

**THE CORPORATION OF THE CITY OF DAWSON CREEK**

**BYLAW 4343**

A Bylaw for the Regulation of Soil in the Municipality  
of Dawson Creek.

**WHEREAS**, Section 8(3)(m) of the *Community Charter*, as amended, provides that the Council of the Corporation of the City of Dawson Creek may, by bylaw, regulate, prohibit and impose requirements for the Removal of Soil and the Deposit of Soil or Other Material; and

**WHEREAS**, Section 15(1) of the *Community Charter*, as amended, provides that the Council of the Corporation of the City of Dawson Creek may provide for a permitting system to prohibit, grant, refuse, suspend, and establish terms and conditions to regulate the Removal of Soil and the Deposit of Soil or Other Material; and

**AND WHEREAS**, the Council of the Corporation of the City of Dawson Creek wishes to encourage the safe, orderly storage and transportation of Soil substances within the City's boundary;

**NOW THEREFORE**: the Municipal Council of the City, in open meeting assembled enacts as follows:

**SECTION 1 - TITLE**

1.1 This Bylaw may be cited for all purposes as the **"Soil Regulation Bylaw No. 4343, 2017"**.

**SECTION 2 - DEFINITIONS**

2.1 In this Bylaw the following words and terms have the following meanings assigned to them.

**"Bylaw Enforcement Officer"** means a person appointed from time to time by resolution of City Council pursuant to Section 36 of the *Police Act*, the purpose of which is to enforce regulatory bylaws of the City.

**"City"** means the Corporation of the City of Dawson Creek.

**"City Staff"** means the Chief Administrative Officer or any staff designated by him or her to administer this Bylaw.

**"Council"** means the Council of the City.

**"Deposit"** means the act of placing Soil on any Property in the City, or in any area of the City, where the Soil did not previously exist or stand.

**"Earthworks"** means any work carried out on a given Property as it pertains to this Bylaw and includes the Excavation, movement, Removal or Deposit of Soils.

**"Excavation"** means the space created by the removal of Soil.

**"Highway"** includes every highway within the meaning of the *Highway Act* or *Motor Vehicle Act* and every road, street, lane or right-of-way designed or intended for or used by the general public for the passage of vehicles and every place or passage way owned or operated by the City for the purpose of providing off street parking or for the use of pedestrian or cycle traffic.

**“Other Material”** means but is not limited to construction or demolition waste, masonry rubble, concrete, asphalt, unchipped lumber, drywall, biological waste, glass, plastic debris, tree stumps, and woodwaste.

**“Owner”** means a person registered in the records of the Land Title Office as the fee simple Owner of a Property, including the strata corporation in the case of a Property under strata ownership.

**“Property”** means a real property registered as a parcel in the records of the Land Title Office.

**“Remove”** or **“Removal”** means the act of removing Soil from any Property in the City, or from any area of the City, where it existed or stood.

**“Soil”** means the entire mantle of natural material above bedrock, including, but not limited to, sand, gravel, rock, silt, sediment, clay, peat, and topsoil. For clarity, this natural material may have originated on a particular Property or have been previously deposited in a location where it did not originate.

**“Soil Permit”** means a permit issued to an Owner of Property by City Staff to allow non-conformity with this Bylaw.

**“Stockpile”** means a man-made accumulation of Soil or Other Material.

**“Storage Yard”** is as defined in the current City of Dawson Creek Zoning Bylaw as amended from time to time.

### **SECTION 3 – APPLICATION**

- 3.1 This bylaw applies to every Property within the City except those owned or used by the City.
- 3.2 Nothing in this Bylaw shall preclude anyone from complying with the provisions of any other local, provincial, or federal regulations or enactments.
- 3.3 In the event of any conflict between the provisions of this Bylaw and the provisions of the *City of Dawson Creek Zoning Bylaw*, the provisions of the current *City of Dawson Creek Zoning Bylaw* shall prevail.

