

RURAL MUNICIPALITY OF WHITEMOUTH

BY-LAW NO. 606/13

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF WHITEMOUTH TO REGULATE THE GRADING OF PROPERTY AND TO ESTABLISH LOT GRADE ELEVATIONS.

**WHEREAS** Sub-section 294.12 (2) of the Manitoba Municipal Act S.M. 196c 58 – Cap M225 (TMA) subject to the rights of any other party under *The Water Resources Administration Act* or *The Water Rights Act* gives jurisdiction over every drain within its boundaries to the municipality.

**AND WHEREAS**, section 231 (b) of the TMA provides that Council may pass by-laws to enhance the ability of the municipality to respond to present and future issues in the municipality;

**AND WHEREAS** section 232(1)(a) of the TMA provides that Council may pass by-laws to for municipal purposes with respect to the safety, health, protection and well – being of people, and the safety and protection of property;

**AND WHEREAS** section 232 (1) (h) of the TMA provides that Council may pass by-law for the municipal purposes with respect to drains and drainage on private or public property;

**AND WHEREAS** section 232 (2) (d) permits Council to establish fees or other charges for services, activities or things provided or done by the municipality;

**AND WHEREAS** section 245 (1) , subject to Section 242 and 242 (2) (b) , of the TMA permits a municipality to take whatever action or measures necessary to remedy a contravention of a by-law;

**AND WHEREAS** the Council of the R.M. of Whitemouth deems it expedient and in the public interest to pass a by-law to establish regulations governing the grading of property for the purposes of managing storm water runoff in order to minimize any nuisance that may be caused to property by storm water runoff, and to minimize the infiltration of storm water runoff on any Residential General Lot.

**NOW THEREFORE** the Council of the R.M. of Whitemouth in meeting duly assembled enacts as follows:

**SECTION 1**                      **Short Title**

1.1 This By-law may be referred to as THE R.M. of WHITEMOUTH LOT GRADE BY-LAW.

**SECTION 2**                      **Intent of By-law**

2.1 The intent of this by-law is to establish regulations governing the grading of property within 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.

**SECTION 3**

**List of Schedules and Amendment to Schedules**

3.1 Attached to and forming part of this by-law are the following schedules:

- Schedule A- Typical Lot Grading Type I  
Typical Lot Grading Type II  
Typical Lot Grading Type III
- Schedule B - Precast Concrete Splash Pads for Downspout leads and pump discharge  
Subsurface Drainage piping
- Schedule C - Lot Grade Permit Application
- Schedule D - Lot Grade Fees & Deposits

3.2 Council may from time to time, by resolution amend each and every schedule attached to this by-law

**SECTION 4**

**Definitions**

- Applicant -means the owner, or such other person authorized in writing by the Owner to make application for Lot Grading Permit
- Authority having Jurisdiction -means an official or agency designated by the Council of the R.M. of Whitemouth for the enforcement of any parts of this by-law
- Building -means any structure used or intended for supporting or sheltering any use or occupancy and, without restriction the generality of the foregoing, includes residential, commercial and industrial structures.
- 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
- Council -means the duly elected Council of the RM of Whitemouth
- Downspout -means the pipe to convey rainwater from roof to drain.
- Elevation -means the vertical distance above or below sea level.
- 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 charges therefore, 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 road, road allowances, street, lanes,

thoroughfares, Sidewalks, and other means of communication dedicated to the public as highways as defined, and also piers, wharves, ferries, and squares, and the road improvements thereon dedicated to public use, but does not include any area designated or intended and primarily used for the area designated or intended and primarily used for parking of vehicles and the necessary passageways thereon.

Land Drainage	-means a sewer that carries storm water and surface water, street wash, weeping tile water, and other wash waters or drainage but exclude domestic wastewater and industrial wastes.
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 road.
Lot Grade	-means the elevation of the finished ground surface at any specific Elevation reference point or at any point on the slope between two reference points on a lot.
Lot Grading	-means a general term referring to the combination of lot grade elevations and resultant slopes within a given lot.
Lot Grading Permit	- means a written approval issued by the Authority Having Jurisdiction pursuant to this By-Law, wherein the Building Lot Grade and the Lot Grade Elevations of a specific lot are established.
Municipality	-means the Rural Municipality of Whitemouth.
Municipal Road	-shall have the same definition as per Section 285 of the TMA.
Owner	-means a person in whose name a subject property is registered.
Residential Property	-means a property intended for use by one or two families only.
Splash Pad	-means a cast-in-place or pre-cast concrete pad rigidly attached to a building to carry runoff and weeping tile water away from the building.
Storm Water	-means water from rainfall or snowmelt or a combination of the two, and includes weeping tile water.
Street	-has the same meaning a Municipal Road or Highway.
Street Line	-means the lateral boundaries of a Municipal Road or Highway.
Wastewater Sewer	-means a sewer that carries liquid and water and water carried wastes from residences, commercial buildings, industrial plants and institutions, together with quantities



