

THE CITY OF EDMONTON

BYLAW 20632

**BYLAW TO DESIGNATE PICNIC SHELTER #1 AS A
MUNICIPAL HISTORIC RESOURCE**

WHEREAS the *Historical Resources Act*, R.S.A. 2000, c. H-9, as amended, permits the municipal council of a municipality to designate any Historic Resource within the municipality whose preservation it considers to be in the public interest together with any specified land in or on which it is located, as a Municipal Historic Resource; and

WHEREAS it is deemed in the public interest to designate the building municipally located at 9330 Groat Road NW, known as Picnic Shelter #1 and the land on which the building is located as a Municipal Historic Resource; and

NOW THEREFORE the Municipal Council of the City of Edmonton, having complied with the *Historical Resources Act*, and duly assembled, hereby enacts as follows:

1. BUILDING AND LANDS DESIGNATED AS A MUNICIPAL HISTORIC RESOURCE

The building known as Picnic Shelter #1 (the “Building”), more specifically described in Schedule “A” of this Bylaw “The Identification of Regulated Portions of the Municipal Historic Resource” and the land on which the Building is located and legally described as:

PLAN 6075AM

BLOCK X

EXCEPTING THEREOUT ALL MINES AND MINERALS

(the “Land”) are hereby designated as a Municipal Historic Resource.

2. PERMITTED REPAIRS AND REHABILITATION

Subject to Section 3 hereof, the Building and Land shall not be removed, destroyed, disturbed, altered, rehabilitated, repaired or otherwise permanently affected, other than in accordance with the terms of Schedules “A” of this Bylaw, and Schedule “B” of this Bylaw, the “Rehabilitation and Maintenance Agreement” and all Schedules attached to it, specifically including, without limitation Schedule “A” “General Guidelines for Rehabilitation” all of which form part of this Bylaw.

3. ADMINISTRATOR

The City Manager is hereby appointed to administer the implementation of any matters arising from the matters set out in this Bylaw, and the Schedules attached hereto which form part of this Bylaw, including, without limitation, the execution of a Rehabilitation Incentive and Maintenance Agreement as set out in Schedule “B”.

4. EFFECTIVE DATE

This Bylaw shall come into effect on the date on which this Bylaw is passed by Council.

| | | |
|-------------------------|--------|-------|
| READ a first time this | day of | 2023; |
| READ a second time this | day of | 2023; |
| READ a third time this | day of | 2023; |
| SIGNED and PASSED THIS | day of | 2023. |

THE CITY OF EDMONTON

MAYOR

CITY CLERK

SCHEDULE “A” to BYLAW 20632

THE IDENTIFICATION OF REGULATED PORTIONS OF THE MUNICIPAL HISTORIC RESOURCE

The purpose of this Schedule is to identify by written description and photographs, those portions of the Building known as Picnic Shelter #1, which shall be regulated by the “General Guidelines for Rehabilitation”, Schedule “A” to the Rehabilitation and Maintenance Agreement and must be preserved (“the Regulated Portion”).

The Regulated Portions of the Building include all facades of the 1968 Building. This includes the Organic Modern/International Style form, scale, massing and materials of Picnic Shelter #1 as described below. These features of the Building shall be rehabilitated in accordance with the Rehabilitation Work as set out in the Rehabilitation and Maintenance Agreement.

Non regulated portions of the Building, being all other portions of the Building not specifically identified as a Regulated Portion, may be rehabilitated, altered, repaired or otherwise permanently affected in any manner provided that such rehabilitation, alteration or repair does not impact on the regulated historic features of the Building. Any development or alterations considered to be non-regulated portions of the Municipal Resource, however, must meet the General Guidelines for Rehabilitation of Designated Historic Resources as identified in the *“Standards and Guidelines for the Conservation of Historic Places in Canada.”* Any development of any portion of the Land shall be undertaken in a manner that is sympathetic to the historic façades of Picnic Shelter #1. New development should also make reference to this resource’s Statement of Significance as identified on the Alberta Register.

