

**BYLAW 2023-03  
VILLAGE OF BEISEKER  
LOT GRADING BYLAW**

Bylaw of the Village of Beiseker to regulate surface grades of properties.

WHEREAS the *Municipal Government Act* R.S.A 2000, c. M-26 authorizes a municipality to pass bylaws respecting public utilities, the protection of property and the enforcement of bylaws;

AND WHEREAS the *Municipal Government Act* R.S.A. 2000, c. M-26 authorizes a municipality to deal with development of property and provide for a system of permits;

AND WHEREAS it is desirable to ensure that properties are graded at the completion of the construction process in compliance with the approved grades;

NOW THEREFORE, the Council of the Village of Beiseker enacts as follows:

**A. CITATION**

1. This Bylaw shall be referred to as The Lot Grading Bylaw

**B. DEFINITIONS**

In this Bylaw:

1. "Appeal Board" means the Village of Beiseker Council.
2. "As Built" means a drawing that depicts the final installation of the grades configuration (physical or functional)
3. "As Constructed Grade Certificate" means a form completed in accordance with Schedule "D" of this Bylaw, and a post-construction Plot Plan both bearing the stamp or seal of a:
  - I. Practitioner, as that term is used in the *Land Surveyor's Act* R.S.A. 2000 c. L-3;
  - II. Professional Engineer, as the term is used in the *Engineering Geological and Geophysical Professionals Act* R.S.A 200 c. E-11; or
  - III. Registered Architect, as that term is used in the *Architect's Act* R.S.A. 2000 c. A-44.
4. "Building Grade Plan" means a drawing stamped by a Professional Engineer indicating the suggested grades for a piece of property which has been authorized by the Village of Beiseker to allow for construction.
5. "Building Permit" means a building permit issued pursuant to the Village of Beiseker
6. "CAO" means the person designated as the Chief Administrative Officer by the Village of Beiseker Council or his/her delegate.
7. "Commercial or Industrial Site" means any parcel where something other than a Multi-Family Housing Development, duplex, semi-detached or single-detached dwelling will be built.
8. "Driveways" means a private road providing access to a yard, garage, house or other building.
9. "Final Building Inspection" means a written notice or field notice or similar document issued by a Building Safety Codes Officer prior to occupancy of the building
10. "Grade Slip" means a document issued to a Person by the Village, or in case of a new subdivision, issued to a building by a developer, and containing the approved and required final surface grades and elevations for a parcel of land to which a Building Permit relates.
11. "Lot Grading Tolerance" means the set of minimum permitted grades and permitted variations, as set in Schedule "C"; between Grade Slip elevation and slope requirements and elevations and slopes on a parcel As Built, to which a Building Permit relates.

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12. "Multi-family Housing Development" means a residential development consisting of three or more dwelling units on a parcel of land.
13. "Municipal Government Act" means the *Municipal Government Act* R.S.A. 2000, chapter M-26 as amended
14. "Negative Drainage" means, on a Parcel with a building (for example a semi-detached, single-detached dwelling, Multi-family Housing Development or commercial or industrial building or any building that requires a development permit) the continuous downward slope from the property line to the elevation of finished ground surface at any point immediately adjacent to the building on all sides of the Parcel;
15. "Negative Impact" means impairment of or damage to, or the ability to cause impairment of or damage to:
  - I. The Storm Drainage System; or
  - II. Human health or safety; or
  - III. Property; or
  - IV. The environment.
16. "Officer" includes a Peace Officer, an officer appointed under Section 27 of the *Safety Codes Act*, or a delegate of the CAO.
17. "Owner" means the Person or Persons listed on the title of a parcel of land at the Land Titles Office.
18. "Person" includes a corporation and other legal entities.
19. "Person Responsible" includes a builder, general contractor, or an Owner.
20. "Plot Plan" means an overhead view plan that shows the location of the buildings on the lot and any other information as required by this Bylaw.
21. "Premises" includes lands and buildings or both, or part thereof.
22. "Prohibited Material" means any Substance that may directly or indirectly obstruct the flow of water within the Storm Drainage System or may have a Negative Impact and includes, but is not limited to:
  - I. Soil, sediment, waste or other solid matter;
  - II. Fecal matter, animal waste, dead animals or animal parts;
  - III. Cooking oils and greases;
  - IV. Gasoline, motor oil, transmission fluid and antifreeze;
  - V. Solvents;
  - VI. Paint;
  - VII. Cement or concrete washes;
  - VIII. Sawdust, wood, fibreboard or construction material;
  - IX. Yard waste;
  - X. Pesticides, herbicides or fertilizers;
  - XI. Hazardous waste;
  - XII. Industrial waste;
  - XIII. Soaps or detergents;
  - XIV. Water from hot tubs or swimming pools; or
  - XV. Any Substance or combination of Substances that emits an odor.
23. "Side Yards" means the area between the side of the house and the property line.

