



Rural Municipality of
FISHER

THE RURAL MUNICIPALITY OF FISHER

BY-LAW NO. 1202/23

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF FISHER DRAINAGE WORKS

WHEREAS

- A. Drainage works carried out by landowners on private and public property on or near municipal roads, road allowances, drains and other municipal infrastructure can interfere with or impact municipal roads, road allowances, drains and drainage, and other municipal infrastructure.
- B. Drainage works impacting municipal interests have been carried out in the municipality without the required provincial registration, license or permit under The Water Rights Act and within municipal road rights-of-way without the municipality's permission. Council considers it advisable in the public interest to prevent such illegal drainage work and, where it has been carried out, to remediate it at the expense of the persons responsible.
- C. Section 232(1)(h) of The Municipal Act authorizes a municipality to pass by-laws for municipal purposes respecting drains and drainage on private or public property.
- D. Sections 242 to 245 of The Municipal Act authorizes a municipality to carry out work on private property at the expense of the owner to correct the contravention of a by-law.

NOW THEREFORE, Council of the Rural Municipality of Fisher enacts as a by-law the following:

Purpose

1. The purpose of this By-law is to
 - a. promotes the protection of municipal roads, road allowances, drains and drainage, and other municipal infrastructure,
 - b. prohibit drainage works on private or public lands except in accordance with this By-law and provincial registration, license or permit under The Water Rights Act;
 - c. establishes a designated officer position for the purpose of administering and enforcing this By-law, making orders for the remedying of contraventions, and taking remedial action where required.

Prohibition

2. No person shall undertake drainage work that is regulated under The Water Rights Act without a license, permit or registration under that Act, or in contravention of that Act or The Water Rights Regulation 126/87 (or successor legislation or regulation).
3. No owner or occupier of land shall have or permit to remain on the land drainage work that does not have a license, permit or registration under that Act, or is in contravention of The Water Rights Act or The Water Rights Regulation 126/87.
4. For greater certainty, section 3 applies to drainage work that is in existence on the coming into force of this by-law.

Designated Officer

5. Council shall appoint a designated officer for the purpose of this by-law.
6. The Designated Officer has all the powers, duties, discretions and functions of a designated officer set out in The Municipal Act and of an enforcement officer set out in The Provincial Offences Act, including to:
 - a. carry out inspections,

- b. make orders for the remedying of contraventions under this by-law,
- c. enforce contraventions through offences under The Provincial Offences Act,
- d. take remedial action where required, and
- e. act as a designated officer for the purposes of this by-law.

Enforcement under The Municipal Act

7. Where the Designated Officer has made an order to remedy a contravention under section 242 of The Municipal Act an affected person may request Council to review the order by giving written notice to the Chief Administrative Officer within 14 days of receiving the order.

8. Upon receiving a request for review, the Chief Administrative Officer shall set a date and time for the review by Council and notify the person of the date of the review.

9. At the time and place set out in the notice, the person may appear in person or by counsel. After the hearing, Council may confirm, vary, substitute or cancel the order.

10. 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.

11. Where a person fails to comply with an order and the municipality carries out the work, the costs of the actions or measures taken (including administrative and legal costs) 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 under The Municipal Act, including adding to taxes on the land.

Remedial work and damage within municipal roads and right of ways

12. Where drainage work has been carried out within a municipal road and or right-of-way without the Municipality's permission by a person who is an owner or a controlling shareholder of a corporation that is an owner of land adjacent to the right-of-way, the Municipality's full costs (including administrative and legal costs) of restoring the drain to a proper condition or repairing damage to the road or other municipal assets may be collected and enforced against that land in the same manner as a tax may be collected or enforced under The Municipal Act, including adding to taxes on the land.

Offence

13. A person who contravenes this by-law is guilty of an offence and is liable to:

- a. a fine of not more than \$1000; and
- b. a penalty equal to the municipality's cost of enforcement.

14. Fines and penalties may be collected and enforced by the municipality in the same manner as a tax may be collected or enforced under The Municipal Act, including adding to taxes on the land.

PASSED AND ENACTED by the Rural Municipality of Fisher, in council duly assembled
This 1st day of November, 2023.

Reeve

Chief Administrative Officer

First Reading given on the 4th day of October , 2023. Resolution 274/23

Second Reading given on the 1st day of November, 2023. Resolution 294/23

Third Reading given on the 1st day of November , 2023. Resolution 295/23

