

THE CITY OF WINNIPEG

LOT GRADING BY-LAW
NO. 7294/98

A By-Law of THE CITY OF WINNIPEG to regulate the grading of property and to establish lot grade elevations.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

SHORT TITLE

1. This By-law may be cited as the **"Lot Grading By-law"**.

DEFINITIONS

2. Unless the context otherwise requires, wherever used in this By-law:

"Applicant" means owner, or such other person authorized in writing by said owner to make application for a Lot Grading Permit.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy and, without restricting 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.

"City" means The City of Winnipeg.

"Council" means the Council of The City of Winnipeg.

"Designated City Administrator" means the City's Chief Administrative Officer or such other person as may be authorized in writing by the Chief Administrative Officer to exercise some or all of the powers vested in him/her by this By-law.

"Downspout" means a nominally vertical pipe that is installed to carry storm water from a roof.

"Elevation" means the vertical distance above or below mean 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 charge 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 roads, road allowances, streets, lanes, thoroughfares, sidewalks, and other means of communication dedicated to the public use as highways as defined, and also includes all bridges, subways, underpasses, grade separations, piers, wharves, ferries, and squares, and the road improvements thereon dedicated to the public use, but does not include any area designed or intended and primarily used for the parking of vehicles and the necessary passageways thereon.

"Land Drainage Sewer" means a sewer that carries storm water and surface water, street wash, weeping tile water, and other wash waters or drainage but excludes 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 street.

"Lot Grade Elevation" means the elevation of the finished ground surface at any specific reference point or at any point on the slope between two specific reference points on a lot.

"Lot Grading" is 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 Water and Waste Department of the City, pursuant to this By-law, wherein the Building Lot Grade (ground elevation) and Lot Grade Elevations of a specific lot are established.

"Owner" means a person in whose name a subject property is registered.

"Person" means any individual and includes corporations, firms, partnerships, associations and companies.

"Residential Property" means a property intended for use by one or two families only.

"Splash Pad" means a cast-in-place or precast concrete structure rigidly attached to a building to carry roof runoff and weeping tile water away from the building foundation.

"Storm Water" means water from rainfall or snowmelt or a combination of the two, and includes weeping tile water.

"Street" means a highway over which The City of Winnipeg has jurisdiction.

"Street Line" means the lateral boundaries of a highway.

"Surveyor" means a person who has received a commission to practice as a surveyor of lands and is registered under the Manitoba Land Surveyors Act or a person who is a Professional Engineer licensed to practice in the Province of Manitoba.

"Wastewater Sewer" means a sewer that carries liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, together with quantities of ground, storm and surface water that are not admitted intentionally.

INTENT OF BY-LAW

3. The intent of this By-law is to establish regulations governing the grading of property for the 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; or
 - (b) any nuisance that may be caused to property by storm water runoff.

APPLICATION FOR LOT GRADING PERMIT

4. (1) All applications for Lot Grading Permits shall be made through the City's One Stop Shop permit system, by contacting Property and Development Services, Zoning and Permits Branch.

Residential Property Lot Grading Permit Application

- (2) The Applicant shall obtain a Lot Grading Permit prior to the issuance of a building permit to construct a building on residential property. The application shall be accompanied by:

- (a) three copies of a site plan showing the location of the proposed building and any present or proposed driveways, garages, swimming pools, roof drain downspouts, sump pump discharge pipe and any other information the designated City Administrator deems to be pertinent to the grading of the lot.
- (b) three copies of a plan showing a section of the foundation and first floor of the building to be constructed and any additional section views that may be required for multi-level buildings.

Commercial Industrial and Multiple-Residential Sites
Lot Grading Permit Application

- (3) The Applicant shall obtain a Lot Grading Permit prior to the issuance of a building permit to construct a building intended for use as commercial, industrial, multiple- residential or other than residential property. The application shall be accompanied by:
 - (a) three copies of a lot grading plan for the site, prepared by a Professional Engineer or Architect. This plan, where applicable, shall show:
 - (i) building location(s)
 - (ii) lot grade elevations
 - (iii) catch basin locations
 - (iv) land drainage sewer sizes and locations
 - (v) entrances to buildings
 - (vi) private approach locations
 - (vii) roof drain downspouts and sump pump discharge pipe locations
 - (viii) paved areas

and any other information the designated City Administrator deems to be pertinent to the grading of the lot site;

In special cases, where applicable, the designated City Administrator may waive some of the requirements of the lot grading plan.

