

**BYLAW NO. 1888-17
OF THE
CITY OF WETASKIWIN
IN THE PROVINCE OF ALBERTA**

A BYLAW OF THE CITY OF WETASKIWIN IN THE PROVINCE OF
ALBERTA TO CONTROL SURFACE DRAINAGE

WHEREAS, pursuant to the Municipal Government Act, Chapter M-26, R.S.A. 2000, with amendments thereto, Council of the City of Wetaskiwin may regulate and control the use and development of land and buildings in the City; and

WHEREAS, Council of the City of Wetaskiwin has approved a Land Use Bylaw to regulate and control the use and development of land and buildings in the City; and

WHEREAS, the City of Wetaskiwin Land Use Bylaw requires developments to comply with the requirements of the City of Wetaskiwin Surface Drainage Bylaw.

WHEREAS, pursuant to the Municipal Government Act, Chapter M-26, R.S.A. 2000, with amendments thereto, provides the authority to the Council of the City of Wetaskiwin to pass a Bylaw for the purpose of respecting the safety, health, and welfare of people and the protection of people and property, and regarding nuisances and unsightly property, and for the purpose of enforcing Bylaws; and

NOW THEREFORE, the Municipal Council of the City of Wetaskiwin duly assembled hereby enacts as follows:

PART 1

TITLE

1. This Bylaw shall be known as the "Surface Drainage Bylaw".

DEFINITIONS AND INTERPRETATIONS

2. In this Bylaw, unless the context otherwise requires:
 - a. "Bylaw" means a City Bylaw, and includes any amendments thereto;
 - b. "Bylaw Enforcement Officer" means a Bylaw Enforcement Officer appointed by the City pursuant to the Municipal Government Act to enforce City Bylaws, and includes members of the Royal Canadian

Mounted Police and, when authorized, a Community Peace Officer appointed under the Peace Officer Act, S.A. 2006, c.P-3.5;

- c. “City” means the City of Wetaskiwin a municipal corporation in the Province of Alberta;
- d. “City Engineer” means the professional engineer or individual so designated by the City Manager, or that individuals appointed designate;
- e. “City Manager” means the chief administrative officer of the City or designate;
- f. “Council” means the City’s municipal council;
- g. “Finished Grade” means the established surface grades and surface elevations on finished landscaping materials completed in accordance with the approved Lot Grading Plan;
- h. “Foundation Drainage” means the process of directing surface water away from a building foundation or collecting water beneath the surface of the ground involving a foundation drainage or weeping tile system, or weeping tile which is part of the retaining wall drainage system;
- i. “Grade” means a geodetic elevation from which the height of a structure is measured;
- j. “Grading” means the alteration of, or improvements to, existing clay or landscape elevations, including the addition or removal of clay, topsoil, or other material of any kind;
- k. “Highway” has the same meaning as in the Traffic Safety Act, R.S.A. 2000, c.T-6;
- l. “Lot” means
 - i. A quarter section;
 - ii. a river lot shown on an official plan, as defined in the Surveys Act, that is filed or lodged in a land titles office;

- iii. a settlement lot shown on an official plan, as defined in the Surveys Act, that is filed or lodged in a land titles office;
 - iv. a part of a parcel described in a certificate of title if the boundaries of the part are described in the certificate of title other than by reference to a legal subdivision;
 - v. a part of a parcel described in a certificate of title if the boundaries of that part are described in a certificate of title by reference to a plan of subdivision
- m. “Lot Grading Plan” means a drainage plan prepared in accordance with the City of Wetaskiwin Design Standards and accepted for use as the official reference for grading approval;
- n. “Municipal Tag” means a tag or similar document issued by the City pursuant to the Municipal Government Act that alleges a Bylaw offence and provides a person with the opportunity to pay an amount to the City in lieu of prosecution for the offence;
- o. “Nuisance” means a use or activity on land which demonstrates a disregard for the general maintenance of property so as to produce a material annoyance, inconvenience or discomfort to other persons, whether or not it is detrimental to the surrounding area, some examples of which include, but are not limited to:
- i. Standing water with a depth of more than 10 centimeters that does not cause damage or create a safety hazard, and does not dissipate within 48 hours;
 - ii. Placement of rainwater downspouts or eavestrough which results in water from the downspout or eavestrough entering the adjacent property;
- p. “Park” means any property owned, controlled, or maintained by the City that is:
- i. Preserved as a natural area;
 - ii. Designated or districted as park under the City’s Land Use Bylaw;
 - or
 - iii. Designated as, municipal reserve (or any of the original designates under the *Planning Act*), school reserve, municipal and school reserve or environmental reserve pursuant to the *Municipal Government Act*.

