

The Rural Municipality of Dufferin
POLICY & PROCEDURES MANUAL

<i>Reference</i> Surface/Tile Drainage and Installation of Irrigation Policy	<i>Classification</i> Policy
<i>Subject</i> Drainage	<i>Pages</i> 9
<i>Authority</i> Council	<i>Effective Date</i> September 15th, 2020
<i>Approved</i> September 15 th , 2020, Resolution #11	<i>Index</i>

September 15th, 2020 - #11 PW. Surface Tile Drainage and Installation of Irrigation Policy Revised 2020 – Councillors Harder/Takvam

Resolved that the Council of the Rural Municipality of Dufferin approve the following Surface/Tile Drainage and Installation of Irrigation Policy as attached.

Motion Carried

Whereas Section 232(1) of the Municipal Act provides as follows;

“A council may pass by-laws for municipal purposes respecting the following matters:

- (e) private works on, over, along or under municipal roads;
- (f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;
- (h) drains and drainage on private or public property;
- (l) public utilities;
- (m) local transportation systems;
- (o) the enforcement of by-laws.”

And Whereas Section 232(2) of the Municipal Act provides as follows;

“Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit;
- (c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways;
- (d) establish fees or other charges for services, activities or things provided or done by the municipality or for the use of property under the ownership, direction, management or control of the municipality;
- (e) subject to the regulations, provide for a system of licences, permits or approvals, including any or all of the following:

- (i) establishing fees, and terms for payment of fees, for inspections, licences, permits and approvals, including fees related to recovering the costs of regulation,
- (iv) providing that terms and conditions may be imposed on any licence, permit or approval, and providing for the nature of the terms and conditions and who may impose them,
- (v) providing for the duration of licences, permits and approvals and their suspension or cancellation or any other remedy, including undertaking remedial action, and charging and collecting the costs of such action, for failure to pay a fee or to comply with a term or condition or with the by-law or for any other reason specified in the by-law.“

And Whereas Section 239(1) and (3) of the Municipal Act provides as follows;

239(1) If this or any other Act or a by-law authorizes or requires anything to be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or the building or other structure to be entered to carry out the inspection, remedy, enforcement or action,

- (a) enter the land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the Act or by-law;
- (b) request that anything be produced to assist in the inspection, remedy, enforcement or action; and
- (c) make copies of anything related to the inspection, remedy, enforcement or action.

239(3) In an emergency, or in extraordinary circumstances, the designated officer need not give reasonable notice or enter at a reasonable hour and may do the things referred to in clauses (1)(a) and (c) without the consent of the owner or occupant.

And Whereas Section 294.1 of the Municipal Act provides as follows;

294.1(1) In this section, "drain" means a culvert, drain, drainage ditch, dyke or floodway, constructed or maintained by a municipality but does not include a provincial waterway as defined by The Water Resources Administration Act.

294.1(2) Subject to the rights vested in any other party under The Water Resources Administration Act or The Water Rights Act, a municipality has jurisdiction over every drain within its boundaries.

294.1(3) A municipality must maintain every drain within its boundaries to a standard that is appropriate for the use to which the municipality expects the drain to be put.

294.1(4) 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

- (a) by levying and collecting the amount of the expense as a tax; or
- (b) by any other means.

Now Therefore the Council of the Rural Municipality of Dufferin in Council assembled enacts as follows:

1. **Title** – This by-law may be referred to as the “**Drainage By-Law**”
2. **Definitions** – In this by-law, unless the context shall otherwise require,
 - “**Adjoining Lands**” mean the lands owned by an applicant for application that adjoins or is connected with the Private Work;
 - “**Council**” means the Council of the Municipality;
 - “**Highway**” means the portion of public highway that is the location of the Private Work;
 - “**Private Work**” includes private roadways, crossings, openings, signs or other advertising devices and other structures constructed, erected, installed or maintained on a highway for the use or benefit of owners, or occupants of Adjoining Lands;
 - “**Chief Administrative Officer**” means the Chief Administrative Officer for the time being of the Municipality.
3. **Prohibition** – No person shall construct, erect, install, maintain, or use any Private Work unless a approval for the purpose is issued therefor by the Municipality.

