

TOWN OF CARMAN

BY-LAW 04/1869

Being a by-law of the Town of Carman to govern certain aspects of lot grading and drainage on public or private property.

WHEREAS Section 232(1)(h) of The Municipal Act, S. M. 1996, c.58 (the Act) states as follows:

232(1) A council may pass by-laws for municipal purposes respecting the following matters:

...(h) drains and drainage on private or public property.

AND WHEREAS Section 239(1)(3) of the Act provides for entering onto private lands to enforce by-laws as follows:

239(1) If this or any other Act or a by-law authorizes or requires anything to be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or the building or other structure to be entered to carry out the inspection, remedy, enforcement or action,

- a) enter the land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the Act or by-law;
- b) request that anything be produced to assist in the inspection, remedy, enforcement of action; and
- c) make copies of anything related to the inspection, remedy, enforcement or action.

239(3) In an emergency, or in extraordinary circumstances, the designated officer need not give reasonable notice or enter at a reasonable hour and may do the things referred to in clauses 1(a) and (c) without the consent of the owner or occupant.

AND WHEREAS the Council of the Town of Carman deems it expedient and in the best interest of the Town to pass a by-law to regulate and control certain aspects of lot grading and drainage on private and public property within the Town,

NOW THEREFORE the Council of the Town of Carman enacts as follows:

1 GENERAL

1.1 Title

This by-law shall be referred to as "the Lot Grading and Drainage By-Law".

1.2 Definitions

Where used in this by-law, the following terms shall have the following meaning:

- a) "Town" means Town of Carman;
- b) "Person" means and includes any individual, corporation, partnership, firm, joint venture, syndicate, association or trust, and any other form of entity or organization, and includes both the plural and the singular;

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- c) "Designated Officer" means the Chief Administrative Officer, Public Works Manager, or the Town of Carman Building Inspector or their designates.

- 1.3 Unless otherwise accepted by the authority having jurisdiction, all buildings shall be provided with roof drains or roof gutters and leaders.
- 1.4 Where buildings are required to be provided with a subsurface drainage system, the system shall be designed, constructed and maintained in accordance with the requirements of the Manitoba Building and Plumbing codes.
- 1.5 Where leaders are provided and are not connected to a storm sewer, provision shall be made to prevent soil erosion, and extensions or splash pads shall be provided to carry the rainwater a minimum of 1.3 meters (4.3 feet) from the building.
- 1.6 Unless otherwise accepted by the authority having jurisdiction, roof drainage or surface drainage shall not be discharged on public sidewalks, stairs or neighbouring property and shall be conveyed so as not to cause dampness in the walls, ceilings, or floors at any portion of the building itself or any adjacent building.

2. INTENT OF THIS SECTION

The intent of this section is to establish regulations governing the grading of property for purposes of managing storm water runoff in order to minimize:

- (a) the infiltration of storm water into the wastewater sewer system via building foundation drains;
- (b) any nuisance that may be caused to property by storm water runoff.

3. APPLICATION FOR LOT GRADING PERMIT

All applications for Lot Grading Permits shall be made at the Town of Carman Office.

3.1 Residential Property Lot Grading Permit Application

The applicant shall obtain a LOT GRADING PERMIT prior to the issuance of a "building permit" to construct a building on residential property. The application shall be accompanied by:

- (a) Three copies of a site plan showing the location of the proposed building and present or proposed driveways, garages, swimming pools, roof drain downspouts, sump pump discharge pipe and any other information the Designated Officer deems to be pertinent to the grading of the lot;
- (b) Three copies of a plan showing a section of the foundation and first floor of the building to be constructed and any additional section views that the Designated Officer requires for multi-level buildings.

3.2 Commercial, Industrial and Multiple-Residential Sites Lot grading Permit Application

The applicant shall obtain a LOT GRADING PERMIT prior to the issuance of a "building permit" to construct a building(s) intended for use as a commercial, industrial,

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multiple-residential or other than residential property. The application shall be accompanied by:

- (a) Three copies of a lot grading plan for the site, prepared by a Professional Engineer, or Architect, or Designated Officer. This plan, where applicable, shall show:
 - (i) building location(s)
 - (ii) lot grade elevations
 - (iii) catch basin locations
 - (iv) land drainage sewer sizes and locations
 - (v) entrances to buildings
 - (vi) roof drain downspouts and sump pump discharge pipe locations
 - (vii) paved areas

and any other information the Designated Officer deems to be pertinent to the grading of the lot;

in special cases, where applicable, the Designated Officer in his discretion may waive some of the requirements of the lot-grading plan.