- q. "Person" means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative;
- r. "Positive Drainage" means a condition where the finished grade or clay surface of a property is sloped away from all structures, and directs water to a similarly sloped drainage swale or storm sewer collection system;
- s. "Public Land" means any property owned, controlled, or maintained by the City, including the following:
 - i. Parks
 - ii. Highways
 - iii. Public utility lots, utility lots, or walkways
 - iv. Any undesignated lot
- t. "Rough Grading" means the establishment of surface grades and elevations on the clay, in accordance with the approved Lot Grading Plan, preceding the Finished Grade;
- u. "Section" means a section of this Bylaw;
- v. "Side Yard" means that portion of a site abutting a side lot line extending from the front yard to the rear yard. The side yard shall be situated between the side lot line and a line on the side parallel to it, at a specified distance from it, and measured at a right angle to it along its full length;
- w. "Slope" means any inclined portion of the ground surface, including but not limited to the edge or side of an embankment, ravine, hill, river, stream, Surface Drainage Facility, or soil retaining structure;
- x. "Storm Drainage" means water collected as a result of natural precipitation or from melting snow or ice;
- y. "Surface Drainage" means the removal or distribution of water including Foundation Drainage and Storm Drainage, that collects on the ground surface;

- z. “Surface Drainage Facility” means any public facility or facilities associated with drainage, control, or collection of Surface Drainage that is ultimately directed to a Highway or other Public Land, and includes but is not limited to:
 - i. A grass or landscaped swale
 - ii. A concrete or asphalt walkway, gutter, or swale;
 - iii. A culvert
 - iv. A catch basin
 - v. A drainage control fence or structure
 - vi. The sloping and contouring of land to facilitate or control Storm Drainage

- aa. “Utility Right-of-Way” means a utility right-of-way granted pursuant to the Land Titles Act;

- bb. “Violation Ticket” has the same meaning as in the Provincial Offences Procedure Act, R.S.A. 2000, c.P-34 as amended;

- cc. “Yard Waste” means waste from gardening or horticultural activities and includes, but is not limited to, grass, leaves, plants, tree and hedge clippings, and sod.

PART 2

GENERAL

- 4. Nothing in this Bylaw shall exempt any Person from complying with any other Bylaw or requirement of the City, or from obtaining any license, permission, permit, authority, or approval required by any other Bylaw or by any applicable regulatory authority.

- 5. Where the provisions of this Bylaw conflict with those of any other Bylaw of the City or any statute or regulation, the higher or more stringent requirements shall prevail.

COMPLIANCE WITH INSTRUMENTS REGISTERED ON THE TITLE

- 6. The Owner of a Lot shall comply with the terms and conditions of any restrictive covenant, easement agreement, utility right-of-way, or any other document registered on the certificate of title for that Lot, in which the City has an interest, including encumbrances designed to protect:

- a. a drainage structure;
- b. a swale;
- c. a ditch
- d. the overflow area of a stormwater management facility;
- e. the stability of a Slope; or
- f. any other required Surface Drainage feature.

OWNER RESPONSIBILITIES

7. Owners shall:

- a. establish and maintain proper Grading within their Lots, ensuring positive drainage, from building foundations and exterior elements, to an acceptable Surface Drainage Facility
- b. at any time, eliminate any Nuisance, hazardous, or damaging Surface Drainage conditions originating from their Lot, as directed by the City.

PART 3

SURFACE DRAINAGE & ALTERATION OF SURFACE GRADES

8. Unless otherwise approved by the City:

- a. Driveways extended towards the Side Yard property line shall be set back 30 centimetres from the Side Yard property line. Driveways constructed prior to this Bylaw coming into effect shall not be affected by this Bylaw.
- b. Retaining walls or similar structures shall not be constructed or installed in a manner that, in the opinion of the City, will negatively affect Lot drainage on the property or adjacent properties, and must comply with the City's Land Use Bylaw. Retaining structures shall be constructed entirely within the bounds of a Lot and not on Public Lands.

9. Underground sprinkler systems, or similar watering devices, shall not be installed within 15 centimetres of a property line and shall not direct water onto, or be deemed a nuisance or hazard, to an adjacent property.
10. No Person shall alter or permit the alteration of the Finished Grade of a Lot such that:
 - a. a Nuisance, hazard, or damage is caused or has the potential to be caused; or
 - b. the stability of a Slope is adversely impacted.
11. The Owner of a Lot must establish and maintain Finished Grade on the Lot in compliance with the Lot Grading Plan, or best Grading practices where a Grading plan for the area does not exist or is not available.
12. No Person, except employees or agents of the City, or other Persons with specific authorization of the City, shall obstruct, remove, regrade, alter, divert, or in any way interfere with, a drainage swale, canal, ditch, reservoir, or other Surface Drainage Facility located within a Utility Right-of-Way or the lands within a Utility Right-of-Way itself.
13. No Person, except employees or agents of the City, or other Persons with specific authorization of the City, shall alter, regrade, or obstruct the Finished Grade within Public Land.
14. No Person shall fill, drain, or otherwise alter any naturally occurring feature, waterbody, watercourse, or wetland without the written approval of the City and any other duly authorized regulatory authority.