RM OF DUFFERIN DRAINAGE POLICY

The RM of Dufferin is the drainage authority for all lands in its jurisdiction with the exception of natural waterways and Province of Manitoba designated drains.

Definition of Drainage

Drainage means a natural or artificial channel or subsurface tile which provides a course for water flowing continuously or intermittently.

Surface Drainage Policy

1. Construction and maintenance of municipal ditches are the jurisdiction of the RM of Dufferin and Manitoba Water Stewardship.
2. Construction and maintenance of MIT provincial highway ditches are the jurisdiction of the RM of Dufferin, Manitoba Water Stewardship and MIT.
3. Construction and maintenance of Provincial drains and natural waterways are the jurisdiction of Manitoba Water Resources and Manitoba Water Stewardship.
4. The municipality expects all private drains to be licenced in compliance with Manitoba Government rules and regulations. The municipality may refuse drainage requests if the landowner is not in compliance.
5. Land owner requests for improvements to municipal, provincial or Highway drains should be made to the appropriate ward councillor or to the RM of Dufferin, preferably in writing, attached as schedule “B”;
 - Ward 1 – Township 6-3 & 7-3
 - Ward 2 – Township 6-4 & 7-4

Ward 3 – Township 6-5

Ward 4 – Township 6-6 & 6-7

Ward 5 – Township 7-5 & East ½ of 7-6

Ward 6 – Township West ½ of 7-6 & 7-7

6. All requests received will be reviewed by Council. The Council of the RM of Dufferin establishes an annual municipal drainage works plan to be funded as part of the municipal budget. Additional drainage projects may be added as time and budget allow.
7. The Municipal Foreman delegates and completes the surveying and licensing and provincial approvals as required.
8. The Municipal Foreman in consultation with Council determines the timing and scope of work.
9. Council shall receive a monthly progress report during construction season.
10. The excess material excavated during construction shall be stored directly adjacent to the maintained drain. The Municipality will undertake to spread the material in the same calendar year as the work is completed or as soon as practically possible.
11. The landowner may request use of the material. The landowner will be required to sign an excess stockpiled material agreement complying with conditions as per municipal policy, attached as Schedule “C”.
12. The municipality attempts to mitigate erosion which may occur as a result of new drainage works.
13. Erosion control methods of field drain outlets into municipal drains are an important component of erosion mitigation. The Municipality and La Salle Redboine Conservation District are available to provide expertise and assistance in this matter.
14. Requests for additional culverts or modified field approaches are addressed as per the Approaches and Culvert Policy.
15. The RM of Dufferin allows private works in municipal right of ways upon the approval of the Application for Private Drainage Works.

Tile Drainage Policy

Tile drainage is a widely used drainage system employed in most major crop producing areas in North America. The RM of Dufferin will work with producers to accommodate tile drainage systems but these installations shall be installed in accordance with the following rules and regulations:

1. Tile drainage must comply with all rules and regulations of the Province of Manitoba.
2. Tile drainage which outlets into the municipal drainage system must be approved by the Council as per the following requirements;
 - a) Initial requests shall be directed to either the local Councillor or the RM of Dufferin, preferably in writing and must include details of plans for any other utilities required.
 - b) The Council shall require copies of tile drainage licensing to be completed prior to the commencement of installation of tile drainage. Landowners seeking tile drainage approvals should submit preliminary plans before June 1st of each year for council to review. Final plans should be submitted to council not later than August 1st of each year for final Council approval. The Ward Councillor and Municipal Foreman will attend the site for a review of the project prior to approval.

- c) The application shall be dated, shall have the designer's name and contact information and shall have the installer's name and contact information. The maps must be clear and depict the drainage design in detail including type and location of outlets.
 - d) Drainage co-efficient of the tile outlet shall not exceed one quarter of an inch. Tile drainage installations shall not use perforated main drains unless prior approval has been received. The plans must include details of plans for any utilities that may be required to powering the mains by pump out.
 - e) Erosion control measures of the outlets shall be installed.
 - f) The licence holder of the tile drainage must be responsible for mowing and maintenance of ditches downstream of tile outlets up to the natural waterway to mitigate future cattails from forming.
 - g) Tile drainage water shall only be discharged into a natural grassed waterway, municipal or provincial drain and shall not cross private lands without prior licensed approval. Tile drain outlets should discharge into natural or provincial waterways as directly as possible to minimize impact on downstream municipal drains. If Tile Drain outlets require a source of power, the powerlines must be marked and may be required to be buried at a depth determined by council. Council may require all irrigation and tile outlet lines to be buried on private land with any require easements in place prior to the installation.
 - h) Where possible tile water should be part of an integrated water management strategy including drainage and irrigation.
3. Tile drainage projects requiring modifications to existing municipal drains shall be the sole responsibility of the applicant, the outlet must be construction in a way that water cannot breach the back slopes of the municipal drain and run across private property; the flow must be directed all the way to the natural or provincial waterways prior to the approval of the installation of Tile Drainage and requires approval of the Private Drainage Works Application attached as Schedule "A".

