



**Subdivision and Development
Servicing Bylaw**

Bylaw No. 776, 2016

DISTRICT OF ELKFORD

BYLAW NO. 776, 2016

A BYLAW TO REGULATE THE SUBDIVISION AND DEVELOPMENT OF LAND

WHEREAS the District of Elkford has the authority pursuant to sections 938 of the *Local Government Act* and 8(3)(l) of the *Community Charter* to regulate and require the provision of Works and Services in respect of the Subdivision of land;

WHEREAS the Mayor and Council has deemed that it is desirable to regulate the Subdivision and development of land in order to promote the orderly Development of the District.

NOW THEREFORE Municipal Council of the District of Elkford in open meeting assembled, enacts as follows:

1. CITATION

This bylaw may be cited as “District of Elkford Subdivision and Development Servicing Bylaw No. 776, 2016”.

2. BYLAW SCHEDULES

Attached to and hereby made an integral part of the Bylaw are the following schedules:

- (i) Schedule A Level of Works and Services
- (ii) Schedule B Design Criteria
- (iii) Schedule C Servicing Agreement
- (iv) Schedule D Standard Forms
- (v) Schedule E Standard Detailed Drawings

3. REPEAL

Subdivision and Development Servicing Bylaw No. 237 and all amendments thereto are hereby repealed.

4. INTERPRETATION

- a) Unless otherwise defined herein, any word or expression in this bylaw shall be the same meaning as any similar word or expression in the Land Title Act, the Local Government Act, the District of Elkford Zoning Bylaw, or any regulation or schedule pursuant thereto and in case of conflict the Local Government Act shall prevail.
- b) In this Bylaw whenever words are used implying the subdividing or Subdivision of land, those words shall be deemed to refer to the division of land into two or more Parcels, whether by plan or by metes and bounds description or by a replotting scheme or otherwise.
- c) Where the text refers to the word “Subdivision” it shall be deemed that the requirements also apply to “Developments”, where applicable, which may not involve the Subdivision of land.

5. SEVERABILITY

The provisions of this Bylaw are severable. If any provision is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Bylaw.

6. DEFINITIONS

In this Bylaw, unless the context otherwise requires, the following words and terms shall have the meanings hereinafter assigned to them:

Applicant	means a person applying for the approval of a Subdivision, development permit, or building permit.
Approving Officer	means a person appointed by the District Council to act as Approving Officer pursuant to the provisions of the Land Title and Local Government Acts.
As-Built Drawings	means the final engineering drawing submitted to the District of Elkford and constitute the drawings that accurately portray the Works and Services as accepted by the District of Elkford and constructed by the Owner, including any field design or construction changes accepted by the District of Elkford.
Certificate of Substantial Performance	means a written certificate issued by the District of Elkford indicating that the Works and Services have been substantially Completed subject to deficiencies identified in the certificate.
Building Official	means the person or persons appointed by the District of Elkford to administer the Building Code and includes: the Chief Administrative Officer, Director, Planning and Development Services, Building Inspectors, Bylaw Enforcement Officers, Development Technicians, Plan Checkers, Planners, Plumbing Officials, and Registered Professionals as appointed by the District of Elkford.
Completed/Completion	means Completion of the Works and Services or a portion of them by the Owner to the standards and specifications set out in the bylaws of the District of Elkford such that the Works and Services have been fully tested, are functional and can be used for their intended purpose.
Consulting Professional	means a professional engineer, registered under the Engineers and Geoscientists Act in British Columbia, who is employed or retained by a consulting engineering firm, or professional biologist, landscape architect or others required by the District of Elkford.
Developer	means the party or contractor who has the authority to act on behalf of and represent the Owner in carrying out Works and Services under this Bylaw.

