

THE RURAL MUNICIPALITY OF ST. CLEMENTS

BY-LAW NO. 17-2005

BEING A BY-LAW OF THE RURAL MUNICIPALTY OF ST. CLEMENTS TO REGULATE THE GRADING OF PROPERTY AND TO ESTABLISH LOT GRADE ELEVATIONS.

The Council of the Rural Municipality of St. Clements enacts:

1.00 INTENT OF BY-LAW:

- 1.01 The intent of this By-Law is to establish regulations governing the grading of property in certain areas of the Municipality 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; and
 - (c) the costs of damage to highways.

2.00 DEFINITIONS:

- 2.01 Unless the context otherwise requires, where used in this By-law;
- 2.02 "Applicant" means owner, or such other person authorized in writing by the owner to made application for a LOT GRADING PERMIT;
- 2.03 "Building" means the definition contained in the Municipal zoning By-law 5-2002, as amended, or as replaced;
- 2.04 "Building Lot Grade" means the lot grade elevation of the finished ground surface immediately adjacent to the foundation of a building and at the location so identified on the LOT GRADING PERMIT;
- 2.05 "Downspout" means a nominally vertical pipe that is installed to carry storm water from a roof;
- 2.06 "Dwelling" means the definition contained in the Municipal zoning By-law 5-2002, as amended, or as replaced;
- 2.07 "Elevation" means the vertical distance above or below sea level;

- 2.08 "Highway" means any place or way, including any structure forming part thereof, which or any of which the public is ordinarily entitled or permitted to use for the passage of vehicles or pedestrians, with or without fee or charge therefor, and includes all the space between the boundary lines thereof, whether or not used for vehicular or pedestrian traffic and, without restricting the generality of the foregoing, includes roads, road allowances, streets, lanes, thoroughfares, sidewalks, and other means of communication dedicated to the public use as highways as defined, and also includes all bridges, subways, underpasses, grade separations, piers, wharves, ferries, and squares, and the road improvements thereon dedicated to the public use, but does not include any area designated or intended and primarily used for the parking of vehicles and the necessary passageways thereon;
- 2.09 "Land Drainage Sewer" means a sewer that carries storm water and surface water, street wash, weeping tile water, and other wash waters or drainage but excludes domestic wastewater and industrial wastes;
- 2.10 "Lot" means a piece, plot or parcel of land or an assemblage of contiguous parcels of land in one ownership, having a frontage and/or flankage on a public street;
- 2.11 "Lot Grade Elevation" means the elevation of the finished ground surface at any specific reference point or at any point on the slope between two specific reference points on a lot;
- 2.12 "Lot Grading" is a general term referring to the combination of lot grade elevations and resultant slopes within a given lot;
- 2.13 "Lot Grading Permit" means a written approval issued by the By-law Enforcement Officer, Public Works Foreman or Municipal Engineer, pursuant to this By-law, wherein the Building Lot Grade and Lot Grade Elevations of a specific lot are established;
- 2.14 "Owner" means a person in whose name a subject property is registered;
- 2.15 "Residential Property" means a property intended for use by one or two families only;
- 2.16 "Splash Pad" means a cast-in-place or precast concrete structure rigidly attached to a building to carry roof runoff and weeping tile water away from the building foundation;
- 2.17 "Storm Water" means water from rainfall or snowmelt or a combination of the two, and includes weeping tile water;
- 2.18 "Street" means a highway over which the Municipality has jurisdiction;
- 2.19 "Street Line" means the lateral boundaries of the highway;
- 2.20 "Wastewater Sewer" means a sewer that carries liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, together with quantities of ground, storm and surface water that are not admitted intentionally.

3.00 APPLICATION FOR LOT GRADING PERMIT:

All applications for LOT GRADING PERMITS shall be made at the offices of the municipality.

