

BYLAW XX-23

A BYLAW OF THE TOWN OF OKOTOKS IN THE PROVINCE OF ALBERTA TO REGULATE GRADING AND LANDSCAPING

WHEREAS pursuant to the provisions of the *Municipal Government Act (Act)*, RSA 2000, M-26, and amendments thereto, Council may pass a bylaw for the purpose of regulating surface grades within the Town of Okotoks (Town); and

WHEREAS the *Act* authorizes a municipality to work with development and provide for a system of permits; and

WHEREAS Council deems it desirable to ensure that properties are graded at the completion of construction processes in compliance with approved grades; and

WHEREAS the *Act* specifies that the purpose of a municipality is to foster the well-being of the environment and to provide what is necessary for the municipality to continue to do so.

NOW THEREFORE the Council of the Town enacts as follows:

1. SHORT TITLE

- 1.1. This Bylaw shall be known as the “Grading and Landscaping Bylaw”.

2. DEFINITIONS

In this Bylaw, unless the context otherwise requires, the following means:

- 2.1. **As Built Grade Plan** - a post-construction plan that bears the stamp or seal of a:
- 2.1.1. Practitioner, as that term is used in the *Land Surveyors Act* R. S.A. 2000 c. L3 and amendments thereto; or
 - 2.1.2. Professional Engineer as that term is used in the *Engineering and Geophysical Professionals Act* R. S. A. 2000 c. E- 11 and amendments thereto.
- 2.2. **As Built Survey** - a record of the existing or re-development of a building and Lot as they are built during construction.
- 2.3. **As Constructed Grade Certificate** - a form completed within the Town provided electronic means in accordance with this Bylaw and includes an As Built Grade Plan.
- 2.4. **As Constructed Grade Certificate Verification of Compliance** - a certification as issued through electronic means.
- 2.5. **Builder** - a Person who builds a building on a Parcel or Lot.

- 2.6. **Building** - anything constructed or placed on, in, over, or under land but does not include a highway or public road or a bridge that forms part of a highway or public road.
- 2.7. **Certificate of Non-compliance** - a document issued to the Person responsible when an As Constructed Grade Certificate, as submitted to the Town, is incomplete or non-compliant.
- 2.8. **Chief Administrative Officer (CAO)** - the person appointed to the position of the chief administrative officer for the Town of Okotoks, within the meaning of the *Act* and the Town's CAO Bylaw.
- 2.9. **Council** - the Mayor and Councillors of the Town of Okotoks duly elected pursuant to the provisions of the *Local Authorities Election Act* as amended, or any legislation in replacement or substitution thereof.
- 2.10. **Developer** - a Person who develops a Parcel or Lot.
- 2.11. **Development Permit** - a document that is issued under the Land Use Bylaw and authorizes a development.
- 2.12. **Drainage Course** - a natural or constructed surface depression channelling water at a positive grade across a Lot or Parcel and ultimately to a storm sewer system.
- 2.13. **Drought Tolerant Turfgrass** - grasses that can withstand periods of drought and are suited for hot, dry climates, dealing well with limited water availability due to water restrictions as they need less water than other types of grass. These turf grass mixes contain less than 30% Kentucky bluegrass or are certified by the Turf Water Conservation Alliance.
- 2.14. **Final Building Occupancy Inspection** - a final written notice or a field notice or similar document issued by a designate appointed by the CAO prior to occupancy of a Building.
- 2.15. **Grade Slip** - a document issued to a Person by the Town, or, in the case of a new subdivision, to a Builder by a Developer, and containing the approved and required final surface grades and elevation for a Parcel or Lot.
- 2.16. **Grading** - the movement and contouring of subsoil and the placement of Topsoil on a Parcel or Lot to create positive drainage.
- 2.17. **Hard Landscaping** - those non-living materials used in the landscaping features or which cover a Site that include (but are not limited to) paving material, wooden timbers, concrete products, playground equipment, and streetscape furniture.
- 2.18. **Infill** - building new structures to replace aging structures in established communities.

