

**CITY OF PRINCE GEORGE**

**BYLAW NO. 7855**

**A bylaw of the City of Prince George to designate land as flood plain and regulate the development of land that is subject to flooding.**

**WHEREAS** the City considers that flooding may occur on certain lands;

**AND WHEREAS** the City may, pursuant to s. 910 (1.1) of the *Local Government Act*, designate land as flood plain;

**AND WHEREAS** the City may, pursuant to s. 910 (2) of the *Local Government Act*, specify the flood level for the flood plain, and specify the setback from a watercourse, body of water or dike of any landfill or structural support required to elevate a floor system or pad above the flood level;

**AND WHEREAS** the City must, pursuant to s. 910 (3) of the *Local Government Act*, consider Provincial guidelines, and comply with the Provincial regulations and a plan or program the local government has developed under those regulations;

**AND WHEREAS** the City may, pursuant to s. 910 (3.1) of the *Local Government Act*, make provisions in relation to areas, land uses, types of geological or hydrological formations, and buildings or other structures;

**AND WHEREAS** the City may, pursuant to s. 903 (1)(c)(iii) of the *Local Government Act*, make provisions in relation to the siting or buildings and other structures;

**NOW THEREFORE**, Council of the City of Prince George, in an open meeting assembled, **ENACTS AS FOLLOWS:**

**Section 1 - Introduction**

**1.1 Title**

This bylaw may be cited as “City of Prince George Flood Plain Regulation Bylaw No. 7855, 2007”.

**1.2 Definitions**

Definitions may be found in Schedule “B” of this Bylaw.

### 1.3 General Provisions

- 1.3.1** Unless otherwise defined herein, all words and phrases in this Bylaw shall have the meaning given to them in the *Local Government Act* and the *Community Charter*.
- 1.3.2** Words in this Bylaw directing or empowering any officer or employee of the City to do any act or thing, or to otherwise applying to him by name of office, include his successors in such office and his lawful deputy, and any person the Council may from time to time by bylaw or resolution designate to act in his place.
- 1.3.3** A reference in this Bylaw to any enactment of British Columbia is a reference to the enactment as amended, revised, consolidated or replaced from time to time, and a reference to any bylaw of the City is a reference to the bylaw as amended, revised, consolidated or replaced from time to time.
- 1.3.4** No person shall construct, build, erect or place, or allow to be built, erected, or placed any building or structure contrary to the provisions of this Bylaw.

### 1.4 Compliance with Other Bylaws or Enactments

Compliance with this Bylaw or an exemption authorized by the City, in relation to a specific parcel of land or a use, building or other structure on a parcel of land, shall not be deemed to be a representation by the City that the use of land, building or other structure on a parcel of land complies with all applicable bylaws or other enactments. The owner of the land, building or other structure remains responsible to ensure compliance with all bylaws and other enactments.

## Section 2 – Designation of Flood Plain

The following land is designated as flood plain:

- a) land identified as “flood plain” and “rivers” on the attached Schedule “A” Flood Plain Map;
- b) land within 30 metres measured horizontally from the natural boundary of a watercourse not identified on the attached Schedule “A” Flood Plain Map;
- c) land within 15 metres of the top of a steep bluff where the toe of the bluff is subject to erosion and/or closer than 15 metres from the natural boundary of a watercourse, or a horizontal distance equal to 3 times the

- height of the bluff as measured vertically from the toe of the bluff, which ever is greater; and
- d) land within 15 metres from the natural boundary of a body of water, including a lake, pond, swamp or marsh.

### **Section 3 – Flood Level for the Floodplain**

The flood level for the flood plain is:

- a) as identified on the attached Schedule “A” Flood Plain Map;
- b) 3.0 metres measured vertically above the natural boundary of any watercourse or stream not identified on the attached Schedule “A” Flood Plain Map; and
- c) 1.5 metres measured vertically above the natural boundary of a body of water, including of any lake, pond, swamp or marsh not identified on the attached Schedule “A” Flood Plain Map.