- 3.01 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. This does not comply to the construction of accessory buildings. The application shall be accompanied by:
- (a) one copy of a site plan showing the location of the proposed building and any present or proposed driveways, garages, swimming pools, roof drain downspouts, sump discharge pipe and any other information the Municipal Engineer, By-law Enforcement Officer or Public Works Supervisor deems to be pertinent to the grading of the lot;
 - (b) one copy of a plan showing a section of the foundation and first floor of the building to be constructed and any additional section views which may be required for multi-level buildings.
- 3.02 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 commercial, industrial, multiple-residential or other than residential property. This does not comply to the construction of accessory buildings. The application shall be accompanied by:
- (a) one copy of a lot grading plan for the site, prepared by a 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) private approach locations
 - (vii) roof drain downspouts and sump pump
 - (viii) paved areasand any other information the Municipal Engineer deems to be pertinent to the grading of the lot. In special cases, where applicable, the Municipal Engineer, By-law Enforcement Officer, or Public Works Supervisor may waive some of the requirements of the lot grading plan.
 - (b) one copy of a plan showing a section of the foundation and floors of the building(s) to be constructed, and any additional section views that may be required.
- 3.03 Existing Lot Grading Changes: An owner shall obtain a LOT GRADING PERMIT prior to proceeding 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.

- 3.04 Timing of Application: The Applicant shall make application for a LOT GRADING PERMIT at least five (5) working days prior to the requirement of this permit.

4.00 LOT GRADING REQUIREMENTS:

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

- 4.01 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 with the issuance of the permit. Any lot grading plan so approved shall become part of the LOT GRADING PERMIT;
- 4.02 Building Lot Grade: The "Building Lot Grade" shall be as indicated on the LOT GRADING PERMIT;
- 4.03 Residential Property Lot Grading: Residential property lot grading is typically illustrated in figures 1, 2 and 3 of Schedule "A", as follows:
- (a) Type 1 Lot Grading: Residential Split Lot Drainage - rear yard drains to public lane.
 - (b) Type 2 Lot Grading: Residential Split Lot Drainage - rear yard drains to swale.
 - (c) Type 3 Lot Grading: Residential Back-to-Front Lot Drainage - rear yard drains to front street.
- 4.04 Perching of Residential Property: Residential property shall be graded and landscaped to achieve a "perching" of soil surrounding the perimeter of a building.
- This "perching" shall be constructed to provide effective positive drainage away from the building as set out in Schedule "A".
- 4.05 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.
- 4.06 Special Site Condition of Residential Property: The requirements of Schedule "A" 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, are:
- (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 Municipal Engineer, By-law Enforcement Officer or Public Works Supervisor.

- 4.07 Commercial, Industrial & Multiple-Residential Lot Grading: In designated areas of the Municipality, 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 municipalities land drainage system, as may be determined by the Municipal Engineer.
- 4.08 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 as detailed in Schedule "B" or by an equivalent method approved by the Municipal Engineer, By-law Enforcement Officer or Public Works Supervisor. Building roof downspouts shall not be located nor directed so as to cause storm water to drain directly onto adjacent property.
- 4.09 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 as detailed in Schedule "B" or by an equivalent method approved by the Municipal Engineer, By-law Enforcement Officer or Public Works Supervisor, and shall not be located nor directed so as to cause discharge water to drain directly onto adjacent property and streets.
- 4.10 Wastewater Sewer Connection: The Building Lot Grade elevation shall be established at sufficient elevation to ensure that the wastewater sewer connection from the building conforms to the requirements of the Municipality's Sewer By-law No. 5/94 and any amendments thereto.
- 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 3 Lot Grading).
- 4.12 Structures: No structure shall be constructed that will impede the storm water runoff. No garage shall restrict or obstruct drainage of storm waters in the site or rear yard of that lot, nor of adjacent lots.

5.00 LOT GRADING CONSTRUCTION:

- 5.01 Marking of Residential Property: The Applicant, upon receiving a LOT GRADING PERMIT, shall mark corners of the lot or property with suitable marker stakes, and shall display the address and lot number at a conspicuous location.
- 5.02 Provision of Building Lot Grade Stake: The Applicant shall request a Building Lot Grade Stake from the Municipal Office at least five (5) working days prior to the requirement of this stake.

The Municipality or its agent shall:

- (a) mark the Building Lot Grade on a stake located at the street line of the lot or such other suitable location as may be determined by the Municipal Engineer, By-law Enforcement Officer or Public Works Supervisor;
- (b) mark the corner lot grade elevations upon suitable stakes at each lot corner or such other suitable location as may be determined by the Municipal Engineer, By-law Enforcement Officer or Public Works Supervisor.

