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## Environmental Reserve Lands Policy

POLICY NUMBER: 221-AD-22

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Approval Date: February 28, 2023

Revise Date:

Motion Number: CRM20230228.1013

Repeal Date:

Supersedes:

Review Date:

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### 1.0 Policy Intent

To establish guidelines for the use and management of Environmental Reserve lands under the jurisdiction of the City of Cold Lake.

### 2.0 Purpose

The purpose of this policy is to establish administrative guidelines for the management, use and licensing of the City's Environmental Reserve lands with the intent of:

- 2.1 Encouraging and maintaining public access to all Environmental Reserve lands under the ownership of the City of Cold Lake;
- 2.2 Allowing for private recreational use of Environmental Reserve lands as deemed appropriate by Council through a Licence of Occupation;
- 2.3 Enabling informed decision-making by Council, administration and community;
- 2.4 Improving decision-making accountability and transparency;
- 2.5 Meeting federal, provincial and local legislative regulatory requirements; and
- 2.6 Ensuring that risk, approved levels of service, and public interest are considered to inform decisions at all levels of decision making.

### 3.0 Policy Statement

- 3.1 Environmental Reserve lands located along the shores of Cold Lake and throughout the city are a significant public asset that protect the integrity of the lake and other natural features.
- 3.2 Environmental Reserve lands play an important role in providing opportunities for outdoor recreation and providing public access to the lake and other natural areas.
- 3.3 The City recognizes that owners of properties that lie adjacent to the Environmental Reserve may wish to erect private improvements to support their use of the Environmental Reserves for recreational purposes.

- 3.4 The City shall ensure that any private improvements erected within Environmental Reserve lands, under a licence pursuant to this policy, do not impair public access.
- 3.5 The City shall comply with this policy both internally and in its engagements with property owners, and members of the public. If any provisions of this policy are held invalid, the remainder of this document shall be valid.

#### 4.0 Managerial Guidelines

##### 4.1 Definitions:

- 4.1.1 “**Adjacent Owner**” means the registered property owner, as indicated on a Certificate of Title, of a property that shares a parcel boundary with an Environmental Reserve owned by the City of Cold Lake;
- 4.1.2 “**CAO**” means the Chief Administrative Officer of the City of Cold Lake;
- 4.1.3 “**City**” means the municipal corporation of the City of Cold Lake, or the geographical area falling within the corporate limits of the City of Cold Lake as the context requires;
- 4.1.4 “**Council**” means Cold Lake City Council;
- 4.1.5 “**Environmental Reserve**” means lands owned by the City of Cold Lake and designated as Environmental Reserve in accordance with the requirements of the *Municipal Government Act* or lands dedicated under a former Act that would be characterized as Environmental Reserve under the current Act;
- 4.1.6 “**Improvements**” means any private improvements that are permitted to occupy a portion of an Environmental Reserve subject to a Licence in accordance with section 4.4 of this policy;
- 4.1.7 “**Licence**” means a Licence of Occupation that has been granted by the City of Cold Lake in accordance with Section 4.4 of this policy;
- 4.1.8 “**Licensee**” means an Adjacent Owner to whom the City has granted a Licence of Occupation in accordance with this policy;
- 4.1.9 “**MGA**” means the *Municipal Government Act*, R.S.A. 2000 and all amendments thereto;

##### 4.2 General

- 4.2.1 Through the subdivision and development process per the MGA, the City has come to own lands designated as Environmental Reserve throughout the City.
- 4.2.2 Section 671(1) of the MGA requires that Environmental Reserve be left in its natural state or used as a public park.
- 4.2.3 Section 676(1)(a) of the MGA states that Council may, by bylaw, allow Environmental Reserve to be used for a purpose not specified in Section 671(1).
- 4.2.4 Section 676(1)(c) of the MGA allows Council to lease or dispose of an Environmental Reserve for a term of not more than three (3) years.
- 4.2.5 Any activities taking place within the City’s Environmental Reserve lands shall be in compliance with the City’s *Parks and Public Facilities Bylaw*.

