

**BY-LAW # 26/11**

**OF THE**

**RURAL MUNICIPALITY OF ROCKWOOD**

**Being a By-Law of the Rural Municipality of Rockwood to provide for the establishment and maintenance of proper lot grades within the said Municipality.**

**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 Rockwood 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 Rockwood;

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

**NOW THEREFORE** the Council of the Rural Municipality of Rockwood, in Council duly assembled, enact as follows:

**1.0 DEFINITIONS:**

Unless the context otherwise requires, where used 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 **“Building”** shall mean a structure used or intended for supporting/sheltering any use or occupancy whether it be commercial, industrial, or residential with the exception that a building shall not be any structures used for farming, but does include a farm residence.
- 1.04 **“Building Lot Grade”** shall mean the Lot Grade Elevation of the Finished Surface immediately adjacent to the foundation of the Building as set forth on the Lot Grade Permit;
- 1.05 **“Building Site”** shall mean the area of land established to sustain the development and occupancy of a Building structure;
- 1.06 **“Council”** shall mean the Council of the Rural Municipality of Rockwood;
- 1.07 **“Elevation”** shall mean the vertical distance above or below sea level;
- 1.08 **“Finished Surface”** shall mean the completed landscaping of the entire Lot area with one of the following substances:
  - topsoil and seed grass, sod, stone, wood decking or cement or such other substance as Rockwood 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 Elevations as set by Rockwood’s Agent or Representative;
- 1.11 **“Lot Grade Elevation Marker”** shall mean Lathe post or object that clearly indicates a Lot Grade Elevation as set by the Municipal Agent or a representative of Rockwood.

- 1.12 **“Lot Grade Permit”** shall mean a permit issued by the South Interlake Planning District on behalf of Rockwood to an Applicant pursuant to this By-Law wherein the Building Lot Grade and Lot Grade Elevation for a specific Lot are provided and shall be in the form of Schedule “A” attached hereto.
- 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 party as designated by the Municipality 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 **“Rockwood”** shall mean the Rural Municipality of Rockwood;
- 1.18 **“Rockwood’s Agent”** shall mean such person(s) as Rockwood shall in their sole discretion appoint to act on their behalf and without limiting the generality of the foregoing may include employees of Rockwood, an engineering firm appointed by Rockwood or such other duly authorized person as Rockwood 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 no less than 1% and not more than 20% from the Building to each property line;
- 2.0 SCOPE:**
- 2.01 This By-Law applies to all lands within the Rural Municipality of Rockwood;
- 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 Municipality and if approved, the Municipality 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 South Interlake Planning District Office and shall be in a form as attached hereto as Schedule “A” to this By-Law. The Lot Owner or Applicant shall pay the Lot Grade Permit Fee and Lot Grade Deposit, as specified in Schedule “B” attached hereto and forming a part of this By-Law, at the time of application for the “Building Permit” and/or “Development Permit”.
- 3.05 This By-Law does not apply to Accessory Buildings and any party constructing an Accessory Building may construct same at whatever Elevation they wish, however the Municipality STRONGLY recommends that the Accessory Building be constructed at an Elevation no less than the lowest Elevation of the Buildings on the Lot where the Accessory Building is located.

**4.0 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 Rockwood either by means of a Development Agreement 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) working 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 Rockwood.
- 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 The Lot Grade Elevation shall have a constant slope between adjacent Lot Grade Elevation Markers except for landscape features which do not affect drainage. This Lot Grade Elevation Slope from the building to each property line of the said Lot shall be a constant slope of no less than 1% and no more than 20%.
- 4.09 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 set forth in the Lot Grade Permit for the said Lot.

**5.0 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 set forth in the Lot Grade Permit for the subject Lot; and
  - b) That the Lot Owner is in compliance with all requirements of the South Interlake Planning District 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.

- 5.03 The Lot Grade deposit may be refunded by the Municipality to either the Lot Owner or any successor in title thereto as the Municipality may in their sole discretion determine.

**BY-LAW #26/11**

5.04 If the Lot Grade deposit is not claimed within six (6) years of the date upon which same is deposited with the Municipality, then the Lot Grade is forfeited to the Municipality 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 Municipality whether they are deposited pursuant to the terms of this By-law or any previous By-law.

**6.0 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 Rockwood.

**7.0 DEFAULT**

7.01 Rockwood 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, Rockwood 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 setforth in the Lot Grade 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 Rockwood 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 Rockwood, by either payment to third parties or by its employees, in completing the Lot Grading shall, in the case of the Lot Grade being for 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 from the Lot Owner. Should the Lot Owner fail to make payment of this said amount within thirty (30) days of being invoiced for same by Rockwood, then Rockwood 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 May 1<sup>st</sup> to October 31<sup>st</sup> 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 or neglects 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.

**8.0 ROOF DOWNSPOUTS AND SUMP PUMP DISCHARGE PIPES:**

8.01 No Lot Owner shall permit their Building roof down spouts, nor their sump pump discharge pipes to be directed so as to cause drainage water to drain directly onto adjacent property not owned by the Lot Owner.

**9.0 MISCELLANEOUS**

9.01 The Building Lot Grade which is established pursuant to the provisions of this By-Law are a minimum Elevation and the Lot Owner is entitled to build the Building at whatever Elevation above the Building Lot Grade as the Lot Owner determines.