The Applicant shall take precautions to ensure that these lot grade stakes are protected until no longer required. If replacement of a lot grade stake is required, the Applicant shall pay the cost of such replacement as shown in Schedule "C" as an additional visit;

- 5.03 Entering Upon Property: Duly authorized employees of the Municipality or its agent so assigned bearing proper credentials and identification may 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.
- 5.04 Compliance with LOT GRADING PERMIT: The Applicant shall ensure that all lot grading of a lot or property is completed in accordance with the requirements of the LOT GRADING PERMIT.
- 5.05 Release of Lot Grading Deposit: The Municipality shall, upon written request from the Applicant, cause the lot or property to be inspected and surveyed as required to determine compliance with the LOT GRADING PERMIT and to identify any damage to municipal roads or debris and/or material left on municipal roads caused by the applicant. The LOT GRADING DEPOSIT shall be released to the Applicant, or such other person authorized in writing by the Applicant, when the Municipal Engineer, By-law Enforcement Officer or Public Works Foreman have determined that the landscaping of the property has been substantially completed. Substantial completion shall mean the completion of the perching surrounding the building, the yard is ready for sod or seed, the ditches and boulevards are ready for sod or seed and are on grade, building construction material has been removed, the approach and the approach culvert is properly installed in accordance with By-law No. 16-93, and the municipal road is assessed to be in an acceptable state.
- 5.06 Inspections and surveys for the purpose of deposit release will generally be made during the period of May 1st to October 31st of each year, subject to snow cover and wet conditions.
- 5.07 When the above provisions are provided for in an existing development agreement, the development agreement shall prevail.

6.00 FEES AND DEPOSITS

- 6.01 Fees: The Applicant shall be required to pay the Municipality the applicable fee for a LOT GRADING PERMIT, as set out in Schedule "C" attached hereto. This fee shall be paid prior to the issuance of the LOT GRADING PERMIT.
- 6.02 Lot Grading and Damage Deposit: The Applicant shall be required to deposit with the Municipality an applicable sum for a LOT GRADING AND DAMAGE DEPOSIT, as set out in Schedule "C". This sum shall be deposited prior to the issuance of a LOT GRADING PERMIT. This deposit shall be retained by the Municipality until such time as the lot grading is substantially completed, any damage to municipal roads caused by the applicant is appropriately repaired, and any debris or material left on municipal roads by the applicant is cleared, all in accordance with Section 5.05. If any item outlined above is not completed to the satisfaction of the Authority Having Jurisdiction, the Municipality shall be entitled to apply the balance or any portion of the lot grading and damage deposit towards the cost of any expenses incurred by the Municipality in carrying out the completion of such items.

- 6.03 In the event that charges or fees are incurred by and/or owed to the Municipality by the applicant for inspections or related services over and above the standard three visits to the site included as part of the lot grading permit fee, the Municipality shall be entitled to deduct and retain such additional charges or fees from the lot grading and damage deposit referenced in paragraph 6.02.

7:00 RESPONSIBILITY OF PROPERTY OWNERS

- 7.01 Maintenance of Lot Grading: The Owner shall be responsible to ensure the maintenance of all lot grades which were established and approved by the Municipality prior to the passage of this By-law or established by a LOT GRADING PERMIT.
- 7.02 Control of Storm Water: The Owner shall be responsible to ensure that any storm water originating on his or her property is not directed nor permitted to flow onto adjacent property in a manner that would adversely affect or be detrimental to that property.
- 7.03 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 Sections 4.08 and 4.09 of this By-law.

8.00 REMEDIAL ACTION

- 8.01 Non-Compliance with LOT GRADING PERMIT: Where the lot grading has not been completed in accordance with the LOT GRADING PERMIT, the Municipality may give written notice by certified mail to the Applicant, directing that the lot grading be completed and/or corrected.

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

- 8.02 Failure to Comply with LOT GRADING PERMIT: Where an Applicant who has been given a notice, order or direction pursuant to Section 8.01 neglects or refuses to comply with such order or direction within the time specified, the Municipality may cause the work against the deposit held by the Municipality. Where the cost of the work exceeds the value of the deposit held, the Municipality may charge the cost of such excess against the Applicant, and in default of payment:

- (a) recover the cost as a debt due to the Municipality; or
- (b) charge the cost against the land concerned as taxes due and owing in respect of that land, and recover the cost as such.