The following character defining architectural elements as expressed in the Organic Modern/International Style, form scale, massing and materials must be retained:

- Form, scale and massing
- Structural expression of the building (columns, beams and trusses)
- Deep projecting eaves and rafters
- Skylights (“ridgelights”) in ceiling design
- Cedar deck tongue and groove ceiling
- Cedar shake roof
- Cast in place concrete walls (exterior and interior) with exposed aggregate
- Parallel concrete column and beam systems supporting a series of timber rafter trusses
- Cast-in-place concrete columns (exterior and interior) with exposed aggregate that extend to the ground-level with unique filleted corners at the top and bottom

Photographic Details



Picnic Shelter #1 north and east elevations, looking southwest



Picnic Shelter #1 south elevation, looking north

SCHEDULE "B" to BYLAW 20632
REHABILITATION AND MAINTENANCE AGREEMENT

THIS REHABILITATION AND MAINTENANCE AGREEMENT

made this day of , 2023.

BETWEEN:

THE CITY OF EDMONTON
(the “City”)

OF THE FIRST PART,

-and-

THE CITY OF EDMONTON
(collectively, the “Owner”)

OF THE SECOND PART,

WHEREAS:

1. The Owner is the registered owner of land municipally described as: 9330 Groat Road NW Edmonton, Alberta, and legally described as:

PLAN 6075AM
BLOCK X

EXCEPTING THEREOUT ALL MINES AND MINERALS

(“the Land”), and the building known as Picnic Shelter #1, located thereon (the “Building”).

2. On September 7, 2023, a written Notice of Intention to Designate the Land and Building as a Municipal Historic Resource was served on the Owner in accordance with the *Historical Resources Act*, R.S.A. 2000, c. H-9 (the “Act”).
3. A condition or covenant relating to the preservation or restoration of any land or building, entered into by the owner of the land and the council of a municipality, may be registered with the Registrar of Land Titles, and may be enforced whether the condition or covenant is positive or negative in nature notwithstanding that the grantee may not have an interest in any land that would be accommodated or benefited by the condition or covenant.
4. The Owner has agreed with the City to rehabilitate and maintain the Land and Building in accordance with the covenants and conditions in this Agreement and in the Designating Bylaw.
5. In anticipation that the Municipal Council of the City shall designate the Land and Building as a Municipal Historic Resource, the City wishes to enter into this agreement with the Owner(s) in satisfaction of the Owner(s)’s or successors right to compensation under the Act, and the Owner(s) agree(s) to accept the consideration herein in lieu of compensation under the Act.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Owner, the parties agree as follows:

1. CONDITION PRECEDENT:

- 1.1. This Agreement is conditional upon Council passing the Designating Bylaw to designate the Land and the Building a Municipal Historic Resource by December 12, 2023, or such later date as the parties may agree to in writing. If the Designating Bylaw is not passed by December 12, 2023, and the parties have not agreed to extend the time for satisfaction of the condition precedent, this Agreement shall be of no force and effect.

2. DEFINITIONS:

In this Agreement:

- 2.1. "Act" means the *Historical Resources Act*, R.S.A. 2000, c. H-9.
- 2.2. "Building" means Picnic Shelter #1.
- 2.3. "Council" means the municipal council of the City of Edmonton.
- 2.4. "Designating Bylaw" means a Bylaw passed by Council under the authority of Section 26 of the Act relating to the Land and Building.
- 2.5. "General Guidelines for Rehabilitation" means the City guidelines contained in Schedule "A" of this Agreement.
- 2.6. "Notice of Intention to Designate" means a notice provided to an owner pursuant to Section 26 of the Act.
- 2.7. "Owner" includes the current Owner and all future registered owners of the Land at the North Alberta Land Registration District.
- 2.8. "Remedial Work Plan" means a written plan created by the City that outlines the remedial work that shall be carried out, the timing for the completion of such remedial work and the manner in which such remedial work shall be undertaken.