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24. "Storm Drainage" means the runoff that is the result of precipitation.
25. "Storm Drainage System" means the system that collects, stores and disposes of Storm Drainage and includes:
- I. The catch basins, sewers and pumping stations that make up the Storm Drainage Collection System;
  - II. The Storm Drainage facilities, structures or things used for storage, management and treatment to buffer the effects of the peak runoff or improve the quality of Storm water.
  - III. The sewers and pumping stations that transport Storm Drainage to the location where it is treated and/or disposed of
  - IV. The Storm Drainage outfall structures; and
  - V. The Storm Drainage Facilities; but
  - VI. Does not include plumbing or service connections to buildings.
26. "Storm Water" means runoff that is a result of precipitation.
27. "Street" means any thoroughfare, highway, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestle way or other place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles, and includes: the fence and the edge of the roadway, as
- I. A sidewalk (including a boulevard portion of the sidewalk);
  - II. If a ditch lies adjacent to and parallel with the roadway, the ditch; and
  - III. If a Street is contained between fences or between a fence and one side of the roadway, all the lands between the fences, or all the land between the fence and the edge of roadway; but
  - IV. Does not include a place declared by the Lieutenant Governor in Council not to be a street.
28. "Subdivision Developer Delegate" means a professional engineer, as the term is used in the *Engineering Geological and Geophysical Professionals Act*, R.S.A. 2000 c. E-11 appointed by the developer of the subdivision to act on their behalf in engineering matters.
29. "Substance" has the meaning of "substance" as defined by the *Environmental Protection and Enhancement Act*, R.S.A. 2000, cc. E-12 as amended.
30. "Surface Drainage Facility" means any facility or facilities associated with the drainage or control of Storm Drainage that is ultimately directed to a Street or that is used to control Storm Drainage and includes, but is not limited to:
- I. A grass swale;
  - II. A concrete or asphalt walkway, gutter or swale;
  - III. A drainage control fence or structure; or
  - IV. The sloping and contouring of land to facilitate or control Storm Drainage.
31. "Village Engineer" means a professional engineer, as the term is used in the *Engineering Geological and Geophysical Professional's Act*, R.S.A. 2000 c. E-11, as amended, as appointed by the Council to act on the Village's behalf.
32. "Village" means the Village of Beiseker
33. "Violation Tag" means a tag or similar document issued by the Village of Beiseker pursuant of the *"Municipal Government Act"*.

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34. "Violation Ticket" as per the *Provincial Offences Procedure Act* R.S.A 2000, Chapter P 4(POPA) and the regulations as amended or replaced from time to time.
35. "Water" means all water in any form on or under the surface of the ground;
36. "Yard Waste" means waste from gardening or horticultural activities and includes, but is not limited to grass, leaves, plants, tree and hedge clippings and sod.

**C. GENERAL**

1. Nothing in this 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.
2. Where this Bylaw refers to any other Act, Bylaw, regulation or agency, it includes reference to any Act, Bylaw or any lawful permit, order or license
3. Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.
4. All schedules attached to this Bylaw shall form part of this Bylaw. Any revisions to the format of the As Constructed Grade Certificate contained in the schedules approved by the CAO, shall not make the Bylaw invalid.

**D. RESPONSIBILITIES**

1. **Developer** – upon notification of the builder, it is the developer's responsibility to correct grade discrepancies on the Building Grade Plan and corresponding Grade Slips and distribute this information accordingly to all necessary parties such as the Village, affected builders, consultants and architectural control groups.
2. **Builder** – when a builder identifies a grade discrepancy on site, the Builder must contact the Subdivision Developer Delegate to have the grade discrepancy appropriate resolved. The builder is responsible for making the Owner aware that they cannot grade their lot until a final "As Constructed Grade Certificate" has been completed by the Builder.
3. **Owner** – The Owner must not modify the grades until the lot's As Constructed Grade Certificate has been completed by the Builder. Modification of the lot grades after an As Constructed Grade Certificate has been completed is not to affect the drainage pattern of the approved grades.

**E. AS CONSTRUCTED GRADE CERTIFICATE SUBMISSIONS**

1. The Person Responsible for applying for the Building Permit for the construction of any building (for example a semi-detached, single-detached dwelling, Multi-family Housing Development or commercial or industrial Building or any building that requires a development permit), must submit to the Village an As Constructed Grade Certificate in accordance with this Bylaw with respect to the parcel of land and construction to which the Building Permit relates within TWELVE (12) months of the Final Inspection.

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2. Notwithstanding the time to file an As Constructed Grade Certificate as set out in this Bylaw, an As Constructed Grade Certificate must be filed within TWELVE (12) months of the Final Building Inspection related to staged development of a parcel, if construction has not begun on a subsequent building on a parcel within that time.
3. Every As Constructed Grade Certificate must include:
  - a. Grade Slip

The As Constructed Grade Certificate will indicate that a top of footing elevation check has been performed and conforms to the Grade Slip provided by the subdivision developer prior to the installation/construction of the foundation walls and the elevation as shot shall be shown on the Grade Slip submitted with the As Constructed Grade Certificate.
  - b. Plot Plan