### **Section 4 – Setback from a Watercourse, Body of Water or Dike**

**4.1** Pursuant to s. 910. (2)(b) of the *Local Government Act*, the minimum setback from a watercourse, body of water, or dike of any landfill or structural support required to elevate a floor system or pad above the flood level is:

- a) 30 metres from the natural boundary of a watercourse;
- b) 15 metres of the top of a steep bluff where the toe of the bluff is subject to erosion and/or closer than 15 metres from the natural boundary of a watercourse, or a horizontal distance equal to 3 times the height of the bluff as measured vertically from the toe of the bluff, which ever is greater; and
- c) 15 metres from the natural boundary of a body of water, including a lake, pond, swamp or marsh.

**4.2** Pursuant to s. 903 (1)(c)(iii) of the *Local Government Act*, the minimum setback from a watercourse, body of water or dike of a building or other structure is:

- a) 30 metres from the natural boundary of a watercourse;
- b) 15 metres of the top of a steep bluff where the toe of the bluff is subject to erosion and/or closer than 15 metres from the natural boundary of a watercourse, or a horizontal distance equal to 3 times the height of the bluff as measured vertically from the toe of the bluff, which ever is greater; and

- c) 15 metres from the natural boundary of a body of water, including a lake, pond, swamp or marsh.

## **Section 5 – Exemption**

### **5.1 General Exemption to the Flood Level in a Flood Plain**

Despite Section 3 of this Bylaw, but subject to Provincial regulations and a plan or program the City has developed under those regulations, the underside of any floor system, or the top of any pad supporting any space or room, including a manufactured home that is used for dwelling purposes, business, or the storage of goods which are susceptible to damage by floodwater, may be below the applicable flood level specified in this Bylaw, in the following cases:

- a) where a building or other structure is legally non-conforming to the flood level provisions of this bylaw, and the use and density of the building or other structure conforms to the Zoning Bylaw, the building or other structure may be renovated or repaired only to the extent that the renovation or repair would, when complete, involve no further contravention to the flood level regulations of this Bylaw than existing at the time the renovation or repair was started;
- b) where a building or other structure containing an industrial use is legally non-conforming to the flood level provisions of this bylaw, and the use and density of the building or other structure conforms to the Zoning Bylaw, the building or other structure may be extended, at the original legally non-conforming floor elevation, to an extent no greater than 25 percent of the floor area existing at the time of the enactment of this Bylaw, provided the degree of non-conformity regarding setback is not increased;
- c) that portion of a building or other structure used or intended to be used only as a carport;
- d) parking areas, including enclosed underground parking areas, except that in the case of an enclosed underground parking area, an unobstructed means of pedestrian ingress and egress must be provided above the flood level, and a sign must be posted at all points of entry notifying users that the parking area is not protected from inundation by floodwaters;
- e) accessory buildings or other structures less than 30 m<sup>2</sup> in gross floor area;

- f) porches;
- g) open-sided livestock buildings on lands zoned for agriculture;
- h) closed sided livestock buildings on lands zoned for agriculture, protected by a standard dike;
- i) subject to sub-section 5.1 g) and h), farm buildings, other than a building used or intended to be used for human habitation;
- j) open-sided recreation shelters, stands, washhouses, washrooms, docks and other outdoor facilities on lands zoned for park or recreation uses;
- k) on-loading and off-loading facilities associated with water oriented industry and portable sawmills provided the main electrical switchgear is placed above the applicable flood level; and
- l) buildings or other structures containing heavy industrial uses behind standard dikes;
- m) that portion of a building or other structure used or intended to be used only as a mechanical room, including furnaces and hot water heaters, in a building or other structure protected by a standard dike; provided the electrical switchgear is above the flood level; and
- n) Industrial uses on lands identified as flood plain in Schedule "A" of this bylaw, other than main electrical switchgear, no lower than the flood level for the flood plain specified in Section 3 of this bylaw minus the applicable freeboard.

## **5.2 General Exemption to the Minimum Setback from a Watercourse, Body of Water or Dike**

Despite Section 4.1 of this Bylaw, but subject to Provincial regulations and a plan or program the City has developed under those regulations, the setback from a watercourse, body of water or dike of any landfill or structural support required to elevate a floor system or pad above the flood level may be less than the applicable setback specified in this Bylaw in the following cases:

- a) where a building or other structure is legally non-conforming to the setback provisions of this bylaw, and the use and density of the building or other structure conforms to the Zoning Bylaw, the building or other structure may be renovated or repaired only to the extent that the renovation or repair would, when complete, involve no further

contravention to the setback regulations of this Bylaw than existing at the time the renovation or repair was started; and

- b) where protected by a standard dike, buildings shall have a minimum setback of 7.5 metres from any structure for flood protections or seepage control or any dike right-of-way used for protections works.

