



Drainage and Lot Grading Bylaw Amendments

Date	February 23, 2022
To	Executive Committee
From	Citizen Services
Service Area	Water, Waste & Environment
Item No.	EX22-19

RECOMMENDATION

The Executive Committee recommends that City Council:

1. Amend *The Wastewater and Storm Water Bylaw, 2016, Bylaw No. 2016-24* to allow for the enforcement practices and principles related to the recommendations of CR21-27 Drainage and Lot Grading Regulations that was approved by Council on February 24, 2021 as detailed in Appendix A to this report.
2. Repeal the specified sections of A Bylaw of The City of Regina Pursuant to the Provisions of *The Uniform Building and Accessibility Standards Act* and *The Cities Act, Bylaw No. 2003-7* in accordance with Appendix B to this report.
3. Repeal the specified section of *The Regina Community Standards Bylaw, Bylaw No. 2016-2* in accordance with Appendix C to this report.
4. Instruct the City Solicitor to prepare the necessary bylaw amendments to give effect to recommendations 1, 2 and 3 above which are to be brought forward to a meeting of City Council following approval of these recommendations and the required public notice.
5. Approve these recommendations at its meeting on February 16, 2022.

ISSUE

This report has been prepared to provide City of Regina (City) Council with recommendations for

amendments to the affected City bylaws as a result of item *CR21-27 Drainage and Lot Grading Regulations* (CR21-27) that was considered by City Council on February 24, 2021.

This report addresses the related recommendation that directed the Administration to create a new bylaw to allow for the protection of City-owned drainage infrastructure and for the full enforcement of new and existing lot grading regulations. The Administration reviewed the need for a new bylaw and determined that the proposed amendments to *The Regina Community Standards Bylaw Bylaw No. 2016-2* (Community Standards Bylaw), *A Bylaw of the City of Regina Pursuant to the Provisions of The Uniform Building and Accessibility Standards Act* and *The Cities Act Bylaw No. 2003-7* (Building Bylaw), and *The Wastewater and Storm Water Bylaw, 2016 Bylaw No. 2016-24* (Wastewater and Storm Water Bylaw) would address the direction from Council.

IMPACTS

Financial Impact

City Council directed Administration to include up to \$366,000 in the 2022 budget. The proposed budget included \$125,000 in one-time capital expenditures to support the public awareness campaign, purchase equipment and vehicles and an operating budget of \$225,000 to support the creation of two new positions to deliver the new service.

Environmental

City Council set a community goal for the City of achieving net zero emissions and sourcing of net zero renewable energy by 2050. In support of this goal, City Council asked Administration to provide energy and greenhouse gas implications of recommendations so that Council can evaluate the climate impacts of its decisions. The recommendations in this report have limited direct impacts on energy consumption and greenhouse gas emissions.

Sources of runoff such as rainwater, snowmelt and sump pump discharge water are proposed to be inclusively managed by the Wastewater and Storm Water Bylaw through these recommendations. The recommendations concerning the management of these sources will provide the legal framework for protecting the City's stormwater infrastructure. This protection will ensure that the City remains resilient to climate change by regulating enforcement of any damages to altering, blocking or disrupting our public drainage system.

The recommendations will also provide for the security of the water quality of stormwater that enters the public drainage system. It is important to ensure that our bylaw allows for the regulation and prosecution of offences that may harm the environment, as all stormwater eventually flows into the natural system.

Changes are also recommended to the section that provides clear water waste management. Clear water waste means water originating from a roof or a sump pump. This section contains information

related to splash pads for dispersing these types of water sources. The section is proposed with language to allow for alternative solutions that the Executive Director may approve.

These proposed amendments are intended to ensure that any landowners that would like to explore creative or innovative ways of managing this water could do so, as the previous language was restrictive to a concrete splash pad.

Policy/Strategic Impact

The adoption of the recommendations aligns best with delivering reliable service. The proposed recommendations would remove unenforceable provisions from the Building Bylaw. It would provide amendments to the Wastewater and Storm Water Bylaw to allow for the bylaw to support the process of regulating lot grading. The amendments reduce the ambiguity of the regulation of lot grading and support service reliability.