The As Constructed Grade Certificate will be accompanied by a Plot Plan that bears the stamp or seal of a:
    - I. Practitioner, as that term is used in the *Land Surveyor's Act* R.S.A. 2000 c. L-3;o
    - II. Professional Engineer, as the term is used in the *Engineering Geological and Geophysical Professionals Act* R.S.A 200 c. E-11; or
    - III. Registered Architect, as that term is used in the *Architect's Act* R.S.A. 2000 c. A-44. and shall be in accordance with the following:
      - I. The Plot Plan shall be drawn to a 1:200 metric scale
      - II. All corner grades of lots
      - III. Top foundation wall elevations
      - IV. Proposed landscaping grades at all corners of the buildings including decks and garages
      - V. Drainage pattern of the lot
      - VI. Right of way and easement locations (labelled)
      - VII. Indicate the percentage of grades
      - VIII. By dimension of the property line, the location of the proposed buildings
      - IX. Top of footing elevation (for all buildings?)
      - X. All information on the Plot Plan shall be legible.
- c. Certification of Lot Grading

The As Constructed Grade Certificate will show certification that the lot grading as shown on the Plot Plan will provide positive drainage for the lot and the drainage of the lot will be taken to a positive nature drainage course or storm sewer system and will not have any adverse effect on an adjacent property.
- d. Certification of Lot Grading Tolerance

The As Constructed Grade Certificate will show certification that the grades and elevation As Built are within the Lot Grading Tolerance of the Grade Slip requirements as set out in this Bylaw.
- e. Signatures

The As Constructed Grade Certificate must be signed by the Subdivision Developer Delegate to certify that the lot grades have been reviewed and accepted by the

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developer and Person Responsible within TWELVE (12) months of the Final Building Inspection; and

**F. POWERS OF THE CAO (CHIEF ADMINISTRATIVE OFFICER)**

**1. Changing Grade Requirements**

In the event that the Subdivision Developer Delegate or Person Responsible for the construction determines prior to or during construction that grades or elevations contained in a Grade Slip and/or Lot Grading Tolerances will not achieve adequate site drainage, or are otherwise inappropriate, the Subdivision Developer Delegate or Person Responsible is required to resubmit a revised Plot Plan to the CAO who will forward the same to the Village Engineer for comments, prior to submitting the As Constructed Grade Certificate.

**2. Application to Extend Filing Date for As Constructed Grade Certificate**

- a) The Person Responsible for applying for the Building Permit for the construction of a building (for example a semi-detached, single-detached dwelling, Multi-family Housing Development or commercial or industrial Building or any building that requires a development permit), to which a Lot Grading Permit relates or a Person Responsible for construction referred to in Section 10 , may apply in writing to the CAO for an extension of the time to file an As Constructed Grade Certificate.
- b) A non-refundable fee as set out in Schedule "A" of this Bylaw must accompany any written request to extend an As Constructed Grade Certificate filing deadline.
- c) An application to extend a filing deadline pursuant to this Section must be received by the CAO at least FIVE (5) business days prior to the original filing deadline.
- d) Upon receiving an application for the extension of the filing deadline of an As Constructed Grade Certificate, the CAO may grant an extension of time and may attach any conditions that the CAO finds appropriate.
- e) A decision of the CAO, pursuant to this Section may be appealed to the Appeal Board by filing a written notice of appeal with the CAO within FOURTEEN (14) days of the CAO's decision.
- f) The appeal filed pursuant to this Section must state the name of the appellant, the municipal address of the property to which the decision relates, a daytime telephone contact number for the appellant and an address to which documents in relation to the appeal may be delivered.
- g) The Appeal Board may confirm, revoke or modify the decision of the CAO.

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**G. GRADED LOTS**

1. Driveways extended to the Side Yard Property Line shall be set back one foot (1ft.) (.3048 meters) from the property line unless provisions are made to allow proper lot drainage.
2. Lot grading can only be modified from the "As Constructed Grade Certificate" elevations when the drainage patten of the lot can be maintained as designed.
3. Lots graded prior to this Bylaw coming into force are not required to be modified to prevent drainage of an existing water drainage course unless authorized by the Village Engineer, or as otherwise described in items 1 and 4 of this section.
4. Walkways installed in Side Yards shall not affect the drainage of the lot unless provisions have been provided to allow for proper lot drainage.

**H. WATER, EAVESTROUGHS AND DOWNSPOTS**

1. No Person shall allow a flow of Water from a hose or similar device on the Property to be directed towards an adjacent Property if it is that the Water from the hose or similar device will enter the adjacent Premises.
2. A Person shall direct any rainwater downspout or eavestrough on the Property towards:
  - a) the front of the Property;
  - b) the rear of the Property;
  - c) a Side Yard that does not abut another Property; or
  - d) a Side Yard which abuts another Property only if there is a minimum of six (6) meters of permeable ground between the outfall of the downspout or eavestrough and the adjacent property.

**I. DISCHARGES TO THE STORM DRAINAGE SYSTEM**

**Prohibited**

1. No Person shall release or allow to be released any Prohibited Material into the Storm Drainage System, except as permitted in Section I. 2.

**Permitted**

2. a) foundation drainage;
- b) water from a portable swimming pool, decorative pond or fountain having a capacity of three (3) cubic meters (3000 litres) or less;
- c) water solely from
  - i. irrigating or otherwise watering a law, garden, trees or other landscaping; or
  - ii. washing of a building with potable water; or

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- iii. water resulting from extinguishing fires; or
  - iv. a discharge to the Storm Drainage System which has been approved in writing by the CAO.
3. Any Person who is in contravention of the discharge rules of this bylaw and releases or causes to be released any Prohibited Material into the Storm Drainage System, shall immediately take all measure to:
- a) notify 911 if there is any immediate danger to human health or safety;
  - b) notify the Village Office or call the 24 hour Public Works phone number if after hours.
  - c) notify any Person that may be directly affected by the discharge;
  - d) mitigate the discharge, including, but not limited to taking measures to prevent any obstruction of the Storm Drainage System or take measures to prevent a Negative Impact; and
  - e) cover and clearly mark all hoses used to direct Water to the Storm Drainage System to protect from injury.