- (b) three copies of a plan showing a section of the foundation and floors of the building to be constructed, and any additional section views that may be required.

Existing Lot Grading Changes

- (4) An owner shall obtain a Lot Grading Permit prior to proceeding with any work that may alter or otherwise change the grading of a lot or property in any manner that may affect the existing or established storm water runoff from that or any adjacent property.

Timing of Application

- (5) The Applicant shall make application for a Lot Grading Permit at least five working days prior to the requirement of this permit.

Permit Denial

- (6) The designated City Administrator may deny the issuance of a Lot Grading Permit where, in his opinion, it is in the public interest to do so.

Appeal Process

- (7) The Applicant has the right of appeal to the Standing Policy Committee on Public Works if the issuance of a Lot Grading Permit has been denied.

LOT GRADING REQUIREMENTS

- 5. (1) Lot grading shall be an integral part of the storm water drainage system for the City.

Lot Grading Permit

- (2) The Lot Grade Permit shall have indicated on it the approved lot grade elevations, and shall be accompanied by any lot grading plan approved in conjunction with the issuance of the permit. Any lot grading plan so approved shall become part of the Lot Grading Permit.

Building Lot Grade

- (3) The Building Lot Grade shall be as indicated on the Lot Grading Permit.

Residential Property Lot Grading

- (4) Residential property lot grading is typically illustrated in Figures 1, 2 and 3 of Schedule "B" as follows:

- (a) Type I Lot Grading: Residential Split Lot Drainage - Rear Yard Drains to Public Lane
- (b) Type II Lot Grading: Residential Split Lot Drainage - Rear Yard Drainage to Drainage Swale
- (c) Type III Lot Grading: Residential Back to Front Lot Drainage - Rear Yard Drains to Front Street.

Perching of Residential Property

- (5) 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 "B".

Lot Line Grading

- (6) 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.

Special Site Conditions of Residential Property

- (7) The Applicant shall be responsible for providing and paying for the lot grading design of special site conditions. The requirements of Schedule "B" may be varied to resolve particular site conditions provided the intent of the By-law is met. Examples of special site conditions, but not limited to, are:
 - (a) Corner lots
 - (b) Restricted side yard lots
 - (c) Infilling of developed areas
 - (d) Construction of garage
 - (e) Installation of swimming pool

Any such variation must be approved by the designated City Administrator.

Commercial, Industrial & Multiple-Residential Lot Grading

- (8) In designated areas of the City, 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 City's land drainage system, as may be determined by the designated City Administrator.

Roof Downspouts

- (9) All building roof downspouts shall be located such 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 "C" or by an equivalent method approved by the designated City Administrator. Building roof downspouts shall not be located nor directed so as to cause storm water to drain directly onto adjacent property.

Sump Pump Discharge Pipe

- (10) All sump pump discharge pipes discharging weeping tile water shall be located such that effective positive drainage away from the buildings 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 designated City Administrator, and shall not be located nor directed so as to cause discharge water to drain directly onto adjacent property and streets.

Sump pump installation requirements are specified in Building By-law No. 4555/87.

Wastewater Sewer Connection

- (11) The Building Lot Grade elevation shall be established at sufficient elevation to ensure that the wastewater sewer connection from the building conforms to the requirements of the City's Sewer By-law No. 7070/97.

Driveway

- (12) A driveway within a lot shall be constructed such that it will not impede the storm water runoff. No driveway shall restrict or obstruct drainage of storm waters away from the building, nor from the rear yard in 'back to front' lot grading (Type III Lot Grading).

Garages

- (13) A garage, attached or detached, shall be constructed such that it will not impede the storm water runoff. No garage shall restrict or obstruct drainage of storm waters in the side or rear yard of that lot, nor of adjacent lots.

LOT GRADING CONSTRUCTION

Marking of Residential Construction

6. (1) 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.

Staking of Lot Grades

- (2) Applicant shall, retain a qualified and experienced surveyor, as defined in this By-Law, to direct the establishment/marking on the lot, the Building lot grade elevation and all related Lot grade elevations including elevations at all corners of the lot, for the development of the property.

