

TOWN OF NIVERVILLE

LOT GRADING AND DRAINAGE BY-LAW 823-20

BEING A BY-LAW OF THE TOWN OF NIVERVILLE to govern certain aspects of lot grading and drainage on public or private property.

WHEREAS Section 232(1)(h) of The Municipal Act, C.C.S.M., cap. M225 (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 or 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 Niverville deems it expedient and in the best interest of the Town of Niverville (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 Niverville enacts as follows:

SECTION 1 General

Subsection 1.2 Title

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

Subsection 1.2 Definitions

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

- a) "Town" means Town of Niverville
- 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.
- c) "Designated Officer" means the Town's CAO, Operations Manager, Bylaw Enforcement Officer, Building Inspector or their designates.

SECTION 2 Intent of this By-law

The intent of this By-law is to establish regulations governing the elevations of property for purposes of managing water runoff to minimize:

- (a) the infiltration of storm water into the wastewater sewer system via building foundation drains; and
- (b) any nuisance that may be caused to property by storm water runoff or release of water from pools, hot tubs or other water sources.

SECTION 3 Regulations and Maintenance for New and Existing Buildings

Subsection 3.1 Unless otherwise excepted by the authority having jurisdiction, all buildings shall be provided with roof drains or roof gutters and leaders.

Subsection 3.2 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.

Subsection 3.3 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, a flip-up roof downspout or by an equivalent method approved by the Designated Officer.

Building roof downspouts shall not be located nor directed to cause storm water to drain directly

- a. onto adjacent property; public or private;
- b. onto a municipal road; or
- c. onto a public right of way.

Stormwater 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.

Subsection 3.4 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 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

- a. onto adjacent property, public or private,
- b. onto a municipal road, or
- c. onto a public right of way.

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

Subsection 3.5 Driveway

Driveways within a lot shall 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.)

Subsection 3.6 Garages, Garden Sheds, Accessory Buildings and Structures

Garages, attached or detached, garden sheds, accessory buildings or structures shall not restrict or impede the storm water runoff in the front, side or rear yard of that lot, nor of adjacent lots.

Subsection 3.7 Existing Lot Grading Changes

No person or property owner shall proceed with any lot grading work that alters the elevation of a lot or property in any manner which in opinion of the Designated Officer,

negatively affects the storm water runoff from that or any adjacent property. 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, established by the Town approved lot elevation site plan, or by a new lot elevation site plan approved by the Designated Officer.

Subsection 3.8 Release of Water from Pools, Hot Tubs and Other Water Sources

The owner shall be responsible to ensure that any release from pools, hot tubs or other water sources is done by a method approved by the Designated Officer and shall not be located nor directed so as to cause discharge water to drain directly

- a. onto adjacent property, public or private;
- b. onto a municipal road; or
- c. onto a public right of way.

Subsection 3.9 Compliance Process

The owner shall be responsible to ensure that their property meets and maintains the requirements set forth in this By-law both before and after construction. Remedial action for non-compliance with the By-law shall be as per Section 7.

SECTION 4 Elevations – New Buildings

Subsection 4.1 Residential Property Lot Elevations (single and two unit dwellings, not including infill in established developments)

Building permit applicants shall be provided with a lot elevation site plan concurrent with the issuance of a “building permit” to construct a building on a residential property.

Subsection 4.2 Residential Property Lot Elevations (single and two unit dwellings, for infill lots in established developments)

Building permit applicants are required to either:

1. Provide a lot elevation site plan as per Section 5, along with any other information the Designated Officer deems pertinent to the grading of the lot. The site plan shall be prepared by a Town approved Professional Engineer and submitted to the Town concurrent with the application for a “building permit”. The lot elevation site plan is subject to approval by the Town; or
2. Choose to have a Designated Officer of the Town create a lot elevation site plan, with applicant to assume all associated costs.

Subsection 4.3 Commercial, Industrial and Multiple Unit (3+) Residential Sites Lot Elevations

The applicant/Developer shall provide a lot elevation site plan concurrent with the application of a “building permit” to construct a building(s) intended for use as a commercial, industrial, multiple-unit (3+) residential or other than residential property.

The building permit application shall be accompanied by the following:

two hard copies and one electronic copy of a lot elevation site plan for the site, prepared by a Town approved Professional Engineer or Architect. 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 drainage downspouts and sump pump discharge pipe locations
- (vii) paved areas

and any other information the Designated Officer deems pertinent to the grading of the lot. The lot elevation site plan is subject to approval by the Town’s Designated Officer.