**J. RESTRICTIONS AFFECTING SURFACE DRAINAGE**

- 1. Except where a Parcel has Negative Drainage, no Personal shall allow downspouts, eavestroughs, piping or other means of directing Storm Drainage on a Parcel to terminate within 2 meters of:
  - a) a reserve;
  - b) a Surface Drainage Facility, except where such Surface Drainage Facility is located in a Side Yard; or
  - c) a Street
- 2. No Person shall directly connect or allow direct connection of downspouts, eavestroughs, piping or other of means of directing roof drainage to a foundation or weeping tile;
- 3. Except in an emergency, no Person shall direct or pump impounded Water from a Parcel to the Storm Drainage System without written consent of the Village.
- 4. If a sump pump is required in any building, the Owner shall install at the time of construction, a Sump Pump Discharge as part of the building's foundation drain so as to allow discharge directly to the storm sewer, or discharge to the surface.
- 5. The Sump Pump Discharge shall comply with all Village bylaws and other applicable legislation and regulations. The Owner shall be solely responsible for ensuring the Sump Pump Discharge is properly designed, installed, operated and maintained.



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6. No Person shall suffer or permit roof drainage or pumped subsurface drainage from a building to be discharged:
  - a) directly onto permeable ground surface within one (1) metre of a building for all buildings that have a basement or a level below the finished ground surface;
  - b) directly onto an adjacent lot or Village right of way;
  - c) to a location where soil erosion will or could occur;
  - d) to a location where the flow of Water or accumulation of Water would adversely affect or have potential to adversely affect the stability of an adjacent or neighboring slope;
  - e) to a location where the flow of Water or accumulation of Water would or could adversely affect a slope or environmentally sensitive area; or
  - f) in such a way that would or could create a nuisance, hazard or damage to a neighboring or private property.
7. No Person, except for employees or agents of the Village, or other Persons with the specific authorization from the Village, shall obstruct, remove, re-grade or alter or maintain, suffer or permit any obstruction, removal, or alteration of the Surface Drainage System within a registered right of way or Drainage Easement.
8. No Person, except employees or agents of the Village, or Persons with specific authorization from the Village, shall alter or maintain alterations of the surface elevations or surface grades of Village lands.
9. The Village shall not be held liable for any damages caused by a contravention of any section of this bylaw.
10. No Person, except the employees or agents of the Village, or Persons with specific authorization of the Village, install a culvert or driveway within a public right of way.
11. The Owner of a lot shall at all times comply with the terms and conditions of any easement agreement, utility right of way, caveat or restrictive covenant document related to drainage that has been registered against the title to the Lot.
12. The Owner of the Lot, is responsible for all maintenance of Surface Drainage Facilities located on the Lot unless otherwise notified by the Village.
13. The Owner of a Lot (Property) is responsible for erecting and maintaining any erosion prevention device that may be required to protect the Lot (property) or neighboring lots from damage due to erosion.
14. The Owner of a Lot shall ensure that any Storm Water exiting a Lot is free of hazardous contaminates or Prohibited materials.

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15. No Person shall discharge or suffer or permit the discharge of any substance other than Storm Water directly into the Village storm sewer without written approval from the CAO.

**K. INTERFERENCE WITH THE STORM DRAINAGE SYSTEM or SURFACE DRAINAGE FACILITY**

1. Any Person who owns or occupies a Parcel on which a Surface Drainage Facility is located shall ensure that:
  - a) No building or other structure is constructed, erected, placed or allowed to remain on or over a Surface Drainage Facility;
  - b) the Surface Drainage Facility remains clear of soil, silt, yard waste, debris, ice, snow or other matter that may obstruct, restrict or prevent the flow of Storm Drainage within the Surface Drainage Facility or Storm Drainage system.
2. Notwithstanding Section K.1., a fence may be constructed over a Surface Drainage Facility provided there is a vertical clearance over the top of the Surface Drainage Facility of at least 0.15 metres or six (6) inches.

**L. ENFORCEMENT**

1. Any Person who contravenes any provision of this Bylaw by:
  - a) doing any act or thing which the Person is prohibited from doing; or
  - b) fails to do any act or thing the Person is required to do is guilty of an offence.
2. Any Person who is convicted of an offence pursuant to this Bylaw is liable on summary conviction to a fine not exceeding ten thousand (\$10,000.00) dollars and in default of payment of any fine imposed, to a period of imprisonment not exceeding six months.
3. Municipal Tag - Where an Officer believes that a Person has contravened any provision of this Bylaw, the Officer may issue a Violation Tag.
4. A Municipal tag may be issued to such person:
  - (a) personally; or
  - (b) by mailing a copy to such person to the last mailing address on the Municipal tax roll.
5. A Municipal tag shall be in a form approved by the Chief Administration Officer and shall state:
  - (a) the name of the person;

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- (b) the offence;
- (c) the minimum penalty established for the offence in Schedule “B”
- (d) the penalty be paid within 10 days of the issuance of the Municipal tag; and
- (e) any other information as required by the Chief Administration Officer.

