

RURAL MUNICIPALITY OF WOODLANDS

BY-LAW NO. 2742/21

Being a bylaw of the Rural Municipality of Woodlands to establish requirements of landowners installing drainage on agricultural land.

This by-law shall be referred to as the Rural Municipality of Woodlands Tile Drainage By-Law.

WHEREAS Section 232 of *The Municipal Act* C.C.S.M. c. M225 (the "Act") gives broad authority to the council of a municipality to govern the municipality howsoever the council considers appropriate, within the jurisdiction given to it under this and other Acts;

AND WHEREAS Section 232(1) of the Act provides that the council of a municipality may pass by-laws for municipal purposes respecting the following matters:

- a) the safety, health, protection and well-being of people, and the safety and protection of property;
...
- f) property adjacent to highways or municipal roads, whether the property is public or privately owned;
...
- h) drains and drainage on private or public property.
...

AND WHEREAS Section 294.1(4) of the Act provides that 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 Section 3(1)(c) of *The Water Rights Act* C.C.S.M. c. W80 provides that no person shall control water or construct, establish, operate or maintain any water control works, unless he or she holds a valid and subsisting licence to do so;

AND WHEREAS the Rural Municipality of Woodlands (the "Municipality") supports the practice of tile draining agricultural land to improve land productivity by facilitating sub-surface water drainage;

NOW THEREFORE the Rural Municipality of Woodlands in Council assembled (the "Council") enacts as follows:

Definitions:

For the purposes of this by-law the following definitions shall apply:

"Applicant" shall mean the Landowner specifically and may include the Installer of the tile drainage project acting on the Landowner's behalf. Should the Landowner be a corporation, the Applicant shall mean all of the directors of the corporation.

"Drainage Co-efficient" shall mean the flow of water per acre per day.

"Council" shall mean the municipal council of the Rural Municipality of Woodlands.

"GIS" shall mean Geographic Information System mapping.

"Installer" shall mean an individual who is approved to install tile drainage systems by the Municipal Engineer or Designated Officer.

"Landowner" shall mean a registered owner of land pursuant to *The Real Property Act* C.C.S.M. c. R30. This by-law shall run with the land and "Landowner" shall include all future and subsequent owners of any land that contains a tile drainage system.

"Licence" shall mean a Province of Manitoba drainage licence, a registration certificate for registrable works, or a permit issued under *The Water Rights Act* C.C.S.M. c. W80.

"Tile Drainage System" shall mean a system of perforated pipes in the ground to remove excess water from the soil profile. A tile drainage system includes a number of smaller diameter lateral pipes emptying into increasingly larger, non-perforated mainline pipes. The water flows by gravity to the edge of the land where it is released or pumped into a surface drainage system.

"Application" shall mean a completed tile drainage application form and a Tile Drainage Plan together with the application fee, which is submitted to the Municipality.

"Plan" shall mean a tile drainage plan and shall include as follows:

- (i) A tile drainage design report;
- (ii) A topographic survey of the site and design plan; and
- (iii) Authorization from all downstream landowners, if the drain water is to flow onto land owned by other landowners prior to entering a Municipal drain or Provincial waterway.

Tile Drainage Application Specifications

1. All Applications and tile drainage systems within the Municipality shall comply with the provisions of this by-law.
2. All Plans must receive Municipal approval prior to installation.
3. All Applications shall include a proposed start and end date of the tile drainage project.
4. Proposed tile drainage projects shall be completed within two (2) years from the date of Municipal approval is granted. Should the installation not be completed within two (2) years, a new Application must be submitted to the Municipal office.
5. All Plans shall be designed and signed by a person who has successfully completed an approved tile drainage course and the approved tile drainage system shall be installed by an Installer who is approved by the Municipal Engineer or Designated Officer.

