

RURAL MUNICIPALITY OF VICTORIA BEACH ZONING BY-LAW

Revisions to First Reading By-law 1622

Part 2: General Regulations

To address the concern that lake front properties would have to respect front yard set backs on both the lake side and street side of the property, thereby excessively reducing the building envelope subsection f) as noted below was added to section 2.5. This revision is consistent with requirements in the current planning scheme.

2.5 Required Yard

- f) For purposes of interpreting the yard requirements contained within this zoning by-law, Lake Winnipeg shall be deemed to be the front site line for all lots which front onto and are contiguous to Lake Winnipeg or which front onto and are contiguous to public reserve land which fronts onto Lake Winnipeg.

To address concern that chain link fencing was prohibited and 3 foot fences were to low to secure large dogs, section 2.15 was amended removing chain link fence from the list of prohibited materials and increasing the maximum fence height to 4 feet.

2.15 Fences

Fences are permitted in all zones subject to the issuance of a development permit under the following conditions:

Prohibited Materials

Fences shall:

- a) Not be electrified.
- b) Not contain barbed wire.
- c) Not contain scrap metal or industrial waste material.

Maximum Fence Height

No fence shall exceed the following heights:

Standards	P	R	RS	CA
Fence Height: Front Yard (Maximum)	10 ft. (3.05 m)	4 ft. (1.22 m)	4 ft. (1.22 m)	4 ft. (1.22 m)
Fence Height: Side and Rear Yards (Maximum)	10 ft. (3.05 m)	8 ft. (2.46 m)	8 ft. (2.46 m)	8 ft. (2.46 m)

To address concern that section 2.16 Shoreline Hazard Lands was more restrictive than other zoning by-laws and thereby unduly restrictive for shoreline property owners, this section was reorganized for clarity and repetitive language was removed. It was confirmed that the primary policy highlighted below is generally consistent with *The Municipal Planning Guide to Zoning By-laws in Manitoba* and similar language is used in other zoning bylaws. Measurement standards for Flood Risk Areas, Erosion and Slope Instability Areas and Dynamic Beach Areas are included so that land owners and the municipality can determine when engineering reports are not required by the municipality. Measurements standards for Floor Risk Areas was modified for consistency with *The Municipal Planning Guide to Zoning By-laws in Manitoba*. For consistency, the same amendment was made to the definition of Flood Hazard Limit in Part 5 of the By-law.

2.16 Shoreline Hazard Lands

Development is prohibited in hazard areas susceptible to flooding, erosion by water or is marshy or unstable, or is otherwise hazardous by virtue of its soil or topography, unless a geotechnical engineering report, showing that the development may occur without creating any additional risks, is submitted to the Rural Municipality of Victoria Beach at the time of application for a development permit. Proposed mitigation measures may not interfere with or unduly compromise the character, enjoyment or sustainability of private or public property. Additional or alternative requirements may be included in specific agreements pursuant to *The Planning Act* to address specific scenarios and may require engineering investigation to determine appropriate limits. Development and use of land will be prohibited in instances where mitigating strategies are not possible.

Flood Risk Areas: For the purpose of section 2.16, the flood hazard limit is measured 2 feet (0.61m) above the high-water mark of the design flood, a recorded flood exceeding the design flood, or a flood specified by Manitoba Infrastructure.

Erosion or Slope Instability Areas: For the purpose of section 2.16, the erosion hazard limit is measured horizontally landward from the toe of slope a distance equal to three times the height of the slope plus a minimum erosion allowance of 50 feet (15 m). To minimize erosion, the retention of vegetation is encouraged on all slope faces.

The barrier beach south of the Pelican Point inlet and Club House Beach have been identified as **Dynamic Beach Areas**. Due to the inherent instability of dynamic beaches, development in these areas is subject to section 2.16.

To address concern that “Riparian Area Development” should not be included as a distinct land use this use was removed from Table 3.1 and the associated “use specific standards”, previously included in section 4.8 were relocated to section 2.17. To address concern that property owners would be unable to remove invasive vegetation in beach areas, the definition of a riparian area was clarified, to exclude natural beaches.

To address concern that principle buildings (dwellings) were not permitted within riparian areas, the requirement that riparian area development be “accessory to a permitted or accessory use” was deleted. This will allow dwellings to be partially located within the riparian area, provided they are flood protected, do not impact more than 25% of the riparian area, and respect the yard requirements for the zone they occur.

