

# THE RURAL MUNICIPALITY OF ST. ANDREWS

## BY-LAW NO. 4255

### “THE LOT GRADE BY-LAW”

Being a By-Law of the Rural Municipality of St. Andrews to regulate the Grading of Property and to establish Lot Grade elevations.

WHEREAS the Council of The Rural Municipality of St. Andrews deems it expedient and in the best interests of the public to pass a by-law to establish regulations governing the grading of property for the purpose of managing storm water runoff in order to minimize any nuisance that may be caused to property by storm water runoff, and to minimize infiltration of storm water into the wastewater sewer system via building foundation drains;

NOW THEREFORE, the Council of the R.M. of St. Andrews, in open meeting, duly assembled, enacts as follows:

#### 1.00 INTENT OF BY-LAW

1.01 The intent of this by-law is to establish regulations governing the grading of property in certain areas of 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.

#### 2.00 DEFINITIONS

Unless the context otherwise requires, where used in this by-law:

- 2.01 “Applicant” means owner, or such other person authorized in writing by the owner to make application for a Lot Grading Permit;
- 2.02 “Authority Having Jurisdiction” means an official or agency designated by the Council of the R.M. of St. Andrews for the enforcement of any parts of this by-law;
- 2.03 “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.
- 2.04 “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;
- 2.05 “Council” means the Council of The Rural Municipality of St. Andrews;
- 2.06 “Downspout” means a nominally vertical pipe that is installed to carry storm water from a roof;
- 2.07 “Elevation” means the vertical distance above or below mean sea level;

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- 2.08 "Highway" means any place, property or way owned by the R.M. of St. Andrews, including any structure forming part thereof, which or any of which the public is ordinarily permitted to use for the passage of vehicles or pedestrians, with or without fee or charge therefor, 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 transportation dedicated to the public use as highways as defined, and also includes all ditches, drains, bridges, culverts, subways, underpasses, grade separations, piers, wharfs, ferries and squares, and the road improvements thereon dedicated to the public use, but does not include any area designated or intended and primarily used for the parking of vehicles and the necessary passageways thereon;
- 2.09 "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;
- 2.10 "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;
- 2.11 "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;
- 2.12 "Lot Grading" means a general term referring to the combination of lot grade elevations and resultant slopes within a given lot;
- 2.13 "Lot Grading Permit" means a written approval issued by the authority having jurisdiction pursuant to this by-law, wherein the Building Lot Grade and Lot Grade Elevations of a specific lot are established;
- 2.14 "Municipality" means The Rural Municipality of St. Andrews;
- 2.15 "Owner" means a person in whose name a subject property is registered;
- 2.16 "Residential Property" means a property intended for use by one or two families only;
- 2.17 "Splash Pad" means a cast-in-place, plastic or precast concrete pad used to carry roof runoff and weeping tile water away from the building foundation;
- 2.18 "Storm Water" means water from rainfall or snowmelt or a combination of the two, and includes weeping tile water;
- 2.19 "Street" means a highway over which the Municipality has jurisdiction;
- 2.20 "Street Line" means the lateral boundaries of the highway;
- 2.21 "Swale" means a compacted earth ridge, excavated channel or a combination of ridge and channel designed to direct runoff, with positive drainage slopes, towards a municipal ditch or street.
- 2.22 "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.

3.00 APPLICATION FOR LOT GRADING PERMIT:

All applications for Lot Grading Permits shall be made at the offices of the Rural Municipality of St. Andrews. If the lot does not have an approach at the time of application for the lot grade, a Private Approach Permit will be required before any private approach is to be constructed.

3.01 *Residential Property Lot Grading Permit Application:*

The applicant shall obtain a Lot Grading Permit prior to the issuance of a building permit to construct a building on a lot. This does not apply to the construction of accessory buildings or dwelling additions in all zones, and for new dwellings in the Rural Zones (A40 and A80) where a main dwelling exists. The application shall be accompanied by:

- (a) one copy of a site plan showing the location of the proposed building(s), must include locations from at least two perpendicular property lines, location of driveway and location of any existing structures in relation to the proposed building(s).;
- (b) one copy of a plan showing a section view of the proposed building(s) foundation, basement windows (if applicable) and main floor.