3. SCHEDULES

- 3.1. The following Schedules form part of this Agreement:
- 3.1.1. Schedule "A" - General Guidelines for Rehabilitation

4. OWNER'S WAIVER OF RIGHTS:

- 4.1. The Owner and successors hereby expressly agree to waive all rights to claim additional or alternative compensation for any cause, whether arising in common law, equity or by statute, because of the City's designation of the Land and Building as a Municipal Historic Resource or the City's issuance of the Notice of Intention to Designate.
- 4.2. The Owner acknowledges that by signing this Agreement, they have received a valid Notice of Intention to Designate.

5. REGISTRATION OF THE BYLAW AND AGREEMENT

- 5.1. Pursuant to and in accordance with Section 26 of the Act the Designating Bylaw shall be registered on title to the Land by the City.
- 5.2. Pursuant to and in accordance with Section 29 of the Act this Agreement may be registered on title to the Land by the City, and the conditions and covenants herein shall run with the Land and shall bind the Owner and subsequent owners and successors in title to the Owner.

6. MAINTENANCE:

- 6.1. The Owner shall at all times maintain the Land and Building and regulated portions thereof in accordance with the Designating Bylaw and this Agreement.
- 6.2. The City may, at its sole and unfettered discretion, conduct an inspection of the Building and Land.
- 6.3. The Owner shall permit the City, or its designate, to conduct any such inspection as the City deems necessary.
- 6.4. Following an inspection, the City may prepare a written notice identifying options for required remedial or maintenance work on the Building, including a proposed schedule for the work and suggestions as to methods and materials to be used.
- 6.5. The Owner shall meet with the City within thirty (30) days of receipt of the written notice as described in Article 6.4 and shall establish a Remedial Work Plan in accordance with the written notice. The Remedial Work Plan shall be reviewed and must be approved by the City, at its sole and unfettered discretion.
- 6.6. The Remedial Work Plan shall contain a completion date, as determined by the City, acting reasonably.
- 6.7. The Owner shall promptly carry out the Remedial Work Plan at its own expense and notify the City on completion.
- 6.8. On receipt of notice that the Remedial Work Plan has been completed, the City may inspect and identify any deficiencies to the Owner. The Owner shall correct the deficiencies and provide the City with notice that such corrective action has been carried out, and the City may, at its discretion, then re-inspect.
- 6.9. Upon satisfactory completion of the Remedial Work Plan, the City may provide the Owner with written confirmation that the Remedial Work Plan has been completed.
- 6.10. Notwithstanding any other provision of this Agreement, if at any time the Owner or the City become aware of any disrepair that, in the opinion of the City may endanger the Building, the Owner and the City shall, within thirty (30) days meet and prepare a Remedial Work Plan in accordance with this Article 6.
- 6.11. If the Owner fails to perform any obligation in this Agreement, the City may give notice of the breach to the Owner. In the case of a breach pursuant to this Article 6, or at the expiration of twenty-one (21) days after service of the notice in the case of any other

breach pursuant to this Agreement, the City may, without any further notice to the Owner, take any and all steps that the City may in its absolute and uncontrolled discretion deem necessary to remedy the Owner's breach or failure to perform.

6.11.1. Any monies expended by the City in remedying the breach, together with a surcharge of fifteen percent (15%), shall be paid by the Owner to the City, and until such payment shall, together with interest thereon at the rate of one percent (1%) per annum above the prime rate, be a debt owing by the Owner to the City.

6.11.2. This amount shall be recoverable by the City from the Owner within thirty (30) days of the Owner receiving a written demand and summary of costs from the City, failing which, such amount owing shall be a charge on the Land and the City is at liberty to register such charge on title to the Land.

6.12. The Owner hereby agrees to cooperate with the City and allows the City such necessary access to the Building and the Land as is required for the City to fulfil the requirements of this Article 6.

6.13. The rights of the City under this section shall be in addition to, and not substitution of, any other rights of the City against the Owner whether by way of damages for breach of covenant or otherwise.

7. INSTALLATION OF PLAQUES:

7.1. The Owner shall permit the placement of two (2) plaques in a visible location on or in proximity to the Building upon, or anytime after, the passing of the Designating Bylaw as follows:

7.1.1. The City shall, at its sole expense and discretion, create and install one plaque identifying the Building and the Land as a Municipal Historic Resource.