Develop or Development	means an activity that requires a development permit or a building permit.
District Agent	means Approving Officer or other duly authorized representative of the District.
Estimated Cost	means the total cost of constructing Works and Services estimated by the Owner’s Consulting Engineer and approved by the Approving Officer.
Excess or Extended Services	has the meaning prescribed by the Local Government Act.
Final Acceptance Certificate (FAC)	means the written document as set out in Schedule C of this Bylaw by which the District confirms that the Developer has fulfilled the warranty obligations and all other requirements of this Bylaw in relation to Works and Services.
Highway	has the meaning prescribed by the Community Charter.
MMCD	means the Master Municipal Construction Document published by the Master Municipal Construction Documents Association, most current edition.
Municipal Engineer	means the person or company appointed from time to time by the District of Elkford Council as the engineer for the District of Elkford or their duly authorized representative.
Owner	means a person registered under the Land Titles Act as the owner, or any other person lawfully in possession or occupancy of buildings or property in the District of Elkford.
Parcel	means an area of Land designated as a separate and distinct Parcel on a Subdivision or strata plan filed in the Land Title Office.
Security	means a cash deposit or unconditional irrevocable letter of credit redeemable at site by the District of Elkford within the boundaries of the District of Elkford, issued by a Canadian Chartered Bank or Credit Union, to ensure the Completion and warranty of Works and Services required by this bylaw.
Service Levels	means the standard of Works and Services required under this bylaw for Subdivision or Development.

Servicing Agreement	means the written agreement between the Owner and District of Elkford contained in Schedule C.
Subdivide or Subdivision	means the division of land into two or more Parcels, whether by plan, apt descriptive words or otherwise.
Works and Services	includes Highways, sidewalks, boulevards, boulevard crossings, transit bays, street lighting, wiring, electrical distribution systems, water distribution systems, fire hydrant systems, sewage collection and disposal systems, drainage collection and disposal systems and such other infrastructure or systems should be require by this bylaw in connection with the Subdivision or Development of land.
Zone	means Zone as created by District of Elkford Zoning Bylaw

7. APPLICATION FORMAT

- a) The application for Subdivision or Development Servicing shall be made in the form prescribed by the Approving Officer.
- b) Where an application is made the fee for the application is set out in the District of Elkford Fees and Charges Bylaw.

8. COMPLIANCE WITH BYLAW

No person shall Subdivide or undertake Development of land in the District of Elkford except in compliance with the Provisions of this Bylaw.

9. AUTHORITY TO ENTER LANDS

The Approving Officer and other duly authorized representatives of the District are hereby authorized to enter at all reasonable times upon any property or premises to inspect same in connection with their duties under this Bylaw and to ascertain whether the provisions of this Bylaw are being complied with.

10. APPLICANT’S RESPONSIBILITY, OTHER LEGISLATION

Nothing in this Bylaw shall relieve the Applicant from the responsibility to seek out and comply with legislation applicable to his undertaking. The Applicant must comply with all enactments, laws, statutes, regulations, and orders of any authority having jurisdiction, including the bylaws of the District of Elkford. Neither the granting of a permit nor the issuance of any plans, specifications or documents or any inspection made by any District employee shall in any way relieve the Applicant from full responsibility of all requirements.

11. ON-SITE AND OFF-SITE WORKS AND SERVICES

An Owner of a Parcel who applies for a Subdivision or Development must provide, as a condition of Subdivision Approval or Development, as applicable, on a Highway immediately adjacent to the land being Subdivided or Developed up to the centre line of the Highway, and on the Parcel itself the Works and Services that are required lawfully to be provided by the Council, the Approving Officer, or the Building Official.

12. The minimum level of Works and Services required for Subdivision and Development in different Zones and for different circumstances is contained in Schedule A.
13. Standards for on-site Works and Services must conform to the provisions of this bylaw, except where otherwise specified in:
 - a) The District of Elkford Zoning Bylaw for parking space and parking lot design and specifications;
 - b) The B.C. Building Code;
 - c) District of Elkford Building Bylaw No. 748;
 - d) The District of Elkford Official Community Plan; and
 - e) Any additional design requirements specified in a development permit or development variance permit.