6. If a Person who is responsible for a contravention of a provision of this Bylaw, pays the specified penalty amount within the times and in the manner set out on the Violation Tag, such payment will be accepted in lieu of prosecution.

Where there is a Minimum Penalty listed for an offence in Schedule “B” of this Bylaw, the amount for a Violation Tag is the minimum penalty for the offence.

7. If payments referred to in Section L.1.4. are not made within the times and in the manner set out on the Violation Tag, a Violation Ticket may be issued to the Person responsible for the contravention in accordance with the *Provincial Offences Procedure Act*. R.S.A. 2000.
8. Nothing in this Section shall:
- a) prevent a Person from exercising their right to defend any charge of committing a breach of any Section of this bylaw; or
  - b) prevent any Officer in lieu of serving a Violation Tag from issuing a Violation Ticket to a Person or Owner, pursuant to the *Provincial Offences Procedure Act*, R.S.A. 2000;
  - c) prevent any Officer from issuing a Violation Ticket required the court appearance of a defendant pursuant to the provisions of the *Provincial Offences Procedure Act*, R.S.A. 2000, or from Swearing out an Information and COMPLAINT against the PERSON instead of issuing a Violation Ticket.
9. Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by an Officer provided that no more than one Violation Tag is issued for each day that the contravention continues.
10. Violation Ticket - If the penalty specified on the Violation Tag served to a Person is not paid within a prescribed time period then the Officer is authorized is to issue a Provincial Violation Ticket pursuant to the *Provincial Offences Procedures Act*.
11. Where there is a specified penalty listed for an offence in Schedule “B” of this Bylaw, that amount for a Violation Ticket is the specified penalty for the offence.

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12. The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a Person from the necessity of doing any thing or paying any fees, charges, or costs from which that Person is liable under the provisions of this Bylaw, or any other bylaw.
13. Enforcement Order – Where any contravention in the Bylaw results in costs related to damage remediation, repair or replacement, the Officer in accordance with Section 545 or 546 of the *Municipal Government Act* is authorized to issue a written Enforcement Order (Schedule G) to the Person in contravention.
  - a) An Enforcement Order written pursuant to this Section may:
    - i. direct a Person to stop doing something or to change the way in which a Person is doing it, and
    - ii. specifically state the steps to be taken to rectify, repair, replace anything or remediate damage.
  - b) Each Enforcement Order shall:
    - i. describe the Premises by Civic and/or Legal address; and
    - ii. identify the date that the Enforcement Order is issued; and
    - iii. state what section of this Bylaw is in contravention; and
    - iv. provide any actions or measures required to be taken to remedy the contraventions of this Bylaw and to prevent the reoccurrence of the contravention; and
    - v. state the time within which a Person must comply with the directions; and
    - vi. state that if all the required actions are not done within the time specified, the Village may:
      - a) carry out the actions required and charge the cost thereof against the Person and/or
      - b) cause a Violation Tag to be served upon the Person; and/or
      - c) cause a Violation Ticket to be served upon the Person pursuant to the *Provincial Offence Procedure Act*.
  - c) Service of an Enforcement Order upon a Person shall be sufficient if it is:
    - i. Personally served upon the Person; or
    - ii. served by regular mail to the last known address of the Person; or
    - iii. served substitutionally upon any Person who is eighteen (18) years of age or older who resides at the last known address of the Person; or

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- iv. served personally upon any occupant of the Premises who is eighteen (18) years of age or older, or upon an agent or employee of the Person, or upon a Person apparently in charge of the Premises; or
  - v. posted in a conspicuous place on the Premises to which the Enforcement Order relates; or
  - vi. posted in a conspicuous place on a Building on the Premises that is in contravention.
- d) An Enforcement Order is deemed to be served:
- i. upon the expiry of 3 (three) days after the order is posted in a conspicuous place; or
  - ii. on the day it is left with a Person as described in Section L. 14 c) above; or
  - iii. five (5) days after mailing, when mailed by regular mail to the Person.
- e) Service of an Enforcement Order to a Company or Corporation or other such entity shall be sufficient if it is:
- i. served by physically delivering it to any director or officer of the company, or corporation, or other entity; or
  - ii. served by physically delivering it to a Person apparently in charge of an office of the company, corporation or other entity, at an address held out by the company, corporation or other alien to be its address; or
  - iii. by regular mail addressed to the registered office of the company, corporation or other entity
- f) Where the Specified Remedial Action is not completed on or before the deadline prescribed by an Enforcement Order issued in relation to non-compliance of this Bylaw, the Village may take all necessary and reasonable measures to remedy the subject non-compliance conditions. All Village expenses and costs incurred, including an Administration Fee in accordance with Schedule "A" and court-related costs associated with the subject remediation is a debt owing to the Village and will be subject to cost recovery proceedings.