7.1.2. The Edmonton Historical Board may, at its sole expense and discretion, create and install a second plaque as an interpretative plaque.

7.2. The location of the City's and the Edmonton Historical Board's plaques shall be mutually agreed to by the Owner and the City, both parties acting reasonably.

7.3. The Owner shall not permit or cause the damage, destruction, removal, disturbance or obscuring of such plaques.

8. REGISTERS OF HISTORIC PLACES:

8.1. The Owner consents to the City listing the property on both the Alberta Register of Historic Places and the Canadian Register of Historic Places which will at minimum include the address, historic descriptions, statements of significance and photographs available for public viewing, in print or electronic format.

9. INSURANCE:

9.1. The Owner will maintain all risks broad form property insurance on the Building and Land to full replacement value.

- 9.2. In the event of a loss every effort should be made to replace, repair or restore the Building to conserve the characteristics of the Building which give it its historical significance. Regulated portions of the Building designated as being historic shall be restored, as closely as possible with in-kind materials, to the details and characteristics of the original Building. This work shall be done in consultation with the City.
- 9.3. Any exceptions to this insurance provision must be approved in writing by the City.

10. DISPUTE RESOLUTION:

- 10.1. The Owner and the City agree to use reasonable best efforts to resolve any differences arising between them as efficiently and cost effectively as possible.
- 10.2. At all relevant times, the City and the Owner shall:
- 10.2.1. make bona fide efforts to resolve all differences, including such differences that may lead to a dispute, by amicable negotiations; and
 - 10.2.2. provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate those negotiations.
- 10.3. If a dispute arises between the City and the Owner as to the proper interpretation or effect of any of the terms or conditions of this Agreement, and the dispute could not be settled by negotiation or with the assistance of a mediator, such dispute shall be resolved in accordance with the following:
- 10.3.1. Except as modified by this Agreement, the provisions of the *Arbitration Act* R.S.A. 2000 c. A-43, as amended, shall apply;
 - 10.3.2. Unless the Arbitrator orders otherwise, the City and the Owner shall equally bear the costs of the arbitration; and
 - 10.3.3. The decision of the Arbitrator is final and binding on the parties and there shall be no appeal of the decision to the courts.

11. NOTICE:

- 11.1. Any notice given pursuant to the terms of this Agreement shall be sufficiently given:

In case of notice to the City, if such notice is sent by prepaid registered mail, or personally delivered, in an envelope addressed to:

Deputy City Manager
Urban Planning and Economy
c/o City Hall
#1 Sir Winston Churchill Square
Edmonton AB T5J 0R2

and also to:

Office of the City Manager
Legal Services

c/o City of Edmonton
9th Floor, Chancery Hall
#3 Sir Winston Churchill Square
Edmonton AB T5J 2C3

In case of notice to the Owner, if such notice is sent by prepaid registered mail, or personally delivered, in an envelope addressed to:

City of Edmonton
c/o City Hall
#1 Sir Winston Churchill Square
Edmonton AB T5J 0R2

and also to:

Deputy City Manager
Community Services
c/o City Hall
#1 Sir Winston Churchill Square
Edmonton AB T5J 0R2

- 11.2. Notices to subsequent owners under this Agreement will be sent to the registered address on title.
- 11.3. Each communication sent in accordance with this Article 11 shall be deemed to have been received on the day it was delivered, if delivered in person; on the fifth business day after it was mailed, if sent by mail. In the event of a postal strike, notice may only be given by personal delivery at the addresses noted in Article 11.

12. GENERAL PROVISIONS:

- 12.1. This Agreement, inclusive of the Designating Bylaw and Schedule "A" constitutes the entire agreement between the Owner and the City with respect to the substance of this Agreement, and there are no other representations, conditions, covenants or warranties other than those expressed in this Agreement.
- 12.2. The relationship of the parties to this Agreement is solely contractual. No term or condition contained in this Agreement shall be construed as in any way constituting a partnership, joint venture, a relationship of employment, or a relationship of principal and agent between the City and the Owner.
- 12.3. This Agreement may not be assigned by the Owner without the expressed written consent of the City, which consent may be arbitrarily or unreasonably withheld.
- 12.4. This Agreement shall be binding on the Owner and its respective heirs, successors, administrators and permitted assigns.
- 12.5. This Agreement shall be construed and governed by the laws of the Province of Alberta.