- (b) Three copies of a plan showing a section of the foundation and floors of the building(s) to be constructed, and any additional section views that the Designated Officer requires.

3.3 Existing Lot Grading Changes

Prior to obtaining a LOT GRADING PERMIT no person shall proceed with any work that may alter or otherwise change the grading of a lot or property in any manner that may affect the existing or established storm water runoff from that or any adjacent property.

3.4 Timing Of Application

The applicant shall make application for a LOT GRADING PERMIT at least five (5) working days prior to the issuance of the building permit.

3.5 Permit Denial

The Designated Officer may deny the issuance of a LOT GRADING PERMIT where, in his opinion, it is in the public interest to do so.

3.6 Appeal Notices

The applicant has the right of appeal to the Town Council if the issuance of a LOT GRADING PERMIT has been denied. If the Applicant's appeal is successful, Council shall by resolution, authorize the Designated Officer to issue the permit.

4. LOT GRADING REQUIREMENTS

Lot grading shall be an integral part of the storm water drainage system for the Town.

4.1 Lot Grading Permit

The LOT GRADING PERMIT shall have indicated on it the approved lot grade elevations, and shall be accompanied by any lot-grading plan approved in conjunction

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with the issuance of the permit. Any lot grading plan so approved shall become part of the LOT GRADING PERMIT.

4.2 Building Grade

The "Building Grade" shall be as indicated on the LOT GRADING PERMIT.

4.3 Residential Property Lot Grading

Residential property lot grading is typically undertaken by the following ways (refer to Schedule E, Types I, II and III):

- (a) Type I Lot Grading: Residential Split Lot Drainage – rear yard drains to public lane.
- (b) Type II Lot Grading: Residential Split Lot Drainage – rear yard drains to public or private swale.
- (c) Type III Lot Grading: Residential Back-to-Front-Lot Drainage – rear yard drains to front street.

4.4 Perching Of Residential Property

Residential property shall be graded and landscaped to achieve a "perching" of soil surrounding the perimeter of a building. The "perching" shall be constructed to provide effective positive drainage away from the building.

4.5 Lot line Grading

Each lot shall be graded in such a manner as to allow storm water to drain along the lot line without ponding or obstruction, in accordance with the LOT GRADING PERMIT.

4.6 Special Site Conditions Of Residential Property

The requirements of this by-law may be varied to resolve particular site conditions provided the intent of the by-law is met. Examples of special site conditions include, but are not limited to, the following:

- (a) Corner lots
- (b) Restricted side yard lots
- (c) Infilling of developed areas
- (d) Construction of garage
- (e) Installation of swimming pool

Any such variation must be approved by the Designated Officer and noted on the LOT GRADING PERMIT.

4.7 Commercial, Industrial & Multiple Residential Lot Grading

In the designated areas of the Town, storm water runoff from commercial, industrial and multiple-residential properties may be required to be controlled so as not to exceed the maximum allowable rate of storm water discharge into the Town of Carman's land drainage system, as may be determined by the Designated Officer.

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4.8 Roof Downspouts

All building roof downspouts shall be located such that effective positive drainage away from the building is achieved. All downspouts shall discharge through a suitable elbow onto a splash pad or by an equivalent method approved by the Designated Officer.

Building roof downspouts shall not be located nor directed so as to cause storm water to drain directly to adjacent property or public sidewalks.

4.9 Sump Pump Discharge Pipe

All sump pump discharge pipes discharging weeping tile water shall be located such that effective positive drainage away from the building is achieved. These sump pump discharge pipes shall be fitted with a suitable elbow and shall discharge onto a splash pad or by an equivalent method approved by the Designated Officer, and shall not be located nor directed so as to cause discharge water to drain directly onto adjacent property unless a drainage swale is provided as in laneless subdivisions.