3.02 *Commercial, Industrial and Multi-Residential Sites Lot Grading Permit Application:*

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, multi-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:

- (a) two copies of a lot grading plan for the site, prepared by an Engineer. This certified plan where applicable, shall show:
  - (i) building location(s)
  - (ii) lot grade elevations in meters, above mean sea level
  - (iii) catch basin locations (if applicable)
  - (iv) land drainage sewer sizes and locations (if applicable)
  - (v) entrances to buildings, basement windows 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.
- (b) two copies of a plan showing the section of the foundation and floor(s) of the building(s) to be constructed, and any additional section views that may be required.

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**3.03 *Existing Lot Grading Changes:***

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 runoff from that or any adjacent property.

**3.04 *Timing of Application:***

The applicant shall make application for a lot grading permit at least five (5) working days prior to the requirement of this permit.

**4.00 LOT GRADING REQUIREMENTS:**

Lot grading shall be an integral part of the storm water drainage management system for the Municipality.

**4.01 *Lot Grading Permit:***

The lot grading permit shall have indicated on it the approved minimum and maximum lot grade elevation, 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.

**4.02 *Building Lot Grade:***

The building lot grade shall be within the minimum and maximum level, as indicated on the lot grading permit.

**4.03 *Residential Property Lot Grading (Residential Zones):***

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

- (a) Type 1 Lot Grading: Residential Split Lot Drainage  
= rear yard drains to swale.
- (c) Type 2 Lot Grading: Residential Back-to-Front Lot Drainage  
= rear yard drains to front street.

**4.04 *Perching of Residential Property:***

Residential property, both Residential zones and Agricultural zones, 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".

**4.05 *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.

**4.06 *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, are the following:

- (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.

4.07 *Commercial, Industrial & Multiple-Residential Lot Grading:*

In designated areas of the municipality, 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 municipality's land drainage system, as may be determined by the authority having jurisdiction.

4.08 *Roof Downspouts:*

All building roof downspouts shall be located in such a manner 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 or directed so as to cause storm water to drain directly onto adjacent property.

4.09 *Sump Pump Discharge Pipe:*

All sump pump discharge pipes discharging weeping tile water shall be located in such a manner that 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 "B" or by an equivalent method approved by the authority having jurisdiction, and shall not be located within five meters (5m) of any property line or directed so as to cause discharge water to drain directly onto adjacent property and streets.

4.10 *Wastewater Sewer Connection:*

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 authority having jurisdiction.

4.11 *Swales:*

When required by the Authority having jurisdiction, swales are to be built with no less than half a percent (0.5%) grade and to be grassed. No trees, bushes, shrubs are to be planted in or within one meter (1m) of any swale(s). See Schedule "B" for a detail drawing of a Swale.

5.00 LOT GRADING CONSTRUCTION

5.01 *Marking of Residential Property:*

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

5.02 *Provision of Building Lot Grade Stake:*

The applicant shall request a building lot grade stake from the authority having jurisdiction at least five (5) 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 and in such a manner that the mark cannot be easily removed and/or tampered with;

- (b) issue a written lot grade permit, which indicates the required lot grade elevation and if any swales are required. The lot grade permit shall be attached to the building permit. The applicant shall take precautions to ensure that any lot grade stakes are protected until no longer required. If replacement of a lot grade stake is required, the applicant shall pay the cost of such replacement.

5.03 *Entering Upon Property:*

A designated officer of the municipality may, pursuant to Section 239(1) of *The Municipal Act of Manitoba, S.M. 1996, c.58*, subsection (a) enter the land or structures at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the Act or by-law.

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

5.04 *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.

5.05 *Release of Lot Grading and Damage Deposit:*

The municipality shall, upon request from the applicant, cause the lot or property to be inspected and surveyed as required to determine compliance with the requirements of this lot grade By-law (#4255) and the requirements of the lot grading permit and to identify any damage to the Highway or debris and/or material left on the Highway caused by the applicant or any of the applicants contractors. Subject to the provisions of sections 6.02 and 6.03 herein, the lot grading and damage 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 lot grade requirements and lot grade permit requirements of the property has been substantially completed, any damage to the Highway caused by the applicant has been appropriately repaired and any debris and/or material left on the Highway has been cleared by the applicant. Substantial completion shall mean the completion of the perching surrounding the building, completion of any required swales, completions of installation of roof downspouts, splash pads and the remaining lot grading to the state of the topsoil and placement of sod may begin.

Inspections for the purpose of deposit release will generally be made during the period of 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 in an existing development agreement, the development agreement shall prevail.

**6.00 FEES AND DEPOSITS:**

**6.01 Fees:**

The applicant shall be required to pay the municipality the applicable fee for a lot grading permit, as set out in Schedule "C" attached hereto. This fee shall be paid prior to the issuance of the lot grading permit.

