

BYLAW 1558/21
SURFACE DRAINAGE BYLAW
STURGEON COUNTY, MORINVILLE, ALBERTA

A BYLAW OF STURGEON COUNTY, ALBERTA TO REGULATE AND CONTROL SURFACE DRAINAGE ON PRIVATE AND PUBLIC LANDS WITHIN STURGEON COUNTY

WHEREAS the *Municipal Government Act*, RSA 2000, c. M-26 (the Act) provides that a municipal council may pass bylaws respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS the Act provides that a municipal council may establish bylaws respecting public utilities, including systems to provide drainage;

AND WHEREAS the Council of Sturgeon County wishes to regulate and control surface drainage on private and public lands within Sturgeon County;

NOW THEREFORE, the Council of Sturgeon County, in the Province of Alberta, duly assembled, enacts as follows:

1. TITLE

1.1 This Bylaw may be referred to as the “Surface Drainage Bylaw”.

2. PURPOSE

2.1 The purpose of this Bylaw is to address drainage issues that have or may have an Adverse Effect on County Property, Drainage Facilities or Lots within the County.

3. DEFINITIONS

3.1 In this Bylaw, unless the context otherwise requires:

- (a) “Adverse Effect” means impairment of or damage to, or the ability to cause impairment of or damage to a Lot or Drainage Facilities;
- (b) “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;
- (c) “Council” means the Mayor and Councillors of Sturgeon County duly elected pursuant to the provisions of the *Local Authorities Election Act*, RSA, 2000, c. L-21, and any amendments thereto;
- (d) “County” means Sturgeon County;
- (e) “County Property” includes:
 - (i) 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and environmental reserve pursuant to the County's Land Use Bylaw, as amended or repealed and replaced from time to time, and the MGA;

- (ii) 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, bodies of water, and public utility lots;
 - (iii) any place under the direction, control, and management of the County; or
 - (iv) any property owned by the County, including property owned under Section 424 of the MGA;
- (f) "Designated Officer" has the same meaning as provided in the MGA;
- (g) "Drainage Facilities" means any facility or system associated with the control, collection, transmission, storage, treatment, or disposal of Stormwater or other water, whether on private or public lands, and includes but is not limited to:
- (i) catch basins, sewers and pumping stations;
 - (ii) drainage outfall structures;
 - (iii) grassed or landscaped swales or naturally occurring features;
 - (iv) concrete or asphalt walkways, gutters, or swales;
 - (v) culverts or bridge structures; and
 - (vi) dugouts, drainage channels whether natural or artificial, and irrigation systems
- but does not include plumbing or service connections located within buildings;
- (h) "Highway" is as defined in the *Traffic Safety Act*, RSA 2000 c. T-6, and Regulations thereunder, and any amendments thereto;
- (i) "Lot" means:
- (i) a quarter section;
 - (ii) a river lot shown on an official plan referred to in the *Surveys Act*, RSA 2000 c. S-26, and any amendments thereto, that is filed or lodged in a Land Titles Office;
 - (iii) a settlement lot shown on an official plan referred to in the *Surveys Act*, RSA 2000 c. S-26, and any amendments thereto, that is filed or lodged in a Land Titles Office;
 - (iv) 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

- (v) 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;
- (j) "Lot Grading Plan" means a plan or drawing prepared by a practicing professional showing contours and grade elevations for the existing topography and providing the proposed ground elevations at a given site on a Lot to demonstrate positive major drainage away from any buildings, structure, or adjacent Lots;
- (k) "MGA" means the *Municipal Government Act*, RSA 2000 c. M-26, and any amendments thereto;
- (l) "Nuisance" means a condition that materially and negatively affects the use or enjoyment of a private or public Lot or Drainage Facilities;
- (m) "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;
- (n) "Peace Officer" has the same meaning as in the *Provincial Offences Procedure Act*, RSA 2000 c. P-34, and any amendments thereto;
- (o) "Person" means a corporation, partnership, or individual, and the heirs, executors, administrators, or other legal representative of an individual;
- (p) "Prohibited Material" means any material or substance that may, in the opinion of a Peace Officer, a Designated Officer, or the CAO, either directly or indirectly, obstruct the flow of Stormwater or water within Drainage Facilities or may have an Adverse Effect on Drainage Facilities or any Lot located within the County, and includes, but is not limited to:
 - (i) hazardous substances as defined in the *Environmental Protection and Enhancement Act*, RSA 2000 c. E-12, and any amendments thereto;
 - (ii) soil, sediment, waste or other solid matter;
 - (iii) fecal matter, animal waste, dead animals or animal parts;
 - (iv) sawdust, wood, fibreboard or construction material;
 - (v) pesticides, herbicides or fertilizers;
 - (vi) soaps or detergents; or
 - (vii) any substance or combination of substances that emits an odour;
- (q) "Road" has the same meaning as in the MGA;
- (r) "Stormwater" means surface run-off water that is the result of natural precipitation;

