



THE RURAL MUNICIPALITY OF VICTORIA BEACH

BY-LAW NO. 1594

A By-law of The Rural Municipality of Victoria Beach for the licensing of private encroachments onto public land.

WHEREAS Section 232 of The Municipal Act authorizes a Council to pass a by-law for municipal purposes respecting things in, on or near public places including private works on, over, along or under municipal roads or streets;

AND WHEREAS private encroachments onto public land including municipal roads or streets exist in the Rural Municipality of Victoria Beach and will continue to be discovered;

AND WHEREAS it is desirable and expedient and in the public interest that private encroachments onto public land including municipal roads or streets be either licensed or removed:

NOW THEREFORE the Council of The Rural Municipality of Victoria Beach, in council duly assembled, enacts as follows:

1. No private structures of any form, above or below ground level, which extend into or are constructed or located on public land including municipal roads and streets (an "encroachment") shall be constructed or maintained without the permission and approval of Council.
2. Every application for permission to erect, re-erect or alter, or for the maintenance of an encroachment shall be made by the registered owner of the land from which the encroachment originates or the owner's authorized agent who shall file an application with the Chief Administrative Officer together with drawings and specifications of the proposed structure, or where the encroachment already exists, a certificate prepared by a Manitoba Land Surveyor giving details of the encroachment together with such fee as may be prescribed by Council.
3. No encroachment shall be approved if in the opinion of Council it interferes or is likely to interfere in a material way with any light, power, telephone or any apparatuses or appliances connected therewith or with any other utility or if it interferes or is likely to interfere in a material way with the public use and enjoyment of public land including a municipal road or street.
4. An encroachment constructed or maintained in pursuance of permission of Council may be maintained, subject to the terms and conditions contained in this By-law and in accordance with any additional terms and conditions that Council may attach to any encroachment license it grants in each case.
5. Any approved encroachment may not be enlarged or altered in any manner without the permission of Council, however the repainting and repairing and general maintenance of such encroachment shall be deemed not to be alterations or enlargements within the meaning of this clause.
6. The owner of any land from which an approved encroachment originates shall keep the encroachment in good repair and in a safe and clean condition and shall be responsible to repair any damage caused to the public land including a municipal road or street as a result of such repair or use.
7. Should any approved encroachment be removed at any time, it shall not be reconstructed except in conformity with this By-law.

8. Should any approved encroachment be damaged or destroyed by any means to an extent of more than 50% of its replacement cost at the time of damage or destruction, it shall not be reconstructed except in conformity with this By-law.
9. All approved encroachments shall remain at the pleasure of the Council and, as such if in the opinion of Council the land on which an encroachment is situated is required for a specific public purpose such as street widening, development or some other public purpose, or if the encroachment is not kept in good repair and condition by the owner in compliance with this By-law, Council may revoke any license granted and require the removal of any encroachment by the owner of the land from which the encroachment originates at the owner's expense within a reasonable period of time of the owner receiving written notice to that effect.
10. The owner of land from which an encroachment originates shall indemnify the Rural Municipality of Victoria Beach against all damages, costs and expenses which the Rural Municipality of Victoria Beach may suffer, incur, or be put to by reason of the existence, maintenance or use of the encroachment.
11. Licenses for approved encroachments are transferable to the new owner of any land from which the encroachment originates without the necessity of a new application.
12. Any license granted pursuant to this By-law does not in any way diminish the rights of the Rural Municipality of Victoria Beach and its respective officers, workers, employees, agents and contractors of entering at all times upon the public land including a municipal road or street upon which an encroachment exists for the purpose of constructing, repairing, maintaining, replacing or removing public works including road ways, drains, pipes or other works, services and installations.
13. The Rural Municipality of Victoria Beach shall not be responsible for any damages to any encroachment resulting from its activities on the public land including a municipal road or street upon which an encroachment exists.
14. Any person guilty of a breach of any provision of this By-law shall be liable to a fine not exceeding Five Hundred (\$500.00) Dollars. Where a contravention continues for more than one (1) day, the person is guilty of a separate offence for each day it continues.
15. Any applicable fines, costs and charges remaining outstanding after the expiration of thirty (30) days from the date of issue of the offence notice shall be added to the owner's property tax account to be collected in the same manner as a tax may be collected under The Municipal Act;
16. That By-Law 1535 be and the same is hereby repealed.

PASSED AND ENACTED by The Rural Municipality of Victoria Beach, in Council duly assembled, this 5th day of November, 2019.

Penny McMorris - Reeve

Raymond Moreau - CAO

Read a first time this 15th day of October, 2019

Read a second time this 5th day of November, 2019

Read a third time this 5th day of November, 2019