- 12.6. Time is of the essence of this Agreement.
- 12.7. No additional changes, amendments or modifications of any of the terms or conditions of the Agreement shall be valid unless reduced to writing and signed by both parties.
- 12.8. The Owner hereby acknowledges that the City is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c. F-25 (FOIP) and that as such, the City may be requested to disclose any records relating to this agreement and under the custody or control of the City, including, without limitation, the contents of this agreement. Any such disclosure will be made in accordance with the provisions of FOIP. Any information sharing between the Owner and the City arising out of or in relation to this agreement will be conducted in accordance with FOIP.
- 12.9. The waiver by the City or the Owner of the strict performance of any of the terms, or conditions herein contained shall not of itself constitute a waiver of or abrogate any other term, or condition or constitute a waiver of any subsequent breach of the same.
- 12.10. The Owner shall be solely responsible for ensuring that the Building and Land and any improvements thereto comply with all applicable federal, provincial and municipal laws, regulations, bylaws, codes and guidelines. The Owner acknowledges and agrees that nothing in this Agreement shall be deemed or construed as an obligation on or duty of the City to ensure compliance with this section or advise the Owner of deficiencies in the Owner's compliance with this section.
- 12.11. The Owner hereby releases the City, its agents and employees from any liability whatsoever that the City may have to the Owner arising out of or related to the City's performance of such obligations, save for any such liability as may be due to the City's negligence.
- 12.12. The insertion of headings is for convenience of reference only and shall not be construed so as to affect the interpretation or construction of this Agreement.
- 12.13. Should any provision of this Agreement be void, voidable or unenforceable for any reason whatsoever, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall remain in force and be binding as though the said provision had not been included.
- 12.14. This Agreement shall be interpreted in accordance with the plain language of the document, and the parties do not wish the doctrine of *contra proferentem* to be employed to interpret against the draftsman in the event of any ambiguity.
- 12.15. This Agreement may be executed in any number of counterparts and may be delivered originally, by fax or by e-mail in Portable Document Format ("PDF"). Each such counterpart when so executed and delivered will be taken together as constituting one instrument.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF the parties have signed this Agreement on the day and year first above written.

A P P R O V E D

As to Form:
Office of the City Manager
Legal Services

The City of Edmonton
as represented by the Acting Deputy
City Manager, Urban Planning and
Economy

Per: _____
Veronika Ferenc-Berry

Per: _____
Kim Petrin

As to Content:
Branch Manager
Planning and Environment Services

Per: _____
Kent Snyder

The Owner

THE CITY OF EDMONTON, as owner,
represented by the Deputy City
Manager, Community Services

Witness: _____

Per: _____
Jennifer Flaman

Schedule “A” to the Rehabilitation and Maintenance Agreement

GENERAL GUIDELINES FOR REHABILITATION

The Guidelines for Rehabilitation are intended to assist in applying accepted principles and practices to the conservation of Historic Resources. The guidelines are set out in the “Standards and Guidelines for the Conservation of Historic Places in Canada.” In a manner consistent with accepted practice, City Heritage Policy C450B requires that the standards be used in conjunction with the guidelines to ensure that the basis for a clear and consistent interpretation of the guidelines is provided to assist owners of Historic Resources throughout any rehabilitation process. The following guidelines and the referenced standards shall apply to Picnic Shelter #1 and the Land on which the building is located (together, the “Municipal Historic Resource”) and any rehabilitation or maintenance work undertaken with respect to the Municipal Historic Resource at any time.

1. Compatible Uses:

Wherever possible, the uses proposed for a Municipal Historic Resource shall be compatible with the existing building such that only minimal changes are required to the building. The use of a Municipal Historic Resource for its original purpose is desirable.