Failure to comply with the above rules and regulations in regards to surface or tile drainage shall be subject to the RM of Dufferin drainage enforcement bylaw and all fines, penalties and sanctions as may be applied by the Province of Manitoba.

Installation of Irrigation

The municipality deems it necessary and expedient to enter into an agreement with Irrigators to authorize and regulate the installation of irrigation lines across municipal right-of-ways;

Irrigation is a widely used drainage system employed in most major crop producing areas in North America. The RM of Dufferin will work with producers to accommodate tile drainage systems but these installations shall be installed in accordance with the following rules and regulations:

Failure to comply with the above rules and regulations in regards to surface or tile drainage shall be subject to the RM of Dufferin drainage enforcement bylaw and all fines, penalties and sanctions as may be applied by the Province of Manitoba.

RURAL MUNICIPALITY OF DUFFERIN
Schedule "A" for the Application for Private Works

The Rural Municipality of Dufferin will permit the work once the landowner and/or the applicant has reviewed this agreement letter and returned a signed copy to our office, confirming the acceptance of the following conditions:

LOCATION: _____

1. Where necessary the Rural Municipality of Dufferin will acquire the necessary license or registration from Manitoba Water Stewardship. A copy of this approval shall be forwarded to you when you provide our office with a signed copy of this agreement, and before any works commence. The location for the approved application will be staked by the municipality in accordance with survey for a licensed or registered drain.
2. The work shall be constructed as per the conditions outlined in the approval of Council for private works, the approved Drainage License or Registration from Manitoba Water Stewardship;
 - a. Unless specified, the applicant and/or the landowner will control the spring water runoff and assure the proposed works do not increase the downstream water flow in spring runoff conditions.
 - b. The applicant and/or the landowner shall submit the proposed project in a timely fashion. The proposal should include an initial survey including proposed slopes and grades, and/or particulars of the private works in relation to Adjoining Lands and the Highway/Roadway.
 - c. If the initial proposal is approved by the RM Dufferin a detailed survey and scope of work will be provided by the RM. The applicant shall comply with all requirements provided in the scope of work and/or any conditions included in the approval of Council for the private works.
 - d. The applicant and/or the landowner will ensure that proper erosion control methods are followed, including the use of erosion control blankets, rip-rap material and temporary biodegradable erosion control blanket;
3. The Municipality will request all utility locates but the applicant and/or the landowner shall be responsible for all utility re-location and protection, including MTS, Manitoba Hydro and Dufferin Waterline Distribution System, and shall be liable for damage caused to utilities located at this site;
4. When requested, all disturbed areas (i.e. grade slopes, ditches, field drains) shall be trimmed, re-seeded and restored to an acceptable condition within 60 days of completion.
5. The applicant and/or the landowner shall be responsible for the restoration of any erosion, slope failure, or road settlements, for a period extended to December 31 of the year following the date on which work has completed the construction or modification.
6. Any excess excavated material shall be disposed of or leveled to an acceptable condition;
7. The construction, installation, and maintenance operations of the permitted drainage works, shall be accomplished with minimal interference of the use, operation and maintenance of the Province's right-of-way, and shall in no way, endanger the general public in its authorized/legal use of the right-of-way.
8. The applicant and/or the landowner, shall contact the RM of Dufferin a minimum of 48 hours in advance of the work being undertaken.
9. The applicant and/or the landowner shall arrange for the safe movement of highway/roadway traffic and pedestrians during installation/excavation or maintenance of the works, by providing and maintaining the necessary signs, barricade, channelling, and other devices which are generally required.
10. The applicant and/or the landowner shall install the works through the road embankment by boring, tunnelling or jacking. If the works must be installed by excavating open trenches, ensuring they are

adequately shored, the applicant and/or the landowner shall first obtain written permission from the Municipality.