Risk/Legal

Sections 2.8 and 2.9 of the Building Bylaw appear to regulate lot elevations for new and existing buildings. However, these provisions are not enforceable because they are outside the provincial legislative regime that authorizes the Building Bylaw, which is *The Uniform Building and Accessibility Standards Act*. Therefore, the Government of Saskatchewan (Province) declined to approve the provisions, which resulted in the provisions being unenforceable. The transfer of modified versions of these sections to the Wastewater and Storm Water Bylaw will allow the City to enforce these requirements. This enforcement is required for the regulation of lot grades. It is also beneficial for protecting City assets in cases where drainage issues may lead to damage or unacceptable risk to the asset or City property.

In addition to the changes proposed to the Building Bylaw and the Wastewater and Stormwater Bylaw, there is a minor change to the Community Standards Bylaw related to eavestroughs. The related section will migrate to the Wastewater and Storm Water Bylaw. The Wastewater and Storm Water Bylaw is proposed with other housekeeping amendments such as, but not limited to, enforcement practices, the delegation of authority, corporate structure and protection of City assets. The changes were logged in side-by-sides found in Appendix A, B and C.

OTHER OPTIONS

If City Council has specific concerns, the report may be referred back to the Administration to be considered by Executive Committee or brought back directly to City Council. Delays to the report may impact the readiness of the program for spring of 2022.

COMMUNICATIONS

Interested parties received a copy of the report and notification of the meeting. Interested parties will receive written notice of City Council's decisions. An awareness campaign will launch after

implementation of the bylaws to educate residents on the new line of service and how to maintain proper drainage on their properties. The primary focus of the strategy is to inform and educate homeowners on the following:

- Lot grading guidelines
- Lot grading requirements
- Infill lot grading plans
- Lot grading enforcement process
- Frequently asked questions about lot grading for residential properties

In addition to the topics identified above for Regina.ca, the City will use supplementary communications tactics to inform residents of lot grading and drainage obligations, remind residents of the positive impact of property maintenance and the penalties for failing to comply.

The City will continue to work with businesses in the community, Regina & Region Homebuilders Association (RRHBA) and the Association of Regina Realtors (ARR) to share educational materials that outline best practices on lot grading and drainage to their members. The City will distribute this information via the developer and realtor for the property.

DISCUSSION

Lot Grading: Current Process

Lot drainage is any aspect of grading, constructed elements, or landscaping that directs stormwater runoff on a lot (resulting from rain, hail, or snow) to flow overland from the property. Good lot drainage directs stormwater runoff away from and off permanent structures (homes and garages) to public roadways, landscaped areas, or drainage swales. Before 1974, lot grade controls were not required by the City. Instead, owners and home builders were responsible for setting their lot grading controls on the property's front, side, and rear.

At present, in Regina, individual lots are created through the subdivision process that is governed by *The Planning and Development Act, 2007*. During this development process, the City requires that rear lot elevation plans be designed and submitted to the City for review and approval. During the construction of a new home, approved rear lot elevations are assessed to ensure that positive grading is achieved when the development project is constructed. A rear lot elevation certificate is required to complete the final occupancy of the unit through the building permit process. There are current challenges with the process for new home construction on infill lots, as rear lot elevation plans may not exist.

Due to Regina's relatively flat topography and clay soil types, existing neighbourhoods' established lot grades deteriorate over time. This degradation, along with property owner modifications that do not require a development permit, leads to lot grading issues. These issues are typically found along

common property lines between neighbouring properties. While there can be any number of property specific factors causing many grading issues, most problems are caused by three typical scenarios:

- The natural process of ground movement in Regina results in a degradation of positive lot drainage
- Utility company maintenance work conducted in easements
- Property owner altering the existing lot grades with landscaping

The City provides technical information and advice concerning lot grading when issues arise between property owners. Staff work with residents to determine and establish the original design grades to support the resolution of the problem. Under the current process, the City has no means to enforce lot grading and considers it a civil matter between neighbours. The proposed changes to the bylaws allow the City to actively enforce lot grading where there are approved lot grades.