- 2.19. **Landscaped Area** - that portion of a site required to be planted with trees, shrubs or other vegetation including the soil or bedding material areas associated with plantings. A Landscaped Area does not include the footprint of a Building, decks, patios, sidewalks, driveways, or other similar hard landscaping.
- 2.20. **Landscaping** - the modification and enhancement of a Parcel or Lot, in compliance with the Town of Okotoks Land Use Bylaw, through the use of the following elements but not limited to:
- 2.20.1. soft or natural Landscaping consisting of vegetation such as trees, shrubs, hedges, turf grass and other ground cover;
 - 2.20.2. mulch, a layer of organic or inorganic material, spread over the bare surface of soil to block the loss of moisture and to discourage the growth of weeds;
 - 2.20.3. Hard Landscaping consisting of non-vegetative materials, and
 - 2.20.4. excluding the placement of Topsoil, which is included within the Grading process.
- 2.21. **Lot Grade Permit** - the permit issued by the Town pursuant to this Bylaw in relation to the surface grades of a Parcel or Lot.
- 2.22. **Lot Grade Tolerances** - the set of minimum permitted grades and permitted variations, as set out in Schedule A, between a Plot Plan elevation and slope requirements, and the elevations and slopes on a Parcel As Built Grade Plan, to which a Lot Grade Permit applies.
- 2.23. **Owner** - a Person:
- 2.23.1. who is registered under the *Land Titles Act* as the Owner of a Parcel of land; or
 - 2.23.2. who is recorded as the Owner of a property on the tax assessment roll of the Town; or
 - 2.23.3. who has purchased or otherwise acquired a Parcel of land, whether purchased or otherwise acquired the land directly from the Owner or from another purchaser, and has not yet become the registered Owner thereof; or
 - 2.23.4. holding out as the Person having the powers and authority of Ownership of a property or premises or who for the time being exercises the powers and authority of Ownerships; or
 - 2.23.5. controlling a property or premises under construction, or
 - 2.23.6. who is the occupant of a property or premises pursuant to a rental or lease agreement, license, or permit.
- 2.24. **Parcel or Lot** - the aggregate of one or more areas of land described in a certificate of title or described in a certificate of title by reference to a plan filed and, or, registered in the Land Titles Office.
- 2.25. **Peace Officer** - a Person defined as a peace officer under the *Peace Officer Act* and includes:
- 2.25.1. a member of the Royal Canadian Mounted Police;

- 2.25.2. a duly appointed Community Peace Officer employed by the Town; and
- 2.25.3. a Bylaw Enforcement Officer appointed by the Town to enforce bylaws of the Town.
- 2.26. **Permeable Landscaping** - areas made of various plants, turf grass, and mulch that allow water to infiltrate the soil, and must make up at least 60% of the landscaped area.
- 2.27. **Person** - an individual, a corporation, or any other legal entity.
- 2.28. **Person Responsible** - a Builder, general contractor, Developer or Owner as the case may be.
- 2.29. **Plot Plan** - a plan view of a Lot indicating the location on a Parcel or Lot of the following:
 - 2.29.1. all corner grades of the Parcel or Lot;
 - 2.29.2. proposed Landscaping grades at all corners of a main Building, deck(s), garage(s) and ancillary Buildings;
 - 2.29.3. drainage pattern of the Parcel or Lot;
 - 2.29.4. the percentage of grades.
- 2.30. **Topsoil** - the 30cm upper layer of soil.
- 2.31. **Town** - the Town of Okotoks, a municipal corporation in the Province of Alberta, and where the context so requires means the area of land within the corporate boundaries thereof.
- 2.32. **Turfgrass** - any cool season turf species, variety or blend, including but not limited to Kentucky bluegrass and certain Fescues.

