

BYLAW 415-11

**A BYLAW OF THE TOWN OF CARNDUFF TO PROVIDE FOR DRAINAGE
WITHIN THE TOWN OF CARNDUFF**

Whereas in accordance with Section 8(1)(j) of *The Municipalities Act*, c.M-36.1.S.S. 2005, and as amended from time to time (hereinafter "*The Municipalities Act*"), the Council of the municipality of the Town of Carnduff is empowered to enact a bylaw to regulate public utilities, including without limitation, the draining of storm water between private properties in the municipality;

Now Therefore, the Municipal Council of the Town of Carnduff, in Open Council Meeting assembled, enacts as follows:

**PART I
GENERAL**

Short Title

1. This Bylaw may be cited as the "*Town of Carnduff Drainage Bylaw*."

Purpose

2. The purpose of this Bylaw is to regulate the drainage of storm water between private properties so as to protract property and abate nuisances.

Definitions

3. The following words and phrases used in this Bylaw shall have the meanings specified to them as next set out:
 - a. "Administrator" means the Administrator of the Town of Carnduff and person or persons acting under the instructions of the Administrator in carrying out the provisions of this Bylaw;
 - b. "Town" means the Corporation of the Town of Carnduff or the area contained within its boundaries as the context requires;
 - c. "Council" means the Council of the Town of Carnduff;
 - d. "Inspector" means any person or persons appointed from time to time by or designated by resolution of Council from time to time as may be required to enforce and administer this Bylaw;
 - e. "Owner" means owner as defined in *The Municipalities Act*;
 - f. "Person" includes any company, corporation, firm, association, partnership, society, individual or party;
 - g. "Property" includes any real property, together with all improvements which have been affixed or brought onto the land;
 - h. "Surface Drainage System" means any engineered facility associated with a scheme for the drainage of storm water, including, but not restricted to, the following:
 - i. grass swale;
 - ii. a concrete or asphalt walkway, gutter or swale;
 - iii. a drainage control fence or structure;
 - i. "Surface Grade Marker" means an indicator which is marked with the level to which the property must be graded;
 - j. "Storm Water" means water that accumulates or that is discharged from a surface as a result of rain, the melting of snow and other forms of naturally occurring precipitation;
 - k. Other than as defined herein or unless the context otherwise requires, the words and phrases of this Bylaw shall have the meaning subscribed to them as defined in *The Municipalities Act*;

Responsibility

4. The owner of a property shall be responsible for carrying out the provisions of this Bylaw.

**PART II
REGULATIONS OF STORM WATER**

Interference with Surface Drainage System

5. No person shall;

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- a. Interfere with, restrict or prevent storm water from flowing through property owned by that person as part of a surface drainage system; or
- b. Discharge or cause to be discharged any storm water from such property into a public storm sewer or onto the surface of a public right-of-way or property owned or controlled by the Town whether by means of a pipe, swale, ditch, pond, inlet or other conveyance without obtaining approval of a plan for such drainage by the Town.

Surface Grade Markers

6. (1) If surface markers are provided, the owner of a property must grade that property to the level specified by the surface grade markers placed on the property.
- (2) No person shall interfere with, alter, or remove surface grade markers from any property.

Easements

7. Every owner of property shall comply with the terms and conditions of any easement agreement that has been registered on the title of the property to protect a feature of a surface drainage system.

PART III ENFORCEMENT, OFFENCES AND PENALTIES

Enforcement of Bylaw

8. (1) The administration and enforcement of this Bylaw is hereby delegated to the Administrator of the Town of Carnduff.
- (2) The Administrator of the Town of Carnduff is hereby authorized to further delegate the administration and enforcement of this Bylaw to municipal inspectors or such further and other persons as Council may designate.

Inspections

9. (1) The inspection of property by the Town to determine if this Bylaw is being complied with is hereby authorized.
- (2) Inspections under this Bylaw shall be carried out in accordance with Section 362 of *The Municipalities Act*.
- (3) No person shall obstruct a person who is authorized to conduct an inspection under this section, or a person who is assisting such a person.
- (4) A person authorized to carry out inspections is hereby authorized to place a surface grade markers on any property on which an inspection has been carried out in accordance with this section.

Order to Remedy Contraventions

10. (1) If the Administrator finds that a person is contravening this Bylaw, the Administrator (or the person(s) delegated by him or her), may, by written order, require the owner of the property to which the contravention relates to remedy the contravention.
- (2) Orders given under this Bylaw shall comply with Section 364 of *The Municipalities Act*.
- (3) Orders given under this Bylaw shall be served in accordance with Section 390 of *The Municipalities Act*.

Registration of Notice of Order

11. If an order is issued pursuant to Section 10, the Town may, in accordance with Section 364 of *The Municipalities Act*, give notice of the existence of the order by registering an interest against the title to the land that is the subject of the order.

Appeal of Order to Remedy

12. (1) A person may appeal an order made pursuant to Section 364 of *The Municipalities Act*.

- (2) Appeals shall be made to the Council of the Town of Carnduff.

Town Remedying Contraventions

13. The Town may, in accordance with Section 366 of *The Municipalities Act*, take whatever actions or measures are necessary to remedy a contravention of this Bylaw.

Civil Action to Recover Costs

14. The Town may, in accordance with Section 368 of *The Municipalities Act*, collect any unpaid expenses and costs incurred in remedying a contravention of this Bylaw by civil action for debt in a court of competent jurisdiction.

Adding Amounts to Tax Roll

15. The Town may, in accordance with Section 369 of *The Municipalities Act*, add any unpaid expenses and costs incurred by the Town in remedying a contravention of this Bylaw to the taxes on the property on which the work was done.

Emergencies

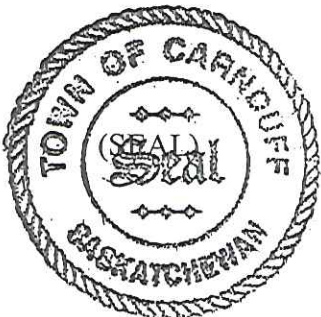
16. In the event that it becomes an emergency to remedy a contravention of this Bylaw, the Town may take whatever actions or measures are necessary to eliminate the emergency in accordance with the provisions of Section 367 of *The Municipalities Act*.

Offences

17. (1) No person shall:
- (a) Fail to comply with an order made pursuant to this Bylaw;
 - (b) Obstruct or hinder any municipal inspector or any other person acting under the authority of this Bylaw; or
 - (c) Fail to comply with any other provision of this Bylaw
- (2) Every person who contravenes any provision of subsection (1) is guilty of an offence and liable on summary conviction:
- (a) in the case of an individual, to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for each day during which the offence continues; or
 - (b) in the case of a corporation, to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for each day during which the offence continues.
- (3) In the event of non-payment of a fine imposed pursuant to clause (2)(a), the individual convicted may be imprisoned for a term of not more than one year, unless the fine is paid sooner.


Coming Into Force

18. This Bylaw shall come into force on the day of its final passing.






Mayor



Administrator

Certified a true copy of the bylaw passed by the resolution of the Council present at their regular meeting held on April 12, 2011.



Administrator

(Section 8, *Municipalities Act*)