## Section 6

### Lot Grading Requirements

6.1 Lot Grading shall be an integral part of the storm water drainage system for the Town or Drainage plan for the Development.

6.2 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 the issuance of the permit. Any Lot Grading Plan so approved shall become part of the Lot Grading Permit.

6.3 Building Lot Grade

The building lot grade shall be as indicated on the Lot Grading Permit.

6.4 Residential Lot Grade

Residential property lot grading is typically illustrated in figures 1, 2 and 3 Schedule "A", as follows:

- a) Type 1 Lot Grading: Residential Split Lot Drainage= rear yard drains to a 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.

6.5 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".

6.6 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.

6.7 Special Site Conditions 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:

- a) Corner lots
- b) Restricted side yard lots
- c) Infilling of developed areas
- d) Construction of accessory structures

And such variation must be approved by the Authority Having Jurisdiction.

6.8 Commercial, Industrial and Multiple-residential Lot Grading

In designated areas of the Town, 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 Town's Land Drainage System, as may be determined by the Authority Having Jurisdiction.

6.9 Roof Downspouts

All building roof downspouts shall be located in such a way 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 Authority Having Jurisdiction. Building roof downspouts shall not be located nor directed so as to cause storm water to drain directly onto adjacent property.

6.10 Sump Pump Discharge Pipe

All sump pump discharge pipes discharging weeping tile water shall be located in such a way 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 "C" or by an equivalent method approved by the Authority Having Jurisdiction, and shall not be located so as to direct or cause discharge water directly onto adjacent property and street except where street ditches are adjacent to the property.

6.11 Wastewater Sewer Connection

The Building Lot Grade Elevation shall be established at sufficient elevation to ensure that the wastewater sewer connection from the building confirms to the requirements of the Authority Having Jurisdiction.

**Section 7 Lot Grading Construction**

7.1 Marking of Residential Property

The applicant, upon receiving a Lot Grading Permit, shall mark the corners of the lot or property with suitable marker stakes and shall display the address and lot number at a conspicuous location.

7.2 Provisions of Building Lot Grade Stakes

The applicant shall request a Building Lot Grade Stake from the Authority Having Jurisdiction at least five (5) working days prior to the requirement of this stake.

The Authority Having Jurisdiction 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.
- b) Mark the corner Lot Grade Elevation upon suitable stakes at each lot corner or such other suitable location as may be determined.

The applicant shall take precautions to ensure that these Lot Grade Stakes are protected until no longer required. If replacement of the lot Grade Stakes is required, the applicant shall pay the cost of such replacement.

7.3 Entering Upon Property

Duly authorized employees of the Municipality or its authorized agent so assigned may, pursuant to Section 239(1) and 239(3) of the Municipal Act enter upon property for the purpose of survey, observation or inspection

associated with the enforcement of compliance with the Lot Grading Permit and the provision of this By-law.

The applicant shall ensure that employees of the Municipality or its agents are not interfered with in any way in the performance of the duties imposed on them by this By-Law.

7.4 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.

7.5 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. The Lot Grading Deposit shall be released to the applicant, or such other person authorized in writing by the applicant, when the Authority Having Jurisdiction has determined that the landscaping of the property has been substantially completed. Substantial completion shall mean the completion of the perching surrounding the building and the remaining lot grading to the stage where topsoil and placement of sod may begin.

Inspections and surveys for the purpose of deposit release will generally be made during the period from May 1<sup>st</sup> to October 31<sup>st</sup> of each year, subject to snow cover and wet conditions.

When the above provisions are provided for an existing development Agreement, the development agreement shall prevail.

