



Drainage Protection Bylaw No. 1647, 2020

CONSOLIDATED FOR CONVENIENCE ONLY

This is a consolidation of the bylaws listed below. The amendment bylaws have been combined with the original bylaw for convenience only.

This consolidation is not a legal document.

Certified copies of the original bylaws should be consulted for interpretation and application of the bylaws on this subject.

AMENDMENT BYLAW

No. 1647.01

EFFECTIVE DATE

September 11, 2023

THE CORPORATION OF THE DISTRICT OF KENT

BYLAW NO. 1647

“A Bylaw to Provide for the Protection and Maintenance of the Municipal Rural Drainage System”

WHEREAS under the authority of the *Community Charter*, Council may, by bylaw, regulate, prohibit and impose requirements in relation to the protection and maintenance of its Drainage Infrastructure;

AND WHEREAS under the Municipalities Enabling and Validation Act, the Council of the Corporation of the District of Kent may “operate, maintain, protect, or repair, or cause to be operated, maintained, protected, or repaired, all drainage-works, dykes, pumps, and pumping machinery now constructed or hereafter to be constructed in or in connection with the Agassiz Drainage Area, the Harrison Mills Drainage Area, or the Agassiz-Harrison Mills Diking Area;”

AND WHEREAS Council of the Corporation of the District of Kent has deemed it in the public interest to undertake works for the purposes of improving drainage within the area of the District;

NOW THEREFORE the Council of the Corporation of the District of Kent, in open meeting assembled, enacts as follows:

1.0 CITATION

This Bylaw may be cited for all purposes as “Drainage Protection Bylaw No. 1647, 2020” and comes into effect on the date of adoption.

In the event that any provision of this bylaw is found by a Court of competent jurisdiction to be invalid for any reason, then such provision shall be severable from and have no effect on the validity of the remainder of this bylaw.

2.0 DEFINITIONS

In this Bylaw:

“Asset” means a piece of hard-engineered flow conveyance technology, which may include but is not limited to: culverts, bridges, crossings, flood gates, flood boxes, pump stations, or aqueducts.

“Bylaw Enforcement Officer” means a person appointed from time to time by the Council of the District for the purpose of enforcing and carrying out provisions of this Bylaw, and shall include any Assistant Bylaw Enforcement Officer or designate so appointed;

“Contaminant” means any substance other than uncontaminated water, whether solid, dissolved, or suspended, that injures, or is capable of injuring, the health and safety of a person, property, or life form, or capable of damaging the environment, or is capable of interfering with the operation of the Drainage Infrastructure, and arises from activities beyond their normal occurrence in the daily operation of a business following commonly accepted best practices.

“Discharge” means to directly or indirectly introduce any substance or water to the drainage system, or watercourse;

“District” means the District of Kent;

“District Engineer” means the Director of Engineering Services as appointed by the Council, and includes his/her authorized designate(s);

“Drainage Infrastructure” means a stream, ditch, slough, creek, river, lake, pond, pipe, culvert, pump, or any other natural or manmade thing used to carry, drain, transport and/or hold water;

Bylaw
1647.01

“Drainage Service Area” refers to the Agassiz Drainage Area and Harrison Mills Drainage Area, established in the Municipalities Enabling and Validation Act Schedules B and C and for which the District collects levies.

“Floodplain” means any portion of land within the District of Kent historically subject to flooding by the Fraser River or its tributaries, and excludes only hillsides or land of sufficient elevation to not be subject to potential flooding.

“Owner” means a person registered in the records of the land title office as the fee simple owner of a lot, including the strata corporation in the case of a lot under strata ownership;

“Permit” means the written authority granted pursuant to this bylaw for the installation of a culvert, crossing, or other drainage infrastructure within the District;

“Permit holder” means the person to whom the authority to carry out the activities or to supervise the carrying out of the installation of a culvert, crossing, or other drainage infrastructure is granted pursuant to a valid permit. The permit holder may or may not be the owner of the property;

“Person” means an individual, association, corporation, firm, political body, co-partnership, or similar organization, and their heirs, executors, successors and assigns or other legal representatives, whether acting alone or by a servant, agent or employee;

“Prohibited material” means any sediment, earth, construction or excavation wastes, cement, concrete, pesticides, fertilizers, sewage, soaps, paints, chemicals, chlorinated water, or waste oil that is identified or described in or defined by any applicable statute, regulation or law, including other bylaws by the District, that may constitute a hazard to the health of humans or animals, may be detrimental to the environment, or that may inhibit the maintenance of a watercourse, and arises from activities beyond their normal occurrence in the daily operation of a business following commonly accepted best practices;

“Watercourse” means a natural or artificial channel located in the District, on private or public property, by which surface or ground water is conveyed.