ROOF DRAINAGE AND RELEASE OF FOUNDATION DRAINAGE

15. An Owner or occupier of a Lot shall direct any rainwater downspout or eavestrough on the Lot:
 - a. to the front of the Lot;
 - b. to the rear of the Lot, for properties with split drainage only;
 - c. to a Surface Drainage Facility located in a Side Yard; or

d. as directed by the approved Lot Grading Plan.

16. No Person shall allow downspouts, eavestroughing, sump discharge piping, surface drains or other means of directing Surface Drainage on a Lot to terminate within 2 metres of:

- a. a Utility Right-of-Way containing a Surface Drainage Facility, except where such Surface Drainage Facility is located in a Side Yard; or
- b. the back of a public sidewalk, except where the Owner has written approval from the City Engineer or the Lot is the subject of a cost share agreement with the City allowing for the Lot's sump pump discharge pipe to be extended below the sidewalk to the curb.

17. No Person shall permit roof drainage, Foundation Drainage, or a sump discharge pipe from a building to terminate:

- a. or pass within 30 centimetres of an adjacent Lot;
- b. or pass within 30 centimetres of Public Property, unless in accordance with an agreement as referenced under Section 16(b);
- c. in an unconnected underground discharge;
- d. in a location that does not have positive drainage away from the building(s) on the same property;
- e. in a location where the flow of water or accumulation of water would adversely affect or have potential to adversely affect the stability of an adjacent or neighbouring Slope or Park; or
- f. in such a way that it would or could create, as determined by the City, a Nuisance, hazard, or damage to neighbouring Public Land or private property.

INTERFERENCE WITH SURFACE DRAINAGE FACILITY

18. Any Person who owns or occupies a Lot on which a Surface Drainage Facility is located within a registered Utility Right-of-Way must ensure that:

- a. no building or other structure is constructed, erected, placed, or allowed to remain on or over the Surface Drainage Facility; and
 - b. the Surface Drainage Facility remains clear of soil, silt, Yard Waste, landscape mulch, debris, or other matter which may obstruct, restrict, or prevent the flow or Storm Drainage within the Surface Drainage Facility or the storm drainage system.
19. The City will not be held liable for any damages caused by a Person acting in contravention of the Bylaw.
20. The Owner of a Lot must allow employees or agents of the City, or other Persons with specific authorization of the City, to access a Utility Right-of-Way for the purposes of inspection, maintenance, and repair within 24 hours of the City providing notice of its intent to access the Utility Right-of-Way. In the event of an emergency, the City may waive the 24 hour notification requirement to access the Utility Right-of-Way.

PART 3

OFFENCE

21. A Person who contravenes any provision of this Bylaw is guilty of an offence.

CONTINUING OFFENCE

22. In the case of an offence that is of a continuing nature, a contravention of provision of this Bylaw constitutes a separate offence with respect to each day, or part of a day, during which the contravention continues, and a Person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each separate offence.

FINES AND PENALTIES

23. A Person who is guilty of an offence under this Bylaw is liable:
- a. To a fine in an amount of \$500 for any offence under this Bylaw;

- b. on summary conviction, to a fine not exceeding \$10,000.00.

VIOLATION TICKET

24. A Violation Ticket issued with respect to a violation of this Bylaw shall be served upon the Person responsible for the contravention in accordance with the Provincial Offences Procedure Act.

25. A Peace Officer may issue, with respect to an offence under this Bylaw, a Violation Ticket:

- a. requiring an appearance in court

26. Nothing in this Bylaw shall be read or construed as:

- a. Preventing any person from exercising their right to defend an allegation that he or she has committed an offence;
- b. Prevent a Bylaw Enforcement Officer from issuing a summons or offence notice under the Provincial Offences Procedure Act or otherwise initiating court process in any other manner permitted by law, in respect of an alleged offence which a violation tag may be issued.

27. VICARIOUS LIABILITY

- a. For the purpose of this bylaw, an act or omission of an employee or agent for a person is deemed also to be an act or omission of the person if the act or omission occurred in course of the employee's employment with the person, or in the course of the agent exercising the powers of or performing duties on behalf of the person under their agency relationship.

28. SEVERABILITY

- a. If a court of competent jurisdiction should declare any Section or Subsection of this Bylaw to be invalid, that Section or Subsection shall be severed from the remainder of the Bylaw, and the remaining provisions of this Bylaw shall continue to be valid and enforceable.

ENACTMENT

29. This Bylaw shall come into full force and effect on the date of signing.

Read a first time this 25th day of September, 2017.

Read a second time this 25th day of September, 2017.

Read a third time this 25th of September, 2017.

Original Signed _____
MAYOR

Original Signed _____
CITY MANAGER