

CITY OF ST. ALBERT

BYLAW 14/2015

Being a Bylaw to regulate and control surface drainage within the City of St. Albert

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WHEREAS

- i. pursuant to section 7(a) of the *Municipal Government Act*, a council may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;
- ii. pursuant to section 7(c) of the *Municipal Government Act*, a council may pass bylaws for municipal purposes respecting nuisances; and
- iii. pursuant to section 7(i) of the *Municipal Government Act*, a council may pass bylaws for municipal purposes respecting the enforcement of bylaws made under the *Municipal Government Act* or any other enactment including any or all of the matters listed therein.

NOW THEREFORE the Municipal Council of the City of St. Albert hereby ENACTS AS FOLLOWS:

**PART 1**

**TITLE**

1. This Bylaw may be referred to as "The Surface Drainage Bylaw".

**DEFINITIONS AND INTERPRETATION**

2. In this Bylaw:
  - (a) "Bylaw" means a City bylaw, and includes any amendments thereto;
  - (b) "Bylaw Enforcement Officer" means an individual appointed as such in accordance with Bylaw 21/2003, the *Bylaw Enforcement Officer Bylaw*, and includes any amendments thereto or replacements thereof;
  - (c) "City" means the City of St. Albert, 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 individual's appointed designate;



- (e) "City Manager" means the City's chief administrative officer 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 a retaining wall drainage system;
- (i) "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;
- (j) "Lot" means a parcel of land or portion thereof;
- (k) "Lot Grading Plan" means a drainage plan prepared in accordance with the City's Municipal Engineering Standards and accepted for use as the official reference for grading approval;
- (l) "Municipal Violation Tag" means a City-issued notice that alleges an offence and provides a person with the opportunity to pay an amount to the City in lieu of prosecution for the offence;
- (m) "Nuisance" means a condition that materially and negatively affects the use and enjoyment of private and public property. It includes, but is not limited to:
  - i. standing water with a depth of more than 10 centimetres 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 adjacent property;
- (n) "Owner" means any Person who is currently registered on title under the *Land Titles Act*;
- (o) "Parkland" 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*;
- (p) "Peace Officer" means a Person employed for the purposes of preserving and maintaining the public peace, and includes
  - i. a provincially-appointed Community Peace Officer for the City of St. Albert;
  - ii. a Bylaw Enforcement Officer authorized to enforce this Bylaw in accordance with his or her appointment; and
  - iii. a regular member of the Royal Canadian Mounted Police;
- (q) "Person" includes any individual, corporation, society, association, partnership, or firm;
- (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 a storm sewer collection system;
- (s) "Public Land" means any property owned, controlled, or maintained by the City, including the following:
  - i. Parkland;
  - ii. Public Roadway;
  - iii. public utility lot (PUL), utility lot, or walkway; or
  - iv. any undesignated lot;
- (t) "Public Roadway" means:
  - i. a local road;
  - ii. a service road;
  - iii. a street;
  - iv. an avenue;
  - v. a lane; or
  - vi. an undeveloped registered road plan that is publicly used or intended for public use;
- (u) "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;
- (v) "Section" means a section of this Bylaw;
- (w) "Side Yard" means that portion of a Lot extending from the front yard to the rear yard and between the side property line of the Lot and the closest side of the principal building;

- (x) "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;
- (y) "Storm Drainage" means water collected as a result of natural precipitation or from the melting of snow or ice;
- (z) "Surface Drainage" means the removal or distribution of water, including Foundation Drainage and Storm Drainage, that collects on the ground surface;
- (aa) "Surface Drainage Facility" means any public facility or facilities associated with drainage, control, or collection of Surface Drainage that is ultimately directed to a Public Roadway 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; or
  - vi. the sloping and contouring of land to facilitate or control Storm Drainage;
- (bb) "Utility Right-of-Way" means a utility right-of-way granted pursuant to the *Land Titles Act*;
- (cc) "Violation Ticket" means a violation ticket issued in accordance with the *Provincial Offences Procedure Act R.S.A. 2000, c.P-34*, as amended;
- (dd) "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

- 3. (1) 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.
- (2) 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 TITLE

4. 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

5. 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

6. (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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**

- 7. (1) 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.
- (2) 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.
- (3) No Person shall permit roof drainage, Foundation Drainage, or a sump discharge pipe from a building to terminate:
- (a) or pass within 15 centimetres of an adjacent Lot;
  - (b) or pass within 15 centimetres of Public Property, unless in accordance with an agreement as referenced under Section 7.(2)(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 Parkland; 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**

8. (1) 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 of Storm Drainage within the Surface Drainage Facility or the storm drainage system.
- (2) The City will not be held liable for any damages caused by a Person acting in contravention of this Bylaw.
9. 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 4**

#### **OFFENCE**

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

#### **CONTINUING OFFENCE**

10. In the case of an offence that is of a continuing nature, a contravention of a 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**

11. 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 sections 4, 5, 6, 7, and 8 of this Bylaw;
  - (b) on summary conviction, to a fine not exceeding \$10,000.00 or to an order of imprisonment for not more than 1 year, or both.



## MUNICIPAL VIOLATION TAG

12. (1) A Peace Officer may issue, with respect to an offence under this Bylaw, a Municipal Violation Tag specifying the fine amount established by this Bylaw.
- (2) Where a Municipal Violation Tag is issued, the fine amount indicated thereon may be paid as directed in lieu of prosecution.

## VIOLATION TICKET

13. (1) A Peace Officer may issue, with respect to an offence under this Bylaw, a Violation ticket:
- (a) specifying the fine amount established by this Bylaw; or
- (b) requiring an appearance in court without the option of making a voluntary payment.
- (2) Where a Violation Ticket specifies a fine amount, a voluntary payment equal to the specified fine amount may be made as directed.

## CERTIFIED COPY OF RECORD

14. A copy of a record of the City, certified by the City Manager as a true copy of the original, shall be admitted in evidence as *prima facie* proof of the facts stated in the record without proof of the appointment or signature of the person signing it.

READ a first time this 25th day of May, 2015.

READ a second time this 25th day of May, 2015.

READ a third and final time this 25th day of May, 2015.

SIGNED AND PASSED this 26 day of May, 2015.

  
MAYOR

  
CHIEF LEGISLATIVE OFFICER