3.0 EXEMPTIONS

- 3.1** In an emergency flood situation as determined by the District Engineer, The District engineer may exempt emergency works undertaken by the District from any provision of this bylaw for the duration of the emergency.

4.0 GENERAL REQUIREMENTS

- 4.1** This bylaw applies to all land within the District Drainage Service Area, as defined in Schedules B and C of the Municipalities Enabling and Validating Act, for which the District of Kent collects drainage levies.
- 4.2** This bylaw is administered by the District Engineer or designated representatives.
- 4.3** The administration, capital construction, operation, maintenance, inspection, and repair of a drainage system and Main ditches are hereby established as a service of the District.
- 4.4** The District does not warrant that any activity controlled under this bylaw will not cause or permit flooding, damage, pollution, or other nuisance to any person or property.
- 4.5** This bylaw has been enacted in the general public interest. The activities undertaken by or on behalf of the District are for the sole purpose of providing a limited enhancement to public health and safety, and the protection of persons and property. The purpose of this bylaw does not extend to total protection of property owners from property damage, personal injury or economic loss, nor to the assumption by the District of any responsibility by the District of any responsibility for insuring compliance with this bylaw, or to providing any person any warranty or representation that compliance with this bylaw will prevent or reduce flooding or risk of flooding.

- 4.6** No provision of this bylaw shall release any Owner, Person, or the District from the responsibility of adhering to all other local bylaws of the District, and Provincial and Federal legislation, including, but not limited to, the *Fisheries Act*, *Water Sustainability Act*, *Fish Protection Act*, *Species at Risk Act*, and the *Environmental Management Act*.

5.0 WATERCOURSE MAINTENANCE

- 5.1** Subject to provisions contained in the *Fisheries Act*, *Water Sustainability Act*, *Species at Risk Act* and the *Fish Protection Act*, every Owner or Person must not alter or obstruct any component of Drainage Infrastructure on or adjacent to their land, so as to allow and maintain the free flow of discharge water.
- 5.2** Subject to any other applicable legislation, and for the purposes of improvement, diversion, or maintenance of Drainage Infrastructure, the District may enter on property within the municipality for the purpose of undertaking the proposed works, provided that;
- a) The District serves notice of its intention to all Owners of land that may be affected;
 - b) The District gives notice of its intention to any other local government whose area may be affected, and;
 - c) The District provides an opportunity for Persons who consider they are affected by the works to make representations to Council.
- 5.3** No Owner or Person shall erect or construct any structure, object or impediment, including but not limited to; fences, buildings, signage, gardens, sheds, rock structures, or vegetation that would impair the ability of the District to access any part of its Drainage Infrastructure for the purposes of maintenance or improvements.
- 5.4** The District may, at its discretion and for the purposes of accessing its Drainage Infrastructure for maintenance or improvement purposes, remove any item listed in **5.3** without compensation to the Owner. The District shall, when feasible, attempt to find solutions that cause minimal financial harm or inconvenience to the Owner.
- 5.5** The District shall not be held liable for damages to, or loss of, crop(s), vegetation, plantings, and hedges within four (4) metres of the top of bank of a watercourse that forms a component of its Drainage Infrastructure.

6.0 CONSTRUCTION WITHIN A FLOODPLAIN

- 6.1** Any Owner or Person shall be wholly and exclusively responsible for any and all consequences, including property damage, loss of life or injury, for building or constructing within the floodplain in a manner that violates this bylaw, or any other relevant Federal or Provincial Legislation should it result in flooding that exceeds the capacity of the drainage system.

7.0 PROHIBITION OF DISCHARGE

- 7.1** No person shall cause or permit any contaminant, prohibited material, or water containing any prohibited material, to be discharged, dumped, deposited, spilled or washed, directly or indirectly, into the drainage system, or any watercourse.

8.0 OWNERSHIP AND OPERATION OF CULVERTS AND CROSSINGS

- 8.1** The District affirms its ownership of any culvert, bridge, or crossing on any Main Ditch within the Drainage Service Area not previously established to be owned by a senior government body (such as the Ministry of Transportation). The District will be responsible for the maintenance, alteration, and eventual replacement of existing culverts on these watercourses.
- 8.2** The District affirms its ownership of any culvert, bridge, or crossing constructed under the Agriculture and Rural Development Subsidiary Agreement (ARDSA) program. The District will be responsible for the maintenance, alteration, and eventual replacement of existing culverts on these watercourses.
- 8.3** Culverts on roadside ditches that pass under driveways or field accesses are the property of the Owner of said driveway or field access. Owners are responsible for the replacement of said culvert at the end of their natural life cycle, or if they cease to function due to other mechanical, structural, or natural failure.
- 8.4** Owners or Persons wishing to install a culvert, crossing, or other drainage infrastructure are responsible for obtaining a Drainage System Permit (See Schedule 2) from the District. Acquisition of a permit from the District does not release the Owner or Permit holder from their obligations to abide by Federal and Provincial legislation, of which it is the responsibility of the Owner or Persons to abide by and obtain all required permissions. If the installation works are to be within a District roadway, sidewalk, or boulevard, Owners or Persons are additionally responsible for acquiring a highways use permit as per Highways, Traffic, and Parking Regulation Bylaw 1321 14(b).