### **SECTION 4 – PERMITS**

- 4.1 The Owner of a Property may apply for a Soil Permit in the event that an activity or proposed activity on the Owner’s Property does not comply with this Bylaw.
- 4.2 City Staff will review each application on an individual basis and after considering the following factors, which include but are not limited to:
  - a. whether the proposed activity would foul, pollute, obstruct, divert, impede, damage or destroy any watercourse, ditch, drain, sewer or other utility whether privately or publicly owned;
  - b. whether the proposed activity would damage the amenities on the Property or an adjacent Property;

- c. whether the proposed activity would threaten the health or safety of any person or be contrary to the public interest;
- d. whether the proposed activity would adversely affect the future development of another Property;
- e. whether the proposed activity would result in the Property or another Property becoming susceptible to erosion, slippage, landslide, slumping or settling;
- f. whether the proposed activity would create dust, dirt or noise which may constitute a nuisance; and
- g. whether the proposed activity would contravene any enactments,

may refuse to grant a Soil Permit, grant a Soil Permit or grant a Soil Permit subject to terms and conditions.

- 4.3 The terms and conditions upon which City Staff may issue a Soil Permit may include but is not be limited to:
- a. the types and extent of activities the Owner may conduct which would otherwise constitute a contravention of this Bylaw;
  - b. the days and times during which the activities may be conducted; and
  - c. additional measures for the protection of persons and property that City Staff determines are appropriate in the circumstances.
- 4.4 A holder of a Soil Permit does not contravene this Bylaw to the extent to which the contravention is permitted by the Soil Permit.
- 4.5 No person shall contravene or permit the contravention of the terms and conditions of a Soil Permit.
- 4.6 City Staff may suspend or revoke a Soil Permit if City Staff determines, in his or her sole discretion, that a person has contravened the terms and conditions of the Soil Permit or contravened a provision of this Bylaw.

## **SECTION 5 – GENERAL REGULATIONS**

- 5.1 Surface runoff as a result of Earthworks must not drain onto adjacent Property.
- 5.2 All Highways must be kept free of Soil and all Other Material originating as a result of Earthworks.
- 5.3 Sedimentation, erosion, and dust control measures in relation to Earthworks must be established and maintained as necessary for their continuing proper function to the satisfaction of City Staff.
- 5.4 Any ponding which forms as a result of Earthworks, must be drained or fenced to prevent public access.
- 5.5 Any damage to Highways or other City Property resulting from the Earthworks must be immediately reported to City Staff. The Owner of the Property on which the Earthworks were conducted will be

responsible for any cost incurred from any repairs.

- 5.6 Natural watercourses must not be altered or diverted except with the written permission of the appropriate Provincial and Federal authorities and the City.

## **SECTION 6 – REMOVAL OF SOIL**

- 6.1 Section 6 in its entirety does not apply to Properties zoned with “Storage Yard” as a permitted use and where a valid business licence for that use exists.

### 6.2 Regulations

- a. An Excavation must not exceed 5 cubic metres in volume,
- b. An Excavation must not exceed 1 metre in depth, and
- c. All surfaces of an Excavation must not exceed a maximum slope of 3:1 (horizontal:vertical).

### 6.3 Exemptions

- a. Section 6.2.a does not apply to Properties that have an active building permit, development permit, or subdivision application, in which case the maximum Excavation volume must not exceed 500 cubic metres.
- b. Sections 6.2.b and 6.2.c do not apply to Properties that have an active building permit, development permit, or subdivision application.
- c. Section 6.2.c does not apply to Properties where the immediately surrounding natural slope is greater than 3:1 (horizontal:vertical), in which case the Excavation slope may conform to the slope of the surrounding land and the Excavation must be fenced.

## **SECTION 7 – DEPOSIT OF SOIL**

- 7.1 Section 7 in its entirety does not apply to Properties zoned with “Storage Yard” as a permitted use and where a valid business licence for that use exists.

- 7.2 a. A Stockpile must not exceed 5 cubic metres in volume.

- b. Section 7.2.a does not apply to Properties that have an active building permit, development permit, or subdivision application, in which case the maximum Stockpile volume must not exceed 500 cubic metres.

- 7.3 The height of a Stockpile must not exceed five metres.

- 7.4 A Stockpile must not cross any property lines.

- 7.5 Stockpiles must be maintained in a manner that ensures it does not adversely affect or damage adjacent Properties.

- 7.6 A Stockpile must not be placed more than 1 metre higher than the finished grade of the abutting Highways for a distance of 8 metre back along both abutting and intersecting Highways along the abutting property lines of the lot from the point of intersection of the Highways.

