

BYLAW 32-2017

A BYLAW OF STRATHCONA COUNTY TO REGULATE AND CONTROL SURFACE DRAINAGE AND SITE GRADING WITHIN STRATHCONA COUNTY.

WHEREAS the *Municipal Government Act*, RSA 2000, c. M-26, provides that a Municipal Council may establish bylaws 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, provides that a Municipal Council may establish bylaws respecting public utilities, including systems to provide drainage; and

WHEREAS the Council of Strathcona County wishes to regulate the surface drainage and site grading on private and public lands within Strathcona County;

NOW THEREFORE THE COUNCIL OF STRATHCONA COUNTY, IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, ENACTS AS FOLLOWS:

PART 1

TITLE

- 1 This Bylaw may be referred to as the "Surface Drainage and Site Grading Bylaw".

PART 2

DEFINITIONS

- 2 In this Bylaw,
 - (a) "Act" means the *Municipal Government Act*, RSA 2000, c. M-26, as amended or replaced from time to time;
 - (b) "Chief Commissioner" means the chief administrative officer of Strathcona County;
 - (c) "Commercial Lot" means a lot that is zoned for, or contains, or is proposed to contain a commercial, industrial or multi-family building;
 - (d) "County" means Strathcona County;
 - (e) "Design and Construction Standards" means the standards and requirements as specified by the County in the latest version of the "Strathcona County Design and Construction Standards" 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, stormwater management systems, open space, trails, and landscaping;

- (f) "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;
- (g) "*Fees, Rates, and Charges Bylaw*" means Strathcona County Bylaw 45-2016, as amended or replaced;
- (h) "Final Grading" means the establishment of surface grades and elevations in preparation for, or including, finished landscaping, in accordance with the County's Design and Construction Standards and the Lot Grading Guidelines;
- (i) "Grading Certificate" means a ground elevation survey of a single family lot, stamped and signed by an Alberta Land Surveyor or an engineering professional accredited by ASET or APEGGA to practice Civil Engineering within their scope of practice;
- (j) "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;
- (k) "Lot Grading Guidelines" means the County's *Lot Grading Guidelines for Commercial, Industrial and Multi-Family Lots* and the County's *Lot Grading Guidelines for Single Family Lots*;
- (l) "Owner" means any person who is registered under the *Land Titles Act*, RSA 2000, c. L-4, as the owner of a property, any person who is lawful possession of a property, or any person who occupies any buildings situated on a property;
- (m) "Project Completion Certificate" means the certificate issued upon final review and acceptance of all construction requirements as required by the terms of a Development Permit;
- (n) "Rough Grading" means the establishment of clay surface grades and elevations preceding the final grading, in accordance with the Design and Construction Standards and Lot Grading Guidelines;

- (o) "Single Family Lot" means a subdivided lot that is zoned to contain a single dwelling unit;
- (p) "Site Grading Plan" means a plan approved by the County for a Commercial Lot showing property line elevations and detailed on-site design of surface elevations and stormwater management; and
- (q) "Surface Drainage Plan" means a plan approved by the County for a subdivision or neighborhood containing multiple lots, showing the detailed design of all property line elevations to function in an overall scheme for the plan area and in conjunction with the adjacent lands.

PART 3

SITE GRADING PLANS

- 3 (1) The owner of a Commercial Lot seeking to develop, build, or construct must submit a Site Grading Plan to the County for approval.
- (2) The Site Grading Plan must:
 - (a) establish the surface drainage design of the lot, including the preservation and protection of any watercourses or natural areas;
 - (b) incorporate a stormwater management system; and
 - (c) comply with the County's Design and Construction Standards.
- (3) The Site Grading Plan must be approved by the Chief Commissioner prior to any on-site construction.

PART 4

RESIDENTIAL SURFACE DRAINAGE PLANS

- 4 The owner of a Single Family Lot that does not have a Surface Drainage Plan must establish and maintain surface grades and elevations in such a way that:
 - (a) water drains away from any buildings;
 - (b) water drains towards a County right-of-way, a common property line, or another receiving area approved by the Chief Commissioner; and
 - (c) property line elevations are not impacted without prior written authorization of all affected parties.

- 5** Where a Surface Drainage Plan exists, the owner of a property must establish and maintain surface grades and elevations on the property in compliance with the applicable Surface Drainage Plan.

PART 5

SITE GRADING APPROVAL

- 6** Where a Surface Drainage Plan exists, the owner of a property must pay the surface drainage inspection fee as set out in the County's *Fees and Charges Bylaw* prior to obtaining a building permit.
- 7** A person applying for grading approval must submit to the Chief Commissioner:
- (a)** A Grading Certificate (for Single Family Lots) or;
 - (b)** A plan of certification of as-built grades stamped and signed by an engineering professional acceptable to the County (for Commercial Lots).
- 8** **(1)** The owner of a Single Family Lot shall ensure that:
- (a)** Rough Grading of the premises is approved by the Chief Commissioner within 18 months of the issuance of the building permit; and
 - (b)** Final Grading of the premises is approved by the Chief Commissioner within 12 months of the Rough Grading approval.
- (2)** Rough Grading and Final Grading approvals shall not be granted without an inspection by the County.
- (3)** In the event a grading approval is refused, the deficiencies must be corrected and a re-inspection must be arranged within 60 days of the previous inspection.
- (4)** The Chief Commissioner may, at his sole discretion, waive the requirement for Rough Grading approval under this section provided the owner submits a letter from the contractor certifying that the clay grades were established within the tolerances for Rough Grading, as set out in the Lot Grading Guidelines.
- 9** **(1)** The owner of a Commercial Lot seeking a Project Completion Certificate must obtain grading approval of the final grading within 24 months of the issuance of the building permit.