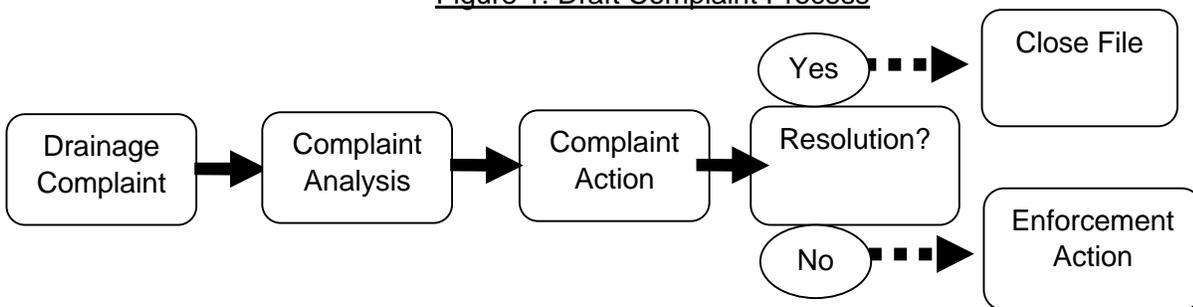
Older neighbourhoods with no approved lot grades will require the Administration to work through the specific issues for those lots. The changes also allow the City to enforce other drainage matters as per Council direction through CR21-27. This report deals specifically with amending the bylaws to enable the Administration to develop the program for enforcement. All other aspects from the direction of CR21-27 are underway in conjunction with this work.

Potential Enforcement Process

The proposed amendments to the bylaws allow the City to continue developing the drainage enforcement business practice. Council communicated during the discussion of CR21-27 that the program is oriented and focused on property owner education and support to ensure compliance where there are lot grading controls. This approach was recognized as being successfully used in the City of Saskatoon. Many of the proposed bylaw amendment elements were adopted and modified from Saskatoon for use in Regina.

The proposed process is as follows:

Figure 1: Draft Complaint Process



The approach will be recognized in the details of the first three work breakdowns shown that lead up to a resolution. Currently, drainage complaints are decentralized across the organization concerning the service request system. These service requests/complaints will be centralized to the new assigned resources as part of the new program. Once a request is received, these new resources will analyze the issue.

The intent of the approach is that administration resolves simple drainage matters over the phone, provides educational material and encourages discussion of issues between neighbouring property owners. If the property owner cannot resolve the problem, administration will arrange a property inspection. The initial property inspection will determine if a survey is required. If surveying is required, notification will be sent out to all the affected property owners. Once the survey is collected, the data is analyzed for any properties not in compliance with the approved (if existing) lot grades. Property owners who are not in compliance will be issued a notification that they must make some grading changes on their lot to bring it back in compliance. The property owner will be given reasonable time for voluntary compliance and will be encouraged to contact the City if they require additional time or support.

If compliance is still not achieved beyond the efforts described above, then the City will issue an order to remedy the contravention (if there is an actual contravention of lot grading specification).

The City will give reasonable time to the property owner to remedy the violation. If compliance is still not achieved, the City begins the prosecution process. This process would result in the City conducting the work to rectify the contravention and recover the costs by adding them to the property tax.

This report provides recommendations for amending the applicable bylaws to allow for enforcement of lot drainage specifications should this approach result in no action from the property owner.

Proposed Bylaw Amendments: Wastewater and Stormwater Bylaw

Generally, the Wastewater and Stormwater Bylaw was reviewed and updated with housekeeping amendments that allowed it to be current. Examples of this housekeeping review are removing redundancies, gender-inclusive language, spelling errors, legal updates associated with the act, and other minor formatting errors.

Definitions

Definitions changed to ensure consistency across other corporate policies, bylaws and documents. In addition, definitions that supported the regulation of drainage and lot grading were migrated from the Building Bylaw.

The introduction of the public drainage system definition allows for the language in the bylaw to apply to the entire system and not just storm sewers. For example, the City would regulate a storm drain or pipe, but a storm channel would not be regulated. This new definition required supporting definitions related to the technical components of this system.

The introduction of the definition for ground-oriented residential housing provides clarity and consistency for applying lot grading regulation. The Building Bylaw provided lot grading regulations for single-family dwellings or duplex housing but did not consider other similar housing types.

This new definition provides more comprehensive coverage of similar housing such as townhouses, duplex housing, various styles of single-detached housing, or row housing. These housing products interact similarly with the drainage system when considering lot sizing, roof area, and private driveways or parking.

