

**MUNICIPALITY OF OAKLAND-
WAWANESA**

BY-LAW NO. 41-2024

WHEREAS:

- A Lot grade and drainage works carried out on private property may interfere with or impact private property, municipal roads, road allowances, drains and drainage, and other municipal infrastructure.
- B. Section 232(1)(h) of the Municipal Act authorizes a municipality to pass by-laws for municipal purposes respecting drains and drainage on private or public property.
- C. Council of the Municipality has determined that it is advisable and in the public interest to promote the protection and maintenance of private property, municipal roads, drains and drainage and other municipal infrastructure, and to ensure that any lot grade and drainage works that take place require prior municipal approval.

NOW THEREFORE, Council of the Municipality of Oakland-Wawanesa enacts as a by-law the following:

Title and Purpose

- 1. This By-law may be referred to as the "Drainage By-law".
- 2. The purpose of this By-law is to:
 - a. promote the protection of private property, municipal roads, drains and drainage and other municipal infrastructure,
 - b. prohibit the carrying out of lot grade and drainage works on private property except in accordance with this By-law and a permit issued under this By-law, and
 - c. provide for a permit system giving permission to carry out lot grade and drainage works.
- 3. Compliance with this By-Law does not exempt a person from compliance with the Municipality's Building or Zoning By-laws or with Provincial regulations including the Water Rights Act.

Interpretation

- 4. In this By-law:

"drainage works" means works that change the flow, location, direction or level of water by any means on private or public property or in, on, over, along, under or near a municipal road, road allowance, drain or other municipal infrastructure.

"Officer" means the development officer or designate for the Municipality established under the Municipality's Zoning By-law and such other person appointed by the Municipality for the enforcement of its by-laws.

"owner" means the registered owner of land and a lessee of crown land, or a person authorized in writing by the owner or lessee.

Prohibition and Permit Requirement

5. No person may undertake drainage works including changing or interfering with the natural lot grade of a property except in accordance with a permit issued under this By-law.
6. An application to the Municipality for a permit as set out in Schedule "A" may be made by the owner or a person authorized in writing by the owner. The application must include:
 - a. a completed and signed application form,
 - b. information as to the location of the drainage works,
 - c. a description of proposed drainage works,
 - d. any additional information concerning the proposed works as the Officer may require, and
 - e. the fee and deposit set out in Schedule B.
7. The Officer may require the applicant to supply any additional information the Officer determines is necessary to process and consider the application. The application is not complete until the requested information has been submitted.
8. Upon the application being complete to the Officer's satisfaction, the Officer shall consider the application taking into account the impacts of the proposed works, the nature of the surrounding area, and any other factors the Officer considers relevant.
9. The Officer may issue a permit if, in the Officer's opinion, the drainage works will not adversely affect private property or municipal roads, drains and drainage and other municipal infrastructure and any impacts can be prevented, managed or remediated. The permit may be subject to conditions as are in the Officer's opinion necessary to address the impacts of the proposed works and otherwise promote the purpose of this By-law.
10. The permit shall be issued in the name of the owner, and where the applicant is not the owner, to the owner and applicant jointly.
11. Where a permit is required, no preparatory work may take place before the permit is obtained.
12. A permit is not required to carry out minor drainage work involving the installation, alteration or repair of building components such as eaves troughs, downspouts, and sump pump discharge pipes.

Owner and applicant's responsibilities

13. An owner and an applicant:
 - a. are responsible to ensure that the drainage works approved under a permit comply with this By-law, the conditions under which the permit was issued and the requirements of a by-law, or provincial laws and regulations;
 - b. are liable for the cost of repairing damage to municipal property (including roads and drainage) occurring in the course of the drainage work;

- c. must during carrying out the works keep the permit with the approved plans and specifications in a conspicuous place on the premises; and
- d. must comply with an order of the Officer.

Drainage works approval

- 14. The owner or applicant must notify the Officer upon completion of the drainage works. The Officer will then do an inspection. If the drainage works are not completed in accordance with the permit to the satisfaction of the Officer, the owner or applicant must bring the drainage works into compliance with the permit. The Officer shall issue a completion certificate as set out in Schedule "C" upon completion of the drainage works in accordance with the permit to the satisfaction of the Officer. The owner or applicant must obtain a completion certificate within 1 year from the issuance of the permit.

Enforcement

- 15. The Officer has all the powers, duties, discretions and functions of a designated officer set out in the Municipal Act and of an enforcement officer set out in the Municipal By-law Enforcement Act, including to:
 - a. carry out inspections, accompanied where the Officer consider it advisable by an engineer or other expert;
 - b. make orders for the remedying of contraventions under this By-law;
 - c. enter land to remedy a contravention of this By-law or a permit, and to prevent the re-occurrence of a contravention;
 - d. enforce contraventions through offences under the Municipal By-law Enforcement Act;
 - e. take remedial action where required; and
 - f. act as a designated officer for the purposes of this By-law.
- 16. An order of the Officer will be given in writing and may provide that if the person does not comply with the order within the specified time, the Municipality will take the actions or measures at the expense of that person.
- 17. The Municipality may take whatever actions or measures are necessary to remedy a contravention of this By-law or a permit, including performing any work required or revoking a permit, if the person to whom an order was directed did not comply with the order within the time specified, and the time for requesting a review of the order has passed or the person requested that Council review the order and Council did so and confirmed that the Municipality can take the ordered actions or measures.
- 18. If the order of the Officer so provided, the actions or measures will be taken at the person's expense. The costs of the actions or measures taken will be an amount owing by the person to the Municipality and may be collected in the same manner in which a tax may be collected or enforced under the Municipal Act. Such collection may include adding

the costs to the taxes of the land within which the actions or measures were taken, and to land located adjacent to a municipal road upon which the actions or measures were taken where the owner of the land was responsible for the Municipality incurring the costs.