### 4.3 Alternative Use Of Environmental Reserves

- 4.3.1 Where Council deems it in the public interest to do so, it may pass a bylaw in accordance with MGA Section 676(1)(a) to allow for an Environmental Reserve to be used for purposes other than those specified in MGA Section 671(1).
- 4.3.2 When considering a bylaw for alternative use of an Environmental Reserve, Council shall ensure that the proposed alternative uses are consistent with the overarching purposes of conservation, recreation and public access.
- 4.3.3 When considering a bylaw for alternative use of an Environmental Reserve, Council may include a provision to allow the City to enter into a Licence Agreement with an Adjacent Owner to occupy a portion of the Environmental Reserve for any or all of the alternative uses specified in the bylaw.

### 4.4 Licence of Occupation

- 4.4.1 Where Council has passed a bylaw allowing for alternative uses of an Environmental Reserve, such bylaw may include a provision to allow the City to enter into a Licence agreement with an Adjacent Owner to allow specified private Improvements to occupy a portion of the Environmental Reserve.
- 4.4.2 Where an Adjacent Owner wishes to enter into a Licence agreement with the City to allow specified private Improvements to occupy a portion of an Environmental Reserve, the following shall apply:
  - 4.4.2.1 The Improvements must be located within the portion of the Environmental Reserve immediately adjacent to the requestor's property;
    - 4.4.2.1.1 Where two parcels of Environmental Reserve lie immediately parallel to one another, an Adjacent Owner is deemed to be adjacent to both parcels of Environmental Reserve for the purposes of this policy.
  - 4.4.2.2 The Improvements must be allowable under the alternative uses specified by bylaw for that particular Environmental Reserve.
  - 4.4.2.3 The Improvements must also comply with all applicable requirements of the City of Cold Lake Land Use Bylaw, as may be updated from time to time.
  - 4.4.2.4 Licences granted under this policy shall not apply to any improvements or any portion of any improvements located on lands owned or managed by the Province of Alberta.
- 4.4.3 All Licences granted under this policy shall be subject to the following:
  - 4.4.3.1 The Licence term shall be for a period of three (3) years;
  - 4.4.3.2 The Licence shall automatically renew for an additional period of three (3) years from the date of expiry of the initial term, or any subsequent renewal term;

- 4.4.3.3 The Licence fee shall be as specified in Schedule “A” of this policy;
- 4.4.3.4 The Licensee shall carry comprehensive liability insurance with insurable limits of no less than TWO MILLION (\$2,000,000.00) DOLLARS for each occurrence or incident;
- 4.4.3.5 The Licensee shall provide proof of such insurance to the satisfaction of the City of Cold Lake on an annual basis.
- 4.4.3.6 The Licensee shall acknowledge that the public has a right to access and use the Environmental Reserve and the Licensee shall not prevent any member of the public from accessing or using the Environmental Reserve.
- 4.4.4 The City shall not grant a Licence in respect of an Environmental Reserve to any person(s) who are not an Adjacent Owner as defined in this policy unless Council directs otherwise.
- 4.4.5 In the event that a Licensee sells their property, the City, in its sole discretion, may consent to assigning the Licence Agreement to the purchaser for the balance of the current Licence term, following which the purchaser shall make application to enter into a new Licence agreement with the City.
- 4.4.6 All Licences issued pursuant to this policy shall allow the City to terminate the Licence in the event that it is in the public interest to do so, or in the event that the Licensee defaults on their obligations under the agreement.
- 4.4.7 The CAO shall be delegated the authority to enter into Licence agreements pursuant to this policy.
  - 4.4.7.1 The CAO may further delegate the authority to enter into Licence agreements pursuant to this policy to another employee of the City.
- 4.4.8 The Licence shall be in the form set forth in Schedule “B”.

