

THE RURAL MUNICIPALITY OF PRAIRIE LAKES

BY-LAW NO. 2, 2023

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF PRAIRIE LAKES TO AMEND BY-LAW NO. 2, 2023. TO PROTECT AND MAINTAIN ROAD ALLOWANCES AND DRAINAGE DITCHES.

WHEREAS Section 287 of *The Municipal Act* (“the Act”) gives a municipality the direction, control and management over municipal roads and drains within the boundaries, including lands identified in the Dominion Government Survey as a road allowance;

AND WHEREAS Council deems it expedient and in the best interest of the Municipality to promote the protection and maintenance of road allowances and drainage ditches, to ensure that any activity that takes place within the road allowance or a drain is consistent with the protection purposes and the safety of the travelling public;

NOW THEREFORE BE IT RESOLVED THAT the Council of the R.M. of Prairie Lakes, in Council duly assembled, enacts as follows:

Purpose:

1. The purpose of this By-law is to:
 - a. Promote the protection of road allowances and drainage ditches, and restrict such activities or uses of them as are inconsistent with the protection purposes,
 - b. Prohibit the use of a road allowance except in accordance with this By-Law, and
 - c. Prohibit the pushing and depositing of snow from private properties onto road allowances and drainage ditches.

Definitions:

2. In this By-law:

“**Chief Administrative Officer (CAO)**” means the Chief Administrative Officer of the municipality.

“**Council**” means the Council of the Rural Municipality of Prairie Lakes.

“**Designated Officer**” means a designated officer or other person appointed and employed by the Rural Municipality of Prairie Lakes who has the authority to enforce, implement or administer all or part of this By-law.

“**Drainage ditch**” means a drain constructed or maintained by the municipality.

“**Municipality**” means the Rural Municipality of Prairie Lakes, or the area contained within the boundaries thereof.

“**Owner**” means the registered owner of land or a lessee of crown land.

“**Road allowance**” means a municipal road, whether developed or undeveloped, and includes land identified in the Dominion Government Survey as a road allowance.

Prohibitions:

3. No person shall:
 - a. Erect or place a building or structure on,
 - b. Disturb, remove, or damage vegetation or trees on,
 - c. Push onto or place any trees, bushes, soil, stones, construction waste, or debris of any kind onto,
 - d. Push and deposit snow from private property onto a road allowance or drainage ditch, or
 - e. Block public access to a road allowance.

4. An owner of land adjacent to an undeveloped road allowance may use it for crops, hay or pasturing, and (despite section 3e) for those purposes may erect a temporary fence only with Council's approval of a written application detailing the property, ownership and location of fencing. And only if they complete the following waiver in Appendix A and supply proof of insurance that the R.M. of Prairie Lakes has been named as an additional insured on their property owner's liability insurance.
5. The Municipality may in its absolute discretion terminate access and use permitted under section 4 on one month's notice. The owner must remove any temporary fence within the period of notice.
6. The Municipality has no role or responsibility in a dispute between adjacent owners concerning access under section 4.
7. No person shall carry out drainage work on a road allowance except according to a Water Control Works License or Permit issued by the Province of Manitoba.
8. An owner of land that is adjacent to a road allowance or drainage ditch may not permit a person to contravene sections 3 or 7 in connection with activities on the owner's land.

The Designated Officer

9. The Designated Officer has all the powers, duties, discretions, and functions of a designated officer set out in the Act, and is authorized to administer and enforce this By-law and the Act and to act as a designated officer for the purposes of this By-law and the Act including:
 - a. Section 242 of the Act, for the purpose of making orders requiring persons responsible for the contravention of a by-law, the Act, any other Act the Municipality is authorized to enforce, and any permits, approvals, orders, and agreements made or issued under the by-laws, the Act, or any other Act the Municipality is authorized to enforce, to remedy the contravention; and
 - b. Section 249 of the Act, for the purpose of enforcing a contravention through an offence.

Enforcement

10. The Designated Officer may carry out inspections of land adjacent to a road allowance or drainage ditch to determine whether this By-law is being complied with, what actions or measures a person needs to take in connection with this By-law, and whether the actions or measures set out in an order have been taken. The Designated Officer may enter land to remedy a contravention of this By-law, and to prevent the re-occurrence of a contravention.
11. An order of the Designated Officer must be given in writing and may provide that if the person does not comply with the order within the specified time, the Municipality will take the actions or measures at the expense of that person.
12. An order to remove a building or structure may require the person to move it onto the person's adjacent land.
13. The Municipality may take whatever actions or measures are necessary to remedy a contravention of this By-law, or the Act, including performing any work required or, in the case of a building or structure, moving it onto the person's adjacent land, if the person to whom an order was directed did not comply with the order within the time specified, and the time for requesting the review of the order has passed or the person requested that Council review the order and Council did so and confirmed that the Municipality can take the ordered actions or measures.
14. In the case of a contravention of section 3d (pushing and depositing snow) the Municipality may clear the snow from the road allowance or drainage ditch without prior notice or issuing an order to the owner of the land.
15. The Municipality's costs of the actions or measures taken under Sections 13 or 14 will be an amount owing by the person to the Municipality and may be collected in any manner in which a tax may be collected or enforced under the Act, including adding to taxes of the owner's land.

Review

- 16. An owner may request Council to review a decision or order of the Designated Officer, by giving written notice to the Chief Administrative Officer within 14 days of receiving the decision or order.
- 17. Upon receiving the request for review, the Chief Administrative Officer shall set a date and time for review by Council and notify the person of the date of the review.
- 18. At the time and place set out in the notice, Council shall consider the request for review, and the person may appear in person or by counsel. After reviewing the decision or order, Council may confirm, vary, substitute, or cancel the decision or order.
- 19. The time specified in an order is suspended from the date of receipt of a request for review to the date upon which Council makes its decision.

Offences and Costs

- 20. A person who contravenes this By-law is guilty of an offence and is liable on summary conviction to a fine of not more than \$1000, to a penalty equal to the costs associated with or resulting from enforcing this By-law or the Act.
- 21. The following amounts may be collected and enforced by the Municipality in the same manner as a tax may be collected or enforced under the Act:
 - a. A fine or penalty imposed on conviction;
 - b. The cost of repairing damage to, or restoring the road allowance or drainage ditch;
 - c. The cost of an action taken by the Municipality under section 245 of the *Act*.

Coming Into Force

- 22. This By-Law shall come into full force and effect on the day after being passed by Council.

PASSED AND ENACTED By The Rural Municipality of Prairie Lakes in Council duly assembled this 12th day of March, 2024.

Reeve

Chief Administrative Officer

First Reading: *January 10, 2023*
Second Reading: *January 10, 2023*
Third Reading: *March 12, 2024*

APPENDIX "A"
TO BY-LAW NO. 2 2023

Waiver:

I, _____ hereby release the R.M. of Prairie Lakes, and its agents from any and all liability for any injury sustained by me, or damage caused to my belongings, regardless of how caused, resulting from my installation of fencing at _____ (property legal description).

I further agree to indemnify and save harmless the R.M. of Prairie Lakes and its staff and agents from any and all suits, demands, torts, and actions of any kind which may be brought against its staff or agents for which it / they may become liable by reason of injury, loss, damage or death resulting from, or occasioned to, or suffered by any person or any property, by reason of any act, neglect, or default of mine.

And I have named the RM of Prairie Lakes as an additional insured to my liability coverage for this use of the land as well.

Landowner

Proof of Property Owner's Liability Insurance Provided

R.M. of Prairie Lakes

Date _____