

PARKLAND COUNTY
PROVINCE OF ALBERTA

BYLAW 2023-02

BEING A BYLAW FOR THE PURPOSE OF REGULATING AND CONTROLLING SURFACE DRAINAGE
AND LOT GRADING WITHIN PARKLAND COUNTY

WHEREAS the *Municipal Government Act*, RSA 2000 c M-26, authorizes a council of a municipality to pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property; and

WHEREAS the *Municipal Government Act*, RSA 2000 c M-26, authorizes a council of a municipality to pass bylaws for municipal purposes respecting public utilities, including systems to provide drainage; and

WHEREAS Council of Parkland County wishes to pass a bylaw for the purpose of regulating the surface drainage and grading on private and public lands within Parkland County;

NOW THEREFORE the Council of Parkland County, duly assembled and under the authority of the *Municipal Government Act*, RSA 2000 c M-26, as amended, hereby enacts the following:

PART I - TITLE, DEFINITIONS AND INTERPRETATION

Title

1. This Bylaw shall be known as the "Surface Drainage and Lot Grading Bylaw".

Definitions and Interpretation

2. In this Bylaw, unless the context otherwise requires:

- (1) "Act" means the *Municipal Government Act*, RSA 2000 c M-26, as amended or repealed and replaced from time to time;
- (2) "CAO" means the Chief Administrative Officer of the County, or any member of County staff designated by the CAO to carry out functions under this Bylaw;
- (3) "County" means the municipal corporation of the Parkland County and its duly authorized employees, agents, contractors and other representatives or the geographic area contained within the boundaries thereof, as the context requires;
- (4) "County Property" includes:
 - (a) Undeveloped reserve land including but not limited to those areas designated municipal reserve, school reserve, municipal and school reserve, and environmental reserve pursuant to the Land Use Bylaw, as amended or repealed and replaced from time to time, and the Act;
 - (b) Municipal rights-of-way including Highways, Roads, roadways, boulevards, sidewalks, walkways, road allowances, streets, lanes, road diversions, bridges, titled rights-of-way, undeveloped road rights-of-way, public spaces, water bodies, and public utility lots;
 - (c) Any place under the direction, control and management of the County; or
 - (d) Any property owned by the County, including property owned under section 424 of the Act;
- (5) "Designated Officer" is as defined in the Act;
- (6) "Development" has the same meaning as in the Land Use Bylaw;
- (7) "Development Permit" means a document issued by the County pursuant to the Land Use Bylaw that approves/authorizes a Development;
- (8) "Drainage Easement" means an easement registered in favor of the County protecting drainage facilities such as pipes, catch basins, ditches, sumps, swales, detention ponds, or ancillary structures;
- (9) "Engineering Design Standards" means the standards and requirements as specified in the current version of the County's Engineering Design Standards,

as amended or repealed and replaced from time to time, which identify minimum requirements for the design, preparation, and best management practices for the design, preparation, and submission of plans and specifications for the construction of Roads, water distribution systems, wastewater systems, surface drainage, Storm Water management systems, open space, trails, and landscaping;