- (s) "Surface Elevation" means an elevation of the ground surface measured from geodetic datum at a specific, discrete location;
- (t) "Surface Grade" means the magnitude and direction of inclination of an area of the ground surface.

4. OWNER RESPONSIBILITIES

4.1 The Owner of a Lot where Drainage Facilities are located shall ensure that:

- (a) no building or other structure is constructed, erected, placed or allowed to remain in, on or over the Drainage Facilities;
- (b) the Surface Grade and Surface Elevation of the Lot are maintained in a manner whereby positive drainage to the appropriate Drainage Facilities is established and maintained at all times; and
- (c) the Drainage Facilities remain clear of Prohibited Materials and debris, ice, snow, or other matter which may obstruct, restrict, or prevent the flow of Stormwater or other water within the Drainage Facilities.

4.2 Where a Lot Grading Plan has been approved by the County for a given Lot, the Owner of the Lot must establish and maintain the Surface Grade and Surface Elevation for the Lot in accordance with the approved Lot Grading Plan.

4.3 Where a Lot Grading Plan has not been approved for a Lot, the Owner of the Lot must establish and maintain proper grading within their Lot, ensuring that:

- (a) Stormwater drains away from any buildings;
- (b) Stormwater drains towards approved Drainage Facilities or other receiving areas approved by the County; and
- (c) there is no Adverse Effect on adjacent Drainage Facilities or any adjacent Lot.

4.4 An Owner shall comply with the terms and conditions of any restrictive covenant, easement agreement, utility right-of-way, caveat or any other document registered on the certificate of title for their Lot, in which the County has an interest, including encumbrances designed to protect Drainage Facilities.

4.5 An Owner of a Lot containing a body of water, including a water course, shall ensure that the body of water is preserved in its natural state and not interfered with, directly or indirectly, by any act of omission of the Owner or any person acting under the direction or authority of the Owner.

5. SURFACE DRAINAGE RESTRICTIONS

- 5.1 No Owner or Person shall cause or allow the alteration of any Surface Elevation or Surface Grade of any Lot such that the alteration may:
- (a) cause or have the potential to cause a Nuisance, a hazard, damage or Adverse Effect;
 - (b) have the potential to cause an Adverse Effect on the stability of a slope on the Lot or an adjacent slope; or
 - (c) alter or impact Drainage Facilities or a body of water,
- without prior written consent of the County and any applicable provincial and federal regulatory authority having jurisdiction.
- 5.2 No Owner or Person shall cause or allow the alteration of Surface Elevation, Surface Grade, drainage features, or any body of water on County Property without written authorization from the County and any applicable provincial and federal regulatory authority having jurisdiction. County authorization may take the form of an approved development permit issued under the County Land Use Bylaw, or any other express written authorization issued by the County.
- 5.3 No Owner or Person shall:
- (a) cause or allow the filling, draining, redirection, or other alteration of any naturally occurring surface drainage feature, body of water, watercourse, or wetland area without first obtaining all required authorizations from the County and any provincial and federal regulatory authority having jurisdiction in relation to the proposed alteration;
 - (b) cause or allow any encroachment upon or work to be undertaken within areas where Drainage Facilities exist without prior written authorization from the County and any applicable provincial and federal regulatory authority having jurisdiction;
 - (c) direct Stormwater or other water from a Lot into Drainage Facilities without written authorization from the County and any applicable provincial and federal regulatory authority having jurisdiction;
 - (d) create or install Drainage Facilities on a Lot that connects directly to existing Drainage Facilities without the written authorization of the County and any applicable provincial and federal regulatory authority having jurisdiction;
 - (e) undertake any activity whereby naturally occurring features, watercourses, bodies of water, or wetland areas are filled, drained, re-directed or otherwise altered without written authorization from the County and any applicable provincial and federal regulatory authority having jurisdiction;