**6.02 *Lot Grading and Damage Deposit:***

The applicant shall be required to deposit with the municipality an applicable sum for a lot grading and damage deposit, as set out in Schedule "C" hereto. This sum shall be deposited prior to the issuance of a lot grading permit. This deposit shall be retained by the municipality until such time as the requirements specified under Section 5.05 have been complied with. If any item outlined in Section 5.05 herein is not completed to the satisfaction of the authority having jurisdiction, the municipality shall be entitled to apply the balance or any portion of the lot grading and damage deposit towards the cost of any expenses incurred by the municipality in carrying out the completion of such items.

**6.03 *Added Inspections or Related Services***

In the event that charges or fees are incurred by and/or owed to the municipality by the applicant for inspections or related services over and above the standard three (3) visits to the site which are included as part of the lot grading permit fee, the municipality shall be entitled to deduct and retain such additional charges or fee from the lot grading and damage deposit referenced in Section 6.02 herein.

**7.00 RESPONSIBILITY OF PROPERTY OWNERS**

**7.01 *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.

**7.02 *Control of Storm Water:***

The owner shall be responsible to ensure that any storm water originating on the property is not directed nor permitted to flow onto adjacent property in a manner that would adversely affect or be detrimental to that property.

**7.03 *Maintenance of Roof Downspouts, Sump Pump Discharge 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 Sections 4.08 and 4.09 of this by-law.

**7.04 *Maintenance of Swales:***

The owner shall be responsible to ensure that swales are kept free of obstructions as to allow unobstructed flow of storm water and snow melt runoff, no trees, bushes, shrubs are to be planted / growing in or within one meter (1m) of any swale(s) and maintained so as to meet the requirements set forth in Section 4.11 of this by-law.

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**8.00 REMEDIAL ACTION**

**8.01 *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 shall give written notice by certified mail to the applicant, directing 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 stamped lot grading plan prepared by a Professional Engineer.

**8.02 *Failure to Comply with Lot Grading Permit:***

Where an applicant has been given a notice, order or direction pursuant to Section 8.01, 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 to that land, and recover the cost as such.

**8.03** 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 shall give a written notice by certified mail to the owner, directing that the lot grading be corrected.

**8.04 *Failure of Owner to Correct Lot Grading:***

Where an owner who has been given notice, order or direction pursuant to Section 8.03 of this by-law, 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 against the owner and in default of payment recover the cost thereof as outlined in Section 8.02 (a) and (b) of this by-law.

**9.00 GENERAL PENALTIES**

**9.01** Any person who contravenes or disobeys, or 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 to a fine not exceeding \$500.00 in the case of an individual, or \$1,000.00 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.

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 that it continues.



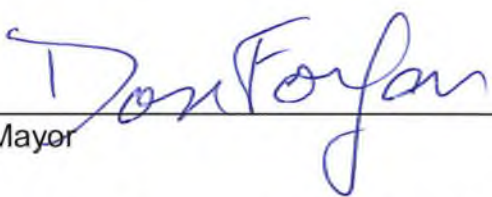
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10.00 EFFECTIVE DATE

- 10.01 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 this by-law comes into effect.
- 10.02 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 the Council of the Rural Municipality of St. Andrews, in regular session assembled in Clandeboye, Manitoba, this 27<sup>th</sup> day of May, A.D., 2014.

THE RURAL MUNICIPALITY OF ST. ANDREWS

  
\_\_\_\_\_  
Mayor

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

Read a first time this 13<sup>th</sup> day of May, A.D., 2014

Read a second time this 27<sup>th</sup> day of May, A.D., 2014

Read third time this 27<sup>th</sup> day of May, A.D., 2014

**SCHEDULE "C" TO BY-LAW NO. 4255**

**Of**

**THE RURAL MUNICIPALITY OF ST. ANDREWS**

The fee for a LOT GRADING PERMIT shall be \$500.00 per site. This fee includes up to three inspection visits to the site.

The \$500.00 fee for a Lot Grading Permit in the Lower Red River Designated Flood Areas will be waived.

