

**TOWN OF STONEWALL
BY-LAW NO. 05-24**

Being a By-Law of the Town of Stonewall to provide for the establishment and maintenance of proper lot grades within the Town of Stonewall and to repeal By-Law No. 02-19.

DEFINITIONS

Unless the context otherwise requires, where used in this By-Law;

“Accessory Building”: shall mean a subordinate building located on the same zoning site as a principal building, the use of which is incidental or accessory to that of the principal building and without limiting the generality of the foregoing includes residential, farm; commercial and industrial accessory structures, decks, detached garages, but does not include a residence.

“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

“Applicant”: shall mean Lot Owner, or such other person authorized in writing by the Lot Owner to make application for a Lot Grade Permit;

“Building”: shall mean 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 but does not include accessory structures;

“Building Lot Grade”: shall mean the Lot Grade Elevation of the Finished Surface immediately adjacent to the foundation of a Building as set forth on the Lot Grade Permit;

“Council”: shall mean the Council of the Town of Stonewall;

“Elevation”: shall mean the vertical distance above or below mean sea level;

“Engineer”: shall mean the Town Engineer or firm of professional engineers to be appointed by the Town to act on their behalf;

“Operations Manager”: shall mean the Town of Stonewall Operations Manager

“Finished Surface”: shall mean the completed landscaped condition of an area by covering the area with, but not limited to, sod, grass, stone, cement, wood or other substance or material;

“Lot”: shall mean a piece, plot or parcel of land identified on the Lot Grade Permit;

“Lot Grade Elevation”: shall mean the elevation of the Finished Surface at any point at or between adjacent Lot Grade Elevation Posts;

“Lot Grade Elevation Post”: shall mean a post or posts placed on a specific Lot which has thereon markings indicating the Lot Grade Elevation;

“Lot Grade Permit”: shall mean a permit issued by the South Interlake Planning District on behalf of the Town to an Applicant pursuant to this By-Law wherein the Lot Grade and Lot Grade Elevation for a specific Lot are provided;

“Lot Grade Plan”: shall mean a plan, prepared by a professional engineer or civil engineering technician or the Engineer or other qualified person or firm as determined by the Town, which provides a Building Lot Grade and Lot Grade Elevation for a Site or Lot and provides the Elevations for the adjoining properties at the common property line and the Elevations on the street and boulevard fronting the Subject Site or Lot. The Lot Grade Plan shall be prepared and be in the form and contain the information as shown on Schedule “C” attached hereto and forming a part of this By-Law;

“Lot Grading”: is a general term referring to the combination of Lot Grade Elevations and Building Lot Grade on a given Lot;

“Lot Owner”: shall mean a person in whose name the Lot is registered in the Winnipeg Land Titles Office;

“Site”: shall mean such parcel of land as is sufficient to permit the placement or construction of a Building;

“Town”: shall mean the Town of Stonewall;

“Water Curb Stop”: shall mean the water utility property shut off valve;

WHEREAS Section 232(1) of The Municipal Act states in part

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

- (a) the safety, health, protection and well-being of people, and the safety and protection of property;....
- (h) drains and drainage on private or public property;....
- (o) the enforcement of By-Laws.

AND WHEREAS Section 232(2) of The Municipal Act provides in part a council may in a By-Law passed under Section 232

232(2) without limiting the generality of subsection (1), a council may in a By-Law passed under this Division...

- (e) Subject to the regulations, provide for a system of licenses, permits or approvals, including any or all of the following:
 - (i) Establishing fees, and terms for payment of fees, for inspections, licenses, permits and approvals, including fees related to recovering the costs of regulation;
 - (ii) Prohibiting a development, activity, industry, business or thing until a license, permit or approval is granted;

AND WHEREAS Section 236(1) of The Municipal Act provides for the enforcement of By-Laws in part as follows

236(1) Without limiting the generality of clause 232(1)(o) (enforcement of By-Laws), a By-Law passed under that clause may include provisions...

- (a) providing for procedures, including inspections, for determining whether By-Laws are being complied with; and
- (b) remedying contraventions of By-Laws; including
 - (i) creating offence;
 - (ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offence that is in addition to a fine, so long as the penalty relates to a fee, rate, toll, charge or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the By-Law;
 - (iii) providing that an amount owing under subclause (ii) may be collected in any manner in which a tax may be collected or enforced under this Act;

AND WHEREAS the Council of the Town of Stonewall deems it advisable and expedient and in the public interest that proper lot grades be established and maintained on building lots within the Town of Stonewall;

NOW THEREFORE the Council of the Town of Stonewall, in Council duly assembled, enacts as follows:

SCOPE:

- 1.0 This By-Law shall apply to all Sites within the Town.
- 1.1 All Sites shall require a Lot Grade Plan and said Lot Grade Plan shall be approved by the Town prior to the issuance of a Lot Grade Permit.