The Town shall provide lot elevation site plans for lots in the Niverville Business Park.

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

SECTION 5 Lot Elevation Site Plan Requirement

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

Subsection 5.1 Lot Elevation Site Plan

The lot elevation site plan shall have indicated on it the approved lot grade elevations.

Subsection 5.2 Building Grade (elevation)

The "Building Grade" shall be as indicated on the lot elevation site plan.

Subsection 5.3 Residential Property Lot Grading

Residential property lot grading is typically undertaken by the following ways:

- (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.

Subsection 5.4 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.

Subsection 5.5 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 approved lot elevations.

Subsection 5.6 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) Infill in developed areas
- (d) Construction of garage or other accessory building
- (e) Installation of swimming pool.

Any such variation must be approved by the Designated Officer and noted on the final approved lot elevation site plan.

Subsection 5.7 Commercial, Industrial & Multiple Unit Residential Lot Grading

Storm water runoff from commercial, industrial and multiple unit (3+) residential properties shall be required to be controlled so as not to exceed the maximum allowable rate of storm water discharge into the Town's land drainage system, as may be determined by the Designated Officer.

Subsection 5.8 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.

SECTION 6 Lot Grading Construction

Subsection 6.1 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 Act, enter upon any property for the purpose of survey, observation or inspection associated with enforcement of compliance with the lot elevation site plan and provisions of the By-law.

The applicant/property owner 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.

Subsection 6.2 Compliance with Lot Elevation Site Plan

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 elevation site plan and the applicant shall request a lot grading inspection prior to final building inspection.

Subsection 6.3 Release of Lot Grading (Security) Deposit

The Town shall, upon written request from the applicant to the Designated Officer, cause the lot or property to be inspected as required to determine compliance with the lot elevation site plan. The security deposit 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 along with all other required inspections have been completed. A tolerance of 1" (inch) plus or minus will be permitted from elevations provided with the lot elevation site plan.

Inspections for the purpose of deposit release will only be conducted between May 1st to October 31st of each year. Arrangements for all final inspections must be made a minimum of 7 business days prior to October 31st.

SECTION 7 Remedial Action

Subsection 7.1 Non-Compliance With By-law

Where, in the opinion of the Designated Officer, either

- a. the lot grading;
- b. the maintenance of the roof downspouts, sump pump discharge pipe and splash pads;
- c. the control of storm water; and/or
- e. the release of water from pools, hot tubs, or other water sources;

has not been completed in accordance with the regulations contained within this By-law, the Designated Officer may give written notice to the property owner directing that the said non-compliance be completed and/or corrected in accordance with the regulation, within the time limit specified by the Designated Officer in the notice.

Where required by the Designated Officer, the property owner shall be responsible for the cost of the corrective measures and a new lot elevation site plan prepared by a Town approved Professional Engineer or Architect.

Subsection 7.2 Failure of Owner to Maintain Lot Elevations

Where in the opinion of the Designated Officer, the lot elevations have not been properly maintained and drainage is not achieved in accordance with previous established and approved Building Lot Grade and Lot Grade Elevations and the requirements of this By-law, the Designated Officer may give a written notice to the owner, directing that the said lot elevations be corrected in accordance with a Town approved lot elevation site plan 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 elevation site plan prepared by a Town approved Professional

Engineer, Surveyor or Architect.

Subsection 7.3 Failure to Comply

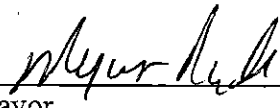
Where a property owner who has been given a notice, order or direction by the Designated Officer to complete the grading of a lot in accordance with the lot elevation site plan approved by the Town and/or the requirements of this By-law and neglects or refuses to comply with such order or direction in the opinion of the Designated Officer within the time specified, the Designated Officer may cause the work to be carried out by the Town. The Town may charge the cost of such work against the property owner, and in default of payment, recover the cost as a debt due to the Town.

SECTION 8


Subsection 8.1 Repeal

That By-law No. 628-05 be repealed.

DONE AND PASSED by the Town of Niverville this 1st day of September, 2020.



Mayor



Chief Administrative Officer

Read a 1st time this 18th day of August A.D. 2020.
Read a 2nd time this 1st day of September A.D. 2020.
Read a 3rd time this 1st day of September A.D. 2020.