

**Beaver County
Surface Drainage Bylaw**

Bylaw 22-1120

**A BYLAW OF BEAVER COUNTY TO AMEND BYLAW 21-1110 AND
REGULATE AND CONTROL SURFACE DRAINAGE WITHIN BEAVER COUNTY**

WHEREAS the *Municipal Government Act*, RSA 2000, c. M-26, as amended, 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 Beaver County wishes to regulate surface drainage on private and public lands within Beaver County; and

WHEREAS the Council of Beaver County passed Bylaw 21-1110 to regulate and control surface drainage within Beaver County; and

WHEREAS Section 191 of the *Municipal Government Act*, RSA 2000, c. M-26 provides for the amendment of bylaws; and

WHEREAS the Council of Beaver County deems it expedient to amend Bylaw 21-1110 to achieve clarity;

NOW THEREFORE the Council of Beaver 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 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) “**CAO**” means the Chief Administrative Officer of Beaver County, or any member of County staff designated by the CAO to carry out functions under this Bylaw;
 - (c) “**County**” means Beaver County;
 - (d) “**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reserve, municipal and school reserve, and environmental reserve pursuant to the County’s Land Use Bylaw, as amended or repealed and replaced from time to time, and the *Act*;
 - (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, water bodies, 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 *Act*.
- (e) “**Designated Officer**” is as defined in the *Act*;
- (f) “**Drainage Easement**” means an easement or right-of-way registered in favor of the County protecting drainage facilities such as pipes, catch basins, ditches, sumps, Swales, detention ponds, or ancillary structures;
- (g) “**Highway**” is as defined in the *Traffic Safety Act*, RSA 2000 c T-6, and Regulations thereunder, as amended;
- (h) “**Lot**” means:
 - (i) a river lot shown on an official plan referred to in the *Surveys Act* that is filed or lodged in a Land Titles Office;
 - (ii) a settlement lot shown on an official plan referred to in the *Surveys Act* that is filed or lodged in a Land Titles Office;
 - (iii) 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
 - (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 by reference to a plan of subdivision.
- (i) “**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;
- (j) “**Peace Officer**” has the same meaning as in the *Provincial Offences Procedure Act*;
- (k) “**Person**” means a corporation, partnership, or individual, and the heirs, executors, administrators, or other legal representative of an individual;
- (l) “**Road**” is as defined in the *Act*;
- (m) “**Storm Water**” means surface run-off water that is the result of natural precipitation;
- (n) “**Surface Elevation**” means an elevation of the ground surface measured from geodetic datum at a specific, discrete location;
- (o) “**Surface Grade**” means the magnitude and direction of inclination of an area of the ground surface;
- (p) “**Swale**” means a shallow, sloped channel for the conveyance of Storm Water.

PART 3

SURFACE DRAINAGE RESTRICTIONS

3. No Owner or Person shall cause or allow the alteration of any Surface Elevation or Surface Grade of any Lot such that the disturbance of the earth 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 a slope on the Lot or an adjacent slope;
 - (c) alter an on-site Storm Water management system without prior written consent of the CAO; or
 - (d) alter property line elevations of the Lot or any adjacent lot.

4. No Owner or Person shall cause or allow the alteration of Surface Elevations, Surface Grades, or drainage features on any County Property without written authorization from the County. Such 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 CAO.
5. No Owner or Person shall cause or allow the filling, draining, redirection, or otherwise alteration of any naturally occurring surface drainage feature, watercourse, or wetland area without written authorization from:
 - (a) the CAO, where the County has jurisdiction; or
 - (b) the Province of Alberta, pursuant to the *Water Act*, RSA 2000, c. W-3, as amended or replaced.
6. No Owner or Person shall cause or allow encroachment upon or work to happen within an area covered by a Drainage Easement or right-of-way without prior written authorization from the CAO.

PART 4

AUTHORITY OF THE DESIGNATED OFFICER

7. 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 *Act*, 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.
8. Notwithstanding the powers provided in section 7, 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.
9. An Owner or Person who has received a request from a Designated Officer pursuant to section 8 shall provide such information within the timeframe provided by the Designated Officer.
10. No Owner or Person shall interfere with the Designated Officer while the Designated Officer is engaged in carrying out duties under this Bylaw.

PART 5

ENFORCEMENT

11. 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.
12. 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 one hundred dollars (\$100.00) and not more than ten thousand dollars (\$10,000.00).
13. Notwithstanding section 11, 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.
14. An Owner or Person contravening any provision of this Bylaw shall not be subject to imprisonment as a penalty for that offence.

15. 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

16. 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.
17. A violation tag may be issued either personally or by mailing a copy to the last known address.
18. 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 legal land description of the property on which the contravention has occurred;
 - (e) the penalty, as set out in Schedule "A";
 - (f) that the penalty must be paid within 30 days of the issuance of the violation tag; and
 - (g) any other information as may be required by the County.
19. No more than one violation tag may be issued to an Owner or Person each day for the same offence.
20. 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

21. 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.
22. Notwithstanding section 20, 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.
23. 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.
24. 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".
25. (1) Where an Owner or Person has committed an offence under this Bylaw, the Designated Officer 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 Lot to its original state;

- (c) ordering the Lot be improved to restore natural drainage patterns.
 - (2) Where an Owner or Person refuses or is unable to comply with an order issued under this section, the Designated Officer 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 Owner or Person to whom the order was issued.
 - (4) An Owner or Person who fails to meet conditions of an order issued under sections 545 or 546 of the *Act* is guilty of an offence and subject to a fine as prescribed in Schedule "A".
26. 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.

PART 6

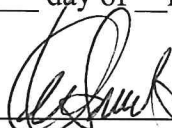
GENERAL

27. Nothing in this Bylaw shall operate to relieve any Owner or Person from complying with any Federal, Provincial, or other County law, order, regulation, or Bylaw.
28. Should any provision of this Bylaw be found invalid, the invalid provision shall be severed and the remaining Bylaw shall be maintained.
29. 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.
30. Bylaw 21-1110 is hereby repealed.
31. This Bylaw shall come into force and effect after third and final reading and upon being signed.

Read a FIRST time this __17th____ day of __March____ A.D. 2022

Read a SECOND time this __17th____ day of __March____ A.D. 2022

Read a THIRD time and finally passed this __17th____ day of __March____ A.D. 2022


REEVE


CHIEF ADMINISTRATIVE OFFICER



March 22, 2022
DATE SIGNED

SCHEDULE “A”

Schedule of Penalty Amounts

Offence	Section	First	Subsequent
Surface Elevation or Surface Grade alterations that cause a nuisance, hazard, or damage	3	\$500	\$1000
Surface Elevation or Surface Grade alterations that adversely affect the stability of an adjacent slope	3	\$750	\$1500
Unauthorized Surface Elevation or Surface Grade alterations within County Property or rights-of-way	4	\$1000	\$2500
Obstruct, remove, re-grade, or alter a drainage Swale or other drainage feature or facility	3,6	\$750	\$1500
Fill, drain, or otherwise alter any natural feature, waterbody, watercourse, or wetland area without the written approval of the Province of Alberta and Beaver County	5	\$1000	\$2500
Non-compliance with terms of a drainage easement document, caveat, or restrictive covenant	6	\$750	\$1500
Interfere with Designated Officer carrying duties	11	\$300	\$500
Failure to comply with an order issued by the County	26(4)	\$1000	\$1500