Clear Water Waste

The Administration proposed changes to this section of the bylaw to support regulation around clear water waste. Clear water waste is typically water that originates from a roof or a sump pump. Many of the introduced sections were migrated from The Building Bylaw and modified to address the intent of CR21-27. Most of the regulatory context for this section is to ensure the swift removal of clear water waste from the immediacy of the building, not to cause foundation damage. It includes options for compliance with many industry-available dispersal systems. Language is also introduced that recognizes that the City does not have standards for drainage management systems such as rain gardens or infiltration systems.

The language introduced will provide landowners with an alternative dispersal solution if property owners wish to propose one.

Control of Grade Elevations

The entire premise of this section is a direct result of the instruction from CR21-27. The Administration migrated much of the section from the Building Bylaw. The section intends to allow for the regulation of all lot grading on a property where there is specified lot grading requirements. It also provides the submission standards for lot grading for ground-oriented residential housing. The Administration added the language to ensure that it is clear that no person shall cause the grading on a property to vary from the approved grade elevations without prior approval of the City.

This section also intends to ensure that it is clear that the property owners' responsibility is to maintain the property to the grade elevations on the approved lot grading plan. This section will support the practices of the new program.

Drainage into the Public Drainage System

Much of the proposed changes to this section are content migrated from The Building Bylaw. This section intends to ensure that all properties in the City are connected to the storm sewer. The section provides drainage regulations for properties that are not ground-oriented residential housing. This section typically would apply to commercial, industrial or higher density residential land uses. You see this section in action when a commercial site is constructed with a private drainage system. The property owner maintains the private drainage system. However, it connects to the public drainage system through a storm sewer or other means. The Administration added new content to this section to ensure that the public drainage system is protected from any alterations, new installations or obstructions without prior consent from the City.

In addition to these proposed changes to the Wastewater and Stormwater Bylaw, changes are also offered for the Building Bylaw and the Community Standards Bylaw. The proposed modifications to these bylaws compliment the direction of CR21-27 by repealing the impacted sections and housing the content in one bylaw. In particular, the provisions in the Building Bylaw are not enforceable because they are outside the provincial legislative regime that authorizes the Building Bylaw. This regime is the Uniform Building and Accessibility Standards Act. The Province has therefore declined to approve the provisions, which results in the provisions being unenforceable. The provision in the Community Standards Bylaw is related to the eavestrough and clear water waste and is now redundant. All proposed bylaw changes can be found in Appendix A, B and C.

Next Steps

As indicated, this report proposes changes to the bylaws to support the enforcement and overall direction of CR21-27. There is concurrent work underway as part of the direction of CR21-27. This related work will provide for lot grading guidelines, a reconfigured webpage on Regina.ca, and the review of related processes when the program is operational.

Generally, the Administration will focus most of the efforts following this report on the launch of the awareness campaign and website material. This communication and information initiative is critical to support the approach planned for enforcement.

Other immediate work is related to hiring the positions to support the delivery of the program. The program is targeted to be fully operational before spring of 2022 to ensure that drainage complaints are managed within the new program.

DECISION HISTORY

On July 29, 2019, Council supported the motion MN19-10, which directed the Administration to prepare a report for the Public Works and Infrastructure Committee by Q2 of 2020.

This report was deferred to Public Works and Infrastructure Committee to Q1 of 2021 due to the

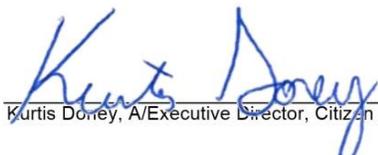
operational impacts and revised priorities resulting from COVID-19. On August 26, 2020, Council supported the motion MN20-15.

On February 24, 2021, Council amended and supported the recommendations of CR21-27.

This report recommends the required bylaws to create a legal framework to support the new program.

Respectfully submitted,

Respectfully submitted,



Kurtis Dorey, A/Executive Director, Citizen Services

1/20/2022



Kim Onra, Executive Director, Citizen Services

1/26/2022

Prepared by: Dustin McCall, Manager, City Projects

ATTACHMENTS

Appendix A - Wastewater and Storm Water Bylaw Changes

Appendix B - The Building Bylaw No. 2003-7 changes

Appendix C - Regina Community Standards Bylaw No. 2016-2