**Section 8 Fees and Deposits**

8.1 Fees

The applicant shall be required to pay the Municipality the applicable sum for a Lot Grading Deposit, as set out in Schedule "D" attached hereto.

8.2 Lot Grading Deposit

The applicant shall be required to deposit with the Municipality an applicable sum for a Lot Grading Deposit, as set out in Schedule "C". This deposit shall be retained by the Municipality until such time as the lot grading is substantially completed in accordance with Clause 7.5.

**Section 9 Responsibility of Property Owners**

9.1 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.

9.2 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.

9.3 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 Clauses 6.9 and 6.10.

**Section 10 Remedial Action**

10.1 Non-compliance with Lot Grading Permit

Where the lot grading has not been completed in accordance with the Lot Grading Permit, the Authority Having Jurisdiction may give written notice by certified mail to the applicant, direction that the lot grading be completed and/or corrected. Where required by the Authority Having Jurisdiction, the applicant shall submit as part of the corrective measures, a new Lot Grading Plan prepared by a Professional Engineer, Architect or Surveyor.

10.2 Failure to Comply with the Lot Grading Permit

Where an applicant who has been given a notice, order or direction pursuant to Clause 10.1 neglects or refuses to comply with such order or direction within the time specified, The Municipality may cause the work to be carried out and charge the cost of 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;
- b) Charge the cost against the land concerned as taxes due and owing in respect of that land, and recover the cost as such.

10.3 Lack of Maintenance of the Lot Grade

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 Authority Having Jurisdiction may give a written notice by certified mail to the owner, directing the lot grading be corrected.

10.4 Failure of Owner to Correct Lot Grading

Where an owner who has been given a notice, order or direction pursuant to Clause 10.3 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;
- b) Charge the cost against the land concerned as taxes due and owing in respect of that land, and recovers the cost as such.




**Section 11                      General Penalties**

- 11.1 Any person who contravenes, disobeys, 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 \$1000.00 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.
- 11.2 Where a contravention, refusal, neglect, omission or failure continues for more than one day, the person is guilty of a separate offence for each day it continues.

**Section 12                      Effective Date**

- 12.1 All By-Laws, resolutions and order 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.
- 12.2 That this By-Law shall be deemed to have come into force and take effect on the day it is passed by Council.

**DONE AND PASSED** by Council of the Rural Municipality of Whitemouth, in regular session assembled in Whitemouth, Manitoba, this 14<sup>th</sup> day of August, 2013