(2) Prior to the start of construction, the owner of a Commercial Lot is not required to comply with the Surface Drainage Plan, except as otherwise required by law, including, but not limited to:

- (a)** Part 6 of this bylaw;
- (b)** the County's *Land Use Bylaw*;
- (c)** any other County bylaw or Policy, or any Provincial or Federal enactment.

(3) The owner of a Commercial Lot shall not permit water to pond or build up on the Commercial Lot other than as approved in the Surface Grading Plan, which may cause, or have the potential to cause, a nuisance, a hazard, or damage to the public, adjacent lots or County right-of-ways.

PART 6

SURFACE DRAINAGE RESTRICTIONS

- 10** The owner of a property where a sump pump is installed must ensure each sump pump discharges according to the Surface Drainage Plan (where applicable), the County's Design and Construction Standards and the Alberta Building Code.
- 11** **(1)** The owner of a property shall not permit a roof drain or sump pump to discharge:
- (a)** directly onto a pervious ground surface within 1.0m of a building;
 - (b)** within 0.30m of any adjacent lot;
 - (c)** within 2.0m of any County right-of-way (where possible);
 - (d)** into or towards an environmentally sensitive area;
 - (e)** into or towards an area with an unstable slope;
 - (f)** into or towards a ravine; or
 - (g)** into or towards a location or in such a manner that the discharge causes or has the potential to cause a nuisance, hazard, or damage to property or to a County right-of-way.
- (2)** The owner of a Commercial Lot shall ensure each roof drain discharge flows towards:
- (h)** an internal catchment system;

- (i) a County right-of-way; or
 - (j) a receiving area that has been approved in writing by the Chief Commissioner.
- 12 No person shall alter any surface elevations of any Commercial Lot or Single Family Lot such that the alteration may;
 - (a) cause or have the potential to cause a nuisance, a hazard, or damage;
 - (b) have the potential to adversely affect the stability of an adjacent slope;
 - (c) alter the on-site stormwater management system without prior written consent of the Chief Commissioner; or
 - (d) alter property line elevations of any adjacent lot.
- 13 No person shall alter surface elevations, grades, or drainage features on any County owned lands without written authorization from the Chief Commissioner.
- 14 The owner of a property shall not direct stormwater or groundwater into the sanitary sewer system, unless permitted pursuant to the County's *Sewage System Bylaw, 21-2011*, as amended and replaced.
- 15 No person shall fill, drain, redirect, or otherwise alter any naturally occurring feature, watercourse, or wetland area without written authorization from:
 - (a) the Chief Commissioner; and
 - (b) the Province of Alberta, pursuant to the *Water Act, RSA 2000, c. W-3*, as amended or replaced.
- 16 No person shall encroach upon or allow work to happen within an area covered by a Drainage Easement without prior written authorization from the Chief Commissioner.

PART 7

AUTHORITY OF THE CHIEF COMMISSIONER

- 17 The Chief Commissioner has the authority to carry out any inspection reasonably required to ensure compliance with this Bylaw, including but not limited to:
 - (a) inspecting, observing, sampling, and measuring:

- (i) grades and materials;
 - (ii) roof drains, foundation drains, and sump pump discharges; and
 - (iii) surface drainage features.
- (b) inspecting and copying documents related to a matter under this Bylaw, including removing documents from a premises in order to make copies; and
- (c) requesting information from a person concerning a matter under this section.
- 18** No person shall interfere with the Chief Commissioner while the Chief Commissioner is engaged in carrying out duties under this Bylaw.

PART 8

OFFENCES AND ENFORCEMENT

- 19** Any 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.
- 20** A 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 one hundred dollars (\$100.00) and not more than ten thousand dollars (\$10,000.00).
- 21** Notwithstanding section 19, any 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.
- 22** A person contravening any provision of this Bylaw shall not be subject to imprisonment as a penalty for that offence.
- 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 person or persons responsible.

VIOLATION TAG

- 24** The Chief Commissioner or a Bylaw Enforcement Officer is hereby authorized to issue a violation tag to any person who the Chief Commissioner or Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 25** A violation tag may be issued either personally or by mailing a copy to the last known address.

- 26** A violation tag shall be in the form approved by the County and shall state
- (a) the name of the 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.

