

RURAL MUNICIPALITY OF ROSSER

TILE DRAINAGE BY-LAW

BY-LAW NO. 1-21

Being a by-law of the Rural Municipality of Rosser to the establishment of a policy on the requirements of landowners installing drain tile on agricultural pieces of land.

WHEREAS Section 231 of the *Municipal Act* C.C.S.M. c. M225 (the “Municipal Act”) gives broad authority to the council of a municipality with respect to its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under this and other Acts; and to enhance the ability of the council to respond to present and future issues in the municipality;

AND WHEREAS Section 232(1) of the Municipal Act, provides that a municipality may pass by-laws respecting the safety, health, protection and well-being of people, and the safety and protection of property;

AND WHEREAS Section 232(1)(h) of the Municipal Act, provides that a municipality may pass by-laws for municipal purposes respecting drains and drainage on private or public property;

AND WHEREAS Section 294.1(4) of the Municipal Act provides that a municipality may require a person who, without written authority from the municipality obstructs a drain, to remove the obstruction, and if the person fails to do so, the municipality may remove the obstruction and recover any expense it incurs from the person who caused the obstruction by levying and collecting the amount of the expense as a tax; or by any other means;

AND WHEREAS Council of the Rural Municipality of Rosser (the “Municipality”) supports the practice of drain tiling agricultural parcels to improve crop yield and water runoff quality;

AND WHEREAS Council of the Municipality has received a number of requests from producers for the installation of drain tile on agricultural parcels throughout the Municipality;

AND WHEREAS the drain tile applications have been accompanied by requests for the Municipality to alter existing drainage by deepening ditches;

AND WHEREAS it is deemed advisable and in the best interest of the Municipality to also establish a policy to guide the installation of drain tile on agricultural parcels;

NOW THEREFORE the Council of the Rural Municipality of Rosser hereby enacts as follows:

1. That prior to any construction, the individual or owner proposing to install drain tile must send written notice to the Municipality office. The notice will detail that proposed project including drain outlets into municipal ditches or provincial drains.
2. That any repairs needed to fix damage to municipal property resulting from the installation of the drain tile shall be the responsibility of the owner.
3. That the Municipality will not deepen or alter any ditches for the sole purpose of installing drain tile.
4. That any pipe crossing a municipal road allowance must either be sleeved or must meet industry specifications to ensure the pipe will not collapse under the road.
5. That any pipe crossing a municipal road allowance will be approved as agreed upon.
6. That the applicant or owner applies for and obtains all necessary provincial or federal permits required for the proposed project.
7. Council may prohibit the use of Tile Drainage or set conditions for the Tile Drainage.

Order to Comply/Order to Remedy a Contravention ("Order")

8. If the Designated Officer is satisfied that a contravention of this by-law has occurred, the Designated Officer may make an Order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the Owner or Occupier of the land on which the contravention occurred, to discontinue the contravening activity. The Order shall set out reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred and the date by which there must be compliance with the Order. Such Order shall be in conformance with the Enforcement By-law of the Rural Municipality of Rosser.
9. If the Designated Officer is satisfied that a contravention of this by-law has occurred, the Designated Officer may make an Order requiring the person who contravened this by-law, or who caused or permitted the contravention, or the Owner or Occupier of the land on which the contravention occurred, to do work to correct/remedy the contravention. The Order shall set out reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred and the date by which the work must be done. Such Order shall be in conformance with the Enforcement By-law of the Rural Municipality of Rosser.
10. An Order under Clause 7 or 8 may require the work to be done even though the facts which constitute the contravention of the by-law were present before this by-law making them a contravention came into force.

Powers of Entry for Inspection

11. In accordance with the Enforcement By-law of the Rural Municipality of Rosser and the Municipal Act, the Designated Officer may enter upon Property at any reasonable time for the purpose of carrying out an inspection to ascertain whether the provisions of this by-law are complied with and to enforce and carry into effect the provisions of this by-law, and its Enforcement By-law.
12. For the purposes of an inspection under Clause 10, the Designated Officer may,
 - (a) require the production for inspection of documents or things that may be relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests or photographs necessary for the purposes of the inspection.
13. A receipt shall be provided for any document or thing removed under Clause 11 and the document or thing shall be promptly returned after the copies or extracts are made.
14. Copies of or extracts from documents and things removed under Clause 11 and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the originals.

Notice and Order

15. If the Designated Officer ascertains that there is any Obstruction or alteration as described in this by-law, the Designated Officer shall send a Notice and Order of such contravention in accordance with the Enforcement By-law of the Rural Municipality of Rosser and the Municipal Act.
16. No person shall fail to comply with a Notice or Order sent pursuant to Clause 14.

Default and Remedial Action

17. Where a Notice or Order have been sent by the Designated Officer pursuant to Clause 14 and the requirements of the Notice or Order have not been complied with, and the appeal period respecting the Order has passed or, if an appeal has been made, the appeal has been decided, and it allows the Designated Officer to take the action or measures, the Designated Officer may cause the work to be done and the total cost of the work shall be at the expense of the Owner or Occupant, in accordance with the Enforcement By-law of the Rural Municipality of Rosser and the Municipal Act.
18. For the purposes of Clause 16 the Designated Officer may enter upon Property at any reasonable time.
19. The costs of the work to be done pursuant to Clause 16 and all costs related to the administration and enforcement (including legal fees and costs) and the establishment, acquisition and replacement of capital assets related to this by-law may be recovered from the Owner or Occupant by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes. The costs may include interest calculated for the period commencing on the day the Rural Municipality of Rosser incurs the costs and ending on the day the costs, including the interest, are paid in full.
20. The amount of the costs (including legal costs), including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued to the date the payment is made.
21. Upon receiving payment of all costs payable plus interest accrued to the date of payment, the Rural Municipality of Rosser shall register a discharge of the lien in the proper land registry office at the expense of the Owner or Occupant.

Offences and Penalties

22. Every person who contravenes a Notice or Order that is issued pursuant to Clause 7 or Clause 8 of this by-law is guilty of an offence and the offence is hereby designated as a continuing offence as provided for in Section 249(1) and (2) Municipal Act.
23. Every person who contravenes any of the provisions of this by-law is guilty of an offence and the offence is hereby designated as a continuing offence as provided for in in Section 249(1) and (2) Municipal Act.
24. A person who is convicted of an offence under this by-law is liable, for each day or part of a day that the offence continues, to fines as set in the Enforcement By-law of the Rural Municipality of Rosser.
25. When a person has been convicted of an offence under this by-law, the Court of Queen's Bench or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed toward the continuation or repetition of the offence.

Short Title

26. This by-law may be referred to as the "Tile Drainage By-law".

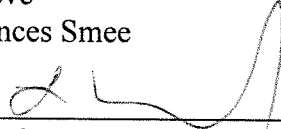
Effective Date

27. This by-law shall come into force and become effective upon third and final reading thereof.

DONE AND PASSED as a by-law of The Rural Municipality of Rosser at Rosser in the Province of Manitoba this 23rd day of March, A.D. 2021.



Reeve
Frances Smee



Chief Administrative Officer
Larry Wandowich

Read a first time this 9th day of February, 2021.

Read a second time this 9th day of February, 2021.

Read a third time this 23rd day of March, 2021.