- (10) "**Fees and Charges Bylaw**" means Bylaw 2022-11, as amended or repealed and replaced from time to time;
- (11) "**Highway**" is as defined in the *Traffic Safety Act*, RSA 2000 c T-6, and the Regulations thereunder, as amended or repealed and replaced from time to time;
- (12) "**Land Use Bylaw**" means County Bylaw 2017-18, as amended or repealed and replaced from time to time;
- (13) "**Lot**" means:
- (a) a quarter section;
 - (b) a river lot shown on an official plan referred to in the *Surveys Act*, RSA 2000 c S-26, that is filed or lodged in a Land Titles Office;
 - (c) a settlement lot shown on an official plan referred to in the *Surveys Act*, RSA 2000 c S-26, that is filed or lodged in a Land Titles Office;
 - (d) a part of a parcel described in a certificate of title, if the boundaries of the part are described in the certificate of title other than by reference to a legal subdivision; or
 - (e) a part of a parcel described in a certificate of title if the boundaries of the part are described in the certificate of title by reference to a plan of subdivision;
- (14) "**Lot Grading**" means any work, operation, or activity that results in a disturbance of the earth, which has the effect of changing the Surface Elevation or slope of the lot, other than for building purposes, but does not include aggregate extraction, commercial logging, tree clearing, or dugouts;
- (15) "**Lot Grading Plan**" means a plan, providing all information as set out within the Engineering Design Standards, that aligns with any applicable Surface Drainage Plan and any offsite Storm Water drainage systems accepted by the County;
- (16) "**Owner**" means any Person who is the registered owner on the Certificate of Title at the Land Titles Office, or any other Person who is in lawful possession thereof, or who is in lawful possession or occupancy of any buildings situated thereon, or any agent of, or Person acting on behalf of the Owner, including but not limited to a contractor;
- (17) "**Peace Officer**" has the same meaning as in the *Provincial Offences Procedure Act*, RSA 2000 c P-34, as amended or repealed and replaced from time to time;
- (18) "**Person**" means a corporation, partnership, or individual, and the heirs, executors, administrators, or other legal representative of an individual;
- (19) "**Road**" is as defined within the Act;
- (20) "**Storm Water**" means surface run-off water that is the result of natural precipitation;
- (21) "**Surface Drainage Plan**" means a plan for a drainage corridor, subdivision, neighbourhood containing multiple lots, showing the finished design elevations of all property boundaries and public corridors that has been accepted by the County, to allow surface drainage to function in an overall scheme for the plan area and in conjunction with the adjacent lands and its associated sub basin(s);
- (22) "**Surface Elevation**" means an elevation of the ground surface measured from geodetic datum at a specific, discrete location.
- (2) In this Bylaw, a citation of or reference to any act or regulation of the Province of Alberta or of Canada, or of any other bylaw of the County, is a citation of or reference to that act, regulation, or bylaw as amended or replaced.
- (3) The headings in this bylaw are for reference purposes only.

PART II - SURFACE DRAINAGE RESTRICTIONS

Discharge of Storm Water from Sump Pumps and Roof Drains

3. No Owner of a Lot shall allow a roof drain or sump pump located on their Lot to discharge Storm Water:
 - (1) contrary to the Engineering Design Standards;
 - (2) contrary to a Surface Drainage Plan;
 - (3) contrary to a Lot Grading Plan approved by the CAO;
 - (4) directly onto a pervious ground surface within 1.0 metre of a building;
 - (5) within 0.30 metres of any adjacent lands;
 - (6) within 2.0 metres of County Property;
 - (7) contrary to any applicable municipal, provincial or federal law or regulation, or any requirement of any lawful permit, order or license;
 - (8) into or towards an area with an unstable slope;
 - (9) into or towards a ravine; or
 - (10) in such a manner that the discharge causes, or has the potential to cause, a nuisance, hazard, or damage to adjacent lands or County Property.

Management of Storm Water

4. An Owner of a Lot shall:
 - (1) ensure that the Storm Water on their Lot follows naturally occurring drainage patterns or is directed towards a catchment system located on their Lot, a County Property or an area where the County has provided express written approval for Storm Water drainage to occur;
 - (2) establish and maintain the Surface Elevation and Surface Grade on their Lot in compliance with any Lot Grading Plans and overall Surface Drainage Plan approved by the County;
 - (3) except during a reasonable time of construction, establish and maintain the Surface Elevation and Surface Grade on their Lot in compliance with any applicable Surface Drainage Plans; and
 - (4) ensure that the Storm Water on the Lot or draining from their Lot complies with any other applicable surface drainage restrictions, the Land Use Bylaw, any conditions of a Development Permit, including but not limited to those dealing with erosion and sediment control mitigation measures, and any other applicable municipal, provincial or federal law or regulation, or any requirement of any lawful permit, order or license.

