

THE RURAL MUNICIPALITY OF PINEY
BY-LAW NO. 114/2016

BEING A BY-LAW OF THE RM OF PINEY TO PROVIDE FOR THE ESTABLISHMENT AND MAINTENANCE OF PROPER LOT GRADES AND DRIVEWAYS WITHIN THE SAID RM.

WHEREAS pursuant to Section 232 of The Municipal Act, a Municipality may pass By-laws dealing with surface water drainage:

AND WHEREAS the Council of the Rural Municipality of Piney deems it advisable and expedient and in the public interest that proper lot grades be established and maintained on building lots within the Rural Municipality of Piney;

AND WHEREAS the Council of the Rural Municipality of Piney deems it advisable to ensure that the lot grade is compatible with the adjacent infrastructure.

NOW THEREFORE the Council of the Rural Municipality of Piney, in council duly assembled, enacts as follows:

1.0 DEFINITIONS

Unless the context otherwise requires, where use in this By-law:

- 1.01 **“Applicant”** shall mean Lot Owner, or such other person authorized in writing by the Lot Owner to make application for a Lot Grade Permit;
- 1.02 **“Accessory Building”** shall mean a subordinate building located on the same zoning site as a principal building, the use of which is incidental or accessory to that of the principal building and without limiting the generality of the foregoing includes residential, farm, commercial and industrial accessory structures, decks, detached garages, but does not include a residence.
- 1.03 **“Buildings”** shall mean any structure used or intended for supporting or sheltering any use or occupancy and, without restricting the generality of the foregoing, includes residential, commercial and industrial structures but does not include accessory structures;
- 1.04 **“Building Lot Grade”** shall mean the Lot Grade Elevation of the Finished Surface immediately adjacent to the foundation of a Building as set forth on the Lot Grade Permit;
- 1.05 **“Council”** shall mean the Council of the Rural Municipality of Piney;
- 1.06 **“Elevation”** shall mean the vertical distance above mean sea level or assigned geodetic datum;
- 1.07 **“Engineer”** shall mean the Rural Municipality of Piney engineer or person so appointed to represent the Rural Municipality of Piney or firm of Engineers to be appointed by the Rural Municipality of Piney to act on their behalf;
- 1.08 **“Finished Surface”** shall mean the completed landscaped condition of an area by covering the area with, but not limited to, sod, grass, stone, cement wood or other substance or material as the Rural Municipality of Piney may approve;
- 1.09 **“Lot”** shall mean a piece, plot or parcel of land identified on the Lot Grade Permit;
- 1.10 **“Lot Grade Elevation”** shall mean the elevation of the Finished Surface at any point at or between adjacent Lot Grade Elevation Posts;
- 1.11 **“Lot Grade Elevation Marker”** shall mean a post or object that clearly indicates a Lot Grade Elevation as set by the Municipal Agent or a representative of the RM of Piney;

- 1.12 **“Lot Grade Permit”** shall mean a permit issued by the Weed & Building District on behalf of the RM of Piney to an applicant pursuant to this By-law wherein the Lot Grade and Lot Grade Elevation for a specific Lot are provided and shall be in the form approved by the municipality;
- 1.13 **“Lot Grading”** is the landscaping of a Lot such that it complies with all requirements of this By-law;
- 1.14 **“Lot Owner”** shall mean a person in whose name the Lot is registered to in the Winnipeg Land Titles Office;
- 1.15 **“Representative”** shall mean such part as designated by the RM for the purposes of establishing Elevations and in General Implementation of this By-law;
- 1.16 **“Residence”** shall mean a structure used as a residential dwelling(s);
- 1.17 **“RM”** shall mean the Rural Municipality of Piney;
- 1.18 **“RM’s Agent”** shall mean such person(s) as the RM shall in their sole discretion appoint to act on their behalf and without limiting the generality of the foregoing may include employees of RM, an engineering firm appointed by the RM of Piney or such other duly authorized person as the RM of Piney should so choose.
- 1.19 **“Slope”** shall mean a constant slope grade from the Building to each property line of subject Lot and the Slope shall be not less than 1% and not more than 20% from the Building to each property line or a maximum distance of 40 feet from the building.