3. INTERPRETATION

- 3.1. Nothing in the Bylaw relieves a Person from complying with any federal, provincial, or municipal law or regulation, other bylaw or any requirement of any lawful permit, order or license.
- 3.2. Where this Bylaw refers to any bylaw, act, regulation, or agency, it includes reference to the entire bylaw, act, regulation or any lawful permit or order of license.

4. LOT GRADE PERMIT

- 4.1. Prior to the commencement of construction of the Parcel or Lot, every Person responsible for the Grading of a residential Parcel or Lot, not requiring a Development Permit pursuant to the Town's Land Use Bylaw, shall obtain a Lot Grade Permit from the Town with respect to the Parcel or Lot on which the Grading is to take place.

- 4.2. A Plot Plan must be submitted with a Lot Grade Permit application and shall meet all the requirements stated in Section 2.29 and be drawn to a 1:200 metric scale.
- 4.3. All information on the Plot Plan shall be legible.
- 4.4. A fee, as set out in the Town's Fees, Rates, and Charges Bylaw may be charged for the issuance of a Lot Grade Permit.

5. AS CONSTRUCTED GRADE CERTIFICATE AND AS-BUILT GRADE PLAN

- 5.1. Every Person Responsible to whom is issued a Lot Grade Permit for the Grading of a residential Parcel or Lot, not requiring a Development Permit pursuant to the Town's Land Use Bylaw must, within twelve (12) calendar months of the Final Building Occupancy Inspection, submit to the Town an As Constructed Grade Certificate in accordance with Section 2.3. of this Bylaw respecting the Parcel or Lot and construction to which the Lot Grade Permit applies.
- 5.2. Every Builder is responsible for informing an Owner of a Parcel or Lot that the Owner cannot undertake Landscaping of the Parcel or Lot until the As Constructed Grade Certificate has been verified for compliance with this Bylaw by the Town and the Owner has received an As Constructed Grade Certificate Verification of Compliance (VOC) from the Town.
- 5.3. Every As Constructed Grade Certificate required pursuant to this section must certify that:
 - 5.3.1. the lot grading as shown on the As Built Grade Plan will provide positive drainage of the Parcel or Lot to a Drainage Course or storm sewer system and will not have any adverse affect on adjacent property Owners;
 - 5.3.2. the lot grading as shown on the As Built Grade Plan will meet the tolerances and required minimums set out in Schedule A;
 - 5.3.3. the elevations for the top of footings as shown on the As Built Grade Plan conform with the submitted Plot Plan;
 - 5.3.4. the finished Topsoil depth in the area to be landscaped is a minimum of 30.48 cm (12 inches) average uniform depth, not to exceed 50 cm (19 inches) as indicated at a minimum of three representative test locations as detailed on the As Built Grade Plan; and
 - 5.3.5. the Topsoil in the area to be landscaped is of the quality stated in Section 7.2.
- 5.4. Every As Built Grade Plan must:
 - 5.4.1. contain both the proposed Lot elevation on the Plot Plan and the as built Lot elevations;
 - 5.4.2. contain the as built drainage slopes;
 - 5.4.3. indicate whether the Parcels on either side of the property to which the As Constructed Grade Certificate applies are vacant, under construction or built and loamed;