14. ALTERNATIVE DEVELOPMENT STANDARDS

Alternative Service Levels or specifications that address climate change adaptation, environmental, or technical solutions that provide more sustainable approaches for Works and Services will be considered where warranted by site-specific conditions.

15. The Applicant shall take into account best management practices when designing the Subdivision or Development, including the following documents:

- Stormwater Planning: A Guidebook for British Columbia (Ministry of Water Land and Air Protection 2002)
- Water Balance Model for British Columbia (waterbalance.ca)
- Green Bylaws Toolkit (Wetlands Stewardship Partnership 2007)
- Green Infrastructure Guide (West Coast Environmental Law 2007)
- Groundwater Bylaws Toolkit (Okanagan Basin Water Board 2009)
- Topsoil Bylaws Toolkit (Okanagan Basin Water Board 2012)
- Best Management Practices Guide for Stormwater (Greater Vancouver Sewage and Drainage District 1999)
- FireSmart Manual (BC Ministry of Forests, Lands and Natural Resource Operations 2003)
- Water Conservation Planning Guide for British Columbia Communities (The POLIS Project on Ecological Governance 2009)
- Land Development Guidelines for the Protection of Aquatic Habitat (Department of Fisheries and Oceans 1993)
- Code of Practice for the Use of Reclaimed Water (Ministry of Environment, Lands and Parks 2001)
- Planning for the Distribution of Reclaimed Water (AWWA Manual M24 2009)
- Passive Solar Design Strategies: Guidelines for Home Building (Passive Solar Industries Council undated)
- Climate Change, Impacts and Adaptation in the Canadian Columbia Basin: From Dialogue to Action (Columbia Basin Trust 2012)

16. OWNER RESPONSIBLE FOR CONSTRUCTION OF ALL WORKS AND SERVICES

The Owner of a Parcel being Subdivided or Developed is responsible for the Works and Services required by this bylaw, the Local Government Act, the Council of the District of Elkford, the Approving Officer or the Building Official.

17. STORM DRAINAGE SYSTEM

The Owner of a Parcel being Subdivided or Developed must:

- a) Provide the storm drainage Works and Services, including service connections, landscaping, and protection of natural watercourses and trees, designed and constructed in accordance with the requirements and standards prescribed in Schedule B;
- b) Except where the requirements of Schedule B and the Approving Officer or Building Official require a drainage collection system to terminate in the ground, connect the drainage collection system required to be installed under this bylaw to the storm drainage collection system of the District of Elkford in accordance with the standards prescribed in Schedule B; and
- c) Keep every storm drainage system separate from any sanitary sewer system.

18. WATER DISTRIBUTION SYSTEM

The Owner of a Parcel being Subdivided or Developed must:

- a) Provide the water distribution system and fire hydrant system, including service connections, designed and constructed in accordance with the requirements and standards prescribed in Schedule B; and
- b) Connect the water distribution and fire hydrant system required to be installed under this bylaw by distribution mains to the District of Elkford community water system, or, if required by the Approving Officer or Building Official, to an alternative water system, in accordance with the standards set out in Schedule B, or in the case of an alternative system, to the satisfaction of the District of Elkford and provincial authorities.

19. If the District of Elkford does not operate the water distribution system and fire hydrant system, the Owner must also deliver to the District of Elkford a written acceptance of the water distribution and fire hydrant systems executed by the applicable Health Region or provincial government authority indicating that the alternative water system and fire hydrant system meets or exceeds all applicable standards for water quality and quantity.

20. SANITARY SEWAGE COLLECTION AND DISPOSAL SYSTEM

The Owner of a Parcel being Subdivided or Developed must:

- a) Provide every Parcel in the proposed Subdivision, or the land being Developed, with a sanitary sewage collection and disposal system, including service connections, designed and constructed in accordance with the requirements and standards prescribed in Schedule B; and
- b) Subject to section 20, connect the sewage collection system required to be installed under this bylaw by trunk mains to the sewer system of the District of Elkford in accordance with the standards prescribed in Schedule B.

