

MOUNTAIN VIEW COUNTY

BYLAW NO. 11/20

TOPSOIL BYLAW

**Mountain View County
Province of Alberta**

Bylaw No. 11/20

A BYLAW OF MOUNTAIN VIEW COUNTY IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE REGULATION AND CONTROL OF TOPSOIL REMOVAL FROM AND IMPORT TO THE LAND WITHIN THE MUNICIPAL BOUNDARIES OF MOUNTAIN VIEW COUNTY IN ACCORDANCE WITH THE *MUNICIPAL GOVERNMENT ACT*, R.S.A. 2000, C. M-26, AS AMENDED, AND THE *SOIL CONSERVATION ACT*, R.S.A. 2000, C. S-15 AS AMENDED,

SECTION 1 - AUTHORITY

- 1.01 The *Municipal Government Act* , authorizes a municipality to pass bylaws for the purpose of the protection of property.
- 1.02 The Soil Conservation Act, R.S.A. 2000, c. S-15 authorizes the municipality by bylaw to provide for the issuance of permits governing the removal of Topsoil from land and prescribe and govern the terms and conditions under.
- 1.03 The Council of Mountain View County deems it advisable to regulate Topsoil Removal and Import in Mountain View County.
- 1.04 The Council of Mountain View County, in the Province of Alberta, duly assembled hereby enacts that this bylaw as amended may be cited as the “Topsoil Bylaw”.

SECTION 2 - DEFINITIONS

- 2.01 In this Bylaw, unless the context otherwise requires:
 - a. **"Adjacent"** means land or a portion of land that is adjoining to another parcel of land and includes land or a portion of land that would be contiguous if not for a public roadway, primary highway, river or stream, or reserve parcel;
 - b. **"Council"** means the Council of Mountain View County;
 - c. **"County"** means Mountain View County;
 - d. **"Land Use Bylaw"** means the County's Land Use Bylaw as amended or replaced from time to time;
 - e. **"MGA"** means the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended from to time;
 - f. **"Peace Officer"** means a Community Peace Officer as appointed under the authority of the Alberta Peace Officer Act, a Bylaw Enforcement Officer appointed by the County pursuant to the Municipal Government Act and any person employed by or authorized as such by Mountain View County, or the Sheriffs Branch, or a member of the Royal Canadian Mounted Police;
 - g. **"Topsoil"** means any portion of the surface layer of mineral soil ('A' horizon) as defined by the Canadian System of Soil Classification (CSSC) often enriched with organic matter that provides an adequate medium for the germination and growth of

plants. It often contains the majority of the plant roots and is referred to as the plough layer in agriculture soils;

- h. **"Topsoil Bylaw Appeal Committee"** means a Committee of Council, which shall consist of individuals appointed by Council as Public Members to the Subdivision and Development Appeal Board;
- i. **"Topsoil Import"** means the placement of Topsoil on lands where the material did not originate;
- j. **"Topsoil Permit"** means a document issued by the Topsoil Review Committee authorizing Topsoil Removal and or Topsoil Import to be issued for the property where the activity will occur;
- k. **"Topsoil Removal"** means the movement of Topsoil off of the parent parcel of land from where the material originated;
- l. **"Topsoil Review Committee"** means the County's Agricultural Fieldman and a member of the Planning and Development department as appointed by the Chief Administrative Officer;
- m. **"Violation Tag"** means a tag or similar document having printed wording approved by the County Chief Administrative Officer issued by a Peace Officer pursuant to the MGA;
- n. **"Violation Ticket"** means a ticket issued pursuant to Part II of the Provincial Offences Procedure Act, Revised Statutes of Alberta 2000, c. P-34, as amended, and Regulations thereunder;
- o. **"Wetlands"** means land saturated with water long enough to promote wetland or aquatic processes as indicated by poorly drained soils, hydrophytic (water loving) vegetation, and various kinds of biological activity that are adapted to a wet environment and as defined by legislation.

SECTION 3 – APPLICATION OF BYLAW

- 3.01 This bylaw regulates the import and removal of topsoil within Mountain View County to protect agriculture viability.
- 3.02 This bylaw does not regulate peat.
- 3.03 This bylaw does not regulate activities permitted through a Development Permit issued under the Land Use Bylaw.
- 3.04 This bylaw will be enforced on a complaint basis. Complaints must be provided on the County's formal Complaint Form as required by Policy 1021.
- 3.05 Lands within the County may be identified by the Topsoil Review Committee where Topsoil movement will not be permitted to prevent the spread of regulated weeds, declared pests, contaminants, or for other agricultural and environmental related reasons.

SECTION 4 - TOP SOIL QUALITY

- 4.01 Applicants are responsible for determining the quality of topsoil including undertaking a content analysis, determination of any chemical contaminants or residual herbicides and the presence of disease prior to application for a Topsoil Permit. Topsoil permits that contemplate the addition of poor quality topsoil, or topsoil that contains high quantities of clay may be denied by the Topsoil Review Committee.