- 5.4.4. indicate the measured soil depth at three representative test locations within the Lot's Landscaped Areas;
 - 5.4.5. be stamped in accordance with Section 2.1 of this Bylaw, to certify that the final Lot grades have been reviewed and certified within twelve (12) calendar months of the Final Building Occupancy Inspection.
- 5.5. Prior to the submittal of an As Constructed Grade Certificate to the Town, the Land Surveyor shall sign the As Constructed Grade Certificate evidencing their professional certification of the information contained therein.
- 5.6. An Owner shall not begin Landscaping a Parcel or Lot until they have received the As Constructed Grade Certificate VOC from the Town. Modification of the Lot grades after the issuance of an As Constructed Grade Certificate VOC by the CAO shall not adversely affect or modify the drainage pattern of the approved grades.
- 5.7. An As Constructed Grade Certificate VOC, shall be evidence only that the information contained within the As Built Grade Plan and As Constructed Grade Certificate as certified, is compliant with the requirements of this Bylaw. Field confirmation accuracy by the Town is not included within the VOC.
- 5.8. The CAO will issue a Certificate of Non-compliance to the Person Responsible, if an As Constructed Grade Certificate, as submitted to the Town, is incomplete or non-compliant.
- 5.8.1. If the Person Responsible fails to respond to the CAO within the times set out within As Constructed Grade Certificate notice of non-compliance, they are guilty of an offence.
 - 5.8.2. The applicant must meet the requirements of the As Constructed Grade Certificate and resubmit the As Constructed Grade Certificate to the Town.
 - 5.8.3. A fee, as set out in the Town's Fees, Rates, and Charges Bylaw, may be charged for the resubmission of the As Constructed Grade Certificate.
- 5.9. Every Person Responsible who, having the obligation to file an As Constructed Grade Certificate fails to do so either within the times set out within Section 5.1 or within the time as set out in an extended filing date granted by the CAO, is guilty of an offence.
- 5.10. Any Person Responsible who knowingly certifies or verifies incorrect information in relation to Sections 5.3 and 5.5 or fails by due diligence to determine the true facts, is guilty of an offence.
- 5.11. Every Owner has the right to request a site inspection by the Town of any items contained within the As Constructed Grade Certificate and As Built Grade Plan of their Parcel or Lot within one year of receiving the As Constructed Grade Certificate VOC. The request and site inspection must be conducted prior to the commencement of Landscaping of the Parcel or Lot.

- 5.12. An officer designated by the CAO may conduct a site inspection of any Parcel or Lot after an As Constructed Grade Certificate VOC has been issued.
- 5.13. The CAO may enter onto a Parcel or Lot at reasonable times for the purposes of inspection after reasonable notice has been given to the Owner.
- 5.14. Any Owner that refuses a site inspection waives their right to request future site inspections pursuant to Section 5.11 of this Bylaw.
- 5.15. If a new Lot configuration is created, such as Infill or re-development, an As Built Survey will be required for the existing Lot and adjacent property line showing the revised Drainage Course for the property including drainage connection to all adjacent properties.

6. ROLE OF THE TOWN

- 6.1. In the event that a Person Responsible for Grading referred to in this Bylaw determines prior to or during Grading that grades or elevations contained in a Grade Slip and/or tolerances in this Bylaw will not achieve adequate site drainage or are otherwise inappropriate, then the Person Responsible shall forthwith resubmit a revised Plot Plan to the CAO prior to submitting the As Constructed Grade Certificate.
- 6.2. The revised Plot Plan shall indicate that the Person Responsible has reviewed and approved the revised Plot Plan. The Person Responsible's printed name, the date of approval and signature shall be included on the revised Plot Plan. The revised Plot Plan shall be forwarded to the CAO for review and acceptance. Once the revised Plot Plan has been reviewed and accepted by the CAO, the revised Plot Plan shall take precedence over the Plot Plan submitted with the Lot Grade Permit. A signed and dated copy of the revised Grade Slip shall be forwarded to the Person Responsible by the CAO.
- 6.3. Every Person Responsible to whom is issued a Lot Grade Permit may apply to extend a filing date provided by this Bylaw.
- 6.4. A Person Responsible may apply in writing to the CAO for an extension of time to file an As Constructed Grade Certificate.
- 6.5. A non-refundable fee, as set out in the Town of Okotoks Rates, Fees and Charges Bylaw must accompany any written request to extend an As Constructed Grade Certificate filing deadline.
- 6.6. A Person Responsible may apply in writing to the CAO to extend any other time or date by which something is required to be done under this Bylaw.
- 6.7. A request to extend a time or date pursuant to this section must be submitted to the Town at least five (5) clear business days prior to the expiration of the time or date the applicant is seeking to have extended.