- 8.03 Failure of Owner to Maintain Lot Grading: Where the lot grading has not been properly maintained and drainage is not achieved in accordance with previously established and approved Building Lot Grade and Lot Grade Elevations or with the LOT GRADING PERMIT and the requirements of the By-law, the Municipality may give a written notice by certified mail to the Owner, directing that the lot grading be corrected.

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

8.04 Failure of Owner to Correct Lot Grading: Where an Owner who has been given a notice, order or direction pursuant to Section 8.03 neglects or refuses to comply with such order or direction within the time specified, the Municipality may cause the work to be carried out by the Municipality and charge the cost against the Owner, and in default of payment:

- (a) recover the cost as a debt due to the Municipality; or
- (b) charge the cost against the land concerned as taxes due and owing in respect of that land, and recover the cost as such.

9.00 GENERAL PENALTIES

9.01 General Penalties: Any person who contravenes or disobeys, or refuses or neglects to obey any provision of this By-law for which no penalty is provided, is guilty of an offence and liable, on summary conviction of a fine not exceeding \$500.00 in the case of an individual, or \$1,000.00 in the case of a corporation, or, in the case of an individual, to imprisonment for a term not exceeding one (1) month or to both such a fine and such an imprisonment.

Where a contravention, refusal, neglect, omission or failure continue for more than one day, the person is guilty of a separate offence for each day it continues.

10.00 EFFECTIVE DATE

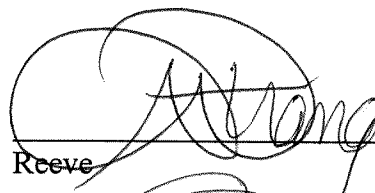
10.01 All By-Laws, resolutions and orders passed relative to the grading of private property, and establishing minimum building grades to control storm water runoff to the extent that they are inconsistent herewith, are hereby repealed upon the date this By-law comes into effect.

10.02 This By-law shall to take effect March 28, 2006.

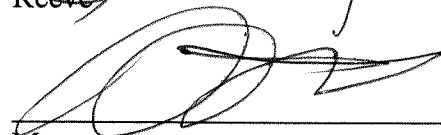
11.00 REPEALS

11.01 By-law 11/2000 and all amendments thereto is hereby repealed.

DONE AND PASSED by the Council of The Rural Municipality of St. Clements, in regular session assembled in East Selkirk, Manitoba, this 28th day of March, 2006.



Reeve



Manager

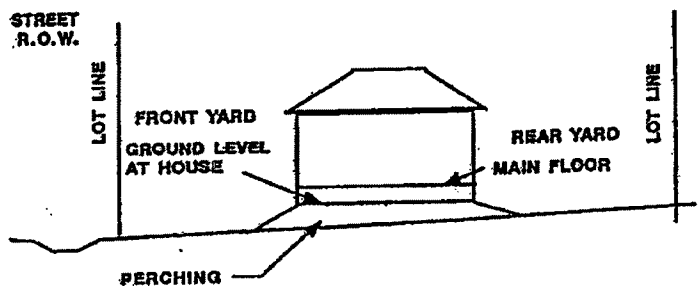
Read a first time this 13th day of September, 2006.5

Read a second time this 11th day of October, 2006.5

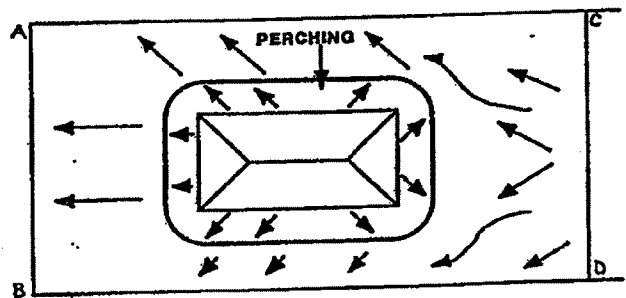
Read a third time this 28th day of March, 2006.