- 11. The applicant and/or the landowner shall backfill the trenches, compact the material and restore the surface over excavated areas to a condition similar and equal in nature to what had existed prior to commencement of the works. The applicant and/or the landowner shall be responsible for restoration of the works within the right-of-way of the road for a two year period following the date of this agreement which authorizes the applicant to commence the works.
- 12. The applicant and/or the landowner shall be held liable for any damage, injury, or destruction resulting from the negligence of their staff and/or agents, shall indemnify and save harmless the Municipality from and against all claims arising from the construction, operation and maintenance of the works by the applicant and/or the landowner and maintain ongoing \$5 million liability insurance coverage for this purpose for the duration of the work, and if requested shall provide evidence;
- 13. The Rural Municipality of Dufferin requires that all downstream landowners and any other landowners that may be affected by the drainage works be contacted concerning the permitted work.
- 14. This agreement is subject to any restrictions and/or regulations imposed by any other Government body (i.e. Manitoba Environment, DFO) and does not relieve the landowner and/or applicant from having to comply with the requirements.
- 15. If remedial/restoration works are required to be done by the RM of Dufferin to rectify a drain that does not comply with the Manitoba Water Stewardship License/Registration or the Drainage Plan of the RM of Dufferin as approved or for private works to backfill trenches, compact the material or restore the surface over excavated areas to a condition similar and equal in nature to what had existed prior to commencement of the works, the costs of such works will be the responsibility of the landowner.

The Municipality will notify the following landowners downstream upon completion of the signing of the application;

NAME

LEGAL DESCRIPTION

Thank you for your cooperation in this matter. Construction must not commence until the applicant and/or the landowner has received a signed copy back from the Rural Municipality of Dufferin.

ACKNOWLEDGEMENT:

I, _____ of _____

Agree to comply with the conditions and recommendations outlined in this letter.

IN WITNESS WHEREOF the parties hereto agree to the above conditions.

Signatures:

Date: _____

Landowner(required signature)

Witness

Applicant(only if different
from the landowner)

Witness

APPROVAL:

Sharla Murray, Chief Administrative Officer

RURAL MUNICIPALITY OF DUFFERIN
Schedule "B" for the Application for Drainage Works

The Rural Municipality of Dufferin will permit the work once the landowner and/or the applicant has made their formal request in writing and has been reviewed and approved by council.

Date: _____ Work Order #: _____

Name: _____ Start Date: _____

Location: _____ Completion Date: _____

Description of Work: _____

Machine: _____

Materials: _____

Labour: _____

Locates

Water _____

MTS _____

Hydro _____

Gas _____

Drainage License

RURAL MUNICIPALITY OF DUFFERIN
Schedule "C" for the Application for Excess Stockpiled Material Agreement

The Rural Municipality of Dufferin will permit the excess stockpiled material to be used by the landowner and/or the applicant that has made their formal request in writing and has been reviewed and approved by council.

The excess material excavated during construction shall be stored directly adjacent to the maintained drain. If the Municipality has approved the excess stockpiled material use by the landowner and/or the applicant, they must undertake to use/spread the material within the next calendar year, no later than October 31st. If the landowner and/or the applicant does not use/spread the excess stockpiled material by the deadline, the Municipality will undertake to spread the material as soon as practically possible. The Municipality reserves the right to deny any future requests of this nature if the requirements are not complied by.

The landowner and/or the applicant is not allowed to receive any remuneration for the excess stockpiled material that they have been granted the use of.

Thank you for your cooperation in this matter. Use of the excess stockpiled material must not commence until the applicant and/or the landowner has received a signed copy back from the Rural Municipality of Dufferin.

ACKNOWLEDGEMENT:

I, _____ of _____
Agree to comply with the conditions and recommendations outlined in this letter.

IN WITNESS WHEREOF the parties hereto agree to the above conditions.

Signatures:

Date: _____

Landowner(required signature)

Witness

Applicant(only if different
from the landowner)

Witness

APPROVAL: _____
Sharla Murray, Chief Administrative Officer