21. If connection to the District of Elkford sewage collection system is not possible, the Municipal Engineer may consider the use of septic disposal or an alternative sewage treatment system, subject to professional comprehensive suitability analysis for permanent onsite septic disposal, which analysis has been conducted at the Owner's sole cost, and subject to the alternative sanitary sewage collection, treatment or disposal system complying with all requirements of District of Elkford bylaws, provincial health regulations and professional determination by the Owner's Consulting Professionals that the proposed system is scientifically and environmentally suitable according to the comprehensive suitability analysis.

22. Pumped sanitary sewer systems will only be considered if no other alternative is reasonably possible.

23. CONNECTIVITY, HIGHWAYS AND ACTIVE TRANSPORTATION

The Owner of a Parcel being Subdivided or Developed must:

- a) Provide and construct all Highways, boulevards, sidewalks, crossings, street lighting, underground wiring, transit stops, traffic signals, bikeways, bicycle paths, trails and other connectivity and active transportation routes required by District of Elkford bylaws, plans and Schedule B of this bylaw in accordance with the standards prescribed in Schedule B;
 - b) Comply with the dimension, location, alignment and gradient requirements for Highways prescribed in Schedule B;
 - c) Provide at no cost to the District of Elkford land of a width that, in the Approving Officer's opinion, would permit the Highway to be supported, protected or drained, if the Approving Officer believes that, due to terrain and soil conditions, a Highway of a specified width under this bylaw cannot be supported, protected or drained.
24. The Applicant will consult with the Approving Officer to determine the road classification of the proposed Highways to facilitate their integration into the existing or proposed hierarchy of connectivity determined in relation to land use, configuration of the land, and the classification of existing Highways.
25. At minimum, all final dedicated Highway widths shall be sufficient to accommodate multimodal two-way traffic flow, which includes automobile turning movements at intersections, a sidewalk, underground utilities that includes a drainage collection system and street light on one side of the Highway.
26. Emergency access shall be provided in accordance with the standards prescribed by Schedule B and, where required by the Approving Officer, must be approved by the local Fire Department.

27. OWNER RESPONSIBLE FOR COST OF WORKS AND SERVICES

- a) Every requirement for an Owner or Developer to provide Works and Services or to do or provide any related thing under this bylaw is at the sole cost of the Owner.
- b) Any cost associated with the provision of Works and Services, including but not limited to: development cost charges, engineering design, construction costs, preparation of agreements or other required legal documents, administration fees and taxes associated with any requirement of this bylaw is at the sole cost of the Owner.

28. ENVIRONMENTAL AND CLIMATE ADAPTATION APPROVALS

The Owner must comply with and obtain all federal, provincial, municipal, environmental and other licenses, permits and approvals required under applicable enactments.

29. Every Subdivision and Development must comply with the District of Elkford's climate adaptation and environmental management bylaws and policies, including provisions for sediment and erosion control, tree retention and protection, and site alteration.

30. The Owner must not alter, without the prior written approval of the District of Elkford, any natural watercourses in and around a Parcel that is subject to Subdivision or Development, and to incorporate such protection and conservation methods as required by the District of Elkford or by any enactments.

31. WHERE WORKS AND SERVICES EXIST

In circumstances where the Works and Services required by this Bylaw are already in existence, an Applicant may be required to alter them such that they comply with the standards set out in the Schedules.

32. CONNECTION FEES AND CONNECTION BY DISTRICT OF ELKFORD

The Owner must pay to the District of Elkford the cost of all tie-ins and other connections of the Works to existing storm and sanitary sewers, water mains, water meters, access improvements, and other municipal Services, and the cost of installing all necessary Highway name and traffic control signs in connection with the Works, with all such connections to be Completed by the District of Elkford.

33. OFF-SITE WORKS AND SERVICES BECOME PROPERTY OF THE DISTRICT OF ELKFORD

Off-site Works and Services constructed and installed under this bylaw, the Local Government Act, or as required by the Approving Officer or Building Official become the property of the District of Elkford free of encumbrances, on acceptance in writing of the Works and Services by the Municipal Engineer, and must be located within dedicated Highways or statutory rights of way granted by the Owner to the District of Elkford.

