

TOWN OF STEINBACH

By-Law No. 1459

BEING A BY-LAW for the purpose of regulating excavations on, in, or under streets in the Town of Steinbach.

WHEREAS Section 228(3) of The Municipal Act, RSM 1988, c.M225, and amendments thereto, provides as follows:

“228(3) Subject to Section 230, a municipality may

- (a) permit private works on the highways therein;
- (b) prescribe the terms and conditions upon which private works may be installed, constructed, reinstalled, reconstructed, maintained or used ...
- (c) require that all private works shall comply with the requirements of the municipality as to location, construction, materials, workmanship, and other matters in connection with the installation, construction, reinstallation, reconstruction or maintenance thereof ...”

AND WHEREAS Council of the Town of Steinbach has now deemed it prudent to pass a By-Law regulating excavations in or under streets in the Town of Steinbach.

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

PART ONE - DEFINITIONS

1.1 In this by-law

- (a) “Highway” means land that has been opened by the Town as a road plan and includes a provincial trunk highway as defined in the Highways and Transportation Department Act.
- (b) “Person” includes any firm, partnership, association, corporation or company.
- (c) “Street” means any public highway, lane, thoroughfare, or way or any part thereof.
- (d) “Town” means Town of Steinbach, and is the authority having jurisdiction over this by-law.
- (e) “Utility Structures” means any lines, plant, equipment, machinery, apparatus, pipes, wires or things used for or in connection with the operation of a utility service.

PART TWO - EXCAVATIONS

2.1 Excavations

2.1.1 No person shall cut, break, tear up or remove any street surface or make any excavation in or under a street for any purpose without first having obtained a permit from the Town of Steinbach.
 No excavation permit shall be issued for the purposes set forth in this section except to a person licensed to do so by the Town or any employee of the Town for work carried out in the course of his employment by the Town.

2.1.2 Notwithstanding any other requirements of this section, the Town Engineer may, under special circumstances, authorize in writing a utility company or its agents to carry out the restoration of the street surface at locations where the utility company has been authorized to make street cuts.

2.1.3 All work of filling or backfilling an excavation or opening of tunnel or of restoring a street shall be subject to inspection and acceptance by the Town Engineer.

2.1.4 If a permittee fails to restore a street in accordance with the provisions of this by-law, the Town may perform such work as is deemed necessary by the Town Engineer, and the cost of that work as certified by the Town Engineer, including additional inspection costs, shall be paid to the Town by the permittee forthwith upon demand.

2.1.5 Every permit issued under this part of the by-law shall be null and void unless the work authorized by the permit is commenced within thirty (30) days from the date of granting the permit. A permit fee, once paid, is not refundable.

2.1.6 All works shall be carried out in accordance with the latest revision of the "Town of Steinbach Standard Design and Construction Specifications".

2.2 Licensing and Enforcement

2.2.1 Every Licence referred to in Section 2.1.1 of this by-law shall remain in force, at the pleasure of Council of the Town, to the first day of January next succeeding the issue thereof unless said license is suspended as herein provided.

2.2.2 Every person receiving a Licence referred to in Section 2.1.1 shall submit an indemnity bond in accordance with Part 4.

2.2.3 Council of the Town may, at its sole discretion, suspend any licence granted under Section 2.1 if the licensee owes the Town any fees referred to in this by-law, failed to provide the required bonding or, in the opinion of the Town Engineer, failed to conduct and complete excavation work in a good and workmanlike manner.

The Town Engineer may issue a stop work order for any permit granted under Section 2.1 if the licensee owes the Town any fees referred to in this by-law or, in the opinion of the Town Engineer, failed to conduct and complete excavation work in a good and workmanlike manner.

PART THREE - DAMAGE DEPOSIT

3.1 Whenever a permit is required, the permittee may be required to make a deposit, in an amount satisfactory to the Town, covering possible damage to any structure in the adjoining streets resulting from the permittee's operations. The deposit shall be retained by the Town until all work on the construction site, including lot grading, has been completed.

PART FOUR - BONDING

4.1 Wherever in this by-law, an "indemnity bond" is required to be posted, such bond shall be filed with the Town Manager prior to the issuance of a permit and shall be in a form satisfactory to the Town and issued by a surety company authorized to carry out business in the Province of Manitoba in the amount of \$250,000.00 covering personal injury, and \$250,000.00 covering property damage per incident.

PART FIVE - PENALTY and APPEAL

5.1 Any person who violates any provision of this by-law shall be liable, upon summary conviction, to a minimum fine of One Hundred (\$100.00) Dollars and a maximum fine of One Thousand (\$1,000.00) Dollars plus costs.

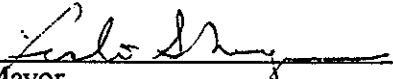
5.2 Any person who deems himself aggrieved by decision of the Town Engineer as to the issuance or enforcement of a permit may, within fifteen (15) days from the date of decision, appeal to the Council of the Town.

5.3 Upon hearing an appeal, the Council of the Town may,


- (a) rescind, suspend, or modify any decision or order given by the Town Engineer;
- (b) extend the time within which compliance with the decision or order shall be made; or
- (c) make such other decision or order as in the circumstances of each case it deems just;

and the decision or order of the Council of the Town, upon being communicated to the appellant, stands in place of the decision or order against which appeal is made, is final and binding and any failure to comply with the decision or order is an offence.

DONE and PASSED by Council of the Town of Steinbach, in open session assembled, this 17th day of March, 1997.



Mayor



Town Manager

Read a first time this 5th day of June, 1995.

Read a second time this 17th day of July, 1995.

Read a third time this 17th day of March, 1997.

Schedule "A" to By-Law No. 1459

Permit Fees:

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| (1) | Excavation Permits | \$ 20.00 |
| (2) | Approach Permits | \$ 20.00 |
| (3) | Crossing Permits | \$ 20.00 |

Schedule "B" to By-Law No. 1459

Fees for restoration of street cuts:

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| 1. | Paved roadways - minimum fee for each installation - up to and including two (2) square metres - for each additional square metre | 120.00 60.00 |
| 2. | Graded Roadways - per square metre | 20.00 |
| 3. | Paved sidewalks - minimum fee for each installation - up to and including three (3) square metres - for each additional square metre | 270.00 90.00 |
| 4. | Boulevards - minimum fee for each installation - up to and including four (4) square metres - for each additional square metre | 100.00 25.00 |
| 5. | Curb - minimum fee for each installation - up to and including two (2) linear metres - for each additional linear metre | 140.00 70.00 |

In computing the permit costs, any fraction of a square or linear metre shall be assumed to measure one square or linear metre.

The above noted fees cover the cost to the Town for the restoration of the surface.

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| 6. | After-hour work or inspections (flat rate) | \$100.00 |
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