19. Where drainage work has been carried out within a municipal road right-of-way without the Municipality's permission by a person who is an owner or a controlling shareholder of a corporation that is an owner of land adjacent to the right-of-way, the Municipality's full costs (including administrative and legal costs) of restoring the drain to a proper condition or repairing damage may be collected and enforced against that land in the same manner as a tax may be collected or enforced under the Municipal Act, including adding to taxes on the land.
20. In an emergency the Officer may, without first making an order or waiting for a review, take whatever actions or measures are necessary to eliminate the emergency.

Review

21. An owner, an applicant, or a holder of a permit may request Council to review a decision or order of the Officer, by giving a written notice to the Chief Administrative Officer within 14 days of receiving the decision or order.
22. Upon receiving a request for review, the Chief Administrative Officer shall set a date and time for the review by Council and notify the person of the date of the review.
23. At the time and place set out in the notice, Council shall consider the request for review, and the person may appear in person or by counsel. After reviewing the decision or order, Council may confirm, vary, substitute or cancel the decision or order.
24. The time specified in an order is suspended from the date of receipt of a request for review to the date upon which Council makes its decision.

Deposit

25. Upon issuance of the completion certificate, the Municipality shall refund the deposit.
26. If the owner or applicant
 - a. is in default under this By-law including failing to comply with an order;
 - b. the Municipality has incurred costs in remedying the default including repairs to municipal roads, drains and drainage or other municipal infrastructure; or
 - c. owes the Municipality under section 27 the deposit shall be forfeited to the Municipality.

Offence and costs

27. A person who contravenes this By-law is guilty of an offence and is liable to:
 - a. a fine of not more than \$1000; and
 - b. a penalty equal to the Municipality's cost of enforcement.

28. Fines and penalties may be collected and enforced by the Municipality in the same manner as a tax may be collected or enforced under the Municipal Act, including adding to taxes on the land.

DONE AND PASSED by Council in meeting duly assembled this 20th day of August, 2024.

Dave Kreklewich, Head of Council

Joni Swidnicki, Chief Administrative Officer

Read a first time this 16th day of July, 2024

Read a second time this 20th day of August, 2024

Read a third time this 20th day of August, 2024

SCHEDULE A

PRIMARY USAGE:

Lot Grade: <input type="checkbox"/>	Residential: <input type="checkbox"/>	Agricultural: <input type="checkbox"/>	Commercial: <input type="checkbox"/>	Vacant: <input type="checkbox"/>
Drainage: <input type="checkbox"/>				
Other: <input type="checkbox"/>				
<input type="checkbox"/>				

Name of Property Owner:

Mailing Address: _____

Legal Land Description: _____ Roll # _____

Phone: _____

Email: _____

PROPOSED DRAINAGE WORKS:

Include a sketch map or elevation map of your property showing proposed works. Include any existing features of the land described in the immediate vicinity; buildings, roads, utility lines, rivers, streams, natural runs, low areas, etc.

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Reason for Request:

I will pay all applicable costs for the proposed drainage works and will undertake to observe and perform all provisions of The Planning Act, The Development Plan, the applicable Zoning By-Laws and the provisions of other relevant laws, by-laws or agreements.

Landowner signature _____ Date _____

Municipal Office Use Only
<p>Application Received By: _____ Date Received: _____</p> <p>Application Fee Received: _____ Deposit Fee Received: _____</p> <p>APPROVALS:</p> <p>Administration approved by: _____ Date: _____</p> <p>Council ____ Required ____ Not Required ____ Resolution # _____</p> <p>Water Stewardship License ____ Required ____ Not Required ____ License # _____</p> <p>_____</p> <p>Utilities ____ Required ____ Not Required MIT ____ Required ____ Not Required</p> <p>Culvert size _____ Culvert supplied _____ Locates Obtained _____</p>

SCHEDULE B

PERMIT FEES AND DEPOSIT AMOUNT

1. Permit application fee \$100.00
2. Deposit amount \$1000.00

SCHEDULE C



Box 278, Wawanesa, Manitoba R0K 2G0
Phone: (204) 824-2666

COMPLETION CERTIFICATE

(Date)

(Applicant)

RE: Drainage Works Completion Certificate

In accordance with your Drainage Works Application dated (date) the Public Works Manager carried out an inspection of the project located at (location) on (date) .

All work required has been satisfactorily completed and is accepted as complete.

(applicant)
