

RURAL MUNICIPALITY OF OAKLAND
PROVINCE OF MANITOBA
BY-LAW NO.

BEING A BYLAW of the Rural Municipality of Oakland to govern certain aspects of drains 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:

- (a) 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 Section 294.1 of the Act states as follows:

294.1(1) In this section, “drain” means a culvert, drain, drainage ditch, dyke or floodway, constructed or maintained by a municipality but does not include a provincial waterway as defined by The Water Resources Administration Act.

294.1(2) Subject to the rights vested in any other party under The Water Resources Administration Act or the Water Rights Act, a municipality has jurisdiction over every drain within its boundaries.

294.1(3) A municipality must maintain every drain within its boundaries to a standard that is appropriate for the use to which the municipality expects the drain to be put.

294.1(4) A municipality may require a person who without written authority from the municipality obstructs a drain to remove the obstruction, and if the person fails to do so, the municipality may remove the obstruction and recover any expense it incurs from the person who caused the obstruction: by levying and collecting the amount of the expense as a tax; or by any other means.

AND WHEREAS the Council of the Rural Municipality of Oakland deems it expedient and in the best interests of the municipality to pass a By-law to regulate and control certain aspects of drains and drainage on private and public property within the municipality;

NOW THEREFORE the Council of the Rural Municipality of Oakland enacts as follows:

1. Title

This by-law shall be referred to as “The Drainage By-law”.

2. Definitions

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

- (a) “Act” means *The Municipal Act*, S.M. 1996, c.58 as amended from time to time;
- (b) “Drain” means a culvert, drain, drainage ditch, dyke or floodway, constructed or maintained by the Municipality but does not include a Provincial Waterway,
- (c) “Municipality” means the Municipality of Oakland.
- (d) “Person” means and includes any individual, firm, joint venture, syndicate, association or trust, partnership, corporation, and any other form of entity or organization, and where the context requires shall include the plural as well as the singular.
- (e) “Provincial Waterway” means a Provincial Waterway as defined by The Water Resources Administration Act, R.S.M. 1987, cW70 as amended from time to time.
- (f) “The Water Rights Act” – means the Water Rights Act R.S.M. 1988, c. w80 as amended from time to time.

3. Interference With Drains

- (a) Where any Person deposits or puts into any Drain any soil, stones, refuse, waste, brush, trees or other matter whatsoever, the municipality may require that Person to remove the soil, stones, refuse, waste, brush, trees or other matter; and if the Person fails to do so, the Municipality, at the expense of the Person in default, may remove the soil, stones, refuse, waste, brush, trees or other matter and, if necessary to do so, may enter onto any lands in accordance with the powers and procedures set out under the Act.
- (b) Where any Person deepens, widens, alters, diverts, or stops-up or in any way interferes with a Drain the Municipality may require that Person to return the said Drain to its previous state, and if the person fails to do so, the Municipality, at the expense of the Person in default, may return the municipal drain to its previous state and, if necessary to do so, may enter onto any lands in accordance with the powers and procedures set out under the Act.
- (c) Where any Person causes the diversion or discharge of water or other liquid into a Drain without being licensed to do so under The Water Rights Act, the Municipality may require such Person to stop the discharge of water or other liquid into the Drain, and if the Person fails to do so, the Municipality, at the expense of the Person in default, may stop the discharge of water or liquid into the Drain and, if necessary to do so, may enter onto any lands in accordance with the powers and procedures set out under the Act.

4. Municipalities Power to Recover Expenses

The Municipality may recover any expense that it incurs under section 3 above from the Person who is in default:
by levying or collecting the amount of the expense as a tax; or
by any other means.

5. Overriding Jurisdiction of The Water Rights Act

Nothing herein shall effect the rights granted to any Person by license granted under The Water Rights Act, and the Municipality in enforcing its rights under Section 3 herein, shall act in accordance with any policy directives, protocols, memorandums or understanding or any other procedures that may be binding upon a Municipality that are established by or in consultation with the Province of Manitoba from time to time for the purpose of complying with The Water Rights Act.

DONE AND PASSED by the Rural Municipality of Oakland this day of , 2004.

REEVE

CHIEF ADMINISTRATIVE OFFICER

Read the first time this day of , 2004.

Read the second time this day of , 2004.

Read the third time this day of , 2004.

THE RURAL MUNICIPALITY OF OAKLAND
POLICY & PROCEDURE MANUAL

**Policy

TRANS001**

Reference: Transportation	Classification: Policy
Subject: Building of Approaches	Pages: 1 of 1
Authority: Resolution of Council	Effective Date: November 19, 2008
Approved: November 19, 2008 <i>REVISED: November 18, 2009</i> Amendment to paragraph 2: add “install or” August 18, 2010	

TITLE:

Building of Approaches

PURPOSE:

The purpose of this policy is to outline the Municipality’s position regarding the number of approaches that can be built and where approaches are located off of municipal right-of-way and within the boundaries of the Rural Municipality of Oakland.

POLICY:

Each property owner will be entitled to have one approach off a municipal right of way to access their property or quarter section.

If a property owner wishes to install or relocate an approach on his property, arrangements must be made to meet with the Ward Councillor and one member of the Transportation Committee on site to view the desired location to determine that it will be located in such a manner as to not pose unsafe traffic concerns, drainage issues or any other concern that may be foreseen at the site and the landowner will be responsible for all associated costs for the removal of the old approach and the installation of a new one. If a culvert is required, the municipality will apply for any necessary permits and will order and pay for the culvert. The culvert will be installed to municipal approval and all associated costs will be invoiced to the ratepayer.

Where a new home is being built and an approach is required, the property owner must make arrangements to meet with the Ward Councillor and one member of the Transportation Committee on site to view the desired location to determine that it will be located in such a manner as to not pose unsafe traffic concerns, drainage issues or any other concern that may be foreseen at the site.

If a culvert is required for an approach located off of a municipal right-of-way, the municipality will obtain all necessary permits and will order and pay for the culvert. The Municipality will pay for all costs associated with constructing the approach and installation of the culvert.

In the event that a ratepayer requires work to be completed before municipal public works staff can schedule the installation of an approach or culvert, the ratepayer may hire a contractor, at their expense, and have the culvert or approach installed to municipal approval upon prior notification to the Municipality.

If a culvert is required for an approach located off a Provincial Trunk Highway or Provincial roadway, the municipality will order and pay for the cost of the culvert. The property owner will be responsible for all costs associated with constructing the approach and installation of the culvert.

A request for an additional approach to a property that already has one approach, must be made in writing to the whole of Council and will be presented for consideration, by resolution, at the next regularly scheduled Council meeting. If a culvert is required for an approach located off of a municipal right-of-way, the municipality will obtain all necessary permits and will order and pay for the culvert. All costs associated with the constructing of the approach and installation of a culvert, if necessary, will be the responsibility of the ratepayer.

A request for widening of an existing approach to accommodate farm machinery must be made in writing to the whole of Council and will be presented for consideration, by resolution, at the next regularly scheduled Council meeting. If Council approves the widening of the approach, the Municipality will order, pay for any necessary culvert and retain any culvert that is removed. The Municipality will be responsible for obtaining any necessary permits and the ratepayer will be responsible for all costs associated with constructing the approach and installation of a culvert if necessary.

If an approach, or an additional approach is installed by a property owner, or renter of a property, without first obtaining authorization from the municipality to do so, the approach may be ordered to be removed by resolution of Council.

Accepted as policy on November 19, 2008

Revised by resolution: November 18, 2009