

CITY OF WINKLER

Building By-Law # 2332-24

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THE CITY OF WINKLER

BY-LAW NO. 2332-24

BEING A BY-LAW OF THE CITY OF WINKLER to provide for administrative and procedural requirements for the application and enforcement of new buildings, occupancy, change of existing buildings and requirements for unsafe buildings

WHEREAS clause 13 of The Planning Act C.C.S.M. c. P80 provides the Council of a municipality, subject to part 3, with the responsibility for the adoption, administration and enforcement of the development plan By-Law, zoning By-Law and all other By-Laws respecting land use and development for the municipality;

AND WHEREAS clause 14(b)(iii) and (iv) of The Planning Act C.C.S.M. c. P80 provides that when a planning district is established, its board is responsible for, amongst other items, the administration and enforcement of the building By-Laws of its member municipalities and the By-Laws of its member municipalities dealing with minimum standards of maintenance and occupancy of buildings;

AND WHEREAS the Province of Manitoba established MSTW Planning District pursuant to section 14 of Regulation 25/2015 of the Planning Act, CCSM P80;

AND WHEREAS Section 19(1) of The Planning Act C.C.S.M. c. P80 provides that the management and affairs of a planning district must be directed by a board of directors consisting of councillors appointed by each member municipality in accordance with the requirements of the organizational bylaw;

NOW THEREFORE the Council for the City of Winkler hereby enacts as follows:

SECTION 1 TITLE

1.1 This By-Law shall be cited as the City of Winkler's "Building By-Law".

SECTION 2 PURPOSE

2.1 This By-Law establishes administrative requirements and procedures for the application and enforcement of the design, construction, erection, placement and occupancy of new buildings, and the alteration, repair, renovation, reconstruction, demolition, removal, relocation, occupancy and change in occupancy of existing buildings and structures and any requirements that are necessary to correct unsafe conditions in existing buildings and structures.

2.2 This By-Law applies to the whole of the City of Winkler.

2.3 This By-Law applies to matters governed by the Act and its Regulations, as amended from time to time, and the National Building Code of Canada, as amended from time to time, for all work falling within the jurisdiction of this By-Law.

- 2.4 MSTW Planning District (MSTW) is hereby provided the authority to have jurisdiction, pursuant to section 14 of The Planning Act, CCSM P80, to administer and enforce this By-Law.

SECTION 3 DEFINITIONS

- 3.1 The words and terms in this By-Law shall have the meaning prescribed in subsection 3.3 herein, and if no definition is provided herein, they shall have the meanings as specified in the Code. Should a word or term be defined in both this By-Law and the Code, then the definition set forth in this By-Law shall govern.
- 3.2 Definitions of words and phrases used in this By-Law that are not explicitly defined in the Code or in this subsection shall have the meanings that are commonly assigned to them in the context in which they are used in these requirements, considering the specialized use of terms within the various trades and professions to which the terminology applies.
- 3.3 In this By-Law words and terms shall have the following meanings:
- (a) “Accessory Building” means a building that is naturally and normally incidental, subordinate, and exclusively devoted to a principal building and located on the same property, excluding farm outbuildings;
 - (b) “Act” means The Buildings and Mobile homes Act, CCSM c B93, as amended from time to time;
 - (c) “Applicant” means the person that is primarily responsible for all matters relating to a permit application;
 - (d) “Authority Having Jurisdiction” means the MSTW Planning District (“MSTW”) and, where the context requires, such building inspector or other authority lawfully appointed by the MSTW Planning District to administer and enforce this By-Law;
 - (e) “Authorized Agent” means the person that has been given authority by the Owner to act on the Owner’s behalf with respect to the permit;
 - (f) “Basement Development” means the initial framing of rooms in a residential basement, including any structural work being conducted in connection with the basement development, excluding underpinning or foundation replacement;
 - (g) “Building Permit” means a permit authorizing construction and alteration of all or part of a building, issued by MSTW pursuant to this By-Law and the Code, as amended from time to time.
 - (h) “Code” means the Manitoba Building Code MR 31/2011 as established, adopted, and amended from time to time, pursuant to Section 3 of the Act;