Entering Upon Property

- (3) Duly authorized employees of the City of Winnipeg or its agent so assigned bearing proper credentials and identification may, subject to section 155 of The City of Winnipeg Act, enter upon any property for the purpose of survey, observation or inspection associated with enforcement of compliance with the Lot Grading Permit and provisions of this By-law.

The Applicant shall ensure that employees of the City or its agent are not interfered with in any way in the performance of the duties imposed on them by this By-law.

Compliance with Lot Grading Permit

- (4) 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, and within 12 months of the issuance of the lot grading permit.

Release of Lot Grading Deposit

- (5) The designated City Administration shall, upon receipt of the Deposit Release Application, cause the Lot Grading Deposit to be released to the Applicant or such other person authorized in writing by said Applicant. The Deposit Release Application shall be certified by the Applicant's surveyor as to substantial completion of the landscaping of the property and conformance with the elevations of the Lot Grading Permit. Substantial completion shall mean the completion of the perching surrounding the building, exclusive of topsoil and sod, and the completion of the remaining lot grading to the stage where topsoil and placement of sod may begin.

The designated City Administration may elect to delay the release of deposits for those applications received during the general time period of November 1 to April 30 of each year.

Extension of Time for Completion

- (6) Notwithstanding subsection (4), the designated City Administrator may extend the time for completion of the lot grading where in his opinion the circumstances so warrant it.

FEES AND DEPOSITS

7. Fees

- (1) The Applicant shall be required to pay to the City the applicable fee for a Lot Grading Permit, as set out in Schedule "A". This fee shall be paid prior to the issuance of the Lot Grading Permit.

Lot Grading Deposit

- (2) The Applicant shall be required to deposit with the City an applicable sum for a Lot Grading Deposit, as set out in Schedule "A". This sum shall be deposited prior to the issuance of a Lot Grading Permit. This deposit shall be retained by the City until such time as the lot grading is substantially completed in accordance with subsection 6(5).

Letter of Credit for Lot Grade Deposit Security for Residential Properties

- (3) An Applicant who:

- (a) anticipates building more than four houses within the City boundaries in any given year; and
- (b) requests in writing to The City of Winnipeg, and subsequently enters into an Agreement with the City for the purposes of providing letters of credit as Lot Grading Deposits for residential property;

may supply letters of credit in lieu of the cash deposits for Lot Grade Deposits for residential properties as required in Schedule "A". The said letters of credit shall be in a form satisfactory to the City Solicitor.

Lump Sum Deposit

- (4) Notwithstanding the lot grade deposit requirements set out in clause (2)(a) of Schedule "A", an applicant may provide a lump sum cash deposit or letter of credit, in a form satisfactory to the City Solicitor, in an amount of \$25,000.00, which deposit shall serve as the lot grade deposit for all subsequent residential lot grade permits issued to such applicant.

Conditions for Lump Sum Deposits

- (5) Where an applicant has made a deposit with the City pursuant to subsection (4), such deposit:
 - (a) shall be maintained in the amount of \$25,000.00 until all obligations of the applicant pursuant to lot grading permits have been met;
 - (b) shall stand as security for all residential lot grading permits issued to the applicant; and
 - (c) the whole or part of such deposit may be used by the City to remedy any lot grading deficiencies, provided however, that the City shall first cause reasonable notice to be given to the applicant to have same corrected.

Non-Compliance with Conditions

- (6) Lot grading permits shall not be issued to an applicant who has made a lump sum security deposit pursuant to subsection (4) and who has been given notice by the designated City Administrator of deficiencies or non-compliance with the Lot Grading By-law unless:
 - (a) such deficiencies or non-compliance have been corrected to the satisfaction of the designated City Administrator; or

- (b) the applicant pays an additional deposit in accordance with clause 2(a) of Schedule "A", for each lot grading permit issued subsequent to the notice of deficiencies or non-compliance. Such additional deposits will be required until such time as all outstanding deficiencies or non-compliance have been remedied and, where the City has used all or part of the residential lot grade deposits to correct deficiencies, the applicant has re-established the same back to \$25,000.00.