34. Any Highways or statutory rights of way or right of way agreements required for the Works and Services must be granted by the Owner to the District of Elkford at the sole cost of the Owner.

35. EXCESS OR EXTENDED SERVICES

An Owner of land being Subdivided or Developed may be required to provide Excess or Extended Services to land other than the land being Developed in accordance with section 939 of the Local Government Act.

36. STRATA DEVELOPMENT STANDARDS

All private roads within or required in connection with a proposed Subdivision Development, Bare Land Strata Plan, Phased Strata Plan or the conversion of a previously occupied building into Strata Lots shall:

- a) be provided with adequate storm sewer drainage;
- b) be constructed to a loading standard of at least H-20 as specified by the regulations of the American Association of State Highway Officials;
- c) be cleared to a width of at least 7.0 metres with a paving width of 6.0 meters except where they provide frontage to residential, commercial or industrial building units, in which case they shall be cleared to a width of at least 9.0 metres;
- d) have a paved surface of at least 6.0 metres in width;
- e) have a centre-line radius of turn of not less than 12 metres;
- f) have an overhead clearance of not less than 5 metres;
- g) have a maximum centre-line grade of 15% and a maximum change of grade of 8% over a minimum distance of 15 metres;

- h) have paved turnaround facilities as required by the District of Elkford Fire Department for any dead-end portion of the Highway which exceeds 90 metres in length;
- i) Be located and aligned to the satisfaction of the Approving Officer;
- j) be connected to a public Highway;
- k) be equipped with street lighting complying with this bylaw and must be dark sky compliant; and
- l) be provided with adequate snow storage areas.

37. EXCEPTIONS TO WORKS AND SERVICES REQUIRED

The Works and Services requirements of this Bylaw do not apply to a Subdivision that creates only:

- a) A Highway dedication;
- b) Parkland;
- c) A Parcel for the installation of public utilities and related structures and equipment; or
- d) A consolidation or a lot line adjustment, in which the number of lots having sufficient area to be built upon in accordance to the District of Elkford's Zoning Bylaw is not increased and the land use is single-family or two family only.

38. WORKS AND SERVICES IMPRACTICAL TO BUILD

Where, in the opinion of the Approving Officer it is not practical to build all or part of the required Works and Services until a project of greater scope can be arranged, and the Works or Services are not immediately required for the Subdivision or the building the Applicant may provide the District of Elkford with Security in an amount that is acceptable to the District of Elkford's Approving Officer that equals the cost of designing, constructing and providing the Works and Services. The funds will be placed by the District of Elkford in an interest bearing reserve until they are used to provide the contemplated Works and Services.

39. SERVICING AGREEMENT AND SECURITY DEPOSIT REQUIRED

All Works and Services required to be constructed and installed at the sole cost of the Owner of the land being Subdivided or Developed must be constructed and installed to the standards prescribed in this bylaw before the Approving Officer approves the Subdivision or the Building Official issues a Building Permit, unless the Owner:

- a) Deposits Security with the District of Elkford;
- b) Enters into a Servicing Agreement accepting the terms and conditions in that agreement and undertaking to construct and install the required Works and Services, and to warrant the Works and Services or to forfeit the Security to the District of Elkford; and
- c) Completes all Works and Services within one year of the date of the agreement, unless otherwise stated in the Servicing Agreement.

40. Subdivisions that create only one new single-family residential Parcel are not required to enter into an agreement if Security is deposited as required in section 37.

41. The Security must be in the amount of 125 percent of the cost of constructing and installing the Works and Services, as estimated by the Consulting Professional, and as accepted by the Municipal Engineer.