Concern was raised that in some areas, dwellings on lakefront lots are commonly constructed within the riparian area, because lots are less deep than in other locations and a dike offers greater protection from flooding and erosion hazards. It was therefore clarified in section 2.17 that council has the ability to vary the riparian area requirements to address site specific issues.

2.17 Riparian Areas

Riparian areas are measured horizontally 100 feet (30 m) from the ordinary high water mark. For the purpose of this by-law the ordinary high water mark is deemed to be on the landward side of any natural beach area. Beaches are therefore not subject to riparian area restrictions listed below.

Development shall be permitted in riparian areas in accordance with the zoning district in which it is located provided it complies with the following conditions:

- a) Native vegetation shall be retained within all riparian areas.
- b) Developments that create minor disturbances to the native vegetative cover, such as buildings, stairs, decks, patios and pathways, may be permitted, provided that not more than 25% of the riparian area is affected.
- c) Without exception, a development permit shall be required for the erection, construction, enlargement and structural alteration, or placing of a building or structure within a riparian area.
- d) A development permit shall also be required for the removal of native vegetation within the riparian area.
- e) Minimum side yards shall be maintained. In the instance where development extends onto Crown Land, a Public Reserve or waterbody, the side yard shall be measured from a projection of the lot lines for the property which the use is accessory to;
- f) A conditional use permit is required for development , including stairs, decks, and other accessory structures, on Crown Land or Public Reserve zoned as "P" Park and Open Space;
- g) Proposed development must not impose undue risk to people, property, or water quality. If determined necessary, the municipality may require geotechnical engineered plans or environmental assessments, prepared at the developer's expense, for assurance;
- h) Flood protection, erosion control measures, and groynes; which exceed 25% of the total riparian area may be permitted at the discretion of council.
- i) Private docks, boathouses and/or boat launches shall not be permitted.

For development permit applications within the riparian area, in addition to the application requirements set out in Sections 5.5 and 5.7, the Rural Municipality of Victoria Beach may require proof of issuance for permits required by provincial and federal authorities and a tree survey (prepared at the developer's expense) showing existing vegetation.

In order to bring properties into compliance or to address site specific issues council may vary the requirements of this by-law and/or enter into rehabilitation/maintenance agreements with property owners. These agreements shall be reviewed every five years. Property owners may be required to provide environmental reports, documentation and proof of issuance for permits required by provincial and federal authorities as necessary to support proposed maintenance activities.

To address concern that property owners and tree maintenance companies could not identify and remove hazardous or dead trees without approval of the development officer section 2.22 was amended deleting “as determined by a development officer”. Requirements for “tree surveys” and specific requirements relating to tree species were deleted and replaced with a general statement encouraging property owners to follow FireSmart recommendations.

2.22 Protection and Retention of Trees

A development permit shall be required for the removal of trees or shrubs, except in the following instances:

- a) Seasonal or routine pruning and maintenance of trees;
- b) The removal of hazardous or dead trees;
- c) The removal of trees where the tree canopy exceeds, and will continue to exceed, 50% of the site coverage.
- d) The removal of trees where a development permit has been issued for a new development on the same site and the removal of trees is implicit or explicit in that permit.

Tree conservation and replacement shall be considered in the review of development applications to minimize the impact the proposed development may have on the character and enjoyment of the general area. Property owners are encouraged to follow FireSmart[®] recommendations for tree selection and maintenance.

To further clarity, subsection 2.22 (c) above, the definition of Site Coverage in Part 6 of the Zoning By-law was amended by adding subsection b.

Site Coverage:

- a) For the purpose of determining the *maximum combined site coverage* as noted in Table 3.2 Bulk Requirements, site coverage means the combined area of all buildings, structures, and paved surfaces on the site as a percentage of the site area, measured at the level of the lowest storey above the grade including all enclosed and insulated decks, sunrooms, porches and verandas, but excluding seasonal non-insulated structures, open or covered, such as decks, screen porches or veranda, patios at grade, steps, uncovered walks, wheelchair ramps, cornices, eaves and similar projections.
- b) For the purpose of tree canopy as noted in Section 2.22 Protection and Retention of Trees, site coverage means the total area of the tree canopy on the site as a percentage of the site area, measured from a summer aerial view to include the entire breadth of the tree canopy.