- 6.8. Upon receiving a request for an extension of time pursuant to this section, the CAO may:
- 6.8.1. grant an extension of time or refuse to grant an extension of time;
 - 6.8.2. attach any conditions to an extension of time that the CAO considers appropriate;
 - 6.8.3. provide a written decision regarding that request.
- 6.9. An extension of time to file an As Constructed Grade Certificate pursuant to this section shall be at the discretion of the CAO.
- 6.10. An extension of time to file an As Constructed Grade Certificate pursuant to this section shall only be granted once.

7. LANDSCAPING REQUIREMENTS

- 7.1. No Owner shall remove Topsoil from a Parcel or Lot after an As Constructed Grade Certificate VOC has been issued unless authorized by the CAO.
- 7.2. All Topsoil:
- 7.2.1. is required to consist of a loam-textured dark Topsoil, a fertile, friable material neither of heavy clay nor of very light sandy nature containing by volume a minimum of 6% to a maximum 25% organic matter (i.e. rotted manure, and/or composted material) and capable of sustaining vigorous plant growth;
 - 7.2.2. shall be free of subsoil contamination, roots, stones over 25mm in diameter, baler twine or subsoil clay lumps over 25mm in diameter and other extraneous matter;
 - 7.2.3. shall not contain quack grass rhizomes, Canada thistle roots or other noxious weeds. Upon delivery or 30 days following delivery, electrical conductivity shall be less than 4.00 dS/m on a saturated paste basis. The pH range shall be between 6.0 and 8.0;
 - 7.2.4. may be either on-site Topsoil or imported Topsoil (from within Town boundaries). On-site Topsoil which has been stockpiled properly can be reused and remediated with organic material;
 - 7.2.5. will have a smooth and firm finished surface with a loose texture.
- 7.3. All Builders and Developers shall ensure that finished grades meet flush and smooth with adjacent grades and surfaces such as curbs, manholes, sidewalks, etc. and that the minimum depth of Topsoil shall be 300mm in all Landscaped Areas.
- 7.4. A minimum of 60% of the combined Hard Landscaping and Landscaped Area must be Permeable Landscaping.
- 7.5. Should the quality of Topsoil be in question, the Town will request the Developer to test the Topsoil (prior to placement) to these specifications.

- 7.6. The Town of Okotoks reserves the right to reject Topsoil not conforming to these requirements.
- 7.7. Living Turfgrass that is installed in all new residential properties must be a species of Drought Tolerant Turfgrass that must be a plant or seed that will grow into a mature live plant and be certified by the Turf Water Conservation Alliance (TWCA) or consist of a seed mixture of less than 30% Kentucky Bluegrass.
- 7.8. The Owner shall not begin Landscaping a Parcel or Lot until they have received the As Constructed Grade Certificate VOC from the Town.

8. YARDS LANDSCAPED PRE-BYLA

- 8.1. New Lots landscaped prior to this Bylaw coming into force do not need to modify the existing Turfgrass, unless so desired by the homeowner, to meet the requirements of this Bylaw.

9. PENALTIES AND ENFORCEMENT

- 9.1. Where a Peace Officer believes that a Person has contravened any provision of this Bylaw, the Peace Officer may commence proceedings against the Person by issuing a violation ticket pursuant to the *Provincial Offences Procedures Act*, R.S.A. 2000, c. P-34.
- 9.2. The specified penalty payable in respect of a contravention of a provision of this Bylaw is as provided for in Schedule B of this Bylaw.
- 9.3. Schedule B shall not prevent any Officer from issuing a violation ticket requiring a court appearance by a defendant pursuant to the provisions of the *Provincial Offences Procedures Act*, R.S.A. 2000 c. P-34, or from laying an information in lieu of issuing a violation ticket.
- 9.4. The levying and payment of any penalty, or the imprisonment for any period as provided for in this Bylaw shall not relieve a Person from the necessity doing anything or of paying any fees, charges or costs for which that Person is liable under the provisions of this Bylaw or any other bylaw.
- 9.5. Any Person who contravenes any provision of this Bylaw by:
 - 9.5.1. doing any act or thing which the Person is prohibited from doing; or
 - 9.5.2. failing to do any act or thing the Person is required to do; is guilty of an offence and any offence created pursuant to this Bylaw is a strict liability offence for the purposes of prosecution under this Bylaw.
- 9.6. Nothing in this Bylaw relieves a Person from complying with any provision of any federal or provincial law or regulation, other bylaw, or any requirement of any lawful permit, order or license.