42. TIMING OF SECURITY DEPOSIT

The Owner must deposit with the District of Elkford the required Security referred to in sections 37 and 38 to secure Completion of the Works and Services:

- a) Before the District of Elkford Council considers adoption of a zoning amendment bylaw for which the Owner has made an application to the District of Elkford;
- b) In the case of Subdivision, before the Subdivision plans are submitted to the Approving Officer for final approval;
- c) In the case of Development not requiring Subdivision approval or zoning amendment, prior to issuance of any building permit or Development permit where applicable, or
- d) On the reference date of the Servicing Agreement, and in any case, prior to commencement of construction of any Works and Services.

43. RENEWAL OF SECURITY

If any Works and Services are not Completed to the satisfaction of the District of Elkford within the term of the Security that relates to the Works and Services, the Owner must renew the Security for a further one year period, and thereafter from year to year.

44. If in any year the Security is not so renewed at least thirty (30) days before its expiry, the District of Elkford may draw down the full amount of the Security and hold the funds so drawn as Security.

45. DISTRICT OF ELKFORD MAY COMPLETE WORKS

If any of the Works and Services are not duly and properly Completed within one year or as otherwise specified in the Servicing Agreement, the District of Elkford may draw down the Security and may, through its employees or contractors, Complete those Works and Services at the cost of the Owner and deduct from the Security the costs of Completion. The balance of the Security, if any, must be returned to the Owner less any administrative costs incurred by the District of Elkford.

46. If the Security is insufficient to cover the actual cost of completing the Works and Services, the Owner must pay the deficiency to the District of Elkford immediately on receipt of the District of Elkford's invoice for the cost.

47. DESIGN AND CONSTRUCTION

The Owner must design, construct, install and complete the Works and Services in accordance with this bylaw.

48. CONSULTING PROFESSIONALS

Works and Services designed by Consulting Professionals must be submitted for review and acceptance by District of Elkford.

49. The Owner must retain, at their sole cost, Consulting Professionals who are responsible for design, layout, acceptance of materials, field inspection of installation, certification, communication with the Owner's contractors, information for and certification of As-Built Drawings, and certification of Completion for all Works and Services that are the responsibility of the Owner in accordance with this bylaw.

50. The Approving Officer or Building Official may require the Owner to submit plans and additional information prepared by Consulting Professionals with the appropriate qualifications given the characteristics, location, or climate vulnerability of the Parcel, including but not limited to:

- a) Climate adaptation;
- b) Total and effective imperviousness of the Parcel, as well as rainwater infiltration rates;
- c) Passive solar design;

- d) Integrated stormwater management;
- e) Wildfire interface; and
- f) Landscaping.

51. INTEGRATED DESIGN MEETING

Applicants will meet with planning staff, the Approving Officer, and/or the Building Official to discuss the proposal.

52. PERMISSION TO CONSTRUCT

No land clearing, stripping of top soil, excavation, placement of fill, construction or installation of any kind may be undertaken on a Subdivision or Development until:

- a) The Owner has deposited all construction plans with the Municipal Engineer; and
- b) The Municipal Engineer has given the Owner or Consulting Professional permission to construct Works and Services.

53. INSPECTION AND MONITORING BY THE CONSULTING PROFESSIONAL

The Owner's Consulting Professional must inspect the Works and Services for the Subdivision or Development during construction and installation for compliance with this bylaw.

54. The Consulting Professional must submit copies of their inspection reports to the District of Elkford.

55. STATUTORY RIGHTS-OF-WAY

For the purpose of installing or maintaining Works and Services, the Owner shall provide statutory rights-of-way where Works and Services are not located in Highways, and shall be deposited in the Land Title Register and registered against the title to the Parcel.

56. The Applicant is responsible for negotiating and securing any rights-of-way or easements necessary to the Application, to prepare the legal documentation, to have it processed in the Land Titles Office, and to pay all direct or indirect costs, including:

- a) B.C. Land Surveyor costs;
- b) Legal fees; and
- c) Registration and other fees, including Land Title and Survey Authority fees.

57. The Approving Officer may require the Applicant to provide a lawyer or notary's undertaking satisfactory to the District of Elkford's solicitor prior to Final Approval to ensure registration of these documents.