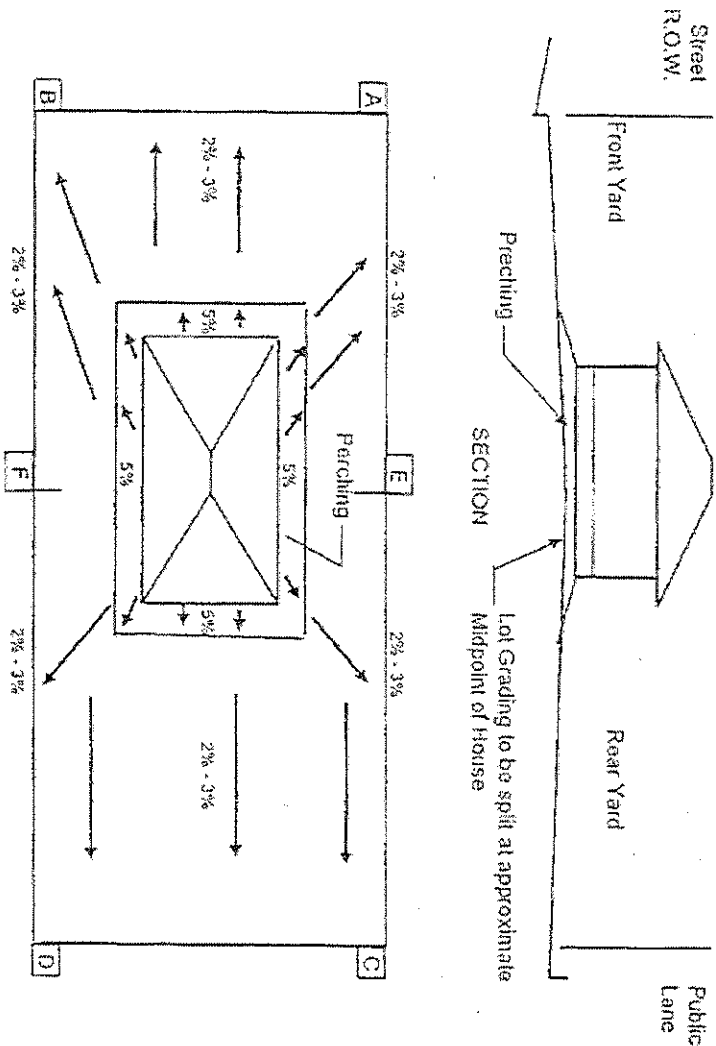
  
\_\_\_\_\_  
Reeve

  
\_\_\_\_\_  
Chief Administrative Officer

Read a 1<sup>st</sup> time this 10<sup>th</sup> day of July A.D.2013  
Read a 2nd time this 10<sup>th</sup> day of July A.D.2013  
Read a 3rd time, and finally passed, this 14<sup>th</sup> day of August A.D.2013

Lot Grade By-law  
Schedule "A"

TYPICAL LOT GRADING TYPE I



NOTES:

1. Perching to extend beyond foundation walls as follows:
2. Perching to be elevated 75cm minimum
3. Perching Slope (finished) to be as follows:
4. Preferred average slope to street 3% and no less than 2% for lot grading
5. Lot grade elevations are to be determined in accordance with Town criteria established for this purpose and to be shown on the Lot Grade Permit.
6. 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
E	§	F	- Typical Side Lot Grade Elevations

Grading Slope Direction

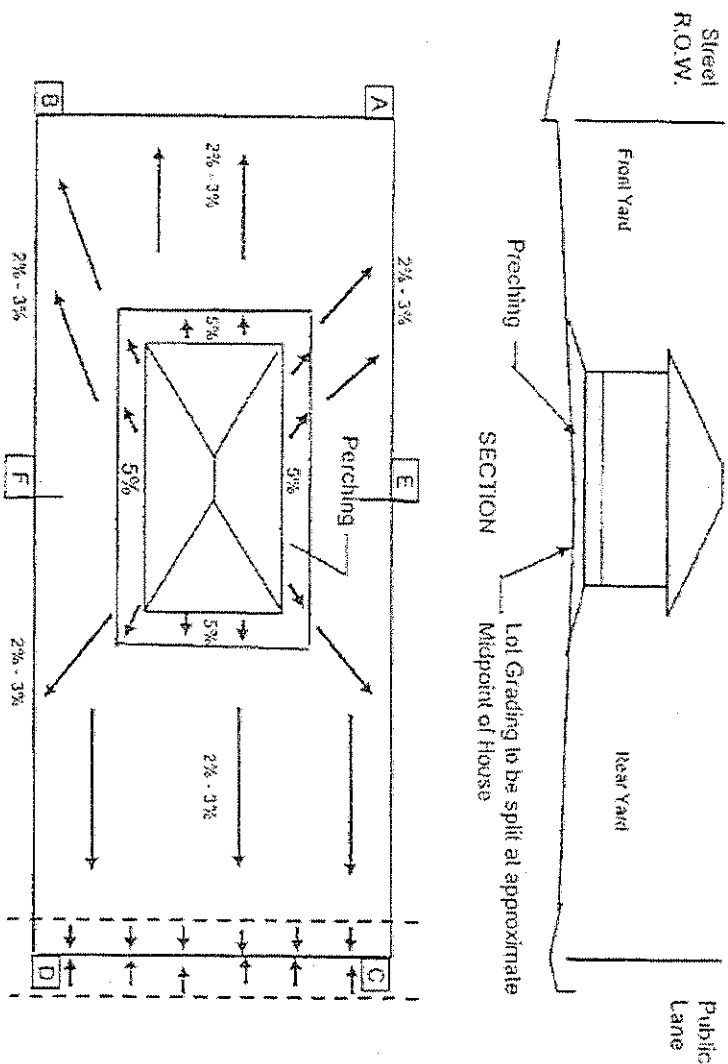
RESIDENTIAL, SPLIT LOT DRAINAGE  
REAR YARD DRAINS TO PUBLIC LANE  
TYPE I

FIGURE 1

Scale: N.T.S.