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g) Appeal

i. Where an Enforcement Order is issued to a Person pursuant to this Bylaw, it may be appealed to the Appeal Board by delivery a written Appeal in the form indicated in Schedule “H” and the Appeal Fee in Schedule “A” to the Village Office within seven (7) days of the due date stated in the subject Enforcement Order. The appeal must be fully completed and provide a detailed basis for the appeal. The Appeal must be made by the Person to whom the subject Enforcement Order was directed, or their authorized designate.

ii. Upon receipt of an Appeal, the Appeal Board will review the subject Enforcement Order, the Bylaw, Enforcement file, Appeal and any materials provided therewith. The Appeal Board may decide to uphold, vary or revoke the subject Enforcement Order and will communicate such a decision to the appellant in writing within fourteen (14) days of the receipt of the written appeal, including, where applicable, the compliance date and conditions upheld or varied.

iii. Where an appeal of an Enforcement Order is submitted in accordance with this Bylaw, the time period remaining before the expiry of the deadline for compliance as described by the subject Enforcement Order shall be suspended until the final determination of the appeal has been provided to the appellant. At that time, if the Order is either upheld or varies, the revised deadline for compliance shall not be less than the time period that remained before the expiry of the original deadline for compliance on the date that the appeal was received by the Village.

14. Obstruction - No person shall obstruct, hinder, or impede any authorized representative of the Village in the exercise of their powers or duties pursuant to this bylaw.
15. The Village reserves the right not to enforce this Bylaw. In deciding whether or not to enforce this Bylaw, the Village may take into account policy, considerations, including available municipal budget and personnel resources.

**M. SEVERABILITY**

1. If any section or parts of this Bylaw are found in any court of law to be illegal or beyond the power of Council to enact, such Section or parts shall be deemed to be severable and all other Sections or parts of this Bylaw shall be deemed to be separate and independent there from and are to be enacted as such.

**BYLAW 2023-03  
VILLAGE OF BEISEKER  
LOT GRADING BYLAW**

**N. COMING INTO EFFECT**

1. This Bylaw comes into force as of February 27 2023

Read a first time this 27<sup>th</sup> day February of 2023

Read a second time this 27<sup>th</sup> day of February 2023

Unanimous permission given to have Third and Final Reading this 27<sup>th</sup> day of February 2023

Read a third time this day 27<sup>th</sup> day of February 2023

\_\_\_\_\_  
Mayor, Warren Wise

\_\_\_\_\_  
CAO, Heather Leslie

**BYLAW 2023-03  
VILLAGE OF BEISEKER  
LOT GRADING BYLAW**

**SCHEDULE A  
COST OF PERMITS**

**As Constructed Grade Certificate**

Refundable deposit per ground floor building

Refunded after submission of As Constructed Grade Certificate

To be collected at the time of application for Development Permit \$1000.00

**Non Refundable Administration Fee**

For review of the As Constructed Grade Certificate (to be paid at the time of As Constructed Grade Certificate Deposit )

Cost of review (Engineering fee) and \$100.00

**Non Refundable Application Fee for Filing Extension** \$100.00

**Non Refundable Application Fee for Filing Extension**

**Once Schedule "E" letter is sent** \$250.00

**Non Refundable Appeal Fee** \$100.00

**Specified Remedial Action (Administration Fee)** \$100.00



**BYLAW 2023-03  
VILLAGE OF BEISEKER  
LOT GRADING BYLAW**

SCHEDULE B

FINES AND PENALTIES

To be determined:

Section	Charge	Minimum Penalty	Specified Penalty
E.1	Failure to provide an As Constructed Grade Certificate	\$500.00	\$1,000.00
E.3.b)	Failure to provide a Plot Plan.	\$500.00	\$1,000.00
F.2	Failure to provide a request for extension of an As Constructed Grade Certificate	\$500.00	\$1,000.00
H	Contravention of any item in Section H Water, Eavestroughs and downspouts.	\$1,000.00	\$2,000.00
I	Contravention of any item in Section I. Discharges to storm drainage system		
H	Contravention of any item in Section H Water, Eavestroughs and downspouts	\$1,000.00	\$2,000.00
J	Contravention to any item in Section J. Restrictions affecting surface drainage.	\$1,000.00	\$2,000.00
K	Contravention to any item in Section K. Interference with Storm Drainage System or Surface Drainage Facility	\$1,000.00	\$2,000.00
L.14	Contravention to Section L. 14 – Obstruction	\$1,000.00	\$2,000.00

**BYLAW 2023-03  
VILLAGE OF BEISEKER  
LOT GRADING BYLAW**

**SCHEDULE C**

**TOLERANCES AND MINIMUM GRADES**

Applies to any building (for example a semi-detached, single-detached dwelling, Multi-family Housing Development or commercial or industrial building or any building that requires a development permit)