SECTION 5 - PERMITS

- 5.01 The Topsoil Review Committee shall be responsible for the issuance of Topsoil Permits.
- 5.02 Topsoil Permits are required for Topsoil Removal and or Topsoil Import within the County.
- 5.03 Topsoil Permits are only valid for three (3) months from the effective date of the permit, such permit approval ceases and the permit itself is deemed void, expired and without effect, unless an extension to this period has been previously granted by the Topsoil Review Committee.
- 5.04 Any person wishing to obtain a Topsoil Permit must complete the Topsoil Permit Application Form and submit the completed Application Form, together with the fee as indicated in the current Fee Schedule Bylaw to the Topsoil Review Committee.
- 5.05 Upon receipt of a completed Topsoil Permit Application Form the Topsoil Review Committee shall consider the Topsoil Permit Application, and may, in its sole and absolute discretion:
- a. refuse to grant the Permit; or
 - b. grant a Permit with terms and conditions as the Topsoil Review Committee deems appropriate.
- 5.06 In determining whether a Permit will be granted, the Review Committee may require the applicant to provide:
- a. information on surrounding land uses;
 - b. information on the Topsoil contents;
 - c. proof of authorization for the Removal or Import of Topsoil from the external local authority if applicable;
 - d. wetland or riparian conservation methods where applicable;
 - e. consultation with any landowners involved in the action of Topsoil Removal or Topsoil Import;
 - f. consultation with landowners adjacent to where the Topsoil Removal is to occur and or Topsoil Import is taking place, in accordance with Community Consultation Program as per the Land Use Bylaw.

- 5.07 A Topsoil Permit shall not be transferable as they are issued on a site specific basis and tied to the specific property identified in the application.
- 5.08 The Topsoil Review Committee may revoke a Topsoil Permit if:
- a. the Topsoil Review Committee receives a bona fide complaint; or
 - b. the Topsoil Permit holder does not comply with the conditions of the Topsoil Permit.
- 5.09 If the Topsoil Review Committee revokes a Permit, no refund of the Topsoil Permit fee shall be made.
- 5.10 A landowner who is refused a Topsoil Permit may make a written appeal to the Topsoil Appeal Committee appealing the decision of the Review Committee by submitting a written appeal letter not later than fourteen (14) days after the Review Committee advises the Owner of the refusal.
- 5.11 Any appeal made pursuant to Section 5.10 shall be accompanied by the prescribed fee contained in the Fee Schedule Bylaw, as amended from time to time. The appeal fee shall be refunded if the applicant's appeal is successful.
- 5.12 Upon review of any information provided in support of the appeal, the Topsoil Appeal Committee may uphold the decision of the Topsoil Review Committee, may refuse a permit, or may grant a permit with any terms or conditions it deems appropriate. Notwithstanding the foregoing, the Topsoil Appeal Committee may not waive or vary any of the requirements set out in Section 6 of this Bylaw.

SECTION 6 – TOPSOIL PERMIT REQUIREMENTS

- 6.01 Excess Topsoil generated through development shall be used to enhance agricultural production on other agricultural parcels within the County.
- 6.02 Stockpiles of Topsoil are to be kept under suitable vegetative cover (minimum 80%) to prevent soil erosion. The vegetative cover must be established immediately upon completion of stockpiling and maintained for the life of the stockpile.
- 6.03 Slopes on stockpiles of Topsoil must not exceed a 4:1 slope, with the exception of the active face in the case of loading and removal.
- 6.04 Stockpiles must be free of Prohibited Noxious and Noxious Weeds as regulated under the *Weed Control Act*, S.A. 2008 c. W-5.1) and the *Weed Control Regulation*, Alta. Reg. 19/2010.
- 6.05 Topsoil being Removed off the property must be covered during transport, to prevent the spread of weed seeds and soil borne diseases potentially contained in loose material.
- 6.06 Applicants are required to ensure they are meeting any applicable legislation and regulations if ground disturbance will occur and to take all precautions reasonably necessary.

- 6.07 The Topsoil Permit does not confirm the contents of Topsoil as there may be weeds, disease, contaminants or a high percentage of subsoil or clay mixed in, and as a condition of obtaining and exercising the rights given under the permit, the applicant is responsible for any and all damages and further agrees to indemnify and hold harmless Mountain View County against any and all losses or damages which may arise as a result of Topsoil Removal and or Topsoil Import.
- 6.08 The Topsoil Permit does not give any permissions for alterations to the water flow on the lands, including any changes to drainage, diversion, installation of tile drainage, infilling, creation of dugouts, ditches, berms, and water crossings or any change that could create a change to the flow, volume or velocity of flow of water on another parcel of land. Alberta Government approval shall be obtained prior to beginning the activity in the event that any of the above applies.
- 6.09 This Topsoil Permit does not release the applicant's obligation to obtain other permits or agreements as necessary.

