

THE RURAL MUNICIPALITY OF ROSSER

BY-LAW NO. 15-71

Being a By-Law 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 the provisions of the Municipal Act being Cap. M225 SM 1970 Section 310, 311 and 312 provide authority for a Municipal Council to regulate the use of lands within the Municipality zoned for certain uses;

AND WHEREAS Section 319, subsection (g) of the said Municipal Act provides authority for a Municipal Council for 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;

AND WHEREAS the Council of the Municipality of Rosser has passed a By-Law for the purpose of setting up zones within the Municipality being By-Law 1169 and amendments thereto being By-Laws 1178, 1188, 1203, 13-62 and 11-63;

NOW THEREFORE the Council of the Rural Municipality of Rosser 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 Agricultural or Suburban District under By-Law 1169 and amendments thereto except upon compliance with the following conditions;

CONDITIONS: Amended by Resolution 70-89

- a) No person shall remove topsoil from any lands in the Municipality that are zoned agricultural or suburban without first attaining a permit issued and signed by the Municipal Administrator of the R.M. of Rosser, or his or her designate. The permit shall be issued only to the landowner and only after the application has been approved by the Council of the R.M. of Rosser by motion duly moved and passed at a regular or special meeting assembled for that purpose and said permit shall apply

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to one location only and that location shall be described on said permit. The fee for such a permit shall be \$10.00 to be reviewed annually by Council.

- b) A permit shall not be transferable and shall automatically expire on the 31st 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.
 - e) No permit shall be granted for the removal of the natural normal layer of topsoil from lands zoned agricultural or suburban or where such removal would alter or disrupt the original grade of the same 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 the deposit of excess topsoil drifting or other means thus forming embankments along headlands or blockages in drainage ditches providing only the excess deposited material is removed. However where it seems desirable and feasible in the interests 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. Propped 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 provisions or conditions herein the Council may, without notice,

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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 effected 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 costs by action or distress or may levy it against the property effected 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 one 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.

DONE AND PASSED in open Council assembled this 6th day of April A.D. 1971 at the Council Chambers in the Municipal Office in Rosser, Manitoba

"E.L. Lawrence"

"H.E. Beddome"

Given first reading April 6, 1971

Given Second reading April 6, 1971

Given third reading April 6, 1971

RURAL MUNICIPALITY OF ROSSER

PERMIT TO REMOVE TOPSOIL

PURSUANT TO BY-LAW NO. 15-71

Applicant: _____

Address: _____

Phone: _____

I, _____, being the property owner of the following lands:

i) _____

ii) _____

iii) _____

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

1. 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.
2. That no removal of topsoil is permitted nearer than 1000 feet to any habitable building unless the consent of the owner and occupier is first obtained.
3. 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.
4. 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. 15-71 is guilty of an offense 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.

Date

Chief Administrative Officer

FEE: \$10.00