Lot Grade By-law  
Schedule "A"

TYPICAL LOT GRADING TYPE II



- NOTES:
1. Porching to extend beyond foundation walls as follows:
  2. Porching to be elevated 75mm minimum
  3. Porching Slope (finished) to be as follows:
  4. Preferred average slope to street 3% and no less than 2% for lot grading
  5. Lot grade elevations are to be determined in accordance with Town criteria established for this purpose and to be shown on the Lot Grade Permit.
  6. Building lot grade shall be as indicated on the Lot Grading Permit.

RESIDENTIAL SPLIT LOT DRAINAGE  
REAR YARD DRAINS TO DRAINAGE SWALE  
TYPE II

A & B - Front Corner Lot Grade Elevations  
C & D - Rear Corner Lot Grade Elevations  
E & F - Typical Side Lot Grade Elevations

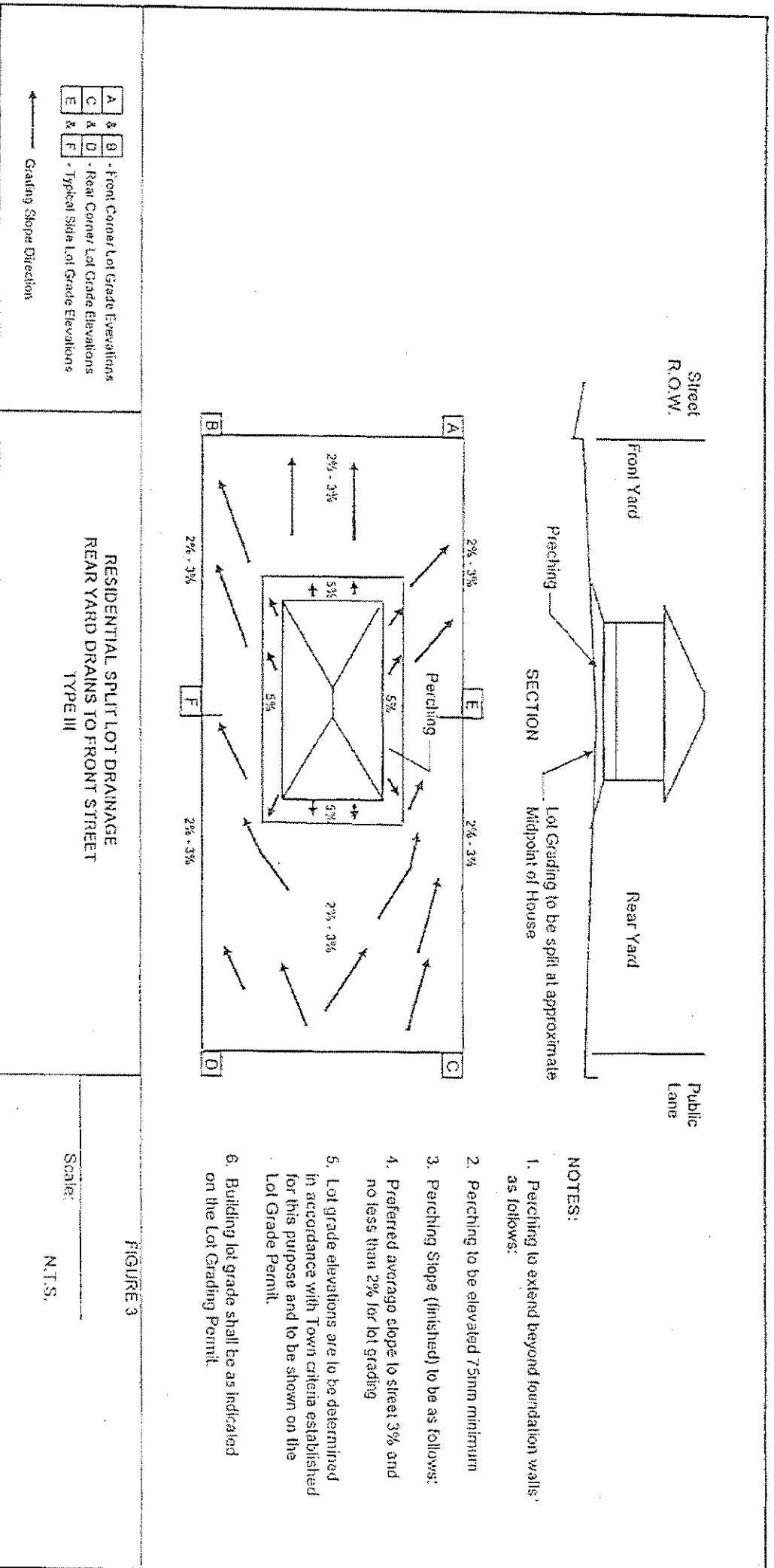
Grading Slope Direction

FIGURE 2

Scale: N.T.S.