- (f) undertake any activity whereby Drainage Facilities are filled, drained, re-directed or otherwise altered or impacted without written authorization from the County and any applicable provincial and federal regulatory authority having jurisdiction; or
 - (g) release or deposit any Prohibited Material into Drainage Facilities without written authorization from the from the County and any applicable provincial and federal regulatory authority having jurisdiction.
- 5.4 No Owner or Person shall:
 - (a) cause or allow sprinkler systems, or similar watering devices, to be installed within 0.15 metres of a Lot property line;
 - (b) direct Stormwater or other water onto an adjacent Lot in any manner whatsoever; or
 - (c) cause a Nuisance or Adverse Effect.
- 5.5 No Owner or Person shall allow downspouts, eaves troughs, sump pump discharge piping, drains, or other means of directing Stormwater or other water within a Lot to discharge Stormwater or other water in a manner that, in the opinion of a Designated Officer or the CAO, is likely to cause an Adverse Effect on:
 - (a) Drainage Facilities; or
 - (b) an adjacent Lot.

6. AUTHORITY OF DESIGNATED OFFICER

- 6.1 For the purpose of ensuring that the provisions of this Bylaw are being complied with, a Designated Officer may, upon reasonable notice, enter in or upon a Lot, in accordance with Section 542 of the MGA, to carry out any inspection reasonably required to ensure compliance with this Bylaw, including but not limited to, inspecting, observing, sampling, and measuring:
 - (a) grades and materials;
 - (b) roof drains, foundation drains, and sump pump discharges; and
 - (c) surface drainage features.
- 6.2 Notwithstanding the powers provided in section 6.1, 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.
- 6.3 An Owner or Person who has received a request from a Designated Officer pursuant to section 6.2 shall provide such information within the timeframe provided by the Designated Officer.

- 6.4 No Owner or Person shall interfere with a Designated Officer while the Designated Officer is engaged in carrying out duties under this Bylaw.

7. ENFORCEMENT

- 7.1 Any Owner or Person who contravenes a provision of this Bylaw is guilty of an offence and is liable to a penalty not less than that set out in Schedule "A" of this Bylaw.
- 7.2 An Owner or Person who is guilty of an offence under this Bylaw for which a penalty is not otherwise provided is liable to a fine of not less than two hundred and fifty dollars (\$250.00) and not more than ten thousand dollars (\$10,000.00).
- 7.3 Notwithstanding section 7.1, any Owner or Person who commits a second or subsequent offence within one year of committing an offence under this Bylaw is liable to a fine not less than that set out as "Subsequent" in Schedule "A" of this Bylaw.
- 7.4 An Owner or Person contravening any provision of this Bylaw shall not be subject to imprisonment as a penalty for that offence.
- 7.5 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.

VIOLATION TAG

- 7.6 The Peace Officer is hereby authorized to issue a violation tag to any Owner or Person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 7.7 A violation tag may be issued either personally or by mailing a copy to the last known address.
- 7.8 A violation tag shall be in the form approved by the County and shall state:
- (a) the name of the Owner or Person;
 - (b) the offence;
 - (c) the date of the offence;
 - (d) the penalty, as set out in Schedule "A";
 - (e) that the penalty must be paid within 30 days of the issuance of the violation tag; and
 - (f) any other information as may be required by the County.

- 7.9 No more than one violation tag may be issued to an Owner or Person each day for the same offence.
- 7.10 Where a violation tag is issued pursuant to this Bylaw, the Owner or Person to whom the violation tag is issued may, in lieu of being prosecuted for the offence, pay to the County the penalty specified on the violation tag.