- 7.7 After a Stockpile has been removed, Every Owner must restore the portion of the Property formerly occupied by the Stockpile to the following standards within 7 days of the removal:
- a. the Property must be graded, leveled or filled so that its surface has an elevation matching the original condition of the area or to the satisfaction of City Staff;
  - b. the Property must be covered with a minimum of 0.30 metres of topsoil or if the depth of topsoil on the Property was less than 0.30 metres prior to the Earthworks, the depth of topsoil that was present prior to the start of the Earthworks; and
  - c. the Property must be seeded with grass seed meeting the specifications of the current Dawson Creek *Subdivision and Development Servicing Bylaw*.

## **SECTION 8 - ENFORCEMENT**

- 8.1 Where a Bylaw Enforcement Officer determines that an Owner of any Property in the City has failed to comply with this Bylaw or breached the terms of a Soil Permit, the Bylaw Enforcement Officer may, by notice, require the Owner of the Property to comply with this Bylaw within the time period stated in the notice. The notice will:
- a. describe the Property by municipal address, location or legal description;
  - b. give reasonable particulars of the repairs, demolition, clearing or other actions required to be made; and
  - c. state the time that the repairs, demolition, clearing or other actions must be completed.
- 8.2 Any person designated as a Bylaw Enforcement Officer pursuant to the City of Dawson Creek's Bylaw Enforcement Notice Bylaw or Dawson Creek's Municipal Ticket Information Bylaw is hereby authorized and empowered to enforce the provisions of this Bylaw by the *Bylaw Notice Enforcement Bylaw No. 4277, 2016*, as amended from time to time, or by the *Municipal Ticket Information System Bylaw No. 4278, 2016*, as amended from time to time.
- 8.3 The Bylaw Enforcement Officer is authorized to enter on any Property in relation to this Bylaw in accordance with Section 16 of the *Community Charter*.
- 8.4 For the purposes of carrying out an action referred to in this Bylaw, Council delegates to the Bylaw Enforcement Officer the power to authorize a contractor or contractor(s) to enter on Property in accordance with Section 16 of the *Community Charter*.
- 8.5 No person shall do any act or suffer or permit any act to be done in contravention of this Bylaw.
- 8.6 No person shall obstruct or impede a Bylaw Officer in lawful performance on any Property, at all reasonable times, in order to ascertain whether such regulations are being observed.
- 8.7 Each day that an offence against this Bylaw continues shall be deemed a separate and distinct offence.
- 8.8 A person who contravenes any provision of this Bylaw commits an offence and is liable to a fine of not more than \$10,000.00 and not less than \$100.00 for each offence.

- 8.9 Any penalty imposed pursuant to this Bylaw shall be in addition to, and not in substitute for, any other penalty or remedy imposed pursuant to any other applicable statute, law, or legislation.
- 8.10 If the Owner fails to comply with an order issued under this Part, the City, by its employees, contractors and agents, may take action in accordance with Section 17 of the *Community Charter*, to fulfill the requirements of the order and to recover the costs, including the administrative fee provided in Schedule "A" of this Bylaw, from the Owner of the Property which is subject to the order.
- 8.11 In the event that a person fails to pay the costs of compliance before December 31st of the year that the compliance was enacted, the costs will be added to, and form part of, the taxes payable on the Property as taxes in arrears.

**SECTION 9 – ADMINISTRATIVE**

- 9.1 If any provision of this Bylaw is declared or held to be illegal, invalid, or ultra vires, in whole or in part, then the provision shall not apply and the remainder of this Bylaw shall continue in full force and effect and be construed as if it had been enacted without the illegal, invalid, or ultra vires provision.

**READ** a first time this 11<sup>th</sup> day of September, 2017.

**READ** a second time this 11<sup>th</sup> day of September, 2017.

**READ** a third time this 11<sup>th</sup> day of September, 2017.

**ADOPTED** this 2<sup>nd</sup> day of October, 2017.

<p><b>CERTIFIED A TRUE AND CORRECT COPY</b> of Bylaw No. 4343 cited as "Soil Regulation Bylaw No. 4343, 2017".</p>  <p>_____          Brenda Ginter          Director of Corporate Administration</p>
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The Corporate Seal of **THE CORPORATION OF THE CITY OF DAWSON CREEK** was affixed in the presence of:

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Dale Bumstead – Mayor

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Brenda Ginter  
Director of Corporate Administration