

**BY-LAW #29/02**

**OF THE**

**RURAL MUNICIPALITY OF ROCKWOOD**

**Being a By-Law of the Rural Municipality of Rockwood for the purpose of controlling, regulating or prohibiting the removal of topsoil from the lands within the municipality 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 on 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 Municipality of Rockwood has passed a By-Law for the purpose of setting up zones within the Municipality being By-Law #14/85 and amendments thereto;

**NOW THEREFORE** the Council of the Rural Municipality of Rockwood enacts a By-Law as follows;

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.

1. No person shall remove, sell for removal or permit the removal of any topsoil from lands in a district zoned as an agricultural or suburban district under By-Law #14/85 and amendments thereto except upon compliance with the following conditions:

Conditions:

- a) No person shall remove topsoil from any lands in the Municipality that are zoned agricultural or suburban without first attaining a permit from the Council of the Rural Municipality of Rockwood.
- b) A permit shall not be transferable and shall automatically expire on the 31<sup>st</sup> day of December in each year.
- c) 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.
- d) 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.

- e) 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.
  - f) 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.
  - g) Permits may be granted for the removal of topsoil from:
    - 1. Proposed sites of drainage works.
    - 2. Excavation sites for buildings, gravel pits, rock quarries, sand pits etc.,
    - 3. 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 or suburban 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 or suburban, 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 offence and is liable, on summary conviction to a fine not exceeding Five Hundred Dollars or to imprisonment for a term not exceeding one month or to both such fine and such an imprisonment, where the contravention, refusal or neglect, omission, or failure continues for more than one day the person is guilty of an offence for each day that it continues.
  6. This By-Law shall apply to all areas in the Municipality that are zoned agricultural or suburban.
  7. That By-Law #26/77 and all amendments thereto are hereby repealed.
  8. This By-Law shall come into full force and effect on the date of the passage thereof.

**DONE AND PASSED** in Council assembled in the Municipal Building, in the Town of Stonewall, in the Province of Manitoba, this 14<sup>th</sup> of August, A.D. 2002.

**The Rural Municipality of Rockwood**

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LEON VANDEKERCKHOVE, REEVE

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JACK DOUGLAS, CAO

GIVEN First Reading this 10<sup>th</sup> day of July, A.D., 2002.  
GIVEN Second Reading this 14<sup>th</sup> day of August, A.D., 2002.  
GIVEN Third Reading this 14<sup>th</sup> day of August, A.D., 2002.