



## **PART 5: Administration**

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This by-law shall be administered in accordance with the provisions of *The Planning Act* and this PART.

### **5.1 Administration and Enforcement**

In the administration and enforcement of this by-law, the Rural Municipality of Victoria Beach shall have all of the powers of inspection, remedy and enforcement provided under Part 12 of *The Planning Act* including the ability to impose fines for offences related to this by-law.

### **5.2 When Development Permits Are Required**

A development permit is required for any of the following, except as otherwise provided for in this by-law:

- a) The erection, construction, enlargement, structural alteration or placing of a building or structure, either permanent or temporary;
- b) The establishment of a use of land or a building or structure;
- c) The change of a use of land or a building or structure from the existing use to a use which is not a permitted use;
- d) The alteration or enlargement of an approved conditional use; and
- e) Notwithstanding Section 5.4 (below), development permits shall be required for the erection, construction, enlargement and structural alteration, or placing of a building or structure, and/or the removal of natural vegetation within a riparian area.

### **5.3 Development Permits and Other Permits**

The issuance of a development permit in respect of building or structure does not affect the obligation to obtain a building permit or other permit where required under the building by-law, or another law, by-law or regulation, for such a building or structure.

### **5.4 When Development Permits Are Not Required**

A development permit is not required for the following:

- a) Alterations, incidental.
- b) The erection, construction, enlargement, structural alteration or placing of the

following as an accessory building or structure

- i) identification signs as listed in Section 4.5(b) Standards for Identification Signs;
- ii) outdoor lighting;
- iii) flagpoles;
- iv) private sewage disposal systems;
- v) private communications facilities;
- vi) unenclosed patios or decks less than 1 ft. above grade level.

Despite not requiring a development permit, all items in this provision shall be subject to requirements of this by-law. Please note: As per policy 4.14 Riparian Area Development, a development permit must be obtained for any buildings or structures proposed within a riparian area.

## **5.5 Applications for Development Permits**

An application for a development permit:

- a) Shall be made by the owner or owners of the parcel in question, or by a person authorized in writing by them.
- b) Shall be accompanied by plans drawn to scale showing the following:
  - i) The shape and dimensions of the parcel to be used or built on;
  - ii) The location and dimensions of existing buildings and structures;
  - iii) The location and dimensions of any proposed building, structure, enlargement or alteration; and
  - iv) The use or uses of each existing and proposed building and structure, or of the land, and the area to be occupied by each use.
- c) Shall be accompanied by the fee prescribed by the Municipality.

## **5.6 Approval of Development Permits**

A development Permit shall be approved as follows:

- a) Within the 60-day period from the date of the application, the Development Officer shall consider the application and may approve an application for a

permit, if it is the opinion that the proposed building, structure or use of land conforms to the provisions of *The Planning Act*, the *RM of Victoria Beach Development Plan*, any applicable secondary plan, and this by-law.

- b) Every owner shall:
  - i) permit the Development Officer to enter any building or premises at any reasonable time for the purpose of administering or enforcing this by-law, and shall not molest, obstruct or interfere with the Development Officer in the discharge of his or her duties under this by-law;
  - ii) obtain written approval from the Development Officer prior to doing any work at variance with that for which a development permit was issued; and
  - iii) where applicable, be responsible for obtaining from the appropriate authorities, any required permits or licenses relating to blasting, electrical, grades, highways, occupancy, plumbing, private onsite wastewater management systems, sewers or water supply systems, signs, streets, water rights, wells, environmental approvals, and other government department approvals.

## **5.7 Building to be Moved**

New and used buildings to be moved into the RM of Victoria Beach shall comply with the following:

- a) No building or structure shall be moved in whole or in part to any other location unless every portion of the building or structure is made to conform to all the regulations of this by-law applying to the zone in which it is located.
- b) Prior to transportation and placement on an engineer-approved foundation, the used building or structure shall require inspection by a structural engineer. A stamped confirmation confirming the building's structural integrity shall be provided to the Development Officer as part of the Conditional Use application.
- c) All used buildings being moved into the R.M. of Victoria Beach will require an approved conditional use order, which may include conditions addressing required interior/exterior renovation as deemed necessary by Council.

## **5.8 The Development Officer**

Council shall appoint a Development Officer, who on behalf of the Rural Municipality of Victoria Beach may:

- a) Issue development permits and exercise the powers of administration, inspection, remedy and enforcement provided in Part 12 of *The Planning Act*.
- b) Refuse to issue a development permit where:
  - i) The development permit application, or any information accompanying the development permit application, is incorrect or incomplete; or
  - ii) The proposed building, structure or use does not, to the designated officer's knowledge, comply with this zoning by-law, the building by-law or with any other law.
- c) Revoke a development permit where the development permit was issued in error.
- d) Issue zoning memoranda, certificates of non-conformity, and other documents as may be necessary for the administration and enforcement of this by-law.
- e) Make a minor variance order, without the need for a public hearing, for any proposed change that varies:
  - i) Any height, distance, area, size or intensity of use requirement in the zoning by-law by no more than 15%, and 10% within the VRA.
  - ii) The number of parking spaces required by the zoning by-law by no more than 15%, and 10% within the VRA.

## **5.9 Application for Amendments, Variances and Conditional Uses**

An application for a variance, or conditional use, or an amendment to this by-law must be in the proper form and must be accompanied by the fee prescribed by Council. The application must also be accompanied by:

- a) Plans drawn to scale showing the shape and dimensions of the affected property;
- b) Plans drawn to scale showing the location and dimensions of existing buildings and structures;
- c) Plans drawn to scale showing the location and dimensions of the proposed building, structure, enlargement or alteration;
- d) A description of the use or uses of each existing and proposed building or

structure, or of the land;

- e) A description of the reason why the variance, conditional use, or amendment to this by-law is being requested; and

Any other information required by the designated officer to determine compliance with, and to provide for enforcement of, this by-law.