Schedule "A" to By-Law No. 17-2005 Cont'd
Rural Municipality of St. Clements

TYPICAL LOT GRADING TYPE III



PROFILE



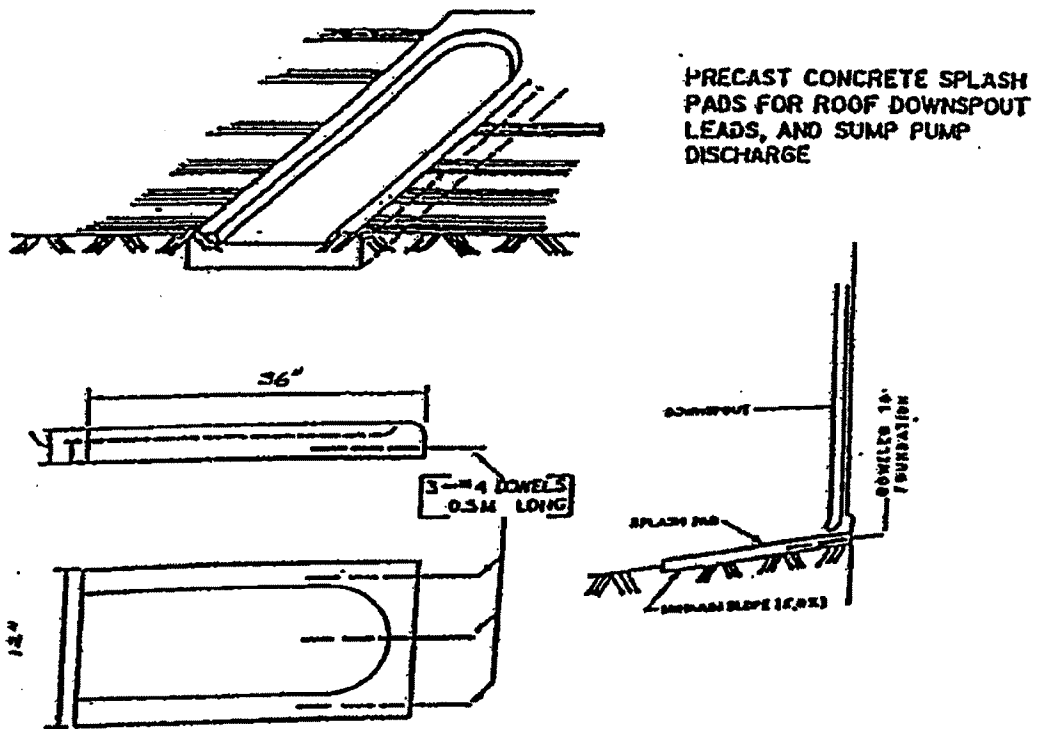
PLAN

Notes:

1. Perching to extend beyond foundation walls as follows:
a) front and rear - 2.0m (min.)
b) side - 1.0m (min.)
2. Perching to be elevated 75mm (minimum)
3. Perching slope (finished) to be as follows:
a) front & rear - 5% (min.)
b) side - 5% (min.)
4. Lot grade elevations are to be determined in accordance with Municipal criteria established for this purpose and to be shown on lot grade permit
5. Building lot grade shall be as indicated on the lot grading permit

A & B Front corner lot grade elevations C & D Rear corner lot grade elevations ← Grading slope direction	RESIDENTIAL BACK TO FRONT LOT DRAINAGE REAR YARD DRAINS TO FRONT STREET TYPE III	FIGURE 3 Scale NTS
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Schedule "B" to By-Law No. 17-2005
Rural Municipality of St. Clements



SCHEDULE "C" to By-Law No. 17-2005

Rural Municipality of St. Clements

The fee for a LOT GRADING PERMIT be \$300.00 per lot. This fee includes up to three inspection visits to the site. The cost of any additional visits shall be an additional fee of \$100.00 per visit.

The deposit required for a LOT GRADING PERMIT shall be \$1,000.00 per lot, where the lot fronts on a provincial road or a gravel-surfaced municipal road.

The deposit required for a LOT GRADING PERMIT shall be \$2,000.00 per lot, where the lot fronts on a hard-surfaced municipal road.