

**TOWN OF STONEWALL
BY-LAW NO. 07-24**

Being a By-Law of the Town of Stonewall for the purpose of controlling, regulating, or prohibiting the removal of topsoil from the lands within the Town and for prescribing the measures to be taken with respect to any land from which topsoil is or has been removed.

WHEREAS Subsection 232(1)(c) of the Municipal Act, S.M. 1996, C M225, (the "Act") provides, in relevant part, as follows:

Spheres of Jurisdiction:

232(1) A Council may pass By-Laws for municipal purposes respecting the following matters:

(c) subject to Section 233, activities or things in or on private property;

AND WHEREAS Section 233 states in part:

A By-Law under Clause 232(1)(c) may contain provisions only in respect of

c) the removal of topsoil

AND WHEREAS the Council of the Town of Stonewall has passed a Zoning By-Law for the purpose of setting up zones within the Town;

NOW THEREFORE the Council of the Town of Stonewall enacts a By-Law as follows;

DEFINITIONS:

"Annexed Lands" means the lands located in the five quarter sections identified as: NE35-13-1E, SE35-13-1E, NE26-13-1E, SE26-13-1E, and NW19-13-2E.

"Topsoil" within this By-Law shall mean the natural, normal layer of upper soil which supports or is capable of supporting growth of plant life.

INTERPRETATION:

1. No person shall remove, sell for removal, or permit the removal of any topsoil from the annexed lands in a district zoned as an agricultural except upon compliance with the following conditions:

Conditions:

- 1.1 No person shall remove topsoil from the annexed lands that are zoned for agricultural use without first attaining a permit from the Town of Stonewall attached at Schedule "A".
- 1.2 A permit shall not be transferable and shall automatically expire on the 31st day of December in each year.
- 1.3 All equipment used for the removal of topsoil, shall be constructed, maintained, and operated in such a manner as to eliminate inasfar as practicable, noise vibration or dust which are injurious or annoying to persons living in the vicinity.
- 1.4 No removal of topsoil shall be permitted nearer than one thousand feet to any habitable building, provided, however, that removal may be permitted nearer than one thousand feet from a habitable building where the consent of the owner and occupier is first obtained in writing.
- 1.5 No permit shall be granted for the removal of the natural layer of topsoil from lands zoned agricultural or suburban or where such removal would alter or disrupt the original grade of the said lands and in considering permit applications due regard shall be given for the permanency of the resource to the agricultural industry of the natural normal layer of topsoil.

- 1.6 Permits may be granted for the restoration of the natural grade or elevation where this has been altered by deposit of excess topsoil by soil drifting or other means thus forming embankment along headlands or blockages in drainage ditches providing only the excess deposited material is removed. However, where it seems desirable and feasible in the interest of preservation of the resource it shall be directed that the embankment be levelled and worked into the adjoining lands. Under no conditions shall a permit be granted which would cause a depression of the natural grade of the area, while same remains agricultural or suburban.
- 1.7 Permits may be granted for the removal of topsoil from:
 - a) Proposed sites of drainage works
 - b) Excavation sites for buildings, gravel pits, rock quarries, sand pits, etc.,
 - c) Lands sold for industrial or commercial sites.
2. Where the permittee fails to comply with any of the provisions or conditions herein the council may, without notice, revoke the permit.
3. If the topsoil is or has been sold for removal or permitted to be removed from agricultural lands by any person who has not, before so doing obtained a permit as outlined herein, or contrary to the provisions of a permit granted, the said person shall forthwith, if directed by Council so to do, restore at his own expense the affected lands by replacing the excavated material with equal or better material and by levelling same to their original condition, grade and elevation. In default thereof the Council may direct that it be restored at the expense of the person in default and may recover the costs thereof with cost by action or distress or may levy it against the property affected and recover it in like manner as taxes in arrears.
4. If in removing sods from lands zoned agricultural, topsoil is also removed, the said removal shall be governed by this By-Law.
5. Every person who contravenes, or refuses, neglects, omits or fails to obey or observe any of the provisions of this By-Law is guilty of an offense and is liable, to a fine of \$100.00.
6. By-Law Enforcement Officers may enforce this By-Law by issuing Penalty Notices as prescribed by the Town of Stonewall Municipal By-Law Enforcement Act By-Law. A By-Law Enforcement Officer may issue a Penalty Notice to any person who contravenes, or refuses, omits or fails to obey or observe any provision of this By-Law in the manner provided for in Section 9 and 22 of the Municipal By-Law Enforcement Act and the date of delivery shall be determined in accordance with those sections.

The period within which a person must pay the administrative penalty or request a review by a screening officer is hereby set at thirty (30) calendar days after delivery of the Penalty Notice

DONE AND PASSED as a By-Law of the Town of Stonewall by the Council, duly assembled in the Town Hall this 10th day of January, A.D., 2024.



A handwritten signature in blue ink, written over a horizontal line.

MAYOR

A handwritten signature in blue ink, written over a horizontal line.

CHIEF ADMINISTRATIVE OFFICER

Read a first time this 20th day of December, A.D., 2023.
Read a second time this 10th day of January, A.D., 2024.
Read a third time this day of 10th day of January, A.D., 2024.

| SCHEDULE "A"
TOWN BY-LAW NO.07-24
REMOVAL OF TOPSOIL PERMIT

NAME: _____

CIVIC ADDRESS: _____

MAILING ADDRESS: _____

PHONE NUMBER: _____

EMAIL ADDRESS: _____

I, _____ being the property owner of the following lands:
(print name)

1. _____

2. _____

3. _____

grant permission to the above-named applicant to remove topsoil from the lands described above; subject to the following conditions:

- a) That all equipment used for the removal of topsoil is constructed, maintained, and operated in such a manner as to eliminate inasfar as practicable, noise vibrations or dust which are injurious or annoying to persons living in the vicinity.
- b) That no removal of topsoil is permitted nearer than 1,000 feet to any habitable building unless the consent of the owner and occupier is first obtained.
- c) That the removal of the topsoil from the lands must not alter or disrupt the original grade of the land nor cause a depression of the natural grade of the lands.
- d) That removal of the topsoil may occur where excessive drifting has formed embankments along headlands or blockages in drainage ditches and the removal of same is desirable and feasible.

Contravention of the above and/or any of the other conditions contained within By-Law No. 07-24 is guilty of an offence and shall be liable to penalties as contained within the By-Law.

This permission shall expire on December 31 of the year the permit is issued.

Applicant Signature

Owner of Land Signature

Permit approved and issued.

Fee: \$50.00

Permit denied.

Date

Chief Administrative Officer