**BY-LAW #26/11**

9.02 **Rockwood 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.**

**10.0 EFFECTIVE DATE:**

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

10.02 That By-Law #17/11 is hereby repealed upon passage of By-Law #26/11.

**PASSED AND ENACTED** by the Rural Municipality of Rockwood, in Council duly assembled this 30<sup>th</sup> day of November, A.D., 2011.

**THE RURAL MUNICIPALITY OF ROCKWOOD**

\_\_\_\_\_  
JIM CAMPBELL, REEVE

\_\_\_\_\_  
GRANT THORSTEINSON, CAO

GIVEN First Reading this 9<sup>th</sup> day of November, A.D., 2011.

GIVEN Second Reading this 9<sup>th</sup> day of November, A.D., 2011.

GIVEN Third Reading this 30<sup>th</sup> day of November, A.D., 2011.



**SCHEDULE "A" TO BY-LAW #26/11**

**LOT GRADE PERMIT**

This Lot Grade Permit is issued for the following described Lot:

\_\_\_\_\_  
(Lot, Block, Plan)

\_\_\_\_\_  
(Civic Address/Street No.)

At least five (5) working days prior to a Lot Owner excavating upon any Lot for the purpose of constructing a Building, the Lot Owner shall request Rockwood to supply a Building Lot Grade. A representative of Rockwood shall supply the Building Lot Grade by means of placement of a Building Lot Grade Marker and at no time shall any party remove said marker. All Lot Owners must construct their building so as to have the Lot Grading to be in compliance with the Building Lot Grade, any Lot Grade Plan which may exist for said Lot and the provisions of Rockwood's Lot Grade By-Law #26/11.

Lot Grade Elevation markers shall not be removed until such time as the Lot Owner has completed all landscaping and Rockwood has inspected and approved the Finished Surface. Upon a Lot Owner completing the Finished Surface of a Lot they shall apply, in writing, to Rockwood for a final inspection. Such Finished Surface must be completed within two (2) years of the date of issuance of the building permit.

The Lot Owner agrees to pay the Lot Grade Permit Fee and the Lot Grade Deposit Fee required to be paid pursuant to the terms of the Lot Grade By-Law or any amendments thereto and same shall be paid at the time of application for the Building Permit.

**Upon receipt of a request, in writing, by the Lot Owner to Rockwood, Rockwood shall cause the Lot Grading to be inspected and verified and, if the Lot Grading is in compliance with the Lot Grade Permit, Rockwood shall approve same and refund the Lot Grade Deposit Fee.**

**For the purpose of releasing the Lot Grade Deposit, inspection and verification of Lot Grading shall be made during the period of May 1<sup>st</sup> to October 31<sup>st</sup> of each year, subject to snow cover and wet conditions.**

All Lot Owner's are responsible for maintaining the Lot Grading on any Lot as long as they are the Owner of said Lot.

Rockwood has the right to enter upon any Lot Owner's property for the purposes of inspecting the Lot to ensure compliance with the terms of this By-Law. Should any Lot Owner not be in compliance with the terms of this By-Law then Rockwood may issue a notice to the Lot Owner requiring that said Lot be brought into compliance with the terms of this By-Law within fourteen (14) days. Should the Lot Owner not bring the Lot into compliance with this By-Law then Rockwood has the right to enter upon the Lot and complete such Lot Grading and all costs incurred therein shall be the responsibility of the Lot Owner, and same may be added to the taxes for said Lot.

Any person constructing an addition onto a residence 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 Municipality and if approved, the Municipality will set a new Building Lot Grade for such addition and all fees and the terms of this By-law shall apply.

**The undersigned acknowledges that Rockwood is in no way responsible for any damage that may occur to any Building, Accessory Building, or any property whatsoever as a result of flooding upon the Lot. The undersigned hereby releases Rockwood from any damage which they or their family may suffer as a result of flooding on the Lot and the undersigned hereby further indemnifies and saves harmless Rockwood for any damages which Rockwood may be held responsible for by virtue of third-party claims concerning flooding on the Lot and/or any property damage.**

\_\_\_\_\_  
APPLICANT

\_\_\_\_\_  
LOT OWNER

\_\_\_\_\_  
(Civic Address)

\_\_\_\_\_  
(Civic Address)

\_\_\_\_\_  
(Mailing Address)

\_\_\_\_\_  
(Mailing Address)

TELEPHONE \_\_\_\_\_

TELEPHONE \_\_\_\_\_

**LOT GRADE PERMIT FEES: \$700.00 / LOT GRADE DEPOSIT FEES: \$5,000.00**

**SOUTH INTERLAKE PLANNING DISTRICT**

**PERMIT NO.:** \_\_\_\_\_

**DATE OF ISSUE:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Per:** \_\_\_\_\_

**SCHEDULE "B" TO BY-LAW #26/11**

**LOT GRADE PERMIT FEE & LOT GRADE DEPOSIT**

The Lot Grade Permit Fee shall be:

i) Per Lot - Seven Hundred Dollars (\$700.00)

The Lot Grade Deposit shall be:

ii) Per Lot - Five Thousand Dollars (\$5,000.00)