

TOWN OF STONEWALL
By-law No. 18/04

A by-law of the Town of Stonewall to regulate and prohibit certain activities and things on Public Reserve lands and Open Space and Recreational lands within the Town.

WHEREAS Division 2 and 3 of Part 7 of The Municipal Act L.M. 1996, c. 58 - Chap. M225 provides, in relevant part, that:

Section 231 The power given to a council under this Division to pass by-laws is stated in general terms

- (a) to give broad authority to the council and to respect 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
- (b) to enhance the ability of council to respond to present and future issues in the municipality

Section 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;
- (b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation
-
- (o) the enforcement of by-laws

Section 232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit

Section 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 offences,
 - (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 or imprisonment, 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,
 - (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention,
 - (v) charging and collecting costs incurred in respect of acting under subclause (iv),
 - (vi) imposing a sentence of imprisonment for not more than six months for the commission of offences or nonpayment of fines.

AND WHEREAS it is deemed desirable to regulate and prohibit certain activities and things on Public Reserve lands and Open Space and Recreational lands within the Town.

NOW THEREFORE be it and it is hereby enacted as a By-law of the Town of Stonewall as follows;

1.0 DEFINITIONS and INTERPRETATION

By-Law Name

1.1 This By-Law may be referred to as the “Public Reserve and Open Space Use By-law”

Definitions

1.2 In this By-Law, unless the context otherwise requires,

“**CAO**” means the Chief Administrative Officer of the Town of Stonewall

“**Council**” means the Council of the Town of Stonewall

“**Notice of Breach of By-Law**” means a notice issued pursuant to Section 4.0 of this By-Law in the form attached hereto as Schedule “B”

“**Open Space and Recreational land**” means any piece, plot or parcel of land whether vacant or occupied, developed or undeveloped that the Town holds Certificate of Title and which is zoned Open Space and Recreational pursuant to the Town of Stonewall Zoning By-Law No. 35/91, as amended.

“**person**” includes an individual, partnership, firm and/or corporation

“**Public Reserve land**” means any piece, plot or parcel of land whether vacant or occupied, developed or undeveloped that the Town holds Certificate of Title from the dedication of the land pursuant to The Planning Act L.R.M. 1987,c. P80.

“**structure**” means anything constructed or erected with a fixed location on or below the ground, or attached to something having a fixed location on the ground and includes buildings, walls, fences, signs, lighting and other similar items

“**Town**” means the Town of Stonewall

Interpretation

1.3 In all parts of this By-Law, any word importing the male gender shall include the female gender and vice versa, and any word importing the singular shall include the plural, and vice versa, as applicable and unless the context requires a different interpretation.

2.0 SCOPE

2.1 This By-Law shall apply to all Public Reserve lands and Open Space and Recreational lands within the Town on which the Town holds Certificate of Title and which are shown and identified on the map attached hereto and being Schedule "A" to this By-law.

3.0 OFFENCES

3.1 The following activities, in any manner or fashion, are not permitted on Public Reserve land and Open Space and Recreational land, unless prior permission is granted by the Town as prescribed in Section 3.4:

- i) golfing
- ii) archery
- iii) or any other activity which in the opinion of the Town is unsafe to the general public or adjoining property

3.2 The following things, in any manner or fashion, are not permitted to be placed, planted or in any way located on Public Reserve land and Open Space and Recreational land, unless prior permission is granted by the Town as prescribed in Section 3.4:

- i) a structure of any type including, but not limited to fences, sheds, garages, gazebos, decks, patios or ponds

- ii) trees, hedges, shrubs, flowers including flower beds and gardens, gardens for the growing of produce or compost piles
- iii) ornamental or decorative lighting, whether lit by electrical power or by a combustible fuel

3.3 The following things, in any manner or fashion, are not permitted to be placed, located or stored on Public Reserve lands:

- i) recreational vehicles including, but not limited to, camping trailers and motor homes, boats including canoes and paddle boats, snowmobiles, motorcycles, all terrain vehicles and trailers for transporting recreational vehicles

3.4 A person may apply in writing to the Town to conduct an activity under Section 3.1 or place, plant or locate a thing under Section 3.2 on Public Reserve land and Open Space and Recreational land. The Town shall, in its unfettered discretion, consider the activity and/or thing and may, in writing, approve the activity and/or thing prescribing conditions and terms of such approval as the Town, in its opinion, deems appropriate.