### **5.10 Conditional Uses**

- a) Approval of a conditional use shall expire or cease to have any effect if it is not acted upon within 12 months from the date it was made, unless it is renewed before the expiry date at the discretion of Council for an additional period not exceeding 12 months. A second period of not longer than 12 months if an application is received before the expiry of the first extension.
- b) A use that is listed as a conditional use within this by-law, but that lawfully existed prior to the effective date of this by-law, shall be considered a lawfully existing conditional use, and except as regulated by this by-law, shall have non-conforming rights in accordance with The Planning Act.
- c) Changes to an existing conditional use, such as enlargement, expansion or extension to occupy a greater floor area or site area upon which said use is located, shall require conditional use approval.
- d) In the case of aggregate extraction operations, existing pits may be expanded within the site, provided that no new pits are established and provided that said operation was a legally existing conditional use at the effective date of this by-law. The aggregate extraction operation shall otherwise conform to the requirements of the zone in which it is located.

### **5.11 Variance Orders**

- a) A building, structure or use established by a variance order prior to the effective date of this by-law shall, subject to the provisions of the variance order, be deemed to conform to this by-law.

A variance order shall expire or cease to have any effect if it is not acted upon within 12 months from the date it was made, unless it is renewed before the expiration date at the discretion of Council for an additional period not exceeding 12 months.

### **5.12 Zoning Memoranda**

A zoning memorandum may be issued upon application of any person having an interest in land, land use, a building or structure within the area affected by this by-law, stating whether or not the land, building, structure and use appears to conform with this by-law, in accordance with The Planning Act. A request for a zoning memorandum must be accompanied by a Building Location Certificate prepared by a Manitoba Land Surveyor.

### **5.13 Development Agreements**

Where an application is made for an amendment to this by-law, Council may require the owner or the person entitled to be registered as owner of the land, building or structure to which the amendment shall apply, as a condition to its enactment to enter into a development agreement with the RM of Victoria Beach in respect to that land as well as contiguous land owned or leased by the applicant. Also, as a condition of subdividing land, approving a conditional use, approving a variation order, or other development as permitted under *The Act*, Council may require the applicant to enter into a development agreement in respect of the affected property and any contiguous land owned or leased by the owner.

### **5.14 Non-Conformities**

A non-conforming use and a non-conforming building, structure, parcel of land or sign shall be regulated in accordance with and subject to the provisions of the *Act*, unless otherwise provided for herein:

- a) Any lawful building or structure which does not conform to one or more of the applicable yard requirements of the zone in which it is located, either on the effective date of this by-law or amendments thereto, shall be deemed to be a lawfully existing permitted building or structure and shall be used as if it conformed to all such requirements.
- b) Any expansion, addition, relocation or reconstruction of a non- conforming use or a non-conforming building or structure shall conform to the site requirements and parking and loading requirements of the zone in which it is located unless varied by a variance order pursuant to the provisions of the *Act*.
- c) Repairs or incidental alterations may be made to a non- conforming structure subject to approval and issuance of a development permit, where necessary.
- d) The use of land or the use of a building is not affected by change of ownership, tenancy or occupancy of the land or building.

- e) Any owner may apply to the Development Officer for a Non- Conforming Certificate in accordance with the provisions of the *Act*.
- f) Pursuant to the provisions of the *Act*, where Council determines that a building or structure is damaged or destroyed fifty percent (50%) or more of its replacement value above its foundation, the said building or structure may be replaced or rebuilt, but only in compliance with this by-law or its amendments, or where such requirements are varied by a variance order.
- g) In the instance where significant damage occurs to a building or structure by fire or natural causes, excluding intentional demolition, such that the owner wishes to rebuild, Variations to the applicable sections of this by-law may be considered provided the following conditions are met:
  - i) The new building can only be of the same size or less than the destroyed structure.
  - ii) The rebuilt building is located on the same pad site as the destroyed building.
  - iii) The elevation of the property must be brought up to at least 719.5 feet above sea level.
  - iv) In all other aspects, the new building must meet the current Building Code Bylaw.
  - v) If the rebuilt building is to be located within the Erosion Hazard Limit as per the *RM of Victoria Beach Development Plan*, then a geotechnical study will be required to confirm that the existing bank is stable enough to safely support the newly built structure.
- h) Pursuant to the provisions of the *Act*, a non-conforming parcel, meaning any lawful site existing at the adoption of this by-law which does not comply with the site area and/or site width herein, may be occupied by any building, structure or use provided:
  - i) That the building, structure or use is listed as a permitted or conditional use within the zone in which said use is located;
  - ii) That all other requirements of the zone in which the parcel is located, such as yards, building height, and floor area, are met; and/or

- iii) Variance orders have been obtained to alter requirements within the particular zone.
- i) Notwithstanding the provision of this subsection, a variance order shall not be required where a non-conforming use, building, structure, sign or parcel is being altered so that the non-conformity is not increased even though the resulting alteration does not fully comply with the requirements set forth herein.
- j) A non-conforming use of a structure or of a parcel of land, or portion thereof, which is, or hereafter becomes, abandoned, vacant or unoccupied, and remains vacant and unoccupied for twelve (12) consecutive months must not be used after that time except in conformity with the Zoning By-law.
- k) A use that is accessory to a non-conforming use may continue as long as the non-conforming use exists.