Lot Grade By-law  
Schedule "A"

TYPICAL LOT GRADING TYPE III



RESIDENTIAL SPLIT LOT DRAINAGE  
REAR YARD DRAINS TO FRONT STREET  
TYPE III

NOTES:

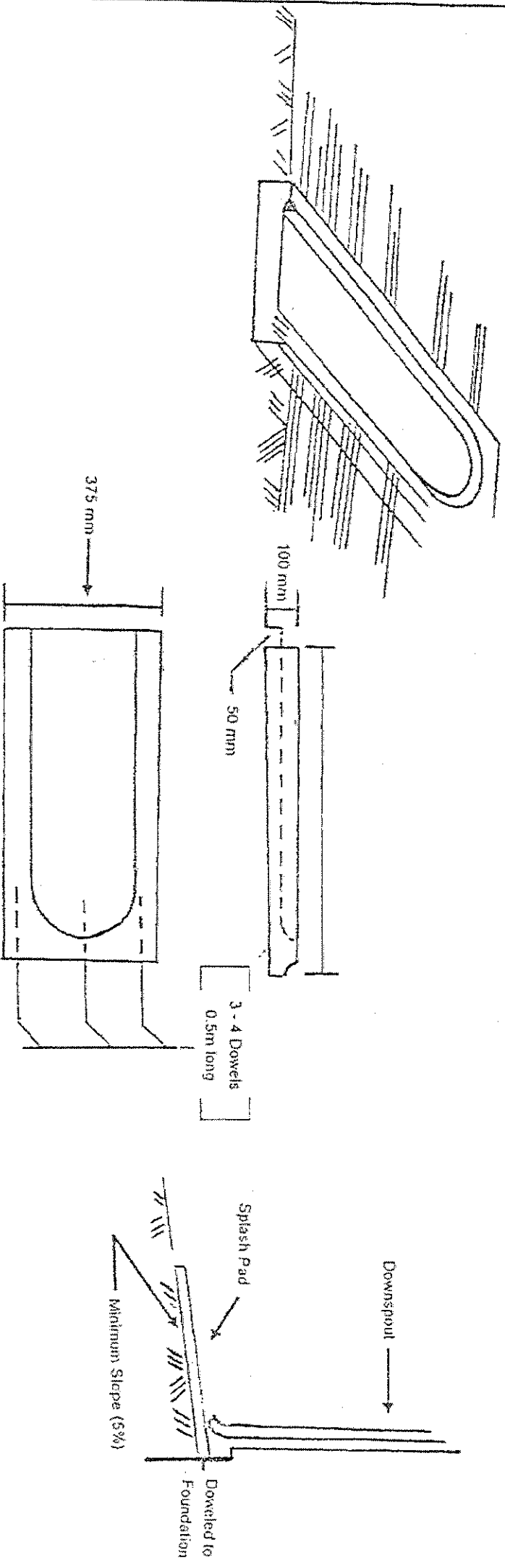
1. Perching to extend beyond foundation walls as follows:
2. Perching to be elevated 75mm minimum
3. Perching Slope (finished) to be as follows:
4. Preferred average slope to street 3% and no less than 2% for lot grading
5. Lot grade elevations are to be determined in accordance with Town criteria established for this purpose and to be shown on the Lot Grade Permit.
6. Building lot grade shall be as indicated on the Lot Grading Permit.

FIGURE 3

Scale:

N.T.S.

