

**TOWN OF STONEWALL
BY-LAW NO. 4/08**

Being a By-Law of the Town of Stonewall to prescribe the requirements for the installation / construction of residential driveways onto public streets within the Town of Stonewall.

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;
- (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;...
- (e) private works on, over, along or under municipal roads;
- (f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;....
- (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...

- (a) regulate or prohibit;....
- (d) establish fees or other charges for services, activities or things provided or done by the municipality ;
- (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 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 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

AND WHEREAS the Council of the Town of Stonewall deems it advisable and expedient and in the public interest that the installation, construction or establishment of residential private driveways, including the re-construction and modification of driveways, be regulated within the Town of Stonewall;

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

1.00 DEFINITIONS

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

1.01 "Applicant" shall mean the Lot Owner, or such other person authorized in writing by the Lot Owner to make application for a Driveway Permit;

1.02 "Boulevard" shall mean the area between the roadway portion of the street and the street property line at the adjoining Site

1.03 "Building" shall mean any structure used or intended for supporting or sheltering any residential use or occupancy and, without restricting the generality of the foregoing, includes single family, duplex and multiple family structures and accessory structures but does not include any commercial, industrial, institutional or public uses, occupancies or structures;

1.04 "Council" shall mean the Council of the Town of Stonewall;

1.05 "Driveway" shall mean the area used for the accessing of the Site from the adjoining street and shall include the area on the Site from the street property line of the Site to the residential or accessory building on the Site

1.06 "Driveway 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 for the installation and construction or the modification or re-construction of a driveway to a Site;

1.07 "Driveway Surface" shall mean the materials used to construct and establish the driveway and shall include, but not be limited to, asphalt, concrete, aggregate, limestone, unistone and brick.

1.08 "Elevation / Grade" shall mean the vertical distance above or below mean sea level;

1.09 "Engineer" shall mean the Town Engineering Manager or firm of professional engineers to be appointed by the Town to act on their behalf;

1.10 "Lot" shall mean a piece, plot or parcel of land identified on the Driveway Permit;

1.11 "Lot Owner" shall mean a person in whose name the Lot is registered in the Winnipeg Land Titles Office;

1.12 "Maintenance" shall mean the repair of the same Driveway Surface which was previously installed and/or in existence. Any other improvements to a Driveway or the Driveway Surface shall be deemed to be the installation and/ construction of a Driveway.

1.13 "Site" shall mean such parcel of land as is sufficient to permit the placement or

construction of a Residential Building;

1.14 "Slope" shall mean the defined difference in one point of the Elevation / Grade from another point in the Elevation / Grade

1.15 "Town" shall mean the Town of Stonewall;

1.16 "Width" shall mean the distance of the Driveway Surface measured parallel to the street road surface edge

2.00 SCOPE

2.01 This By-Law shall apply to residentially zoned property within the Town.

2.02 The installation, construction or establishment of a Driveway on a Residential Site, including the modification or reconstruction of an existing driveway shall require a Driveway Permit and said driveway must conform with the requirements of this By-law.

2.03 The maintenance of an existing Driveway previously constructed shall not be subject to the requirements of this By-law.

3.00 DRIVEWAY PERMIT

3.01 All Lot Owners, to whom this By-Law applies, are required to obtain, or have obtained on their behalf, a Driveway Permit and shall pay the Driveway Permit Fee and Driveway Deposit as provided for in Schedule "B" to this By-law.

3.02 A Driveway Permit shall be applied for

- i) at the time of application for a "Building Permit" and/or a "Development Permit" for the construction of a new residential building or residential accessory building; or
- ii) prior to the modification or re-construction of an existing Driveway

3.03 Driveway 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.

3.04 The Lot Owner or Applicant shall pay the Driveway Permit Fee and Driveway 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" or at the time of the issuance of the Driveway Permit.