<b>ITEM</b>	<b>ACCEPTABLE GRADE TOLERANCES BETWEEN GRADE SLIP AND AS BUILT</b>	<b>OVER-RIDING MINIMUM GRADES</b>	<b>OTHER</b>
Top of Footing Verification	+/- 0.15 metres (6 inches)	Top of footing must not be lower than the recommended lowest top of footing per Grade Slip	If the house or building constructed with minimum entrance grades below Minimum Grade (MG) or Registered Minimum Grade (RMG) specified, 0.08 metres (3.15 inches) maximum tolerance.
Side Yard Gradient		5% grade	Alberta Building Code requires that exterior walls must extend not less than 150mm (6 inches) above finished ground level
Front and Rear Lot Gradient		2% grade	Alberta Building Code requires that exterior walls must extend not less than 150 mm (6 inches) above finished ground level
Concrete Driveways, sidewalks and patios		2% grade from garage entrance or house or building foundation wall to back of curb edge of pavement or 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 the walkout wall)	Minimum 0.15 metres (6 inches)	Minimum 0.15 metres (6 inches) and a 2% grade	Alberta Building Code requires that exterior walls must extend not less than 150 mm (6 inches) above the finished ground level

**BYLAW 2023-03  
VILLAGE OF BEISEKER  
LOT GRADING BYLAW**

**SCHEDULE D**

**REVIEW LETTER**

**(on applicant letterhead)**

**Date**

Village of Beiseker  
Box 349, Beiseker, AB T0M 0G0

**Attention:** Village of Beiseker, Chief Administrative Officer

**Re:** As Constructed Grading Certificate

**Building Permit #** \_\_\_\_\_ **Project Address:** \_\_\_\_\_

**Legal Description: Plan** \_\_\_\_\_ **Block** \_\_\_\_\_ **Lot** \_\_\_\_\_

**Builder:** \_\_\_\_\_

**(name, phone number and address)**

**Developer:** \_\_\_\_\_

**(name, phone number and address)**

**Subdivision Name:** \_\_\_\_\_

I hereby certify that I have been appointed by the developer as the Subdivision Developer Delegate for the property indicated above and I have reviewed the information below in conformance with the current Village of Beiseker Lot Grading Bylaw and have performed and/or reviewed the items below and certify that this information is correct to the best of my knowledge:

1. I certify that the grades and elevations As Built are within the Lot Grading Tolerances of the Grade Slip requirements as set out in \_\_\_\_\_(Crossfield Schedule C).
2. I certify that the respecting As Built lot grades shown on the attached Plot Plan have been reviewed and accepted by the Developer.
3. I certify that the lot grading as shown on the attached plan will provide positive drainage of this property and will be taken to a positive natural drainage course or storm water system and will not have any adverse effect on adjacent property;
4. I certify that the elevations provided for the top of the footing as provided by the Person Responsible confirms to he submitted Grade Slip.

\_\_\_\_\_  
Name AND Title of Subdivision Developer Delegate (print)

\_\_\_\_\_  
Signature of Subdivision Developer Delegate

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VILLAGE OF BEISEKER  
LOT GRADING BYLAW

SCHEDULE E

NOTICE OF LOT GRADING NON-COMPLIANCE



VILLAGE OF BEISEKER  
OFFICE OF MAYOR AND MUNICIPAL ADMINISTRATOR

P.O. Box 349 • Beiseker, Alberta T0M 0G0  
Tel. (403) 947-3774 • Fax (403) 947-2146

email: [beiseker@beiseker.com](mailto:beiseker@beiseker.com)  
[www.beiseker.com](http://www.beiseker.com)

**Date**

**Addressee**

**RE: NOTICE OF NON-COMPLIANCE**

The Village of Beiseker serves notice to the Person Responsible of **Lot Block Plan Civic Address**, that the lot grading requirements of the Village of Beiseker have not been met for this property as of **date**.

Condition of **Bylaw** \_\_\_\_\_ for the regulation of surface grades of properties stated that an As Constructed Grade Certification Package was to be submitted to the Village within twelve (12) months of final inspection of the building.

This letter is notice that a response is required within two (2) weeks, (date) or a Violation Tag or Ticket in accordance with **Bylaw** \_\_\_\_\_ may be issued.

Note: An extension can be requested in accordance with **Bylaw** \_\_\_\_\_.

**Your prompt attention to this matter is appreciated.**

Respectfully,

**Name**

CAO, Village of Beiseker

BYLAW 2023-03  
VILLAGE OF BEISEKER  
LOT GRADING BYLAW

SCHEDULE F

APPROVAL OF AS CONSTRUCTED GRADE CERTIFICATE



VILLAGE OF BEISEKER  
OFFICE OF MAYOR AND MUNICIPAL ADMINISTRATOR

P.O. Box 349 • Beiseker, Alberta T0M 0G0  
Tel. (403) 947-3774 • Fax (403) 947-2146

email: beiseker@beiseker.com  
www.beiseker.com

Date

Applicant name and address

Attention: \_\_\_\_\_

RE: AS CONSTRUCTED GRADE CERTIFICATE

Building Permit # \_\_\_\_\_ Project Address: \_\_\_\_\_

Legal Description: Plan \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

Builder: \_\_\_\_\_ Developer Name: \_\_\_\_\_

Subdivision Name: \_\_\_\_\_

The Village of Beiseker Chief Administrative Officer has received and reviewed (or has had reviewed) the "As Constructed Grade Certificated submitted for the above property and is satisfied with the contents of this certificate?

The closure of this file is being based on the builder and Subdivision Developer Delegate certifying that the grades of the above property confirm to the Village of Beiseker Lot Grading **Bylaw** \_\_\_\_\_.

Please forward a copy of this letter to the homeowner of the above property for their information and records.