2.0 SCOPE:

2.01 This by-law applies to all lands within the RM of Piney.

3.0 LOT GRADE PERMIT FOR BUILDINGS:

- 3.01 Any person who is constructing a new Building must obtain a Lot Grade Permit and must comply with all the requirements of this By-law.
- 3.02 Any person constructing an addition onto a Building must construct same at a Building Lot Grade no lower than the level of the lowest Building Lot Grade of the existing Building to which the addition is being attached to. If for any reason a person wishes to construct an addition to the Building at an elevation lower than the existing Building Lot Grade then they may make special application to the RM and if approved, the RM will set a new Building Lot Grade for such addition and all fees and the terms of this By-law shall apply.
- 3.03 A Lot Grade Permit shall be applied for at the time of issuance of a “Building Permit” and/or a “Development Permit”.
- 3.04 Lot Grade Permits for Buildings shall be issued by the RM of Piney Office and shall be a form determined by the municipality. The Lot Owner or Applicant shall pay the Lot Grade Deposit, as specified in Schedule “A” attached hereto and forming a part of this By-law, at the time of application for the “Building Permit” and /or “Development Permit”. The Lot Grade Permit Fee is included in the Building or Development Permit Fees.

4.00 LOT GRADE REQUIREMENTS

- 4.01 All Lot Owners shall complete Lot Grading of their subject Lot so as to ensure the Building Lot Grade and the Lot Grade Elevation is in compliance with this By-law.
- 4.02 The Applicant shall request the Building Lot Grade Elevation from the Agent/Representative at least five (5) working days prior to the excavation of the building foundation on the subject Lot. The Agent/Representative shall mark the required Building Lot Grade on a Lot Grade Elevation Marker located on the said lot.
- 4.03 If a Lot has a Lot Grade Plan adopted for same by the RM either by means of a Development Agreement or by terms of a subdivision approval or by means of a By-law then the Lot Owner shall comply with all elevations set forth in said Lot Grade Plan.

- 4.04 The Applicant, at least five (5) days prior to the Finished Surface of the subject Lot being completed, shall request, in writing the Agent/Representative to provide the final Lot Grading for the subject Lot.
- 4.05 No person shall remove, alter or tamper with a Lot Grade Elevation Marker which has been installed upon a Lot and such Marker shall only be removed by the RM.
- 4.06 The Lot Owner is responsible for maintaining the Lot Grade Elevation Marker(s) including replacement thereof if the Marker(s) are removed or destroyed. Said responsibility includes the expense and cost involved in the maintenance and/or replacement of the Lot Grade Elevations Marker(s).
- 4.07 All Lot Owners shall complete their Lot Grading in compliance with the Lot Grade Permit within two (2) years of the issuance of the Lot Grade Permit. This shall require the placement of a finished Surface upon the said Lot
- 4.08 Within General Development Zones, the Building Lot Grade shall include a minimum and maximum Building Lot Grade elevation. The Lot Owner must complete a Finished Surface within the prescribe Building Lot Grade elevations.
- 4.09 Within Rural Zones, Building Lot Grade shall include a minimum Building Lot Grade elevation. The Lot Owner must complete a Finished Surface above the prescribe Building Lot Grade elevation.
- 4.10 No person shall vary any Lot Grading such as to result in a Building Lot Grade or Lot Grade Elevation being in violation of that as setforth in the Lot Grade Permit for the said Lot.

5.00 FINAL INSPECTION OF LOT GRADE

- 5.01 Upon receipt of a request, in writing, from the Lot Owner to the Agent/Representative, the Agent/Representative shall inspect and verify the Lot Grading and, if same is in compliance with the following;
- a) That the Lot Grading is in compliance with the Lot Grading as setforth in the Lot Grade Permit for the subject Lot; and
 - b) That the Lot Owner is in compliance with all requirements of the RM of Piney regarding the “Building Permit” and/or “Development Permit” issued for the subject Lot;

then the Agent/Representative shall approve the Lot Grading for the subject Lot.

- 5.02 The Lot Grade deposit may be refunded by the RM to either the Lot Owner or any successor in title thereto as the RM may in their sole discretion determine.
- 5.03 If the Lot Grade deposit is not claimed within three (3) years of the date upon which same is deposited with the RM, then the Lot Grade is forfeited to the RM and there shall be no further claim by the Lot Owner to any refund of the Lot Grade deposit. This paragraph applies to all Lot Grade deposits deposited with the RM whether they are deposited pursuant to the terms of this By-law or any previous By-law.