Sump pump installation requirements are specified in the Manitoba Plumbing Code or any applicable by-law passed by the authority of the Town of Carman and any amendments thereto.

4.10 Wastewater Sewer Connection

The "Building Grade" elevation shall be established at sufficient elevation to ensure that the wastewater sewer connection from the building conforms to the requirements of the Town.

4.11 Driveway

A driveway within a lot shall be constructed such that it will not impede the storm water runoff. No driveway shall restrict or obstruct drainage of storm waters away from the building, nor from the rear yard in "back-to-front" lot grading (Type III Lot Grading).

4.12 Garages, Garden Sheds and Accessory Buildings

A garage, attached or detached, shall be constructed such that it will not impede the storm water runoff. No garage, garden shed and accessory building shall restrict or obstruct drainage of storm waters in the side or rear yard of that lot, nor of adjacent lots.

5. LOT GRADING CONSTRUCTION

5.1 Marking Of Residential Property

The Applicant, upon receiving a LOT GRADING PERMIT, shall mark the corners of the lot or property with suitable marker stakes, and shall display the address and lot number at the conspicuous location.

5.2 Provision Of Building Lot Grade Stake

The applicant shall request a Building Grade Stake from the Developer or his agent at least three (3) working days prior to the requirements of this stake.

The Developer or its agent shall:

- (a) Mark the Building Grade on a stake located at the street line of the lot;

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- (b) Mark the corner lot grade elevations upon suitable stakes at each lot corner.

The applicant shall take precautions to ensure that these lot grade stakes are protected until no longer required.

5.3 Entering Upon Property

Duly authorized employees of the Town or its agent so assigned bearing proper credentials and identification may, subject to the provisions of the Municipal Act, enter upon any property for the purpose of survey, observation or inspection associated with enforcement of compliance with the LOT GRADING PERMIT and provisions of this by-law.

The applicant shall ensure the employees of the Town or its agent are not interfered with in any way in the performance of the duties imposed on them by the by-law.

5.4 Compliance With Lot Grading Permit

The applicant shall ensure that all construction and lot grading on a lot or property is completed in accordance with the requirements of the LOT GRADING PERMIT and the applicant shall request a lot grading report and deposit release form from the Designated Officer within 24 months of the issuance of the lot grading permit.

5.5 Release Of Lot Grading Deposit

The Town shall, upon written request from the applicant to the Designated Officer, cause the lot or property to be inspected and surveyed as required to determine compliance with the LOT GRADING PERMIT. The LOT GRADING REPORT referred to in Clause 6.2 shall be released to the applicant or such other person authorized in writing by said applicant when the Designated Officer has determined that the landscaping of the property has been substantially completed. Substantial completion shall mean the completion of perching surrounding the building exclusive of topsoil and sod, and the completion of the remaining lot grading to the stage where topsoil and placement of sod may begin.

Inspections and surveys for the purpose of deposit release will generally be made during the period May 1st to October 31st of each year.

5.6 Extension Of Time For Completion

Notwithstanding section 5.4 aforesaid, the Designated Officer may extend the time for completion of the lot grading where in his opinion the circumstances so warrant it.

6. FEES AND DEPOSITS

6.1 Fees

The applicant shall be required to pay to the Town the applicable fee for the LOT GRADING PERMIT, as set out in Schedule 'A'. This fee shall be paid prior to the issuance of the LOT GRADING PERMIT.

6.2 Lot Grading Deposit

The applicant shall be required to deposit with the Town an applicable sum for the LOT GRADING PERMIT, as set out in Schedule 'A'.

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This sum shall be deposited prior to the issuance of a LOT GRADING PERMIT. This deposit shall be retained by the Town until such time as the lot grading is substantially completed in accordance with Section 5.5 aforesaid.

7. RESPONSIBILITIES OF PROPERTY OWNER

7.1 Maintenance Of Lot Grading

The owner shall be responsible to ensure the maintenance of all lot grades, which were established and approved by the Town prior to the passage of this by-law or established by a LOT GRADING PERMIT.