## 5.0 References

- 5.1 City of Cold Lake Land Use Bylaw 766-LU-23
- 5.2 Parks and Public Facilities Bylaw 539-PL-14
- 5.3 *Municipal Government Act*, R.S.A. 2000

## 6.0 Persons Affected

City of Cold Lake Residents  
Community Services Department  
Planning and Development Department

**7.0 Revision/Review History**

The Council and the CAO or their designate, shall review this policy as required, or following changes to the operating environment of any of the divisions of the City; or at such other times as the Council and or CAO considers appropriate.

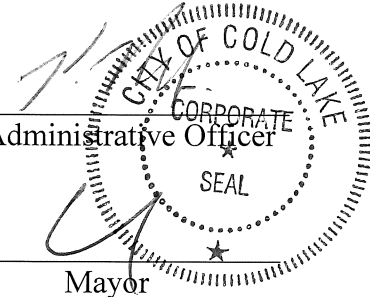
*Mar 6, 2023*

\_\_\_\_\_  
Date

*March 7 2023*

\_\_\_\_\_  
Date

*[Signature]*  
\_\_\_\_\_  
Chief Administrative Officer



*[Signature]*  
\_\_\_\_\_  
Mayor

**APPENDIX "A"**  
**FEES**

**Environmental Reserve Licence Agreement Administrative Fee** **\$500**

**END OF APPENDIX "A"**

**APPENDIX "B"**

**Standard Environmental Reserve Licence Agreement**

**CITY OF COLD LAKE  
LICENCE OF OCCUPATION**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BETWEEN:

**CITY OF COLD LAKE**  
a municipal corporation in the Province of Alberta,  
(hereinafter referred to as the "City")

OF THE FIRST PART

- and -

**NAME**  
**Address**  
**CITY, POSTAL**

(hereinafter referred to as the "Licensee")

OF THE SECOND PART

WHEREAS the City is the registered owner of the lands legally described as Plan \_\_\_\_\_, Block \_\_\_\_, Lot \_\_\_\_, as shown in Schedule "A" attached (the Municipal Lands);

AND WHEREAS the Licensee is the registered owner of certain lands legally described as Plan \_\_\_\_\_, Block \_\_\_\_, Lot \_\_\_\_, (the "Licensee's Lands");

AND WHEREAS the Licensee has requested the City grant a licence to permit specified private Improvement(s) on the Municipal Lands as identified on the attached Schedule "A" subject to the terms of this Agreement;

AND WHEREAS the City has passed Bylaw No. \_\_\_\_\_ in accordance with Section 676(1) of the *Municipal Government Act*, R.S.A. 2000 to allow for alternative uses of Environmental Reserve lands.

AND WHEREAS the City has agreed to grant the Licensee a non-exclusive licence to locate and maintain certain private Improvement(s) as described in the attached Schedule "A" within the Municipal Lands subject to the terms of this agreement:

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises, covenants, conditions and terms contained herein, the parties hereto agree as follows:

2. **Consideration and Right to Maintain**

In consideration of the sum of \$ \_\_\_\_\_ paid to the City by the Licensee at the commencement of this Agreement and subject to the terms and conditions of this Agreement, the City gives to the Licensee a non-exclusive license to locate and maintain the Improvement(s) within the Municipal Lands subject to terms and conditions of this Agreement.

3. **Limited Purpose**



- (a) The License hereby granted shall be limited solely to the Improvement(s) as identified in Schedule "A" and the Licensee shall not erect or permit any other Improvement(s) whatsoever within the Municipal Lands without the prior written approval of the City.
- (b) The Licensee acknowledges that the public shall have the right to access and use the Municipal Lands at all times and the Licensee shall not interfere with or prevent the public from accessing or using the Municipal Lands.
- (c) The Licensee acknowledges that public access also comes with risks of liability that is inherited by the Licensee for such access. The Licensee acknowledges that it understands and accepts such liability voluntarily.