DOWNSPOUT AND SUMP PUMP DISCHARGE

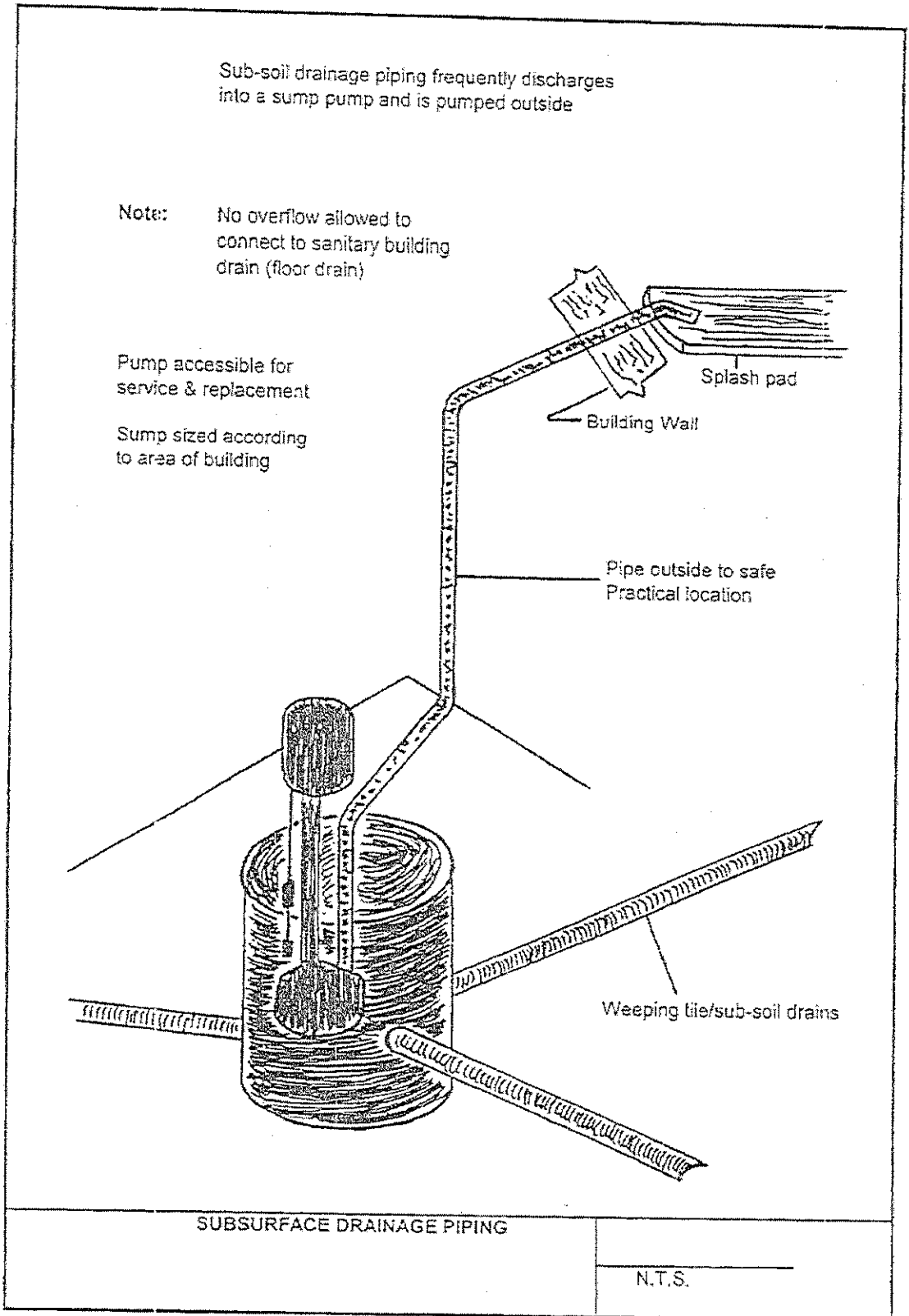


DOWNSPOUT LEADS AND SUMP PUMP DISCHARGE

Scale: N.T.S.

SCHEDULE "B"

SUBSURFACE DRAINAGE PIPING



## SCHEDULE "C"

### LOT GRADE PERMIT APPLICATION

#### Purpose of Establishing Lot Grades

The purpose for establishing Lot Grades for properties within the R.M. of Whitemouth is to ensure your property is graded in order to allow the municipality to manage Storm Water Runoff, in a 10-year Return Storm Event, to:

1. Prevent the infiltration of storm water into the Municipal Wastewater Sewer System via building foundation drains.
2. Minimize any nuisance that may be caused to property by Storm Water Runoff.