Application Procedure

6. The Applicant shall submit a completed Application form to the Municipal office together with a Plan and the application fee. The Plan shall be clear and illustrate the drainage design in detail, including type and location of outlets and all design parameters.
7. The Applicant shall submit a preliminary Plan to the Municipal office prior to April 1 of each year for the Municipality's review and comment. The final Plan shall be submitted to the Municipal office no later than July 1 of each year for final Council decision.
8. All preliminary Plans submitted to the Municipal office will be circulated to the Council and the applicable Municipal departments, Municipal engineer for review, comment and recommendations.

9. The final Plan shall be submitted to the Municipal office for review by the Council and the applicable Municipal departments. The Council will either approve or reject the Application.
10. If approved, the Municipality shall forward a copy of the Municipal resolution passed by the Council approving the Application together with a copy of the Application to the Applicant. The Applicant shall forward a copy of the approved Application to the Province of Manitoba requesting the Province to issue a Licence.
11. The Applicant shall be responsible to obtain all necessary provincial and federal installation permits required for the proposed tile drainage project. The Applicant shall not install a tile drainage system until the Applicant has received approval from the Municipality, received approval from the Province of Manitoba, and has submitted such approvals to the Municipal office.
12. If the tile drainage system impacts a Municipal drainage system, the Landowner shall enter into a development agreement with the Municipality with such development agreement to be registered against the Landowner's land by way of caveat.
13. In the event that there is a change in the tile drainage system subsequent to the approval of the Application by the Municipality, the Applicant shall notify the Designated Officer in writing of the changes. Failure to notify the Designated Officer of any proposed changes to the tile drainage system may result in fines and/or the revocation of Municipal approval of the Application.

Municipal Guidelines and Restrictions

14. The Municipality shall consider the following factors when considering the Application:
 - (i) the elevation of the project;
 - (ii) the location of Municipal and provincial drains;
 - (iii) the location of the tile drainage system within the Municipality;
 - (iv) the ground water conditions; and
 - (v) the soil types.

Poorly drained soils with a high water table or artesian conditions will be noted as areas of concern.
15. The Applicant shall obtain the location of all utilities and submit such location records to the Municipal office prior to the commencement of installation. The Landowner shall be responsible to re-locate and protect any utilities disturbed during installation of the project and shall be liable for all cost and associated damage.
16. All tile drainage systems must be installed with a Drainage Co-efficient of a one quarter ($\frac{1}{4}$) of an inch per acre per twenty-four (24) hour period. Tile drainage installations shall use non-perforated header pipes as main drains unless otherwise approved by the Municipality.
17. Wherever possible, tile drain outlets should discharge directly into provincial waterways in order to minimize impact on downstream Municipal drains.
18. Tile drainage water shall only be discharged into a natural grassed waterway, Municipal or provincial drain and shall not cross private lands without prior Municipal approval.
19. If the tile drain outlets require a lift station and a source of power, the power lines shall be marked and may be required to be buried. The Municipality shall require a caveat evidencing the Municipality's right to access and egress the tile drainage outlets, control works and the electrical source, to be registered against any private land containing the tile drainage outlet infrastructure.