27 No more than one violation tag may be issued to a person each day for the same offence.

28 Where a violation tag is issued pursuant to this Bylaw, the 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

29 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 Chief Commissioner or a Bylaw Enforcement Officer is hereby authorized to issue a violation ticket pursuant to Part II of the *Provincial Offences Procedure Act*, RSA 2000, c. P-34, as amended or repealed and replaced from time to time.

30 Notwithstanding section 28, the Chief Commissioner or a Bylaw Enforcement Officer is hereby authorized to immediately issue a violation ticket to any person who the Chief Commissioner or the Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.

31 Where a violation ticket has been issued to a person pursuant to this Bylaw that 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.

32 The Chief Commissioner or a Bylaw Enforcement Officer has the discretion to require a mandatory court appearance by a person who has committed an offence for which no penalty is specified in Schedule "A".

33 (1) Where a person has committed an offence under this Bylaw the Chief Commissioner may take enforcement action to ensure compliance with this

bylaw by issuing an order under sections 545 or 546 of the Act, including, but not limited to:

- (a) ordering the removal of fill;
- (b) ordering the return of a site to its original state;
- (c) ordering the site be improved to the state required in the Surface Drainage Plan or Site Grading Plan, as applicable.

(2) Where a person refuses or is unable to comply with an order issued under this section the Chief Commissioner may contract a third party to implement the order.

(3) Where an order is issued under this section the expenses incurred by the County, including contracted expenses under subsection 2, shall constitute a debt to, and amount owing to the County by the person to whom the order was issued.

34 Any debt remaining unpaid under this Bylaw will constitute a debt owing to the County and is recoverable by:

- (a) action in a court of competent jurisdiction; and
- (b) collecting in a like manner such as through municipal rates and taxes.

35 The Chief Commissioner shall not be compelled to enforce the provisions of this Bylaw if, in the Chief Commissioner's sole discretion, enforcement is not warranted due 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 neighbouring parcels of land.

PART 9

GENERAL

36 The rates and charges to be charged for surface drainage inspections shall be set out from time to time in the *Fees, Rates, and Charges Bylaw*.

37 All deadlines and timelines established by this Bylaw shall apply to existing building permits and development permits, and the deadlines and timelines shall commence upon the date this Bylaw comes into effect.

38 Nothing in this Bylaw shall operate to relieve any person from complying with any Federal, Provincial, or other County law, order, regulation, or Bylaw.

39 Bylaw 16-2009 is hereby repealed.

40 This Bylaw shall come into force and effect after third reading and upon being signed.

Read a first time this 6th day of June, A.D. 2017.

Read a second time this 6th day of June, A.D. 2017.

Read a third time this 6th day of June, A.D. 2017 and finally passed.

Roxanne Carr
Mayor

Mavis Nathoo
Director, Legislative & Legal Services

Date Signed: June 6, 2017

SCHEDULE “A”

Schedule of Penalty Amounts

Offence	Section	First	Subsequent
Failure to obtain an approved Site Grading Plan prior commencement of construction	3(3)	\$750	\$1,500
Failure to establish or maintain surface grades and elevations in conformance with the approved Surface Drainage Plan or Site Grading Plan	5 & 9(3)	\$500	\$750
Failure to obtain Rough Grade or Final Grade approval within the required timelines for a Single Family Lot	8(1)	\$300	\$500
Discharge of roof or foundation drainage within the minimum specified distance of an adjacent property or County right-of-way	11(1)(b) & (c)	\$500	\$1,000
Discharge of roof or foundation drainage that adversely affects the stability of an adjacent slope	11(1)(e)	\$500	\$1,500
Discharge of roof or foundation drainage that detrimentally affects a ravine or environmentally sensitive area	11(1)(d) & (f)	\$500	\$1,500
Discharge of roof or foundation drainage that causes a nuisance, hazard or damage	11(1)(g)	\$500	\$1,000
Surface elevation or surface grade alterations that cause a nuisance, hazard or damage	4 & 12(a)	\$500	\$1,000
Surface elevation or surface grade alterations that adversely affect the stability of an adjacent slope	12(b)	\$750	\$1,500
Altering or failing to maintain an approved on-site stormwater management system on a Commercial Lot	12(c)	\$1,000	\$2,500
Unauthorized surface elevation or surface grade alterations within County lands or right-of-ways	13	\$1,000	\$2,500
Failure of a Commercial Lot to discharge roof drainage towards an internal catchment system, a County right-of-way, or an approved receiving area.	11(2)	\$1,000	\$2,500
Obstruct, remove, re-grade, or alter a drainage swale or other drainage feature or facility	13	\$750	\$1,500
Unauthorized discharge of stormwater or groundwater into the County’s sanitary sewer system	14	\$1,000	\$2,500
Fill, drain, or otherwise alter any natural feature, waterbody, watercourse, or wetland area without the written approval of the Province of Alberta and Strathcona County	15	\$1,000	\$2,500
Non-compliance with terms of a drainage easement document, caveat or restrictive covenant.	16	\$750	\$1,500
Hinder or prevent the Chief Commissioner from accessing a Single Family or Commercial Lot	17	\$300	\$500