

BYLAW 20743 - Omnibus Amendment to Drainage Bylaw 18093

Recommendation

That Urban Planning Committee recommend to City Council:

That Bylaw 20743 be given the appropriate readings.

Purpose

To amend Bylaw 18093 - Drainage Bylaw, incorporating continuous improvement identified by Administration and stakeholders through the normal course of operations, including compliance and administrative amendments to support effective business operations.

Readings

Bylaw 20743 is ready for three readings.

A majority vote of City Council on all three readings is required for passage.

If Council wishes to give three readings during a single meeting, then prior to moving to third reading, Council must unanimously agree “That Bylaw 20743 be considered for third reading.”

REPORT

Bylaw 18093 regulates surface drainage on public and private land in Edmonton, with the intent of ensuring that surface water is effectively managed away from buildings and with the goal of protecting people and property. Bylaw 18093 mandates that a lot grading plan is reviewed and approved by Administration prior to the construction of a new building, additions to buildings or alterations made to surface drainage on a property. A team of inspection and compliance officers are designated to steward lot grading program activities to support the bylaw. This includes having an inspector attend a site to evaluate if the constructed grades are functional and comply with the approved lot grading plan and investigating complaints.

The purpose of Bylaw 20743 - Omnibus Amendment to Drainage Bylaw 18093 (Attachment 1), which amends Bylaw 18093 - Drainage Bylaw, is to propose a series of continuous improvement amendments in support of inspection and compliance objectives. Attachment 2 contains the proposed redline revisions to Bylaw 18093 and Attachment 3 outlines rationale for the specific amendments.

Compliance Related Amendments

Bylaw 18093 establishes that the current property owner is responsible for satisfying all lot grading requirements such as obtaining an approved lot grading plan, achieving final grade approvals and ongoing maintenance of surface grades after construction. In cases where requirements have not been met and compliance actions are required to resolve a contravention, Administration may only apply actions to the current property owner. This may prevent Administration from holding the appropriate party accountable for outstanding work that needs to be completed throughout the development cycle. For example, in the case where a condominium corporation assumes care and control of a property from a developer, the condominium corporation becomes responsible for any and all lot grading deficiencies that were not completed by the developer.

The proposed amendments clarify that under certain sections of the bylaw, compliance actions may be applied to any party defined as having been responsible for the bylaw infraction. This aligns with the approach taken in other City bylaws such as Bylaw 14600 - Community Standards Bylaw, Bylaw 15894 - Safety Codes Permit Bylaw and Bylaw 20001 - Zoning Bylaw.

Administration is also proposing other compliance-related amendments to Bylaw 18093 including regulations to address compliance with:

- All terms and conditions of an approved lot grading plan and any exceptions granted
- Cross lot drainage restrictions
- Drainage related easements, caveats and restrictive covenants.

Administrative Amendments

Administration is proposing interpretive amendments to provide additional clarity and consistency for operations. These amendments incorporate inclusive and gender-neutral language and clarify lot grading approvals, timelines and requirements.

Community Insight

The continuous improvement opportunities identified in this report are primarily informed by a review of feedback received from resident stakeholders and outcomes of previous bylaw investigations. General themes from the Evolving Infill engagement results (July 3, 2018, Urban Form and Corporate Strategic Development report CR_5636 Evolving Infill - Attachment 2) and the work completed for the Infill Roadmap 2018¹ further supported these amendments.

Administration advised the Edmonton Federation of Community Leagues (EFCL), Canadian Home Builders' Association Edmonton Region (CHBA-ER), Infill Development in Edmonton Association (IDEA), National Association for Industrial and Office Parks (NAIOP) and Urban Development Institute Edmonton Metro (UDI-EM) of the proposed amendments.

1 - The Infill Roadmap 2018 was a work plan for Administration to welcome more people and new homes into older neighbourhoods.

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Legal Implications

Bylaw 18093 only permits enforcement action to be applied to current property owners for the majority of violations under the Drainage Bylaw. The proposed changes brought through this amendment will better enable enforcement actions to be applied to the responsible party. This is also preferable from a fairness and natural justice perspective as enforcement officers, prosecutors, and the courts all struggle when the responsible party is not the one being held accountable.

The proposed amendments also make it clear that developers can still be held legally responsible for some requirements under Bylaw 18093 even if they no longer legally own or occupy a property.

GBA+

The proposed amendments support equity by enabling Administration the flexibility to apply compliance actions to the appropriate and accountable party that is causing a contravention, including but not limited to the current property owner. This approach will allow Administration the opportunity to evaluate the evidence and where practical and reasonable, apply compliance actions to the party responsible for the infraction. Bylaw 20743 also incorporates inclusive and gender-neutral language by replacing outdated terms such as man-made and single family house (see Attachment 3 for more details).

Attachments

1. Bylaw 20743
2. Bylaw 18093 - Drainage Bylaw - Redline
3. Summary of Proposed Drainage Bylaw 18093 Amendments

Others Reviewing the Report

- M. Plouffe, City Solicitor