2. Original Character:

The original distinctive qualities and character of the building as designated by the Municipal Historic Resource Bylaw should be preserved. The removal or alteration of any historical materials or features shall be avoided whenever possible.

3. The Historic Period:

The Municipal Historic Resource should be recognized as a product of its own time. Alterations which are not based on historical fact or which recreate an earlier or a later design idiom shall be discouraged.

4. Witness to Change:

Changes to the Municipal Historic Resource may have occurred over time. These alterations are evidence of the history and development of the building. Because this evolution may have acquired a significance in its own right, alterations to the original building should be recognized and respected where indicated.

5. Style and Craftsmanship:

Distinctive stylistic features and examples of skilled craftsmanship which have been designated by the Municipal Historic Resource Bylaw shall be preserved and treated sensitively.

6. Repair and Replacement:

Deteriorated architectural features shall be repaired rather than replaced whenever possible. Where replacement is necessary, the new material should match the original as to composition, colour, texture, design, etc. The repair or replacement of architectural features shall be based on a sound knowledge of the original characteristics of the feature. Such knowledge shall be based on historical or pictorial evidence and not upon conjecture.

7. Cleaning:

In all cases, surface cleaning shall be undertaken with the gentlest means available. Sandblasting in particular, but also other cleaning methods, damage historic buildings and should not be undertaken without thorough testing prior to use on a building. Sandblasting is not recommended on brick, stone or wood. In all instances, it should be ascertained that a building exterior is really in need of cleaning prior to undertaking the work.

8. Reversibility of Improvements:

When the introduction of new elements or materials is necessary to stabilize or preserve a municipally designated historic resource, alteration shall be undertaken such that the new materials, should they fail, may be removed at a later date without damage to the original fabric of the Municipal Historic Resource. Where this is not possible (i.e. use of epoxy) only those methods and materials which have been thoroughly tested and found satisfactory in situ, shall be used.

9. Recording:

Prior to undertaking any alterations, particularly in cases where alterations may threaten the building fabric (underpinning, moving structures), the applicant shall compile a complete record of the architectural features of the Municipal Historic Resource. Measured drawings and photographs of details may prove invaluable if major features are damaged or lost during the subsequent repair work.

10. Original Construction Details:

In some historic structures, poor construction details or inappropriate materials resulted in rapid deterioration of certain building elements. In these instances, accurate reconstruction of the original detail will inevitably result in the failure of the element. Therefore, reconstruction should be undertaken in such a fashion as to duplicate the original appearance as closely as possible while using details based on sound construction practice.

11. Codes:

At no time should the life and safety of occupants of a Municipal Historic Resource be deemed of lesser importance than the preservation of the original fabric of the Municipal Historic Resource. The required life and safety standards are those required by the current Alberta Building Code. However, notwithstanding these Code requirements, where the essential character of the structure is threatened by changes for Code reasons, every effort shall be made to achieve an equivalent safety standard by alternate means so as to minimize the impact on the historic fabric.

12. Improvements:

Prior to undertaking any improvements, a schedule of alterations should be prepared. This schedule should include phasing of alterations where necessary due to program or budget restrictions. The type and timing of both short and long term maintenance work shall also be included.

13. Signs:

As a general rule signs should be limited to signs which were originally present on the building. In instances where new uses or interpretive functions dictate the use of additional signs, these new elements should be integrated into the general design of the project. The size, typeface, graphics, and materials should be chosen to suit the period of the Municipal Historic Resource wherever possible. Avoid installing new signs such that the repair, replacement or removal of the signs damages the original fabric of the structure.

14. Enforcement:

The owner and the City shall enter into an agreement to provide that the designated structure will be maintained in such a manner as to prevent any deterioration.

15. Alterations and Additions to Historic Resources:

Contemporary design for alterations and additions to existing Historic Resources shall not be discouraged when such alterations and additions do not diminish the overall historic character of the resource and such design is compatible with the size, scale, colour, material and character of the resource, neighbourhood or environment.