #8026
Calgary, Alberta T2P 2M5
Attention: Leader, Right-of-Way Management Services

EMAIL: ULASupport@calgary.ca

WITH A COPY TO:

The City of Calgary
Law Department
P.O. Box 2100
Station "M", #8053
Calgary, Alberta T2P 2M5
Attention: City Solicitor

CONFLICT BETWEEN THIS BYLAW, MUNICIPAL LEGISLATION AND OTHER LEGISLATION

120. In the event of any express conflict between this *Bylaw* and any other bylaw passed by Council, this *Bylaw* prevails.
121. Subject to section 120, nothing in this *Bylaw* relieves a person from complying with *Municipal Legislation*, *Other Legislation* or any requirement of any other lawful permit, order or licence.
122. If there is a conflict between *Other Legislation* and this *Bylaw*, *Other Legislation* prevails.

APPEALS

123. Any dispute that arises between a *utility provider* and *The City* as a result of a decision made by the *Director, CAI* or by the *Director, Roads* that cannot be resolved to the

satisfaction of the *utility provider* and *The City* may be appealed to the appropriate *Governmental Authority*.

COMING INTO FORCE

124. This *Bylaw* comes into force on the 1st day of January, 2018.

READ A FIRST TIME THIS 28TH DAY OF NOVEMBER, 2016.

READ A SECOND TIME, AS AMENDED, THIS 28TH DAY OF NOVEMBER, 2016.

READ A THIRD TIME, AS AMENDED, THIS 28TH DAY OF NOVEMBER, 2016.

(Sgd.) N. Nenshi
MAYOR

(Sgd.) S. Gray
CITY CLERK

**SCHEDULE “A”
LETTER OF CREDIT TERMS AND CONDITIONS**

The letter of credit must:

1. clearly state that it is an irrevocable letter of credit;
2. be drawn on a Canadian chartered bank or other Canadian financial institution acceptable to *The City*;
3. bear an identifying number;
4. be issued to *The City* as beneficiary, and identify *The City* by name and address;
5. be in an amount equal to the estimated costs identified by *The City* in its *notice*;
6. state the issue date and expiry date, and be for a term of at least one year from the issue date;
7. identify the applicant for the letter of credit, who must be the *permit holder*, by name and address;
8. identify this *Bylaw* as a reference and secure the obligations of the *permit holder* to *The City* under the *Bylaw*;
9. be payable at sight at an identified branch of the issuer located in Calgary;
10. state that the issuer will not enquire as to whether or not the beneficiary has a right to make demand on the letter of credit, that *The City* may make partial drawings, and that the issuer engages with *The City* that drafts drawn in conformity with the letter of credit will be duly honoured if presented to the issuer on or before the expiry date of the letter of credit;
11. not include any expression or implication that the letter of credit is a guarantee;
12. state that except as the letter of credit may otherwise expressly provide, the letter of credit is subject to the Uniform Customs and Practice for Documentary Credits most recently published by the International Chamber of Commerce;
13. be signed by an authorized signatory of the issuer; and
14. otherwise be in form and substance acceptable to the City Solicitor or their designate.

The letter of credit may provide for automatic renewal for successive terms of at least one year each, unless the issuer delivers to *The City* and to the *permit holder* at least 60 *calendar days* prior written notice that the issuer declines to renew the letter of credit. The first renewal term must begin on the first annual anniversary of the original issue date, and each following renewal term must begin on the first annual anniversary of the issue date for the preceding renewal term.

If the letter of credit does not provide for automatic renewal, or if the issuer delivers such notice declining to renew, the *permit holder*, at least 50 *calendar days* before the expiry date of the then current letter of credit term, will deliver to *The City* a renewal or replacement of the letter of credit on the terms set out in this section, and with an issue date that is the first annual anniversary of the issue date for the then current term.

If the letter of credit secures an ascertainable financial obligation of the *permit holder* to *The City*, and if the *permit holder* reduces the amount of that obligation from time to time by payment to *The City* according to the terms and conditions of the *Bylaw*, the *permit holder* may request *The City's* consent to replacing the letter of credit with one for a lesser amount, equal to the amount of the *permit holder's* then outstanding financial obligation to *The City*. *The City* will not unreasonably withhold its consent if the replacement letter of credit meets the requirements of the *Bylaw*, with respect to the original letter of credit, except for the reduced amount.