Alteration of Surface Elevation or Surface Grade

5. No Person, without prior express written approval from the CAO, shall alter or cause to be altered, any Surface Elevation or Surface Grade of any Lot such that the alteration may:
 - (1) cause a nuisance, a hazard, or damage to any adjacent lands, including County Property;
 - (2) adversely affect the stability of an adjacent slope;
 - (3) have a negative impact on a naturally occurring feature, including but not limited to wetlands, or an environmentally sensitive area;
 - (4) Impact an on-site or off-site Storm Water management system; or
 - (5) alter property line elevations of any adjacent lands beyond that set out within a Surface Drainage Plan.
6. No Person, except employees or agents of the County, or other Persons with express written authorization of the CAO, shall alter the Surface Elevation or Surface Grade on any County Property or Highway.

Damage or Change to County Works Used for Drainage Purposes

7. No Person, except employees or agents of the County, or other Persons with express written authorization of the CAO, shall:
 - (1) alter or cause a change to any County works used for drainage purposes, including but not limited to ditches, drainage swales, canals, reservoir, curbs, culverts or other man-

- made surface feature or facilities, slopes or Surface Grades located on any County Property, or otherwise constructed under approval of the County;
- (2) encroach upon or allow work to happen within an established Drainage Easement without prior express written authorization from the CAO;
 - (3) install a culvert, driveway or access on, over or connected to any County Property; or
 - (4) tamper with or alter any County Property, including but not limited to, removing gravel or other material forming a road surface from the County Property or adding any material to the surface of any County Property.

Draining Storm Water or Groundwater into a Sanitary Sewer System

8. No Person shall cause or allow Storm Water or groundwater, including but not limited to; sump pumps and roof drains to be directed into any sanitary sewer system, unless express written authorization is provided by the CAO.

Drainage Impacting Naturally Occurring Features, Watercourses or Wetlands

9. No Person shall fill, drain, redirect, or otherwise alter any naturally occurring feature, watercourse, or wetland area without express written authorization from the Province of Alberta.

PART III - AUTHORITY OF THE DESIGNATED OFFICER AND OTHER REPRESENTATIVES

Inspections

10. A Designated Officer may, upon reasonable notice, enter in or upon a Lot, in accordance with section 542 of the Act, to carry out any inspection reasonably required to ensure compliance with this Bylaw, including but not limited to:
 - (1) confirming grades and materials or having them confirmed for the County by a recognized third party authorized to practice within the Province of Alberta;
 - (2) confirming installation and operation of roof drains, foundation drains, and sump pump discharges; and
 - (3) confirming surface drainage features.

Requests for Information

11. Notwithstanding the powers provided in section 13, a Designated Officer may request information from an Owner or Person concerning compliance with this Bylaw and set a reasonable time for the Owner or Person to provide such information.
12. An Owner or Person who has received a request from a Designated Officer pursuant to section 14 shall provide such information within the timeframe provided by the Designated Officer.

Obstruction

13. No Person shall obstruct, hinder, or impede any authorized representative of the County in the exercise of any of their powers or duties pursuant to this Bylaw.

PART IV - ENFORCEMENT

Offence

14. A Person who contravenes any provision of this Bylaw is guilty of an offence.

Continuing Offence

15. In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues and a Person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such day.

Vicarious Liability

16. For the purposes of this Bylaw, an act or omission by an employee or agent of a Person is deemed also to be an act or omission of the Person if the act or omission occurred in the course of the employee's employment with the Person, or in the course of the agent's exercising the powers or performing the duties on behalf of the Person under their agency relationship.

Corporations and Partnerships

- 17.
- (1) When a corporation commits an offence under this Bylaw, every principal, director, manager, employee or agent for the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
 - (2) If a partner in a partnership is guilty of an offence under this Bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.