SECTION 7 – EXEMPTIONS

- 7.01 The removal of topsoil as an incidental part of a normal farm practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products shall be exempt from this bylaw. This exemption does not apply to any farm or commercial operation where topsoil is being sold. .
- 7.02 An exemption for the requirement of a topsoil permit may be made, in writing, under the following criteria:
- a. The work being completed requires less than 40 cubic metres of topsoil to be hauled into, or out of, the Lands;
 - b. The work being completed does not involve the creation or filling of a Wetland.
- 7.03 The Topsoil Review Committee may, at their complete discretion, approve, deny, amend or revoke the exemption.

SECTION 8 – GENERAL PROHIBITIONS

- 8.01 No person shall Remove Topsoil from the County without first receiving and maintaining in good standing a Topsoil Permit.
- 8.02 No person shall Import Topsoil into the County without first receiving and maintaining in good standing a Topsoil Permit.
- 8.03 No person shall Remove or Import Topsoil within the County without first receiving and maintaining in good standing a Topsoil Permit.
- 8.04 No person shall bury or cover-up Topsoil in any way that prevents it from being utilized.

SECTION 9 - PENALTIES

9.01 Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable to a penalty. The specified penalty payable in respect of a contravention of a provision of this Bylaw is the amount shown in Schedule "A" of this Bylaw in respect of that provision.

9.02 Where a Peace Officer believes that a person has contravened any provision of this Bylaw, he may serve upon such person a Violation Ticket in accordance with Part 2 of the *Provincial Offences Procedure Act*, R.S.A. 2002 c. P-34.

9.03 Where any person has been convicted under the same section of this Bylaw within a TWENTY-FOUR (24) month period, the specified penalty payable in respect of the second contravention shall be double in the amount as shown in accordance with Schedule "A".

Where any person has been convicted under the same section of this Bylaw two or more times within a TWENTY-FOUR (24) month period, the specified penalty payable in respect of the third or subsequent contravention shall be quadruple the amount as shown in accordance with Schedule "A".

9.04 Without limiting the right to subsequently issue a Violation Ticket, a Violation Tag, may be issued by a Peace Officer to any person alleged to have contravened any provision of this Bylaw or its regulations.

The penalty in lieu of prosecution applicable to any contravention of this Bylaw, to be used when issuing a Violation Tag shall be the same as the specified penalty shown in Schedule "A".

9.05 A person who has been served with a Violation Tag in relation to an alleged contravention of this Bylaw, and who has paid the penalty provided within the time allowed shall not be liable to prosecution for the subject offence.

9.06 A Violation Tag shall be deemed to be sufficiently served:

- a. if served personally on the accused; or
- b. if mailed by regular mail to the address of the owner or person accused.

SECTION 10 - SEVERABILITY

10.01 Each provision of this Bylaw is independent of all other provision. If any such provision is declared invalid by a Court of competent jurisdiction all other provision of this Bylaw will remain valid and enforceable.

SECTION 11 - REPEAL OF BYLAW

11.01 Bylaw No. 03/16 is hereby repealed

SECTION 12 - EFFECTIVE DATE

12.01 This Bylaw shall come into effect at such time as it has received third (3rd) reading and has been signed in accordance with the *Municipal Government Act*.

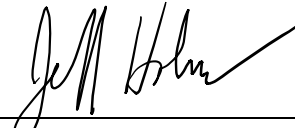
Read the first time this 27th day of May 2020.

Read the second time this 27th day of May 2020.

Read the third time this 3rd day of June 2020.



Reeve



Chief Administrative Officer

June 3, 2020

Date of Signing

SCHEDULE A
PENALTIES

OFFENCE	SECTION	PENALTY
No person shall Remove Topsoil from Mountain View County without prior receiving a Topsoil Permit	8.01	First Offence \$1000.00 Second Offence \$2000.00 Third Offence \$4000.00
No person shall Import Topsoil into Mountain View County without prior receiving a Topsoil Permit.	8.02	First Offence \$1000.00 Second Offence \$2000.00 Third Offence \$4000.00
No person shall Remove or Import Topsoil within Mountain View County without prior receiving a Topsoil Permit.	8.03	First Offence \$1000.00 Second Offence \$2000.00 Third Offence \$4000.00
No person shall bury or cover-up Topsoil in any way that prevents it from being utilized.	8.04	First Offence \$1000.00 Second Offence \$2000.00 Third Offence \$4000.00
No person shall be in contravention of the Topsoil Permit Requirements	Section 6	First Offence \$1000.00 Second Offence \$2000.00 Third Offence \$4000.00