20. All tile drainage projects shall include the installation of an approved control device to restrict the discharge of water into a Municipal or natural drain. The Municipality shall be granted authority to enter upon the Land to open or close the control device and such authority shall be included in the Development Agreement and registered as an easement over the Land.
21. Tile drainage water shall form part of an integrated water management strategy including drainage, retention and recycling.
22. Erosion control measures shall be installed at the tile drain outlet(s) by the Applicant and shall be maintained by the Landowner.
23. The Municipality shall not be required to improve or alter the existing Municipal drainage system to accommodate a tile drainage project.
24. In the event that the Municipality approves a modification to a Municipal drain, the Applicant shall be responsible for all costs associated with the installation and maintenance of such modification and obligation shall be included in the development agreement and registered as an easement over the land.
25. All above ground objects, valves, pedestals, flushouts, outlets, and tile drainage discharge shall be located on private land and shall be marked by an approved culvert marked by an approved culvert marker, including plastic markers and reflective tape.
26. Any excavated material shall be disposed of or leveled to an acceptable grade on the subject property.
27. All costs for the repairs to the Municipal property resulting from the installation of the tile drainage system, including Municipal Engineering fees and legal fees incurred by the Municipality shall be paid by the Landowner.
28. Water shall not be discharged from a tile drainage system into Municipal drains after October 31st unless written authorization from the Municipal office is obtained.
29. The Landowner shall be responsible for the maintenance and mowing of ditches downstream of tile drainage outlets up to the natural waterway to reduce drainage restrictions caused by vegetative growth.
30. The Landowner shall be responsible for future drain maintenance in the event the tile drainage system causes damage to the drain.
31. All disturbed areas shall be trimmed, restored and seeded to grass to a standard approved by the Designated Officer within sixty (60) days of the completion of the installation and shall be paid by the Landowner.
32. The Applicant shall submit an "as constructed" report to the Municipal office including the installation plan with GIS layer within sixty (60) days of the completion of the tile drainage project.
33. The Landowner shall be responsible for the costs to register any caveats or easements that may be required.
34. The Applicant and Landowner shall seek their own legal advice with regards to caveats or easements that may be required from property owners that may be affected by the tile drainage system discharge.
35. Failure to comply with this by-law will impact the consideration of any future applications for tile drainage systems by the Applicant, Landowner or Installer.
36. A Landowner's failure to pay a debt owing to the Municipality pursuant to this by-law shall be collectible by the Municipality in the same manner as a tax may be collected or enforced under the Act.

DONE AND PASSED as a bylaw of the Rural Municipality of Woodlands at 57 Railway Avenue, Woodlands in the province of Manitoba this 27th day of August, 2021.



Lori Schellekens
Reeve



Adam Turner, CMMA
Chief Administrative Officer

Read a first time this 10th day of August, 2021.

Read a second time this 10th of August, 2021.

Read a third time this 24th of August, 2021.

**SCHEDULE A of the
TILE DRAINAGE BYLAW
Rural Municipality of Woodlands
Bylaw 2742/21**

APPLICATION FOR TILE DRAINAGE

All applicants for tile drainage must complete this application prior to obtaining a licence to construct works from Manitoba Conservation and Water Stewardship.

Date of Application: _____

Applicant Name: _____

Registered Owner Name(s): _____

Mailing address: _____

Phone number(s): _____

Email address: _____

Designer Name: _____

Mailing address: _____

Phone number(s): _____

Email address: _____

Installer Name: _____

Mailing address: _____

Phone number(s): _____

Email address: _____

By completing and signing this application the Applicant(s) agrees to the terms of the Tile Drainage By-law no. _____/21 and all amendments.

1. Proposed start date of the project: _____

2. Proposed completion date of project: _____

3. Location of Proposed Tile Drainage Project (design report must be attached to this application).

4. Describe the proposed control device to restrict or shut off the discharge of water into municipal or natural drain.

5. Will discharge of water from tile drainage be expected after October 31st?
(If yes, written authorization from the Municipality if required to extend this date.)

6. Names of adjacent properties owners that may be affected by the water run-off?

7. Utility Locates obtained and date obtained (including but not limited to MTS, MB Hydro, Municipal Water and Sewer, etc).

8. Copy of Installer's Certificate of Insurance (Commercial Liability Insurance \$2M) (if requested by the Municipality).

9. Payment of \$ _____ upon submission of this Application form to the Municipality

I/We, the registered owner(s) of the subject property, hereby acknowledge I/we:

- have read the Tile Drainage By-Law;
- are responsible for all municipal fees and/or charges pursuant to the Municipality's Fees and Charges By-law as amended from time to time; and
- are responsible for all professional fees relating to this project (including legal, surveyor, designer, installer, etc.) and disbursements that may be incurred.

By signing this Application form, the Applicant/Registered Owner(s) agree to abide by all Municipal policies, procedures and by-laws, as amended from time to time, regarding tile drainage in the Municipality.

Date

Applicant's Signature

Registered Owner Signature

Registered Owner Signature

FOR MUNICIPAL RECORDS

Date Application Received: _____

Application Fee Received: _____

Decision of Council: _____
(approved with conditions or denied)

Resolution no.: _____ **Date of Resolution:** _____