Fines and Penalties

- 18.
- (1) A Person who contravenes this Bylaw by:
 - (a) doing any act or thing which the Person is prohibited from doing; or
 - (b) failing to do any act or thing the Person is required to do;is guilty of an offence.
 - (2) Any Person who is guilty of an offence pursuant to this Bylaw is liable to a fine not less than established in Parkland County's Fees and Charges Bylaw and not exceeding ten thousand dollars (\$10,000.00) and, in default of payment of any fine imposed, to a period of imprisonment not exceeding six (6) months.
 - (3) Without restricting the generality of subsection (2), the fine amounts established for use on Violation Tickets, if a voluntary payment option is offered, are set out in Parkland County's Fees and Charges Bylaw.

Warnings and Violation Tickets

- 19.
- (1) A Peace Officer is hereby authorized to use discretion in determining whether to issue a written warning or a Violation Ticket pursuant to the *Provincial Offences Procedure Act*, RSA 2000 c P-34, to any Person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
 - (2) Subject to the *Provincial Offences Procedure Act*, RSA 2000 c P-34, and the regulations thereunder, if a Violation Ticket is issued in respect of an offence, the Violation Ticket may:
 - (a) specify the fine amount established by this Bylaw for the offence; or
 - (b) require a Person to appear in court without the alternative of making a voluntary payment.

Voluntary Payment

20. A person who commits an offence may:
- (1) if a Violation Ticket is issued in respect of the offence; and
 - (2) if the Violation Ticket specifies the fine amount established by this Bylaw for the offence make a voluntary payment by submitting to a Clerk of the Provincial Court, on or before the initial appearance date indicated on the Violation Ticket, the specified penalty set out on the Violation Ticket.

21. Payment of any fine, or other penalty imposed by a Court of competent jurisdiction shall not relieve any Person from the requirement to remedy the conditions that constitute the original offence or to pay any fees, charges or costs associated to the enforcement of this Bylaw.

Enforcement Discretion

22. The Peace Officer shall not be compelled to enforce the provisions of this bylaw if, in the Peace Officer's sole discretion, enforcement is not warranted to the degree or nature of the non-compliance, and if non-enforcement would not materially interfere with or affect the use, enjoyment, or value of adjacent parcels of lands.

Right to Obtain Compensation

23. Nothing in this Bylaw will be construed as curtailing or abridging the right of the County to obtain compensation for, or to maintain an action for, loss of, or damage to, property from or against the Owner(s) or Person(s) responsible.

Enforcement Orders

24. Where an Owner or Person has committed an offence under this Bylaw, a Designated Officer may take enforcement action to ensure compliance with this Bylaw by issuing an order under section 545 of the Act, including but not limited to:
- (1) ordering the removal of fill and reinstatement of pre-existing conditions as acceptable by the CAO;
 - (2) ordering the return of a Lot to its original state (prior to any ground disturbance occurring by the offender); or
 - (3) ordering the Lot be improved to the state required in the Surface Drainage Plan or Lot Grading Plan, as applicable.
25. No Person shall fail to comply with an order issued under section 545 of the Act in relation to this Bylaw.

Expenses Incurred

26. Where an order is issued under section 545 of the Act in relation to this Bylaw, the expenses incurred by the County, including contracted expenses, shall constitute a debt to, and amount owing to the County by the Person to whom the order was issued.
27. Any debt remaining unpaid under this Bylaw will constitute a debt owing to the County and is recoverable in:
- (1) a manner set out within the Act; and
 - (2) an action in a court of competent jurisdiction.

PART V - GENERAL

Compliance with other Laws

28. Nothing in this Bylaw shall operate to relieve any Person from complying with any other applicable municipal, provincial or federal law or regulation, or any requirement of any lawful permit, order or license.

Severability

29. Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

Enactment

30. This Bylaw shall come into force and take effect on the day of third reading and signing thereof.

READ A FIRST TIME this _____ day of _____, 2023.

READ A SECOND TIME this _____ day of _____, 2023.

READ A THIRD TIME and finally passed this _____ day of _____, 2023.

SIGNED AND PASSED this _____ day of _____, 2023.

Mayor

Chief Administrative Officer

PROPOSED