**SCHEDULE “B”
GUIDELINES FOR ATTACHMENT TO CITY STRUCTURES**

1. This Design Guideline for Bridges and Structures are part of the *Municipal Legislation* and apply to both newly constructed *City Structures* and to existing *City Structures* (for the purposes of this Schedule “C”, they will be referred to as the “Guidelines”).
2. *The City’s* business units, at their discretion, may consider alternatives to the Guidelines if a developer or contractor submits a written request to *The City* identifying their reasons for special consideration.
3. *The City* discourages *equipment* attachments to *City Structures* and requires *utility providers* to seek alternative routes where at all possible for accommodation of their *equipment*. *Equipment* attachments to *City Structures* often creates interference with future work undertaken by *The City*, including scheduled and unscheduled maintenance of the *City Structure*.
4. If the *utility provider* demonstrates to the satisfaction of *The City* that no other route is feasible for installation of its *equipment*, *The City* retains the right to install its own *equipment*, and will work together with the *utility provider* to ensure that the *equipment* accommodates the needs of the *utility provider* to the degree that the design of the *City Structure* allows. Access to *The City’s equipment* will be allocated by *The City* on an equitable basis.
5. *The City* retains full ownership of any *equipment* that is constructed by *The City* within its *City Structures*.
6. *Utility providers* must enter into a licensing agreement with *The City* as a condition of accessing *The City’s equipment* located on a *City Structure*. A condition of approval for access to such *equipment* is that the *utility provider* must have an alternative route that can be utilized in the event of an emergency where the *City Structure* or *equipment* is compromised by any act, including fire, flood, vehicle collision, etc.
7. In the event *The City* makes a determination not to install its own *equipment* on a *City Structure* and grants approval to the *utility provider* to construct or install the *utility provider’s equipment* on the *City Structure*, the *work* must be in accordance with the following technical guidelines:

- (a) the *utility provider's equipment* must be of non-corrosive material or galvanized steel, which must be located in non-structural elements or in low-stress areas of secondary components of the *City Structure*. If attachment to primary structural elements of the *City Structure* is approved, the attachment must not compromise the structural integrity or long term durability of the *City Structure*;
- (b) at transition points, such as expansion joints, couplings and fittings must be capable of accommodating the bridge transition. An allowance must be made for vertical movement due to bridge jacking during bearing replacement;
- (c) no fluid-carrying or natural gas utility lines may be placed on or under a bridge superstructure, unless special written approval from senior management at *The City* has been obtained; and
- (d) the proposed technical information relating to *equipment* details, the *utility alignment* of the *equipment*, supports and the method of attachment to the *City Structure* must be submitted to *The City* for review and approval. All instructions and revisions by *The City* relating to the proposed *equipment* and the associated *work* must be implemented by the *utility provider* and final documentation must be authenticated by a Professional Engineer registered with the Association of Professional Engineers and Geoscientists of Alberta (APEGA) and filed with *The City*.

**SCHEDULE “C”
NOTICE PERIODS FOR RELOCATION OF SPECIAL EQUIPMENT**

1. Subject to *Other Legislation*, *The City* may extend the *notice* period of 180 *calendar days* as described in section 60 for the *relocation* of *equipment*, taking into consideration the following factors:
 - (a) the nature of the *equipment* to be *relocated*, such as the size of the *equipment*, the specific operating constraints of the *utility provider* and the *utility provider’s* obligation to maintain service to customers;
 - (b) specific engineering and design constraints impacting the *relocation* of the *equipment*, such as the amount of time required to procure materials and land and undertake design work;
 - (c) construction constraints such as the season of year; and
 - (d) compliance with the requirements of a *Governmental Authority*.

2. If a *utility provider* can provide sufficient evidence to the satisfaction of *The City* to justify an extension of the *notice* period for the *relocation* of *equipment* under section 1 of this Schedule “C”, the following *notice* periods for *relocation* will apply:

Utility Facility	Description	Notice Guidelines
Natural Gas Facilities and Pipelines		
Pipeline – Transmission	Steel 6” and under	365 days
	Steel 6” and over	545 days
Pipeline – Transmission Metering / Regulating / Compressing Stations	Modification to existing station site within existing station boundaries which does not require additional land	545 days
	Modification to existing station site requiring additional land	545 days from date of land acquisition (i.e. land title transferred or lease signed)
	Relocation of existing station to a new location	545 days from date of land acquisition (i.e. land title transferred or lease signed)
Pipeline – Distribution Main	PE 6” and under	270 days
	PE 6” and over	365 days
	Steel 6” and under	270 days
	Steel 6” and over	365 days
Pipeline – Distribution Service	Residential	270 days
	Commercial	270 days
	Industrial	270 days
Pipeline – Distribution Metering / Regulating Stations	Modification to existing station site within existing station boundaries	365 days
	Modification to existing station site requiring additional land	365 days from date of land acquisition (i.e. land title transferred or lease signed)

	Relocation of existing station to a new location	365 days from date of land acquisition (i.e. land title transferred or lease signed)
Electric Facilities		
Transmission	Electrical lines greater than 25kv	545 days
Sub Stations	Modification to existing station site within existing station boundaries	365 days
	Modification to existing station site requiring additional land	365 days from date of land acquisition (i.e. land title transferred or lease signed)
	Relocation of existing station to a new location	365 days from date of land acquisition (i.e. land title transferred or lease signed)
Distribution – Concrete encased duct banks		270 days
Distribution – Transformers		270 days