### **5.3 Site-Specific Exemptions to the Flood Level or Setback**

**5.5.1** An applicant who intends to seek a site-specific exemption from this Bylaw shall complete an application.

**5.3.2** The applicant must provide the following information, at the applicant's expense, to the Authorized Person at the time of application submission, except to the extent that the Authorized Person determines that the provision of the information is not required to assist Council or the Authorized Person in their consideration of the application:

- a) name, address and signature of the owner;
- b) name, address signature of the applicant, if different from the owner;
- c) legal description of the parcel;
- d) civic address of the parcel;
- e) legal title search for the parcel dated no more than 5 business days from the date of application submission;
- f) copy of all relevant charges registered on the legal title of the parcel;
- g) a scaled plan prepared by a British Columbia Land Surveyor showing the:
  - i. designated flood plain, flood level and setback as prescribed by this Bylaw;
  - ii. legal boundaries of the parcel;
  - iii. existing and proposed buildings or other structures on the parcel, including the requested flood construction level;
  - iv. location of existing and proposed landfill or structural support required to elevate a floor system or pad above the flood level;
  - v. natural boundary of adjacent watercourse, body of water or dike;
  - vi. location of drainage control works;
  - vii. location of easements and rights of way;
  - viii. the existing vertical contours of the parcel, and any relevant adjacent lands, at a scale of 1:1000 or larger, with a contour interval of 1 metre or less.
- h) documents and plans which describe and justify the proposal;

- i) a report, certified by a Professional Engineer or geoscientist with experience in geotechnical engineering, or a person in a class prescribed by the minister under s. 910 (7) of the *Local Government Act*, that the land may be used safely for the use intended; and
- j) any additional information the Authorized Person reasonably determines is required to assist Council or the Authorized Person in their consideration of the Application.

## **Section 6 - Delegation**

- 6.1** Council delegates to the Authorized Person the power of Council to exempt a person from the application of s. 910 (4) of the *Local Government Act* and this Bylaw, in relation to a specific parcel of land or a use, building or other structure on the parcel of land, in accordance with s. 910 (5) of the *Local Government Act*, and subject to any terms or conditions the Authorized Person considers necessary or advisable in accordance with s. 910 (6) of the *Local Government Act*, except where an application is made for a variance to Section 4.2 of this Bylaw .
- 6.2** Within 30 days of the Authorized Person's decision to grant or refuse an exemption, the applicant may request that Council reconsider the decision subject to the following:
- (a) the request shall be in writing, and include reason(s) in support of the reconsideration;
  - (b) upon receipt of a complete written request for Council's reconsideration, the Authorized Person shall prepare and forward a report to Council attaching the Application and setting out the reasons for the decision;
  - (c) at a date and time set by Council the Applicant shall have the opportunity to appear before Council and be heard regarding the decision of the Authorized Person; and
  - (d) following this, Council shall reconsider the decision of the Authorized Person and either uphold the decision or substitute the Council's decision for the Authorized Person's.

## **Section 7 - Severability**

If any section, subsection, clause, sub-clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, that section, subsection, clause, sub-clause or phrase shall be struck from the Bylaw and any decision shall not affect the validity of the remaining portions of this Bylaw.

**Section 8 – Offence and Penalty**

**8.1 Offence**

**8.1.1** No person shall contravene, cause, or permit a contravention of this bylaw.

**8.1.2** No person shall interfere with or obstruct the entry of the Authorized Person or a Bylaw Enforcement Officer or any other authorized City representative onto any land or into any building or structure to which entry is made or attempted.