Respectfully,

Name

CAO, Village of Beiseker

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VILLAGE OF BEISEKER  
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SCHEDULE G – ENFORCEMENT ORDER

ENFORCEMENT SERVICES  
403-947-3774 OFFICE 403-807-9838  
bylaw@beiseker.com

**ENFORCEMENT ORDER**

Section 545/546 Municipal Government Act

HAND DELIVERED

REGULAR MAIL

MAILED: \_\_\_\_\_

[Person(s) Responsible]

[insert address or addresses]

Dear Sir/Madam:

Re: **[Summary of Contravention]**

In my capacity as Designated Officer, I hereby issue this Order pursuant to s.545/546 of the *Municipal Government Act*, to the above-named parties, as a person [*or persons*] responsible for contraventions of the following sections of Bylaw [*insert bylaw name and number*]:

*[insert the section numbers and summary of the contraventions]*

**Section 545 of the Municipal Government Act states that:**

(1) If a designated officer finds that a person is contravening this or any other enactment that the municipality is authorized to enforce or a bylaw, the designated officer may, by written order, require the person responsible for the contravention to remedy it if the circumstances so require.

(2) The order may

- (a) direct a person to stop doing something, or to change the way in which the person is doing it;
- (b) direct a person to take any action or measures necessary to remedy the contravention of the enactment or bylaw, including the removal or demolition of a structure that has been erected or placed in contravention of a bylaw, and, if necessary, to prevent a re-occurrence of the contravention;
- (c) state a time within which the person must comply with the directions;
- (d) state that if the person does not comply with the directions within a specified time, the municipality will take the action or measure at the expense of the person.

**Section 546 of the *Municipal Government Act* states that:**

- (a) “detrimental to the surrounding area” including the decline of market value of property in the surrounding area;

**BYLAW 2023-03  
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LOT GRADING BYLAW**

(b) “unsightly condition”

- (i) in respect of a structure, includes a structure whose exterior shows signs of significant physical deterioration, and
- (ii) in respect of land, includes land that shows signs of serious disregard for general maintenance or upkeep.

As a Designated Officer for the Village of Beiseker I have determined that the above reference bylaw section(s) have been contravened on the following basis:

*[A summary of the evidence of the contraventions]*

You are hereby ordered to comply with the [*bylaw*] by completing the following within the time limits imposed by this Order:

*[insert requirements in detail.]*

The above steps must be fully completed on or before [*insert relevant deadlines*]

Pursuant to s. 549/550 of the *Municipal Government Act*, you are hereby advised that the **Village of Beiseker** may take whatever actions or measures as are necessary to eliminate contravention and prevent its reoccurrence. If you do not comply with this Enforcement Order within the specified time, the **Village of Beiseker** will take whatever actions the Municipality determines to be necessary to remedy the contraventions set out in this Order, at your expense. This may include commencing an application in the Court of King’s Bench under section 554 of the *Municipal Government Act*, for a permanent injunction and other orders necessary to address the contraventions. Please be advised that the expenses and costs of actions or measures taken by the **Village of Beiseker** under this section are an amount owing to the **Village of Beiseker** by the person or person to whom this Order has been issued.

Pursuant to s.553, costs and expenses incurred by the **Village of Beiseker** may be added to the tax roll of the lands owned by the recipient(s) of this Order, where the contravention is occurring on all or part of the Lands.

An owner or occupier or other person to whom this Enforcement Order is directed and who considers themselves aggrieved by the Enforcement Order, may by written notice request that Council of the **Village of Beiseker** review the Order within Fourteen (14) days of the date the Order is received. This appeal shall be sent to the **Village of Beiseker** at the following address:

**PO Box 349 700 – 1 Avenue Beiseker, AB T0M 0G0**

**ATTN: CAO, Village of Beiseker**

Yours truly,  
**Village of Beiseker**  
Per:

\_\_\_\_\_  
Peace Officer

**BYLAW 2023-03  
VILLAGE OF BEISEKER  
LOT GRADING BYLAW**

**SCHEDULE H**

**NOTICE OF APPEAL**

(Pursuant to Section 547(1) of the MUNICIPAL GOVERNMENT ACT)

If you wish to have an Order given pursuant to Section 545 or Section 546 of the MUNICIPAL GOVERNMENT ACT reviewed, you must deliver this Notice of Appeal to the Chief Administrative Officer for the VILLAGE of Beiseker within seven (7) days after receipt of the Enforcement Order.

TO: Chief Administrative Officer  
VILLAGE of Beiseker  
P.O. Box 349  
700 – 1st Avenue  
Beiseker, Alberta  
T0M 0G0

I, \_\_\_\_\_, having been named in an Enforcement Order # \_\_\_\_\_  
(Name of OWNER)

\_\_\_\_\_, relating to PROPERTY at: \_\_\_\_\_  
(Date) (Municipal Address)

in the VILLAGE of Beiseker. I hereby request a review of the Enforcement Order by the Appeal Board for the VILLAGE of Beiseker. I would like the Appeal Board to consider the following reasons for this review:

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MAILING ADDRESS: \_\_\_\_\_

PHONE NUMBERS: \_\_\_\_\_

DATE: \_\_\_\_\_ SIGNED: \_\_\_\_\_