7.2 Control Of Storm Water

The owner shall be responsible to ensure that any storm water originating on his property is not directed nor permitted to flow onto adjacent property in a manner that would adversely affect or be detrimental to that property.

7.3 Maintenance Of Roof Downspouts, Sump Pump Discharge Pipe And Splash Pads

The owner shall be responsible to ensure that roof downspouts, sump pump discharge pipe and splash pads or their approved equivalent are maintained so as to meet the requirements set forth in Section 4.8 and 4.9 or this by-law.

8. REMEDIAL ACTION

8.1 Non-Compliance With Lot Grading

Where, in the opinion of the Designated Officer, the lot grading has not been completed in accordance with the LOT GRADING PERMIT, the Designated Officer may give written notice by certified mail to the Applicant, at the address on the application directing that the said lot grading be completed and/or corrected in accordance with the permit, within the time limit specified by the Designated Officer in the notice. The notice will be deemed to be delivered four (4) days after mailing.

Where required by the Designated Officer the applicant shall submit, as part of the corrective measures, a new lot grading plan prepared by a Professional Engineer or Architect.

8.2 Failure Of Owner To Maintain Lot Grading

Where in the opinion of the Designated Officer, the lot grading has not been properly maintained and drainage is not achieved in accordance with previous established and approved Building Lot Grade and Lot Grade Elevations or with the LOT GRADING PERMIT and the requirements of this by-law, the Designated Officer may give a written notice in person or by certified mail to the owner, directing that the said lot grading be corrected in accordance with the permit, within the time limit specified by the Designated Officer.

Where required by the Designated Officer, the owner shall submit, as part of the remedial measures, a new lot grading plan prepared by a Professional Engineer or Architect.

8.3 Failure To Comply With Lot Grading Permit

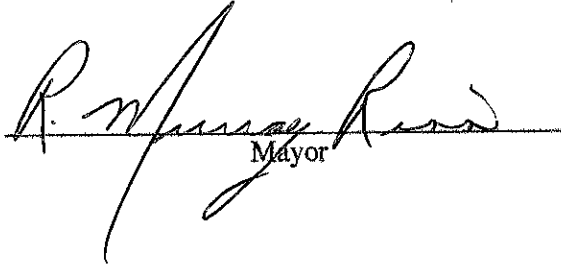
Where an applicant who has been given a notice, order or direction by the Designated Officer to complete the grading of a lot in accordance with the LOT GRADING PERMIT

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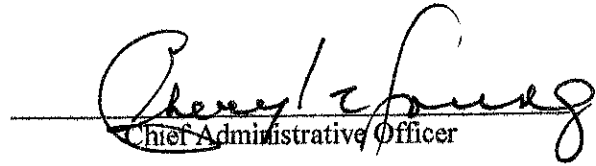
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neglects or refuses to comply with such order or direction in the opinion of the Designated Officer within the time specified, the Designated Officer may cause the work to be carried out by the Town and charge the cost of the work against the deposit held by the Town. Where the cost of the work exceeds the value of the deposit held, the Town may charge the cost of such excess against the Applicant; and in default of payment, recover the cost as a debt due to the Town.

DONE AND PASSED in Council, duly assembled, this 9th day of September, A.D. 2004.



Mayor



Chief Administrative Officer

Read a first time this 15th day of July, 2004.

Read a second time this 19th day of August, 2004.

Read a third time this 9th day of September, 2004.

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**TOWN OF CARMAN
LOT GRADING AND DRAINAGE BY-LAW No. 04/1869
SCHEDULE 'A'**

A.1 Lot Grading Permit And Deposit Fees

	<u>Lot Grading Permit</u>	<u>Deposit</u>
A.1.1		
Buildings New Construction & House Additions	75.00	750.00
Decks and Garages	50.00	500.00

(The fees per lot include setting culvert elevation where required and these fees are payable to the Town.)

(It is further understood, that the Town of Carman will not be paying any interest on lot grading deposits as listed above.)

A.2 Excavation Permit Fees

	<u>Excavation Permit</u>	<u>Excavation Deposit</u>
Excavation permit fees for work on Town property	50.00	500.00

(It is further understood, that the Town of Carman will not be paying any interest on excavation deposits as listed above.)