RESPONSIBILITIES OF PROPERTY OWNER

8. Maintenance of Lot Grading

- (1) The Owner shall be responsible to ensure the maintenance of all lot grades which were established and approved by the City prior to the passage of this By-law or established by a Lot Grading Permit.

Control of Storm Water

- (2) The Owner shall be responsible to ensure that any storm water originating on his property is not directed nor permitted to flow onto adjacent property in a manner that would adversely affect or be detrimental to that property.

Maintenance of Roof Downspouts, Sump Pump Discharge Pipe and Splash Pads

- (3) 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 subsections 5(9) and 5(10) of this By-law.

REMEDIAL ACTION

9. Non-Compliance with Lot Grading Permit

- (1) Where, in the opinion of the designated City Administrator, the lot grading has not been completed in accordance with the Lot Grading Permit, the designated City Administrator may give written notice by certified mail to the Applicant, directed that the said lot grading be completed and/or corrected.

Where required by the designated City Administrator, the Applicant shall submit, as part of the corrective measures, a new lot grading plan prepared by a Professional Engineer or Architect.

Failure to Comply with Lot Grading Permit

- (2) Where an Applicant who has been given a notice, order or direction by the designated City Administrator to do any act or thing to complete the grading of a lot in accordance with the Lot Grading Permit neglects or refuses to comply with such order or direction within the time specified, the designated City Administrator may cause the work to be carried out by the City and charge the cost of the work against the deposit held by the City. Where the cost of the work exceeds the value of the deposit held, the City may charge the cost of such excess against the Applicant; and in default of payment, recover the cost as a debt due to the City.

Failure of Owner to Maintain Lot Grading

- (3) Where in the opinion of the designated City Administrator the lot grading has not been properly maintained and drainage is not achieved in accordance with previous established and approved Building Lot Grade and Lot Grade Elevations or with the Lot Grading Permit and the requirements of this By-law, the designated City Administrator may give a written notice by certified mail to the Owner, directing that the said lot grading be corrected.

Where required by the designated City Administrator, the Owner shall submit, as part of the remedial measures, a new lot grading plan prepared by a Professional Engineer or Architect.

Failure of Owner to Correct Lot Grading

- (4) Where an Owner who has been given a notice, order or direction by the designated City Administrator pursuant to subsection (3) neglects or refuses to comply with such order or direction within the time specified, the designated City Administrator may cause the work to be carried out by the City and charge the cost against the Owner; and in default of payment:
 - (a) recover the cost as a debt due to the City; or
 - (b) charge the cost against the land concerned as taxes due and owing in respect of that land, and recover the cost as such.

PENALTIES

10. (1) A person who contravenes a provision of this By-law is guilty of an offence and liable on summary conviction
 - (a) in the case of an individual, to a fine of not more than \$1,000., or to imprisonment for a term of not more than six months, or both; and
 - (b) in the case of a corporation, to a fine of not more than \$5,000.
- (2) Where the contravention continues for more than one day, the person is guilty of a separate offence for each day it continues.

SCHEDULES

11. Schedules "A", "B" and "C" form part of this By-law.

REPEAL OF EXISTING BY-LAW

12. (1) All By-laws, resolutions and orders 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 that this By-Law comes into effect.
- (2) Without limiting the generality of subsection (1), the following By-laws and any amendments thereto made from time to time are hereby repealed:

City of Winnipeg By-Law Nos. 4569/87, 4600/87,
4606/87, 4618/87, 6191/93 and 6595/95 and 7123/97.
- (3) This By-law shall come into force and effect on the 1st day of January, 1999.

DONE AND PASSED in Council assembled, this 29th day of September, 1998.