- a) If during the District's permitting process it is determined that the new culvert, crossing, or other Asset provides sole benefit to the Owner, ownership of the new Asset shall remain with the Owner. The Owner shall be responsible for replacement of the Asset in the event of its failure.
- b) If during the District's permitting process it is determined that the new culvert, crossing, or other Asset provides substantial benefit to drainage for the District or other property owners, the District and the Owner may, by mutual agreement, transfer ownership of the Asset to the District. In this case, the District shall be responsible for the replacement of the Asset in the event of its failure.

Bylaw 1647.01

- 8.5** The District is responsible for the conveyance of flow through all culverts on a Main Ditch within the Drainage Service Area (whether on District property or private property), the regular maintenance required to ensure conveyance, and for the emergency clearing of blockages to culverts if required.
- 8.6** The District is not responsible for the conveyance of flow through a culvert that is not located on a Main Ditch, only drains one property, and is located entirely within the boundaries of that property (such as in the example of a privately owned farm ditch). The District may, by mutual agreement with the property owner, clear blockages on such a culvert if deemed in the public interest by the District Engineer.
- 8.7** Every Owner shall provide suitable access for labour and equipment to each culvert operated or maintained by the District.
- 8.8** The District shall not be responsible to repair damage to, or restore, any owner improvements constructed on top of, or adjacent to, a bridge or culvert.

9.0 OBSTRUCTING WATERCOURSES

- 9.1** No person shall foul, obstruct or impede the flow of a stream, culvert, creek, waterway, watercourse, waterworks, ditch, drain or sewer on private or public property.

10.0 OIL AND GREASE INTERCEPTION

- 10.1** Where a paved or impervious motor vehicle parking lot is constructed as part of any development, other than a single family dwelling or duplex, the developer shall install an in-line oil and grease interceptor to intercept the stormwater run-off from the parking lot before it reaches the municipal drainage system.
- 10.2** The owner of the land shall keep the oil and grease interceptor in good operating condition and shall inspect and maintain the device at least once per year from the date of completion of the interceptor. The owner is responsible for repairing and maintaining the device in a fully functional condition. At the request of the District Engineer, the owner of the lands shall provide satisfactory proof of service by a qualified contractor.

11.0 INSPECTIONS

- 11.1** The District Engineer, or a designated representative of the District Engineer, shall be admitted access to the Owner's land and premises, during reasonable hours, in order to inspect, photograph, or test any portion of the drainage system and to determine whether the provisions of this bylaw are being complied with.

12.0 OFFENSE AND PENALTY

- 12.1** No person shall interfere with, obstruct, or impede the Bylaw Enforcement Officer in issuing a ticket or bylaw notice or otherwise carrying out his or her duties in accordance with this bylaw, and it is an offence for any person to interfere with a Bylaw Enforcement Officer in the enforcement of this bylaw.
- 12.2** Every person who contravenes, fails or violates any of the provisions of this bylaw, who suffers or permits any act to be done in violation of this bylaw, or who fails or neglects to do anything required to be done by any provision of this bylaw, commits an offence, and each day that the offence continues shall constitute a separate offence.
- 12.3** This bylaw may be enforced by way of a ticket issued under the "Bylaw Notice Enforcement Bylaw No.1332", or as a legal proceeding in Provincial Court or Supreme Court.

12.4 A person convicted of an offence under this bylaw is liable to pay:

- a) a fine not exceeding \$10,000 for each offence; and
- b) without limiting other remedies authorized by law, a contravention of this bylaw may be dealt with by proceedings brought into the BC Supreme Court for an order to enforce, prevent, or restrain a contravention.