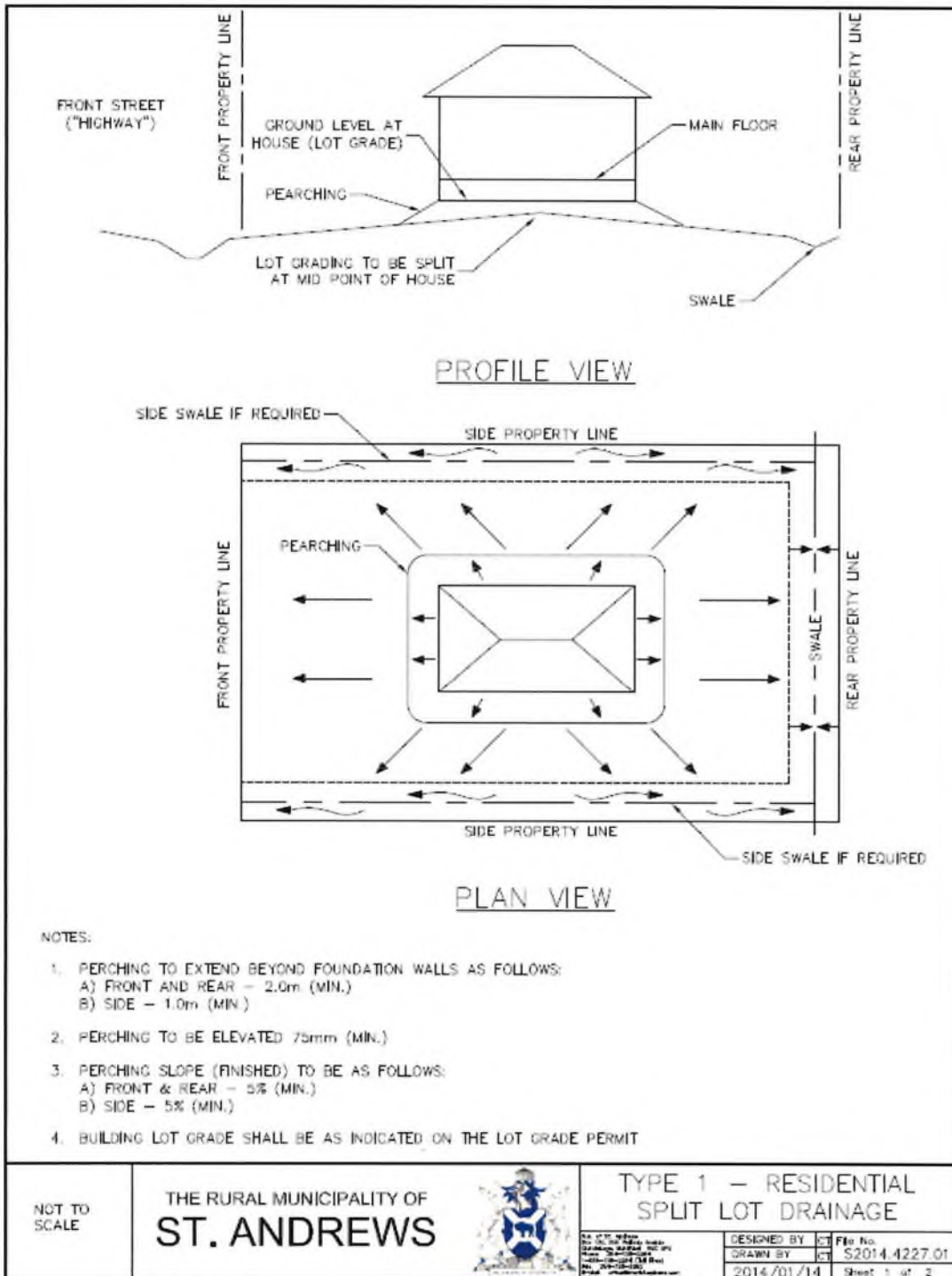
The cost of any additional visits, in excess of three, shall be \$125.00 for each additional visit.

The Lot Grading and Damage Deposit required in addition to the LOT GRADING PERMIT shall be:

- (a) \$2,000.00 per site - residential
- (b) \$2,250.00 per site - other than residential

SCHEDULE "A" TO BY-LAW NO. 4255  
OF  
THE RURAL MUNICIPALITY OF ST. ANDREWS

TYPICAL LOT GRADING TYPE 1 –  
RESIDENTIAL AREA SPLIT LOT DRAINAGE.