SCHEDULE "A" TO BY-LAW NO. 7294/98

SCHEDULE OF FEES AND DEPOSITS

1. LOT GRADING PERMIT:

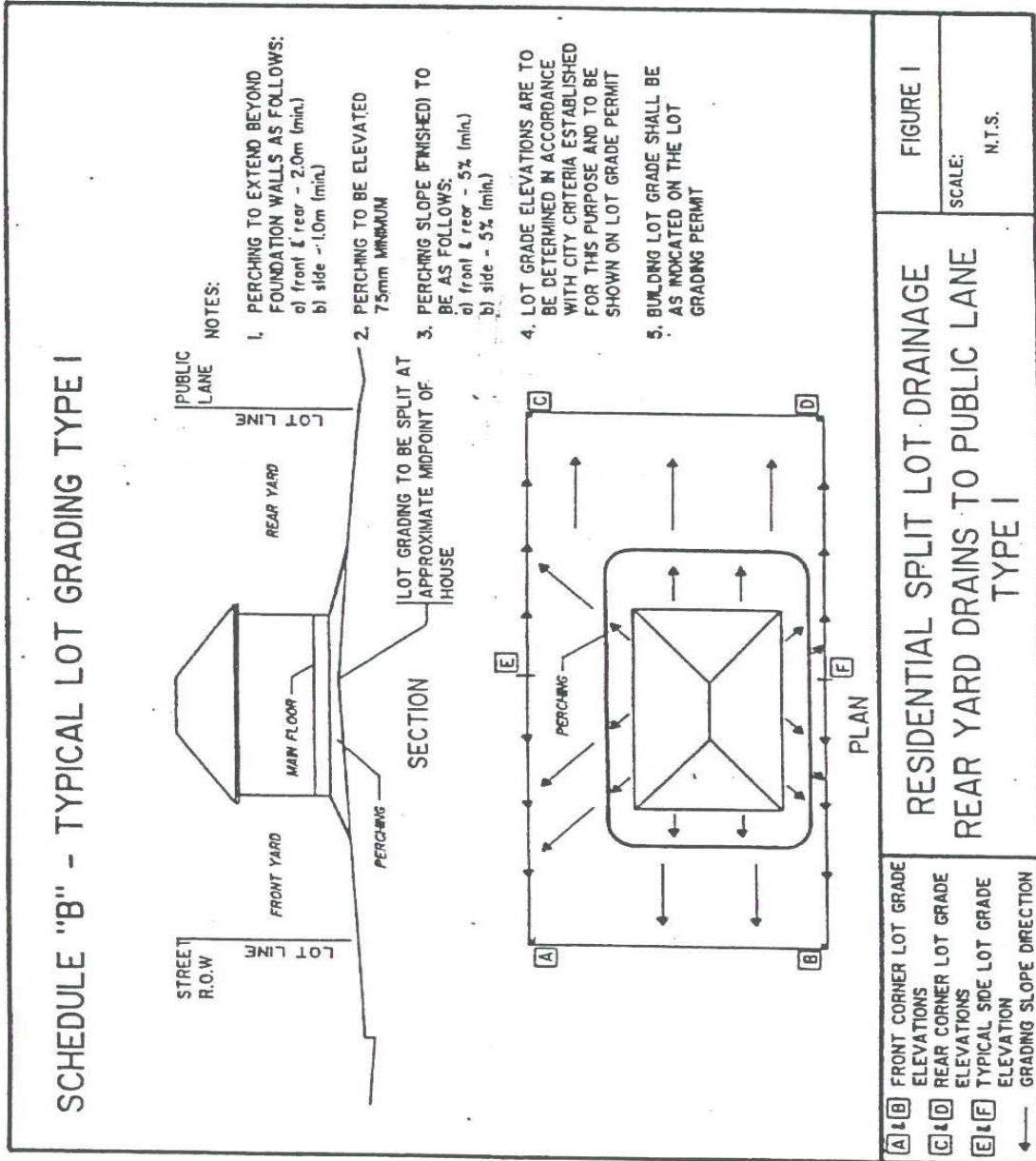
- | | | |
|-----|--|----------|
| (a) | fee per lot, residential property | \$100.00 |
| (b) | fee per lot, other than residential property | \$250.00 |

2. LOT GRADING DEPOSIT:

- | | | |
|-----|--|------------|
| (a) | per lot, residential property | \$1,000.00 |
| (b) | per lot, other than residential property | \$1,500.00 |