4.0 CONTRAVENTION

4.1 If a person fails to comply with Section 3.1 the Town shall issue a Notice of Breach, on the form prescribed in Schedule “B” hereto, directing the person to immediately cease said activity. If the person fails to cease the activity the person is guilty of an offence and is subject, upon conviction before a Provincial Court Judge, Magistrate or Justice of the Peace, to a fine of not more than \$200.00, plus all applicable Court costs and, if applicable, the costs of any damage either to the property of the Town or to the property of others caused by the activity.

4.2 If a person fails to comply with Section 3.2 or with Section 3.3 the Town shall issue a Notice of Breach, on the form prescribed in Schedule “B” hereto, directing the person to within fourteen (14) days from receipt of the Notice to remove the thing from the Public Reserve land or Open Space and Recreational land. If at the end of the fourteen (14) day period the person has failed to remove the thing from the Public Reserve land or Open Space and Recreational land the Town shall remove the thing and dispose of same in a manner acceptable to the Town. Any cost incurred by the Town, by either payment to third parties or by its employees, in removing and disposing of the thing shall be charged to the person. Should the person fail to make payment of this amount within thirty (30) days of being invoiced for same by the Town, then the Town may collect this amount in the same and like manner as property taxes.

DONE AND PASSED in Council duly assembled in the Town of Stonewall in the Province of Manitoba, this _____ day of _____, 2005.

TOWN OF STONEWALL

MAYOR

CAO

Read a first time this _____ day of _____ A.D., 2005

Read a second time this _____ day of _____ A.D., 2005

Read a third time this _____ day of _____ A.D., 2005



SCHEDULE "B"

NUMBER

NOTICE OF BREACH
of Public Reserve and Open Space Use By-law No.18/04
of the Town of Stonewall

TO:
Name: _____
Civic Address: _____
Mailing Address: _____

You are charged that on the _____ day of _____, 20____ you did unlawfully:
(strikeout inapplicable statements)

a) conduct/perform an activity (_____) on Public Reserve land /
Open Space land (_____) contrary to Section 3.1 of By-law
No. 18/04;

b) place, plant, locate a thing (_____) on Public Reserve land /
Open Space land (_____) contrary to Section 3.2 of By-law
No. 18/04;

c) place, plant, locate a thing (_____) on Public Reserve land /
Open Space land (_____) contrary to Section 3.3 of By-law
No. 18/04;

Disposition of this charge may be made by
(strikeout inapplicable statement)

i) For a breach as identified in a) above (Section 3.1 – Activity) by immediately ceasing the said activity

ii) For a breach as identified in b) and/or c) above (Sections 3.2 and 3.3 – Thing) by removing the thing from the Public Reserve land and/or Open Space land within fourteen (14) days from the date of the Receipt of this Notice of Breach.

FAILURE TO REMEDY THE BREACH shall result in
(strikeout inapplicable statement)

i) For a breach as identified in a) above (Section 3.1 – Activity), upon conviction before a Provincial Court Judge, Magistrate or Justice of the Peace, to a fine of not more than \$200.00 plus all applicable Court cost and, if applicable, the costs of any damage either to property of the Town or to the property of others caused by the activity.

ii) The Town shall remove the thing and dispose of same in a manner acceptable to the Town. Any costs incurred by the Town, by either payment to third parties or by its employees, in removing and disposing of the thing shall be charged to you. Should you fail to make payment of this amount within thirty (30) days of being invoiced for same by the Town, then the Town may collect this amount in the same and like manner as property taxes.

Dated at the Town of Stonewall, in the Province of Manitoba, this _____ day of _____,
20 ____.

Designated Officer
Town of Stonewall