4. **Permits**

Nothing in this Agreement in any way constitutes a development permit or a building permit on the Municipal Lands as shown in Schedule "A" hereto and the Licensee shall not cause or permit any new development whatsoever within the Municipal Lands without receiving a development permit and/or building permit;

Upon entering into this license agreement, regulatory authorities may require inspections to ensure conformance to local, provincial, and federal legislation and/or regulations. All costs associated to obtain and/or ensure compliance and/or permits, inclusive of any such formal inspections, permitting costs, shall be at the sole costs of the Licensee.

5. **Municipality's Rights**

The City shall have the full right to occupy and use the Municipal Lands in any manner whatsoever deemed appropriate by the City; provided, that the City shall not unreasonably interfere with the rights herein conferred upon the Licensee;

6. **Environmental Obligations**

Notwithstanding any other term or condition of this Agreement, the Licensee shall accept the granting of this licence as contemplated herein on the understanding and agreement that there are no agreements, conditions, warranties or representations relating to the Municipal Lands other than as stated in this Agreement and the City does not warrant the quality, condition or sufficiency of the Municipal Lands for any use or purpose and the grant of this licence is taken by the Licensee on a strictly "as is, where is" basis.

Without restricting the generality of the foregoing, the Licensee shall comply with all legislation dealing with any environmental issues related to the Municipal Lands including, but not limited to, the *Environmental Protection and Enhancement Act*, R.S.A. 2000 c. E-12, as amended, and regulations thereunder or any successor legislation. The responsibility of the Licensee with respect to environmental obligations will continue to be enforceable during and after the term of this Agreement.

7. **Utilities and Drainage**

- (a) In the event that the City deems it necessary or appropriate to cause or allow third parties to

construct or install permanent underground or above ground utility lines, pipelines facilities, transmission lines, drainage swales and sidewalks etc. (the "work"), which will cross the Municipal Lands, or to perform such other work upon the Municipal Lands as may be deemed necessary in the sole discretion of the City, the Licensee shall in no way interfere with or hinder the construction, installation, repair or maintenance undertaken by the City or any person to whom the City has granted such permission. The Licensee shall provide further documentation as may be deemed appropriate in the sole discretion of the City for the purposes of expediting or permitting the "work" within the Municipal Lands by the City or the nominee of the City

- (b) In the event the City requests and deem it necessary to perform such work within the Municipal Lands, the Licensee is responsible for the removal of the Improvement(s) within the Municipal Lands, at the request of the City.

## 8. **Licensee's Obligations**

The rights granted to the Licensee under this agreement constitute a licence only and shall not under any circumstances constitute a lease or other interest in land. No rights granted hereunder shall create or vest under the Licensee any ownership or property rights in the Municipal Land nor create an interest in land and the Licensee shall not register its interest in this Agreement as such.

The Licensee Shall:

- (a) **Licensee's Sole Expense** - keep, maintain, and repair the Improvement(s) in good order and condition. In the event that the City or any franchise utility deem it necessary to access services within the Municipal Lands, at any time, the Licensee shall be responsible for any and all costs which may incur from work undertaken as a result of the Improvement(s). If the Improvement(s) must be removed, the Licensee shall be responsible for the removal of the Improvement(s) at the Licensee's sole expense within 30 (Thirty) days of written notification or other mutually agreed to time period. If emergency access is required, the City may remove the Improvement(s) at the Licensee's sole expense at any time.
- (b) **No increase, additions or alterations in the Municipal Lands** - ensure that no additional Improvement(s) are installed or erected in, on, over, or under the Municipal Lands without the prior written permission of the City and amendment of this agreement;
- (c) **Discharges** - promptly discharge any and all encumbrances registered against the Municipal Lands, including Builder's Liens which are registered as a result of any action of the Licensee, its agents, officers, employees or independent contractors. In the event the Licensee fails to discharge any such encumbrance within fifteen (15) days of receiving notice from the City , the City may forthwith terminate this Agreement;