6.00 RESPONSIBILITY OF LOT OWNERS TO MAINTAIN:

- 6.01 A Lot Owner shall be responsible for ensuring maintenance of all Lot Grading which was established under the provisions of this by-law or any prior By-law of RM of Piney.

7.00 DEFAULT

- 7.01 The RM has the right to enter upon any Lot Owner’s property to whom this By-law applies for the purpose of inspecting the Lot Grading to ensure compliance with this By-law.
- 7.02 i) Should any Lot not be in compliance with the Lot Grading provided for the subject Lot, the RM may, in writing, direct the Lot Owner to, within fourteen (14) days of the

receipt of the written notice, complete such Lot Grading as is required to ensure compliance with the Lot Grading as set forth in the Lot Grading Permit.

ii) If, at the end of the fourteen (14) day period, the Lot Owner has not completed such Lot Grading so as to bring the Lot into compliance with this By-law, then the RM has the right to enter upon the property and complete such Lot Grading so as to ensure the Lot Grading is in compliance.

iii) Any costs incurred by the RM, by either payment to third parties or by its employees, in completing the Lot Grading shall, in the case of the Lot Grade being a Building, be deducted from the Lot Grade Deposit and the remaining balances, if any, shall be paid to the Lot Owner.

iv) If the Lot Grade Deposit being held for the subject Lot is insufficient, or in the case where there is no Lot Grade Deposit the balance shall be recoverable for the Lot Owner. Should the Lot Owner fail to make payment of this said amount with thirty (30) days of being invoiced for same by the RM, then the RM may add such amount to the Tax Roll of the Lot and recover same in the like manner as taxes.

7.03 For the purpose of releasing the Lot Grade Deposit, inspections and verifications of Lot Grading shall only be made during the period of April 15th to October 31st of each year subject to snow cover and wet conditions.

7.04 In addition to any other penalty provided in this By-law, any person who contravenes or disobeys, or refuses to obey any provision of this By-law, is guilty of an offence and liable, upon summary conviction, to a fine not exceeding \$100.00 and in default of payment, to imprisonment for a term not exceeding one (1) month.

8.00 PRIVATE APPROACH PERMITS

8.01 A Lot Owner is required to obtain a Private Approach Permit from the RM prior to the construction of any driveway onto his property. The Lot Owner shall be responsible for the actual construction of the driveway for this property. The Agent/Representative of the RM shall provide information regarding the culvert required for this driveway.

9.00 REVIEW

9.01 An owner, an applicant, or a holder of a permit may request council to review a decision or order of the building inspector, by giving a written notice to the Chief Administrative Officer within 21 days of receiving the decision or order.

9.02 Upon receiving a request for review, the Chief Administrative Officer must set a date and time for the review by council, and notify the person of the date of the review.

9.03 At the time and place set out in the notice, council will convene the review. The person who made the request may appear in person or by counsel. After reviewing the order, council may confirm, vary, substitute or cancel the decision or order.

10.00 MISCELLANEOUS

10.01 The Lot Owner is entitled to build the Building at whatever Elevation within the prescribed Building Lot Grade. However, such decision shall be at the Lot Owners discretion and the Lot Owner's liability to that decision.

10.00 **The RM of Piney assumes no responsibility or liability whatsoever for any flooding or any damage which may occur to any Building, Accessory Building, or any property which may be caused by flooding, regardless whether or not the Lot Owner has complied with the terms of this By-law or not.**

11.0 EFFECTIVE DATE:

11.01 This By-law shall come into force and effect on the date of passage thereof.

PASSED AND ENACTED by the Rural Municipality of Piney, in Council duly assembled, this 22nd day of March, 2016.

Rural Municipality of Piney

Originally Signed

Reeve

Originally Signed

Chief Administrative Officer

Given First Reading this 23rd day of February, 2016

Given Second Reading this 8th day of March, 2016

Given Third Reading this 22nd day of March, 2016

SCHEDULE "A" TO BY-LAW NO. 114/2016

LOT GRADE PERMIT FEE AND LOT GRADE DEPOSIT FEE

The Lot Grade Permit Fee shall be:

- i) - included in the building or development permit fees

The Lot Grade Deposit Fee shall be:

- i) - \$250.00