- (i) “Codes” means the Manitoba Building Code MR 31/2011, and the Manitoba Plumbing Code MR 32/2011 pursuant to The Buildings and Mobile Homes Act, CCSM c B93, as amended from time to time, and the Manitoba Fire Code MR 155/2011 pursuant to The Fires Prevention and Emergency Response Act, as amended from time to time, and the Manitoba Energy Code for Building MR 213/2013, as amended from time to time;
- (j) “Construction” unless the context requires otherwise, includes the site preparation, erection, placement, alteration, repair, renovation, extension, demolition, relocation, or removal of any building;
- (k) “Construction Value” means the total monetary worth of the final project costs, including all construction costs, material costs, and labour costs associated with the project;
- (l) “Constructor” means a person who contracts with an Owner or their authorized agent to undertake a project, and includes an Owner who contracts with more than one person for the work on a project or undertakes the work on a project or any part thereof;
- (m) “Council” means the municipal Council of the City of Winkler;
- (n) “Demolition Permit” means a permit authorizing the demolition or relocation of a building(s) and/or structure(s), issued by the MSTW pursuant to the Code
- (o) “Design Professional” means a Manitoba-licensed professional engineer or Manitoba-licensed architect who is qualified to sign and seal drawings and other documents submitted as part of an application for a permit
- (p) “Designated Officer” means any employee or contractor of MSTW and the Municipality who have been delegated the authority under any other by-law, Act or Agreement with MSTW or the Municipality to enforce this By-Law.
- (q) “Development Permit” means an approval by the City of Winkler authorizing development.
- (r) “Farm Building” means a building or part thereof that does not contain a residential occupancy and that is associated with and located on land devoted to the practice of farming, and used essentially for the housing of equipment or livestock, or the production, storage or processing of agricultural and horticultural produce or feeds, but does not include a building that falls within the definition of a Group F, Division 1 – High-hazard industrial occupancy
- (s) “Hot Tubs” means a hot tub, whirlpool, hydro massage pool, or spa.

- (t) "Interim Occupancy" means a permit issued for a specified amount of time as determined by the authority having jurisdiction, prior to project completion, authorizing the occupancy of a building, or portion of a building, utilized for a commercial purpose or multi-family residential served by a common corridor, pursuant to the Code
- (u) "Mobile Home" means a dwelling on a metal frame that readily attaches to wheels for transport, governed under the Act and the Code, CCSM c B93, as amended from time to time
- (v) "Modular Home" means a factory-built dwelling that is assembled on site on a permanent foundation
- (w) "Municipality" means the City of Winkler.
- (x) "Occupancy" means the use or intended use of a building or part thereof for the shelter or support of persons, animals, or property
- (y) "Occupancy Permit" means a permit authorizing the occupancy of a building, or portion of a building, utilized for a commercial purpose, industrial, institutional, Part 3 Agricultural or multi-family residential served by a common corridor, issued by the authority having jurisdiction pursuant to the Code
- (z) "Owner" means a person or persons who are the owner(s) of a freehold estate in the municipality and includes a person who is an owner jointly with another person, and a person who is registered under The Condominium Act as the owner, as defined in that Act, of a unit under that Act
- (aa) "Permanent Sign" means any writing (including letter or word), pictorial representation (including illustration or decoration), emblem (including device, symbol, or trade mark), flag (including banner or pennant), or any other figure of similar character which:
 - (i) Is a freestanding sign or fascia sign with structural or load-bearing elements
 - (ii) Is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or structure
 - (iii) Is used to announce, direct attention to, or to advertise, and
 - (iv) Is visible from outside a building or structure

to the satisfaction of the Designated Officer.
- (bb) "Permit" means written permission or written authorization from the authority having jurisdiction with respect to matters regulated by this By-Law

- (cc) "Person" means and includes any individual, corporation partnership, firm, joint venture, syndicate, association or trust, and any other form of entity or organization
- (dd) "Plumbing Permit" means a permit authorizing plumbing installations and repairs, including all rough-ins and hook-ups, issued by the authority having jurisdiction pursuant to the Manitoba Plumbing Code and the Code
- (ee) "Pre-manufactured Home" means a dwelling that has all components manufactured off-site, and fully assembled on site
- (ff) "Private Pool" means an artificially constructed basin, lined with concrete, fibreglass, vinyl or like material, that is capable of containing a water depth greater than 60 cm and that is located on the property of a single-family dwelling.
- (gg) "Relocation" means the moving of a building or structure from one location to another, either on the same property or to another property
- (hh) "Renovation" means work done to all or part of the interior or exterior, or both, of an existing building where there is no structural reconstruction, alteration or enlargement of the building
- (ii) "Repair" means work done to an existing building or structure for maintenance or fixing broken or damaged components of the building or structure not amounting to a Renovation.
- (jj) "RTM" means new, ready-to-move houses, or dwelling units, as governed by the Code, or buildings constructed in one location and moved to a different location
- (kk) "Structure" means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground and including but not limited to the following: buildings, walls, fences, signs, billboards, poster panels, light standards, piles of material, swimming pools.
- (ll) "MSTW Planning District" or "MSTW" means the Authority Having Jurisdiction and, where the context requires, such building inspector or other authority lawfully appointed by the MSTW Planning District to administer and enforce this By-Law
- (mm) "Temporary" means a specified duration of time, as determined by the Designated Officer, that a building or structure may remain on a property before it must be removed or made permanent
- (nn) "Tenant" means a person that pays rent to use or occupy land, a building, or part thereof, that is owned by another person, for any purposes other than residential

- (oo) “Underpinning” means the construction process of increasing the load carrying capacity of an existing foundation, or of providing new permanent support for an existing structure that has suffered damage and distortion through some inadequacy in its support