- 9.7. Any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a fine not more than Ten Thousand (\$10,000.00) Dollars and not less than Fifty (\$50.00) Dollars and in default of payment is liable to imprisonment for a term not exceeding six (6) months or both.

10. TRANSITION AND COMING INTO FORCE

- 10.1. This Bylaw shall apply to the Grading and Landscaping of a residential Parcel or Lot, not requiring a Development Permit pursuant to the Town's Land Use Bylaw, pursuant to any Lot Grade Permit with an application dated on or after January 1, 2024.

11. SEVERABILITY

- 11.1. It is the intention of Council that each separate provision of this Bylaw shall be deemed independent of all other provisions herein and it is the further intention of Council that if any provision of this Bylaw is declared invalid, all other provisions hereof shall remain valid and enforceable.

Bylaw 15-12 and any amendments thereto are hereby repealed upon this Bylaw coming into effect.

This Bylaw shall come into full force and effect upon third and final reading.

READ A FIRST TIME this day of 2023.

READ A SECOND TIME this day of 2023.

READ A THIRD TIME AND PASSED this day of 2023.

Mayor

Chief Administrative Officer

SCHEDULE A

| Item | Acceptable Grade Tolerances Between Grade Slip & As Built | Over-riding Minimum Grades | Other |
|--|---|--|--|
| Top of Footing Verification | ± 0.15 meters (6 inches) | Top of footing must not be lower than the recommended lowest top of footing per Grade Slip. | Alternative design required from Developer's Engineer authorized for construction by the Town of Okotoks Engineering Services. |
| Side Yard Gradient | | 2% grade | A clearance of not less than 200 mm shall be provided between finished ground and cladding that is adversely affected by moisture. |
| Front and Rear Lot Gradient | | 2% grade | A clearance of not less than 200 mm shall be provided between finished ground and cladding that is adversely affected by moisture. |
| Concrete Driveways, Sidewalks and Patios | | 2% grade from garage entrance or house or building foundation wall to back of curb edge of pavement of sidewalk. | Not applicable to driveways in cases where below-grade garages are approved pursuant to a Development Permit. |
| Walkout Foundations Only – Rear Grade to the Top of Walkout Wall | Minimum 0.15 meters (6 inches) | Minimum 0.15 meters (6 inches) and a 2% grade. | A clearance of not less than 200 mm shall be provided between finished ground and cladding that is adversely affected by moisture. |
| Property Lines | 0.05 meters (2 inches) or less | | |

SCHEDULE B

| Section | Offence | Penalty |
|----------------|---|----------------|
| 4.1, 4.2 | Failure to obtain Lot Grade Permit prior to beginning of constructions. | \$1000 |
| 5.1 | Failure to file an As Constructed Grade Certificate within (12) twelve calendar months of receiving the Final Building Occupancy Inspection approval. | \$1000 |
| 5.2 | False certification made on As Built Grade Plan and/or within the As Constructed Grade Certificate. | \$1000 |
| 5.2 | False verification within the As Constructed Grade Certificate. | \$250 |
| 5.8.1 | Incomplete or Non-Compliant As Constructed Grade Certificate. | \$100 |
| 5.9, 7.8 | Landscaping Lot prior to receiving the As Constructed Grade Certificate VOC from the Town. | \$500 |
| 7.7 | Failure to install Drought Tolerant Turfgrass (plant or seed) when planting turfgrass on new home build landscape. | \$500 |