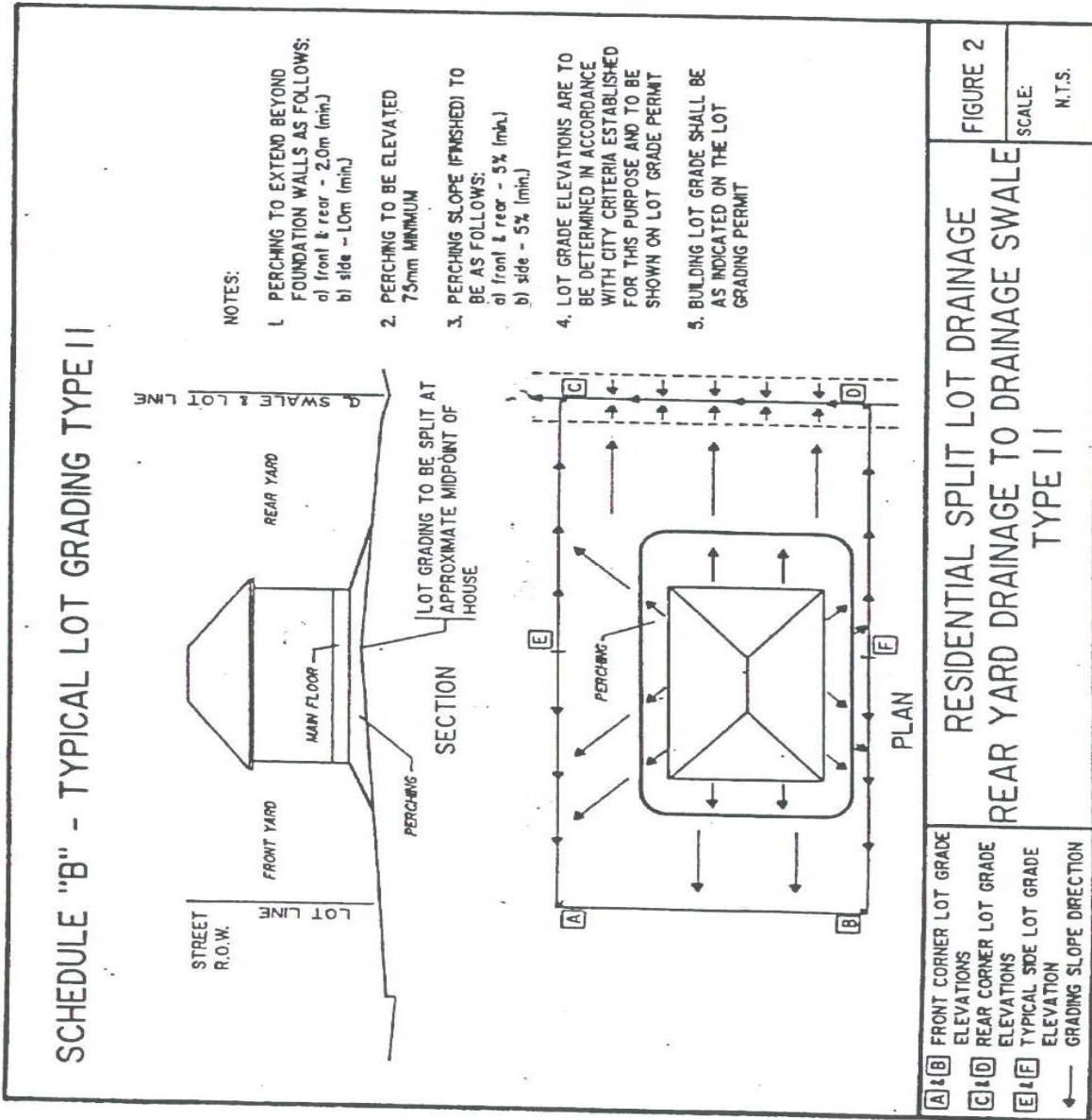
SCHEDULE "B" TO BY-LAW NO. 7294/98

TYPE I



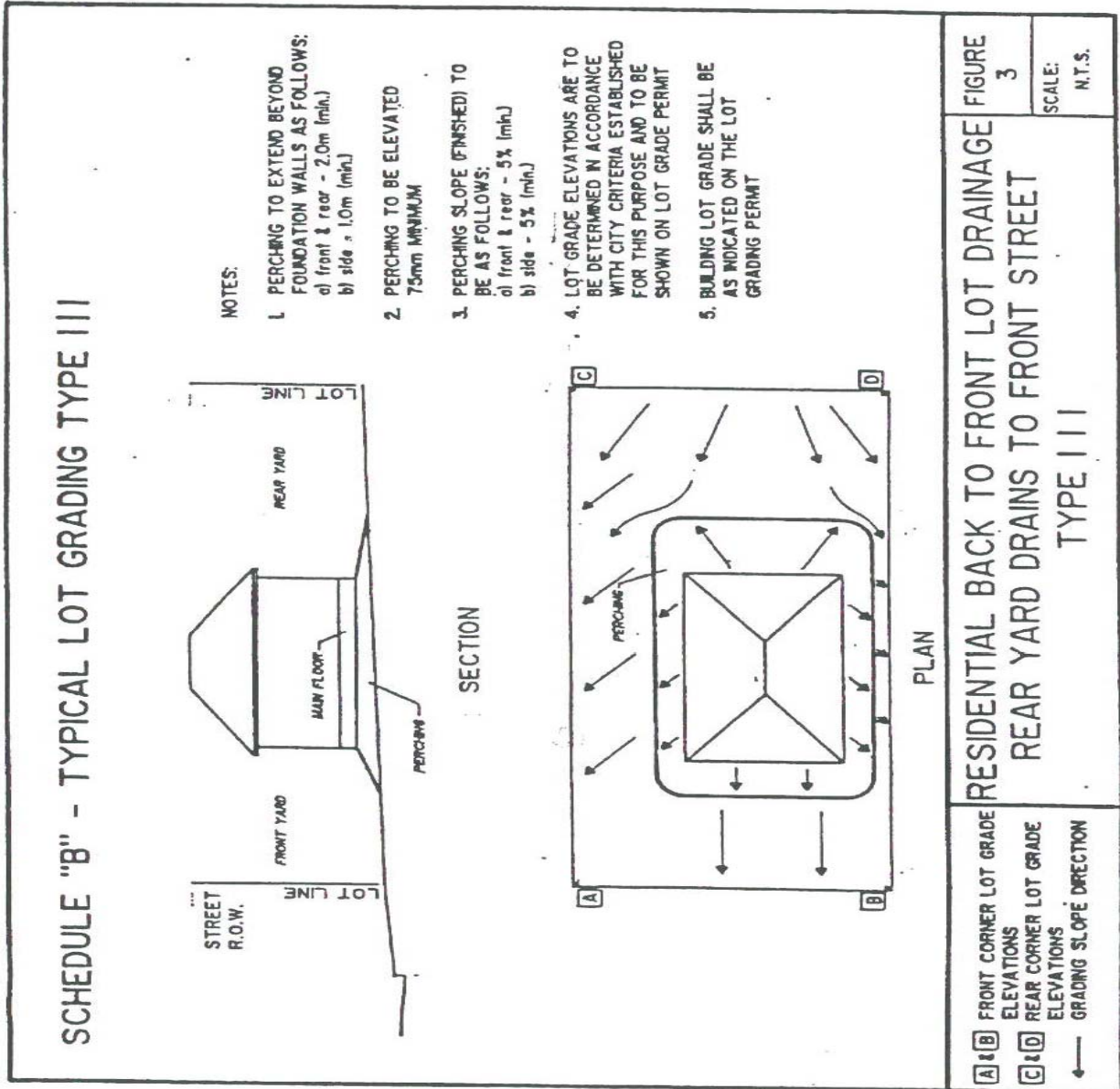
SCHEDULE "B" TO BY-LAW NO. 7294/98

TYPE II

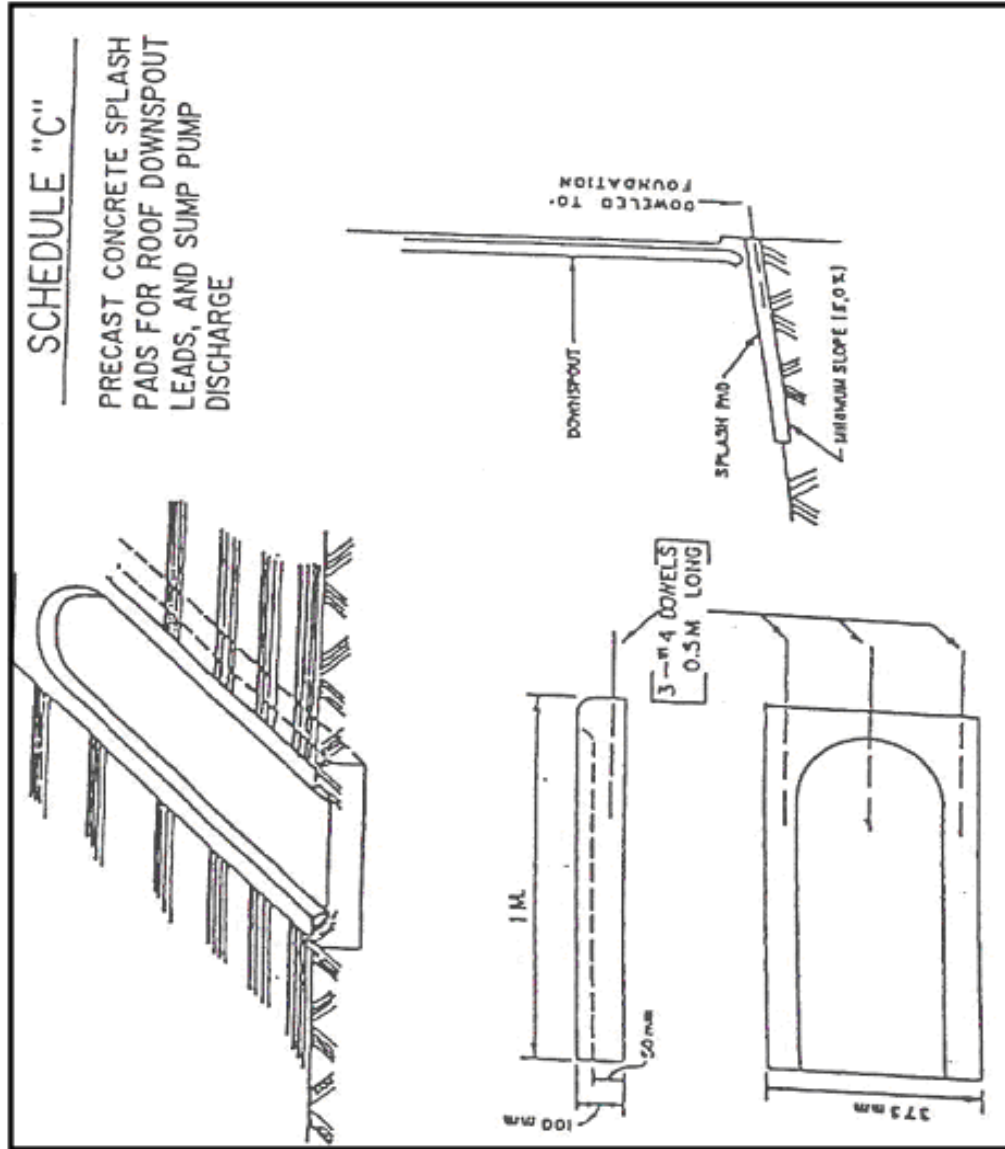


SCHEDULE "B" TO BY-LAW NO. 7294/98

TYPE III



SCHEDULE "C" TO BY-LAW NO. 7294/98



INDEX TO BY-LAW NO. 7294/98

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SCHEDULES

SCHEDULE "A" - SCHEDULE OF FEES AND DEPOSITS

SCHEDULE "B" - TYPICAL LOT GRADING

Figure 1 Type I - Lot Grading
 - Residential Split Lot Drainage
 - Rear Yard Drains to Public Lane

Figure 2 Type II - Lot Grading
 - Residential Split Lot Drainage
 - Rear Yard Drainage to Drainage Swale

THE CITY OF WINNIPEG
LOT GRADING BY-LAW NO. 7294/98

"WHOM TO CONTACT" GUIDE

SECTION	SUBTITLE	CONTACT
4(1)	Application for lot grading permit	Property & Development Services, Zoning & Permits Branch, 395 Main Street
7(3) 7(4)	Letter of Credit, Lump Sum Deposit	Public Works Department, Customer Services Branch, 107-1155 Pacific Avenue
All other Sections and Schedule "A"		Water & Waste Department, 1500 Plessis Road or 849 Ravelston Avenue West