58. CERTIFICATE OF SUBSTANTIAL PERFORMANCE

On Completion of the Works and Services the Owner may request, in writing, a Certificate of Substantial Performance. This request must be accompanied by a document prepared by the Consulting Professional that includes test results, a list of accepted changes and a list of project deficiencies and their cost estimates.

59. The Municipal Engineer shall issue a Certificate of Substantial Performance that contains a list of deficiencies that must be corrected, if the Municipal Engineer is of the opinion that the Works and Services have been substantially Completed.

60. REDUCTIONS IN SECURITY DEPOSIT

The Owner may apply to the District of Elkford for a reduction in the Security for a portion of the Works for which the Municipal Engineer has issued a Certificate of Substantial Performance.

61. The District of Elkford may reduce the Security by the amount of the cost of the Works and Services for which a Certificate of Substantial Performance has been issued up to ninety (90) percent of the Security for Works that are not related to landscaping.
62. The District of Elkford may reduce the Security provided for landscaping Works and Services to a maximum of eighty (80) percent for which the Municipal Engineer issues a Certificate of Substantial Performance.
63. The District of Elkford will not pay interest on all or any portion of Security that is reduced or returned.

64. TWO YEAR WARRANTY

The District of Elkford will retain ten (10) percent of the Security for the Works and Services, except landscaping Works and Services, for two years after the Municipal Engineer issues the Certificate of Substantial Performance

65. The District of Elkford will retain twenty (20) percent of the Security for landscaping Works and Services for two complete growing seasons, as directed by the Municipal Engineer, after the Municipal Engineer issues the Certificate of Substantial Performance.
66. If the Owner fails to maintain any of the Works and Services, remedy any defect, or pay for any damages resulting from the defects, the District of Elkford may maintain the Works and Services, remedy the defect and pay the damages at the cost of the Owner by drawing down the Security and deducting the costs and damage from the Security funds.
67. The balance of the Security, less any administrative costs incurred by the District of Elkford, must be returned to the Owner at the end of two years after the issuance of the Certificate of Substantial Performance.
68. If the Security is insufficient to cover the actual costs incurred by the District of Elkford, the Owner must pay such deficiency to the District of Elkford immediately on receipt of the District of Elkford's invoice.

69. RETURN OF SECURITY DEPOSIT

If the Works and Services are maintained by the Owner as required under the Servicing Agreement, the District of Elkford must return the Security to the Owner on receipt of the Final Acceptance Certificate from the Municipal Engineer.

70. WARRANTY PERIOD

The Owner must:

- a) Maintain the Works and Services in Complete repair for two years after issuance of the Certificate of Substantial Completion;
- b) Remedy any defects or deficiencies appearing within the two year period; and

- c) Pay for any damage to other Works and Services or property resulting from the defects, save and except for defects caused by reasonable wear and tear, negligence of the District of Elkford, or Acts of God.

71. FINAL ACCEPTANCE CERTIFICATE

The Municipal Engineer will only issue a Final Acceptance Certificate for the Works and Services when the requirements of this bylaw for the construction and installation of Works and Services have been fulfilled.

72. MONITORING

The Approving Officer or Building Official may require the Consulting Professional to monitor or test the Works and Services for up to two (2) years after their installation and provide the results of that monitoring or testing to the District of Elkford.

73. OFFENCES AND PENALTIES

No person may prevent or obstruct, or attempt to prevent or obstruct, the entry of authorized persons onto a Parcel as authorized by this bylaw.

- 74. Every person who violates a provision of this bylaw commits an offence and is liable on summary conviction to a penalty not exceeding ten thousand dollars (\$10,000.00) and the costs of prosecution.

- 75. The penalties imposed under this subsection supplement and are not a substitute for any other remedy available for an infraction of this bylaw.

Read a first time this 9th day of November, 2015.

Read a second time this 14th day of November, 2016.

Read a third time this 14th day of November, 2016.

Adopted this 28th day of November, 2016.

Dean McKerracher
Mayor

Curtis Helgesen
Chief Administrative Officer