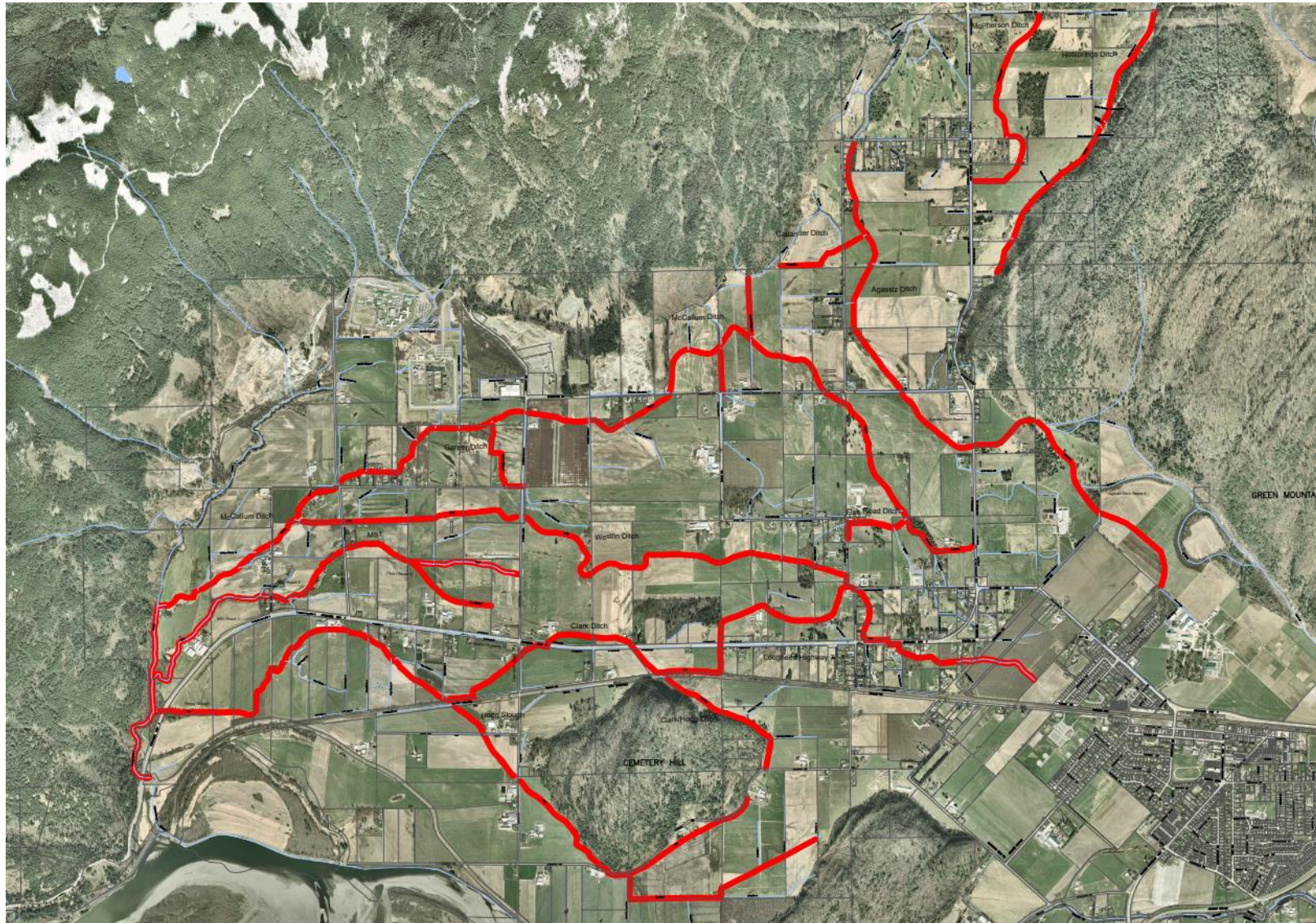
13.0 SEVERABILITY

13.1 If any section, subsection, sentence, clause or phrase of this bylaw is, for any reason, held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this bylaw.

14.0 REPEAL

14.1 This Bylaw does not overrule, constrain, or limit any other existing Bylaw by the District of Kent, nor does it overrule, constrain, or limit any existing restrictions or powers granted to the District of Kent by the *Community Charter*.

**SCHEDULE 1
MAPS OF MAIN DITCHES**





SCHEDULE 2
DRAINAGE SYSTEM PERMIT NO. _____

Pursuant to the District of Kent Drainage Protection Bylaw No. 1647-2020,
permission is hereby granted to:

_____ (Name)
of _____
_____ (address) _____ (telephone)

to complete _____ upon the

_____ (address of property)

_____ (legal description of property)

in accordance with the provisions of the District of Kent Drainage Protection Bylaw No. 1647 - 2020, Application No. _____ and the plans, specifications and other supporting documents filed therewith as approved, and initialed as approved by the District Engineer, all which form a part of this application and constitute the terms and conditions of this permit.

Terms and Conditions of Permit:

Additional Conditions:

This permit is issued on the condition that the permit holder fully complies with all provisions of the District of Kent Drainage Protection Bylaw No 1647 - 2020 and all terms and conditions herein of this permit.

Ownership of the Asset: ☐ District ☐ Private Property

Received from _____ the _____ day of _____
20____, the sum of \$100 as the Drainage System Permit Fee (if
applicable). Receipt No.: _____

This Drainage System Permit is issued this _____ day of _____, 20____ and
it shall expire twelve months after the day of issuance.