#### Services Provided By The Municipality

The R.M. of Whitemouth, upon receiving the application, shall visit the property twice during the construction process in order to:

##### Initial Visit (7.2)

1. 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.
2. Mark the corner Lot Grade Elevation upon suitable stakes at each lot corner or such other suitable location as may be determined.

##### Second Visit (7.5)

1. To ensure the final finished Landscape Lot Grade is in compliance with the Lot Grade Permit.
2. To approve the return, to the applicant, his/her Lot Grade Deposit

**\* NOTE: Should the Lot Grade Stakes be removed at any time during the construction process an addition fee, based on an hourly rate of \$50.00/hour shall be charged to reset the Lot Grade. The minimum charge shall be for a minimum period of 1(one) hour.**

#### THE APPLICATION MUST HAVE ATTACHED

##### 5.2 Residential Property Lot Grading Permit Applications

The applicant shall obtain a Lot Grading Permit prior to the issuance of a building permit to construct a building on a lot if requested by the Building Inspector. Accessory buildings may require a Lot Grade at the discretion of the Building Inspector and shall be accompanied by:

- c) Three (3) copies of a site plan showing the location of the proposed building and any other information the Authority Having Jurisdiction deems to be pertinent to the grading of the lot.
- d) Three (3) copies of a plan showing a section of the foundation and the first floor of the building to be constructed and any additional section views which may be required for multi-level buildings.

5.3 Commercial, Industrial and Multiple-residential sites Lot Grading Permit Applications

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 apply to the construction of additions or accessory buildings on properties where a main building exists. The application shall be accompanied by:

b) Three (3) copies of a lot grading plan for the site, prepared by an Engineer, Architect or Surveyor. This certified plan, where applicable, shall show:

- vi. Building Location
- vii. Lot Grade Elevations
- viii. Catch Basin Locations
- ix. Where applicable, Land Drainage Sewer sizes and locations
- x. Entrances to buildings

And any other information the Authority Having Jurisdiction deems to be pertinent to the grading of the lot. In special cases, where applicable, the Authority Having Jurisdiction may waive some of the requirements of the Lot Grading plan.

TO ARRANGE THE APPOINTMENT FOR YOUR LOT GRADE, PLEASE CALL THE R.M. OF WHITEMOUTH MUNICIPAL OFFICE AT 204-348-2221



**LOT GRADE PERMIT APPLICATION**  
 (Applications must be submitted a minimum of 5-days prior to the need for the Permit)

PERMIT NUMBER \_\_\_\_\_, 20\_\_\_\_  
 (To be inserted by Planning Office)

LOCATION: Lot # \_\_\_\_\_, Block # \_\_\_\_\_, Plan # \_\_\_\_\_

CIVIC ADDRESS \_\_\_\_\_

**OWNERS INFORMATION**

NAME: \_\_\_\_\_  
 MAILING ADDRESS \_\_\_\_\_

PHONE NUMBER ( ) \_\_\_\_\_  
 EMAIL ADDRESS \_\_\_\_\_

**CONTRACTORS INFORMATION**

NAME \_\_\_\_\_  
 COMPANY NAME \_\_\_\_\_  
 MAILING ADDRESS \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_  
 EMAIL ADDRESS \_\_\_\_\_

SIGNATURE OF APPLICANT \_\_\_\_\_

**NOTE:** To arrange for your lot Grade appointment please call the R.M. of Whitemouth Municipal Office at 204-348-2221

FOR OFFICE USE ONLY			
<b>TYPE OF PERMIT (Planning Office)</b>	<b>PAYMENT</b>		
Residential	_____	Permit Fee	<u>\$100.00</u>
Commercial	_____	Lot Grade Deposit Fee	<u>\$1,000.00</u>
Industrial	_____		
Multi-residential	_____	Receipt Number	_____
Other	_____		
<b>WORK REQUIREMENTS (Town Office)</b>			
Date Initial Lot Grade Established	_____		Signature _____
Date of Approval of Lot Grade	_____		Signature _____
Date Deposit Cheque Issued	_____		Signature _____

SCHEDULE "D"

LOT GRADE FEES & DEPOSITS

Lot Grade Permit Applications Fee	\$ 100.00
Lot Grade Permit Deposit	\$ 1,000.00
Second Staking	\$ 50.00 hr

In the event that a Lot Grade Plan for the site needs to be prepared by an Engineer, Architect, or Surveyor, all fees associated will be borne by applicant.