## 9. **Licence Term and Termination**

This agreement shall be in force and effect for a period of three (3) years from the date of signing but may be terminated by the City as follows:

- (a) The City gives to the Licensee the privilege to allow the Improvement(s) to occupy the Municipal Lands until such time as the City determines that the affected area of the Municipal

Lands are required for public use and shall give to the Licensee not less than Thirty (30) days written notice of such termination, which notice shall terminate this Agreement at the expiration of notice period given, or

- (b) If the Licensee defaults in the performance of any covenant, condition or term of this agreement and such default is not remedied within (10) days' notice of such default, this Agreement shall thereupon terminate without further notice.
- (c) This Licence may be renewed for additional terms upon receipt of payment of the Licence Renewal Fee as set forth in Policy 221-AD-22, unless terminated in accordance with Clause 9(a) or (b).

10. **Non Assignability of Agreement**

- (a) The Licensee shall not assign this Agreement without the express written approval of the City, such approval shall not be unreasonably withheld.
- (b) It is understood between the City and the Licensee that any assignment of this Agreement to which the City consents shall not be permitted unless and until:
  - i) The proposed assignee enters into a further agreement with the City whereby such assignee undertakes to assume and perform all of the obligations and responsibilities of the Licensee as set forth in this Agreement; and
  - ii) The proposed assignee has deposited with the City all insurance and security as required by the terms of this Agreement.

11. **Licensee's Obligations on Termination**

Upon termination of this Licence, the Licensee shall remove all Improvement(s) belonging to the Licensee from the Municipal Lands and restore the Municipal Lands to a level and condition equivalent to that which existed prior to the commencement of the Encroachment and to the City Municipal Engineering Standards.

If the Licensee fails or neglects to restore the Municipal Lands or fails to remove any and all property of the Licensee from the Municipal Lands within thirty (30) days of the termination of the Licence, the City shall have the right, but not the obligation, to take such action as is reasonably necessary in the sole discretion of the City to remove all property of the Licensee from the Municipal Lands, and to restore the Municipal Lands to the level and condition equivalent to that which existed prior to the commencement of this Licence.

The City shall not be responsible for any loss or damage, however caused, to any property of the Licensee hereby removed from the Municipal Lands, and the Licensee further agrees to compensate the City, its servants, contractors or agents pursuant to this clause. Any cost incurred by the City pursuant to this clause shall be a charge and encumbrance against the Licensee's Lands and the Licensee hereby charges the Licensee's Lands for such costs.

12. **Failure to Perform**

If the Licensee fails or neglects, within thirty (30) days of the receipt of notice from the City or a

mutually agreed to time period, to comply with the requirements of this Agreement, without notice in the case of an emergency or in the event that the City deems it necessary and in the public interest to terminate this agreement and have the Improvement(s) removed prior to the expiration date of this agreement specified in Clause 9, the City may (but is not required to):

- (a) Perform or cause to be performed the requirements of this Agreement on behalf of and at the Licensee's cost and expense. The Licensee will reimburse the City for all costs, charges, and expenses incurred by the City on behalf of the Licensee within (10) days of receipt by the Licensee of an invoice for them;
- (b) Demolish and remove the Improvement(s) on behalf of and at the Licensee's cost, charges and expenses and terminate the Licensee's rights under this Agreement. The Licensee will reimburse the City for all costs, charges and expenses incurred by the City for undertaking such work within ten (10) days of receipt of an invoice from the City for such costs;
- (c) Pursue any right or remedy which the City may be entitled to under this Agreement, or in law or equity.

13. **Compliance with Law**

This license does not exempt and/or supersede other regulatory approvals that may be required by local, provincial, and federal regulatory authorities. The Licensee shall at all times and in all respects abide by all laws, bylaws, legislative and regulatory requirements of any governmental or other competent authority relating to the use and occupation of the Municipal Lands by the Improvement(s).