LOT GRADE PERMIT:

- 2.0 All Lot Owners, to whom this By-Law applies, are required to obtain, or have obtained on their behalf, a Lot Grade Permit.
- 2.1 A Lot Grade Permit shall be applied for at the time of application for a "Building Permit" and/or a "Development Permit".

- 2.2 Lot Grade Permits shall be issued by the South Interlake Planning District Office and shall be in the form as attached hereto as Schedule "A" to this By-Law.
- 2.3 Existing Lot Owners re-landscaping their property may obtain the Lot Grade Permit from the Town of Stonewall Administration Office.
- 2.4 The Lot Owner or Applicant shall pay the Lot Grade Permit Fee and Lot Grade Deposit, as specified in Schedule "B" attached hereto and forming a part of this By-Law, at the time of application for the "Building Permit" and/or "Development Permit".
- 2.5 In the annexed lands, this By-Law does not apply to Accessory Buildings and any party constructing an Accessory Building may construct same at whatever Elevation they wish, however the Town STRONGLY recommends that the Accessory Building be constructed at an Elevation no less than the lowest Elevation of the Buildings on the Lot where the Accessory Building is located.

LOT GRADE REQUIREMENTS:

- 3.0 All Lot Owners to whom this By-Law applies shall complete Lot Grading of their subject Lot, so as to ensure the Building Lot Grade and the Lot Grade Elevation is in compliance with this By-Law.
- 3.1 The Applicant shall request the Building Lot Grade from the Engineer at least ten (10) business days prior to the excavation of the Building foundation on the subject Lot. The Engineer shall mark the required Building Lot Grade on a post located on the street property line of the said Lot.
- 3.2 The Applicant, at least five (5) business days prior to the Finished Surface of the subject Lot being completed, shall request the Engineer to verify the final Lot Grading for the subject Lot.
- 3.3 No person shall remove, alter or tamper with a Lot Grade Elevation Post, which has been installed upon a Lot and such post shall only be removed by the Town.
- 3.4 The Lot Owner is responsible for maintaining the Lot Grade Elevation Posts including replacement thereof if the posts are removed or destroyed. Said responsibility includes the expense and cost involved in the maintenance and/or replacement of the Lot Grade Elevation Posts.
- 3.5
 - a) All Lot Owners shall complete their Lot Grading in compliance with the Building Lot Grade and Lot Grade Elevation provided by the Town and pursuant to the Lot Grade Plan within two (2) years of the issuance of the Lot Grade Permit. This shall require the placement of a Finished Surface upon the said Lot.
 - b) The Lot Grade Elevation shall have a constant slope between adjacent Lot Grade Elevation Posts.
- 3.6 No person shall vary any Lot Grading such as to result in a Lot Grade or Lot Grade Elevation being in violation of that as set forth in the Lot Grade Permit for the said Lot.
- 3.7 The Town has the right to enter upon any Lot Owner's property to whom this By-Law applies for the purpose of inspecting the Lot Grading to ensure compliance with this By-Law.

LOT GRADE DEPOSIT REFUND:

- 4.0 Upon receipt of a request in writing of the Lot Owner to the Engineer, the Engineer shall inspect and verify the Lot Grading and if same is in compliance, with the terms of this By-Law, approve same for the subject Lot.

- 4.1 Upon the Town verifying and approving the Lot Grading is in compliance, with the terms of this By-Law, with the Lot Grading as set forth in the Lot Grade Permit for the subject Lot, the Lot Owner, or such other person authorized in writing by the said Lot Owner, shall be reimbursed the Lot Grade Deposit paid at the time of the issuance of the Lot Grade Permit.
- 4.2 Should any Lot not be in compliance with the Lot Grading provided for the subject Lot, the Town shall, in writing, direct the Lot Owner to within thirty (30) calendar days of the receipt of the written notice complete such Lot Grading as is required to ensure compliance with the Lot Grading as set forth in the Lot Grade Permit. If, at the end of the thirty (30) day period, the Lot Owner has not completed such Lot Grading to ensure compliance the Town has the right to enter upon the property and complete such Lot Grading so as to ensure the Lot Grading is in compliance with the Lot Grade Permit. Any costs incurred by the Town, by either payment to third parties or by its employees, in completing the Lot Grading shall be deducted from the Lot Grade Deposit and the remaining balance, if any, shall be paid to the Lot Owner. The balance shall be recoverable from the Lot Owner if the Lot Grade Deposit being held for the subject Lot is insufficient to cover the costs incurred by the Town. Should the Lot Owner fail to make payment of this said amount within thirty (30) calendar days of being invoiced for same by the Town, then the Town may add such amount plus a fifteen (15%) percent administration fee to the Tax Roll of the subject property and recover same in the like manner as taxes.
- 4.3 If a Lot Owner fails to comply with Section 3.3, Section 3.4, Section 3.5 and/or Section 3.6, the Town shall, in writing, direct the Lot Owner to within thirty (30) calendar days from receipt of the written notice complete such maintenance or replacement. If, at the end of the thirty (30) day period, the Lot Owner has not completed the said maintenance or replacement, the Town has the right to enter upon the property and complete the said works. Any costs incurred by the Town, by either payment to third parties or by its employees, in completing the works shall be deducted from the Lot Grade Deposit or shall be charged to the Lot Owner. If there is no Lot Grade Deposit being held for the subject Lot or if the Lot Grade Deposit being held is insufficient to cover the costs incurred by the Town the cost or the balance of these costs shall be recoverable from the Lot Owner. Should the Lot Owner fail to make payment of this amount within thirty (30) calendar days of being invoiced for same by the Town, then the Town may add such amount plus a fifteen (15%) percent administration fee to the Tax Roll of the subject property and recover same in the like manner as taxes.
- 4.4 For the purpose of ordering a Lot Owner to complete maintenance or replacement work as prescribed in Section 4.3 such order shall only be made by the Town during the period of May 1st to October 31st of each year, subject to snow cover and wet conditions.
- 4.5 For the purpose of releasing the Lot Grade Deposit, inspections and verification of Lot Grading shall only be made during the period of May 1st to October 31st of each year, subject to snow cover and wet conditions.