4.00 PRIVATE RESIDENTIAL DRIVEWAY REQUIREMENTS

4.01 All Lot Owners to whom this By-Law applies shall complete the installation, construction or establishment of the Driveway, or the modification or re-construction of an existing Driveway for their subject Lot, so as to ensure the Driveway is in compliance with this By-Law.

4.02 The requirements for the installation, construction or establishment of a Driveway, or the modification or re-construction of an existing Driveway shall comply with the following requirements.

- i) the maximum width of the Driveway at the street property line shall be six (6) meters, and
- ii) the maximum width of the Driveway at the street road surface edge shall be nine (9) meters, and
- iii) the Driveway must be located on the boulevard in front of the Lot Owners Site and shall not extend onto the boulevard area of an adjacent property owner, and
- iv) the elevation / grade of the Driveway on the boulevard must be a minimum of a

- v) two percent (2%) slope to a maximum of a six percent (6%) slope, and a Driveway, including a walk forming a part of the driveway cannot be located closer than .5 meters to the adjoining property line, and
- vi) the maximum grade / elevation from the Driveway and or incorporated walk in the Driveway shall be 6% from the driveway / walk to the adjoining property line, and
- vii) a Driveway shall not be located onto a street or public lane within six (6) meters of a street / lane intersection, and
- viii) a Driveway which requires a culvert in the boulevard for surface water drainage purposes shall have the requirement for the culvert, the diameter of the culvert and the length of the culvert determined by the Engineer and the cost of the culvert, including the cost of installing the culvert shall be the responsibility of the Lot Owner

4.03 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 Driveway to ensure compliance with this By-Law.

4.04 Lot Owners shall complete the establishment, installation, construction of the Driveway within two (2) year of the date of issue of the Driveway Permit.

5.00 DRIVEWAY DEPOSIT REFUND

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

5.02 Upon the Town verifying and approving the Driveway is in compliance with the terms of this By-law the Lot Owner, or such other person authorized in writing by the said Lot Owner, shall be reimbursed the Driveway Deposit paid at the time of the issuance of the Driveway Permit.

5.03 Should any Driveway not be in compliance with this By-law, the Town shall, in writing, direct the Lot Owner to within thirty (30) days of the receipt of the written notice complete such work as is required to ensure compliance with this By-law. If, at the end of the thirty (30) day period or such other period of time as agreed to by the Town, the Lot Owner has not completed such works to ensure compliance the Town has the right to enter upon the property and complete such works so as to ensure the Driveway is in compliance with this By-law. 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 Driveway Deposit and the remaining balance, if any, shall be paid to the Lot Owner. If the Driveway Deposit being held for the subject Lot is insufficient to cover the costs incurred by the Town the balance shall be recoverable from the Lot Owner. Should the Lot Owner fail to make payment of this said amount within thirty (30) 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.

5.04 For the purpose of releasing the Driveway Deposit inspections of the Driveway shall only be made during the period of May 1st to October 31st of each year, subject to snow cover and wet conditions.

6.00 GENERAL PENALTIES

6.01 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, is guilty of an offence and liable, on conviction, to a fine not exceeding \$1,000.00 and in default of payment to imprisonment for a term not exceeding one (1) month.

7.00 EFFECTIVE DATE

7.01 This By-Law shall come in to force and take full effect on the 1st day of July, A.D. , 2008.

DONE AND PASSED BY THE COUNCIL OF THE TOWN OF STONEWALL, in Council
duly assembled this day of A.D. , 2008

TOWN OF STONEWALL

Mayor

Chief Administrative Officer

Read a first time this 14th day of May A.D. , 2008

Read a second time this day of A.D. , 2008, as amended

Read a third time this day of A.D. , 2008

SCHEDULE "B"
TO BY-LAW NO. 4/08
DRIVEWAY PERMIT FEE AND DEPOSIT

The Driveway Permit Fee shall be;

i) Per Lot, - One Hundred Dollars (\$ 100.00)

The Driveway Deposit shall be;

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