14. **Notice of Accidents**

The Licensee shall provide the City with prompt written notice of any accident, damage or injury occurring on the Municipal Lands however caused.

15. **Insurance**

The Licensee shall carry comprehensive liability insurance with insurable limits of no less than TWO MILLION (\$2,000,000.00) DOLLARS for each occurrence and the Licensee shall provide proof of such insurance to the satisfaction of the City on an annual basis.

The Licensee shall also waive its rights of subrogation against the City. The City reserves the right from time to time to require the Licensee to increase its comprehensive liability insurance coverage where such coverage would be considered necessary by a prudent owner of similar Improvements in the Province of Alberta.

16. **Indemnity**

Save and except for the negligent act or willful misconduct of the City, the Licensee shall indemnify the City and save it harmless from and against all claims, actions, damages, liabilities and expenses in connection with losses of life, personal injury, damage to property, or any other damage, loss or injury which are based upon, or arise out of or are in any way connected with the Improvement(s) or the Municipal Lands and the exercise of the rights and privileges contained in this Agreement, including but not limited to the following:

- (a) loss or damage suffered or incurred by the Licensee or those for whom the Licensee is in law responsible;
- (b) loss or damage suffered or incurred by the City or those for whom the City is in law responsible (including without limitation any additional costs and expenses incurred by the City in carrying out work on the Municipal Lands by reason of the Encroachment);
- (c) damage or expense sustained by the Licensee and related to the removal of the Improvement(s);
- (d) any claim for loss or damage made, brought or prosecuted by anyone else.

17. **Licensee's Risk**

All property of the Licensee which may hereafter be located on, under, or over or adjacent to the Municipal Lands shall be at the sole risk of the Licensee and the City shall not be liable for any loss or damage thereto howsoever caused and the Licensee hereby releases the City from all actions, claims, demands, suits or proceedings whatsoever in respect of any such loss or damage, except and to the extent such loss or damage is caused by the negligence of the City or its servants or agents.

18. **Compensation for Damages**

The Licensee shall compensate the City for all damage to the property of the City arising out of the activities of the Licensee on or adjacent to the Improvement(s), whether or not such activities are in pursuance of the rights herein granted to the Licensee.

19. **Owner's Obligations After Termination**

Any obligation of the Licensee to protect the City shall survive the termination of this Agreement.

20. **Successors**

The Agreement shall be binding upon and enure to the benefit of the City and its successors, licensees and permitted assigns, and the Licensee and its successors and assigns.

21. **Renewal**

This Licence Agreement shall automatically renew for a further term of three (3) years from the date of expiry of the initial term, or the date of expiry of any subsequent term until terminated in accordance with clause 9 on the same terms and conditions.

22. **Notice**

All notices under this Agreement shall be in writing and sent by registered or certified mail as follows:

TO City at:

**CITY OF COLD LAKE  
5513 48<sup>th</sup> Ave.  
Cold Lake, Alberta T9M 1A1**

**Attention: Manager of Land-Use Planning, Development and Regulatory Services**

TO the Licensee at:

**Name  
Address  
City, Postal**

**Attention:**

At such time the property is conveyed, City must receive notice by way of a copy of Certificate of Title registered in the new owner's name, delivered or faxed, within fourteen (14) days of registration of same, or this agreement will be considered null and void.

25. **Whole Agreement**

The Licensee acknowledges and agrees that the rights herein conferred to the Licensee are only such rights as are specified herein and that the City has made no representations, warranties, promises or agreements, either expressed or implied, beyond those contained herein.

26. **Severability**

Should part of this Agreement be or become illegal or unenforceable, it will be considered severable from this Agreement and the remainder of this Agreement will remain in effect as though the illegal or unenforceable parts had not been included.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the day and year first above written:

**CITY OF COLD LAKE (Seal)**

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**MAYOR**

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**Kevin Nagoya,  
CHIEF ADMINISTRATIVE OFFICER**

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**XXXXXX.  
LICENSEE (Seal)**

Schedule 'A'