ROOF DOWNSPOUTS, SUMP PUMP DISCHARGE PIPE AND PUMPS:

- 5.0 Building roof downspouts shall not be located nor directed so as to cause storm water to drain directly onto adjacent property not owned by the Lot Owner.
- 5.1 Sump pump discharge pipes and or hoses and pipes or hoses from pumps for draining surface water shall not be directed so as to cause discharge water or surface water to drain directly onto adjacent property not owned by the Lot Owner.
- 5.2 No person shall by any means whatsoever take any actions, measures or steps to drain, pump or direct surface or sump pump discharge water onto an adjacent property not owned by the person other than as provided for under the terms of this By-Law.

RESPONSIBILITY OF LOT OWNERS TO MAINTAIN:

- 6.0 A Lot Owner shall be responsible to ensure the maintenance of all Lot Grading which was established and approved by the Town prior to the passage of this By-Law or was provided under a Lot Grade Permit.
- 6.1 Where the Lot Grading has not been properly maintained as required under Section 6.0 hereof, the Town may give written notice, by certified mail, to the Lot Owner directing that the Lot Grading be corrected within thirty (30) calendar days of receipt of the written notice..
- 6.2 Where a Lot Owner who has been given a notice pursuant to Section 6.1 neglects or refuses to comply with notice within the thirty (30) calendar days, the Town may cause such work to be carried out and charge the cost of the said work to the Lot Owner. If the Lot Owner fails to make payment of the said cost within thirty (30) calendar days of being invoiced for same by the Town, then the Town may add such amount to the Tax Roll of the subject property and recover same in the like manner as taxes.
- 6.3 For the purpose of ordering a Lot Owner to complete corrective work as prescribed in Section 6.2 such order shall only be made by the Town during the period of May 1st to October 31st of each year, subject to snow cover and wet conditions.
- 6.4 It is also the responsibility of the Lot Owner to maintain the Water Curb Stop. If the Lot Owner requires the Water Curb Stop to be raised or lowered, only the Town's Works and Operations staff will do so. If the Water Curb Stop is damaged by any other person than Town staff, the Lot Owner, at their expense will pay the associated costs for the replacement of the Water Curb Stop plus a fifteen (15%) percent administration fee. Said work will only be done by the Town. The Water Curb Stop must always be left at surface level (finished landscaping) and never buried.

GENERAL PENALTIES:

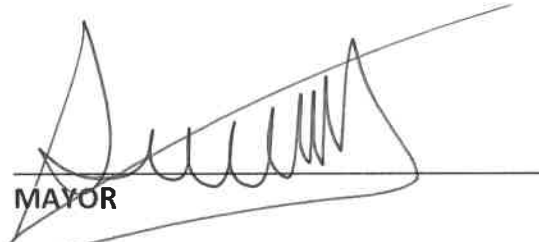
- 7.0 In addition to any other penalty provided in this By-Law, any person who contravenes or disobeys, or refuses or neglects to obey any provision of this By-Law will be charged double the Lot Grade permit fee (\$1,500.00).

REPEAL:

- 8.0 That By-Law No. 02-19 be hereby repealed in its entirety upon the date that this By-Law comes into force and effect.

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.




MAYOR


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 10th day of January, A.D., 2024.

| SCHEDULE "B"
TO BY-LAW NO. 05-24
LOT GRADE PERMIT FEE AND LOT GRADE DEPOSIT

The Lot Grade Permit Fee shall be:

i) Per Lot, - Seven Hundred Fifty Dollars (\$750.00)

The Lot Grade Deposit shall be:

i) Per Lot, - One thousand Five Hundred Dollars (\$1,500.00)