**8.2 Penalty**

Any person contravening or committing any breach of or committing any offence against any provision of this Bylaw or who suffers or permits any act or thing to be done in contravention of in violation of any of the provisions of this Bylaw or refuses, omits, or neglects to fulfill, observe, carry out or perform any duty, obligation, matter or thing whatsoever by the Bylaw prescribed or imposed or required to be done is liable, on summary conviction, to a fine not less than \$2,000 and not exceeding \$10,000.00, or a term of imprisonment not exceeding three months, or both, and the cost of prosecution; and each day during which any violation, contravention or breach shall continue shall be deemed a separate offence.

READ A FIRST TIME THIS THE **8th** DAY OF **JANUARY** , **2007**.

READ A SECOND TIME THIS THE **8th** DAY OF **JANUARY** , **2007**.

First Two readings passed by a **unanimous** decision of Members of City Council present and eligible to vote.

FIRST TWO READINGS RESCINDED ON THIS THE **5th** DAY OF **MARCH** , **2007**, BY A **UNANIMOUS** DECISION OF MEMBERS OF COUNCIL PRESENT AND ELIGIBLE TO VOTE.

READ A FIRST TIME THIS THE **5th** DAY OF **MARCH** , **2007**.

READ A SECOND TIME THIS THE **5th** DAY OF **MARCH** , **2007**.

First Two readings passed by a **unanimous** decision of Members of City Council present and eligible to vote.

READ A THIRD TIME THIS THE **2nd** DAY OF **APRIL**, **2007**.

Third reading passed by a **unanimous** decision of Members of City Council present and eligible to vote.

Certified correct as passed Third Reading, this the **18th** day of **APRIL, 2007**.

**Don Schaffer**  
CLERK OF THE CITY OF PRINCE  
GEORGE

APPROVED BY THE MINISTER OF TRANSPORTATION PURSUANT TO THE PROVISIONS OF SECTION 52(3)(a) OF THE TRANSPORTATION ACT THIS THE **24th** DAY OF **APRIL**, **2007**.

**Karen Andrews**  
for MINISTER OF TRANSPORTATION

ADOPTED THIS THE **30th** DAY OF **APRIL, 2007**, BY A **UNANIMOUS** DECISION OF ALL MEMBERS OF CITY COUNCIL PRESENT AND ELIGIBLE TO VOTE.

**DON BASSERMANN**  
ACTING MAYOR

**DON SCHAFFER**  
CLERK

### Schedule “B”

Definitions for key words and phrases not contained in legislation or other bylaws are listed below. In this bylaw:

“**application**” means a written request by an applicant for an exemption to the flood level or setback provisions of this Bylaw in a form and content prescribed by the Authorized Person and this bylaw;

“**applicant**” means the owner or a representative of the owner duly authorized to act on the owner’s behalf in relation to the application;

“**Authorized Person**” means the person appointed by Council as head of the Development Services Department, or a person designated in writing by the head of the Development Services Department to carry out any act or function under this *Bylaw*;

“**manufactured home**” means a structure manufactured as a unit, intended to be occupied in a place other than at its manufacture, and designed as a dwelling unit, and includes mobile homes, and specifically excludes Recreation Vehicles;

“**natural boundary**” means the visible high watermark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual and so long continued in all ordinary years as to mark upon the soil of the bed of the lake, river, stream or other body of water a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the soil itself;

“**owner**” means a person listed in the land title office as the owner of a parcel;

“**pad**” means a compacted gravel, paved or concrete surface on which blocks, posts, runners or strip footings are placed for the purpose of supporting a manufactured home or unit;

“**parcel**” means any lot, block or other area of land that is the subject of an application;

“**Professional Engineer**” means a person who is registered or licensed under the provisions of the *Engineers and Geoscientists Act*,

“**Provincial guidelines**” means the policies, strategies, objectives, standards, guidelines and environmental management plans, in relation to flood control, flood hazard management and development of land that is subject to flooding, as contained within the Province of British Columbia, Ministry of Water, Land and Air

Protection, Flood Hazard Area Land Use Management Guidelines dated May 2004.

**“standard dike”** means a dike built to a minimum crest elevation equal to the flood level and meeting standards of design and construction approved by the Ministry of Environment and maintained by an ongoing authority such as a local government body;

**“watercourse”** means any natural or man-made depression with well-defined banks and a bed 0.6 metres or more below the surrounding land serving to give direction to a current of water at least 6 months of the year or having a drainage area of 2 square kilometers or more upstream of the point of consideration.