VIOLATION TICKET

- 7.11 In those cases where a violation tag has been issued, and the penalty specified on the violation tag has not been paid within the prescribed time, the Peace Officer is hereby authorized to issue a violation ticket pursuant to the *Provincial Offences Procedure Act*, RSA 2000, c. P-34, as amended or repealed and replaced from time to time.
- 7.12 Notwithstanding section 7.11, the Peace Officer is hereby authorized to immediately issue a violation ticket to any Owner or Person who the Peace Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
- 7.13 Where a violation ticket has been issued to an Owner or Person pursuant to this Bylaw, that Owner or Person may plead guilty to the offence by submitting to the Clerk of the Provincial Court, prior to the appearance date specified on the violation ticket, the specified penalty set out on the violation ticket.
- 7.14 The Peace Officer has the discretion to require a mandatory court appearance by an Owner or Person who has committed an offence for which no penalty is specified in Schedule "A".
- 7.15 Where:
- (a) an Owner or Person has committed an offence under this Bylaw, the Designated Officer may, notwithstanding any other enforcement action taken, issue an order under sections 545 or 546 of the MGA, requiring the recipient to take whatsoever actions are determined by the Designated Officer to be necessary to prevent the contravention and to remedy any harm caused by it.
 - (b) an Owner or Person refuses or is unable to comply with an order issued under this section, the County may, as part of its efforts to prevent the contravention and to remedy the harm cause, contract a third party to undertake any work required by the order.
 - (c) an order is issued under this section, the expenses incurred by the County, including contracted expenses under subsection 7.15(b), shall constitute an amount owing to the County by the Owner or Person to whom the order was issued.

- 7.16 An Owner or Person who fails to meet conditions of an order issued under sections 545 or 546 of the MGA is guilty of an offence and subject to a fine as prescribed in Schedule "A".
- 7.17 Any debt remaining unpaid under this Bylaw will constitute a debt owing to the County and is recoverable:
 - (a) By action in a court of competent jurisdiction; or
 - (b) By adding the debt to the tax roll for the appropriate lands, pursuant to section 553 or 553.1 of the MGA as applicable.

8. GENERAL

- 8.1 This Bylaw applies to all Drainage Facilities within the County including all future and existing facilities, public and licensed, private infrastructure, and facilities licensed by the Province of Alberta.
- 8.2 This Bylaw applies to all bodies of water within the County under the County's direction, control, and management.
- 8.3 Nothing in this Bylaw shall exempt any person from complying with any other bylaw or requirement of the County, including the County's Land Use Bylaw, or from obtaining any licence, permission, permit, authority, or approval required by any other bylaw of the County or statute or regulation of the Province of Alberta or Government of Canada.
- 8.4 For the purposes of this Bylaw, an act or omission by an employee or agent of an Owner or Person is deemed also to be an act or omission of the Owner or Person if the act or omission occurred in the course of the employee's employment with the Owner or Person, or in the course of the agent exercising the powers or performing the duties on behalf of the Owner or Person under their agency relationship.
- 8.5 Where the provisions of this Bylaw conflict with any statute or regulation of the Province of Alberta, the statute or regulation of the Province of Alberta will prevail to the extent of the conflict.

9. SEVERABILITY

- 9.1 Should any provision of this Bylaw be found invalid, the invalid provision shall be severed and the remaining Bylaw shall remain in effect.

10. EFFECTIVE DATE

- 10.1 This Bylaw shall come into force and effect upon being passed.

Read a first time this 13th day of July, 2021.

Read a second time this 24th day of August, 2021.

Read a third time this 24th day of August, 2021.

"Original Signed"

Alanna Hnatiw
MAYOR

"Original Signed"

Reegan McCullough
COUNTY COMMISSIONER (CAO)

August 26, 2021

DATE SIGNED

SCHEDULE "A"**SCHEDULE OF PENALTY AMOUNTS**

Offence	Section	First	Subsequent
Contravention of any part of this Bylaw	7.1	\$250	\$750
Interfere with Designated Officer carrying out duties	6.4	\$500	\$1,500
Failure to comply with an order issued by the County	7.6	\$1,000	\$3,000