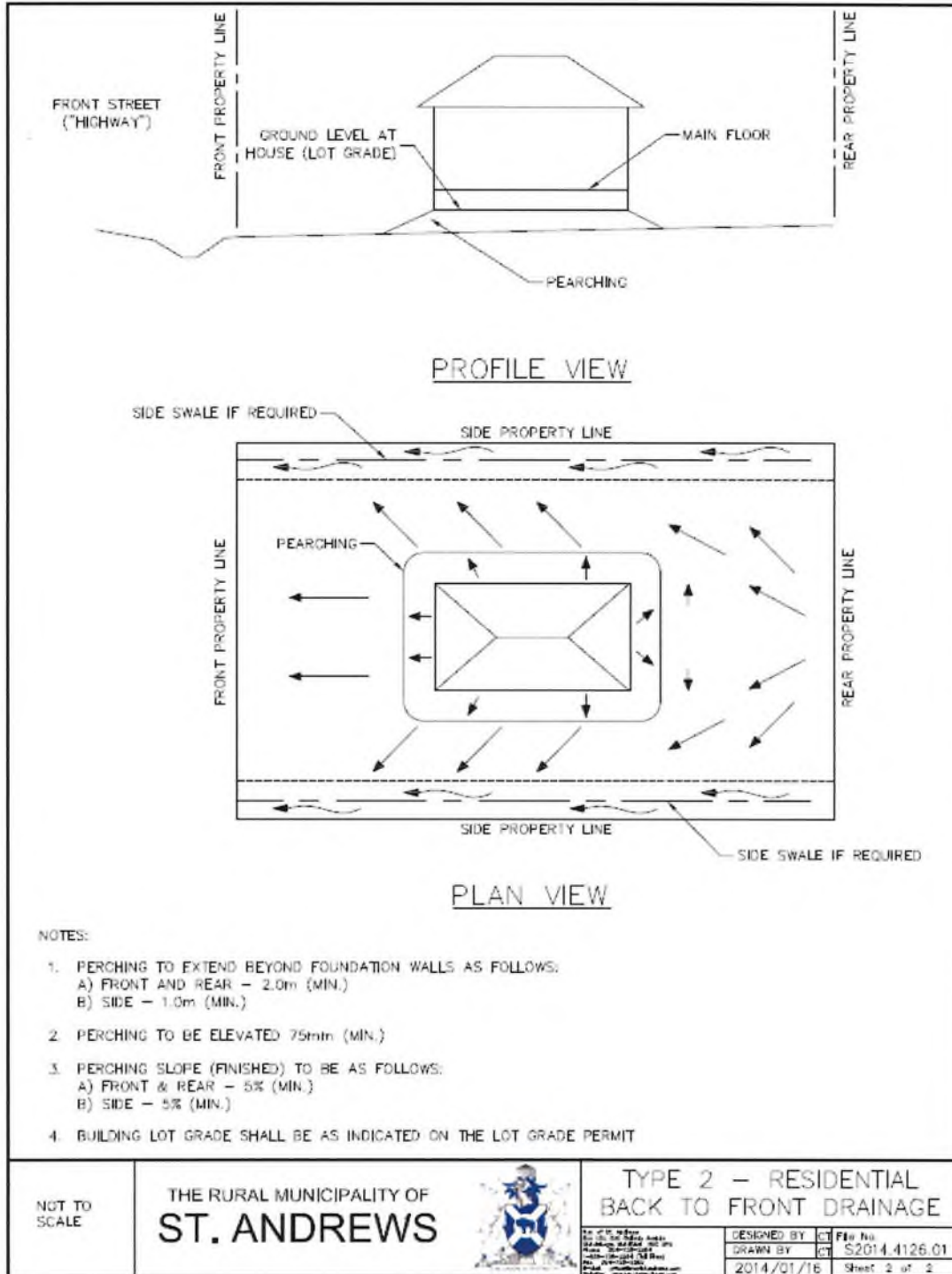


-REAR YARD DRAINS TO A REAR DRAINAGE SWALE.

-SIDE YARD DRAINS TO SIDE SWALES (WHEN REQUIRED ON LOT GRADE PERMIT)

## SCHEDULE "A" (continued)

### TYPICAL LOT GRADING TYPE 2- BACK TO FRONT LOT DRAINAGE



-REAR YARD DRAINS TO THE FRONT STREET.

-SIDE YARD DRAINS TO SIDE SWALES (WHEN REQUIRED ON LOT GRADE PERMIT)

SCHEDULE "B" TO BY-LAW NO. 4255  
OF  
THE RURAL MUNICIPALITY OF ST. ANDREWS

CONCRETE SPLASH PAD DETAIL AND TYPICAL SWALES DETAIL