SECTION 4 APPLICATION AND PERMITS

4.1 APPLICATION:

- 4.1.1 Every application for a permit to design, construct, erect, place, and occupy a new building or structure, and the alternation, repair, renovation, reconstruction, demolition, removal, relocation, occupancy or change in occupancy shall be in forms prescribed by MSTW.
- 4.1.2 MSTW shall not approve any permit without the municipal development permit, or any other permits required, being approved by the municipality.
- 4.1.3 MSTW is authorized to determine the type and form of plans, drawings and other documents that are required to be submitted as part of an application for a permit with respect to construction or occupancy.
- 4.1.4 If the work described in the application for the permit, to the best of the knowledge of MSTW, complies with the requirements of this By-Law, MSTW, upon receipt of the prescribed fee as set out in MSTW’s Permit Fee Schedule By-Law, as amended from time to time, shall issue a permit.
- 4.1.5 Applications for permits may be submitted, and permits may be issued to an Owner, or to a properly authorized agent who has written authorization from the Owner.
- 4.1.6 MSTW may only accept applications for a permit that are deemed complete. If MSTW agrees to accept an incomplete application, MSTW shall provide a deadline for submitting any remaining application requirements. Failure to meet this deadline will result in deemed abandonment of the application.
- 4.1.7 MSTW may, at its discretion, have plans and specifications reviewed and inspected by a person, firm or corporation under contract with MSTW.
- 4.1.8 All fees for applications and permits shall be paid prior to any permit being issued and shall be in accordance with the Municipality’s By-Laws and the MSTW Fee By-Law, as amended from time to time.
- 4.1.9 Any revision to the original application described in article 4.1.1 shall be made at the discretion of MSTW and the Municipality.

- 4.1.10 Approval in writing from MSTW and the Municipality is required for any deviation, omission or revision to work for which a permit has been issued under this section.
- 4.1.11 Construction shall proceed within six (6) months after approval of a permit and shall proceed diligently to completion. All permits issued shall expire twenty-four (24) months from the date of issue if work is not commenced within that period, as determined by MSTW. The applicant may request a one (1) year extension by MSTW and shall be required to pay any additional fees, as set out in the MSTW's Permit Fee Schedule By-Law, as amended from time to time.
- 4.1.12 A permit shall be considered void and all rights under the permit shall be terminated if the negotiable instrument used to pay the permit fee is returned for any reason.
- 4.1.13 No permit shall be transferred to another person without written consent of the Owner or authorized agent. The construction value for a permit in the case of a relocated house shall include the cost to move the building, the new foundation for the building, and any alterations or repairs made to the building.

4.2 **PERMITS:**

4.2.1 **Building Permits:**

- (1) No person shall commence or cause to commence any construction, erection, placement and occupancy of new buildings, and the alteration, repair, renovation, reconstruction, demolition, removal, relocation, occupancy and change in occupancy of existing buildings and structures without first obtaining a Building Permit.
- (2) A Building Permit is not required for:
 - (a) patching, painting or decorating;
 - (b) replacement of stucco, siding or shingles with a comparable material;
 - (c) replacement of floor coverings;
 - (d) replacement of doors or windows where the opening is not altered;
 - (e) construction of fences;
 - (f) installation of cabinets and shelves;

- (g) equipment that has no impact on the structure or performance of a building;
 - (h) a detached accessory building no greater than 10 square meters (107 square feet) in building area.
 - (i) an open and unenclosed deck with a height from grade of less than 60.96 centimeters (2 feet) to the top of the decking;
 - (j) an open and unenclosed attached or detached deck no greater than 4.65 square meters (50 square feet) in floor area;
 - (k) when a valve, faucet, fixture, or service water heater is repaired or replaced, a stoppage cleared or a leak repaired, if no change to the piping is required.
- (3) Notwithstanding that a Building Permit is not required for the work described in Article 4.2.1.2, such work shall comply with the Code and the provisions of this or other applicable By-Laws and the work shall not place the building or structure in contravention or further contravention of the Code or this or any other By-Law.
 - (4) The installation of all wood-burning appliances shall be WETT stamp approved.

4.2.2 Plumbing Permits:

- (1) Except as provided in Section 4.2.2.2, no person shall construct, extend, alter, renew, repair or make a connection to a plumbing system unless a permit to do so has been obtained.
- (2) A plumbing permit is not required when a valve, faucet, fixture, or service water heater is repaired or replaced, a stoppage cleared, or a leak is repaired, if no change to the piping is required.
- (3) A plumbing permit is not required for plumbing infrastructure outside of a building.
- (4) A plumbing permit is not required for onsite sewer systems and municipal hook-ups.
- (5) All Owners shall ensure that their onsite sewer systems and municipal hook-ups adhere to all federal, provincial and municipal statutes, regulations and By-Laws.

- (6) Non-Residential (except for multi-unit/part 3 residential) projects require a provincially licensed journeyman plumber. The employed plumber's registration number is required to be submitted as part of the application for permit.
- (7) Mechanical rooms shall be required to have a sunken floor no less than 1.5 feet.

4.2.3 **Occupancy Permits:**

- (1) Except as otherwise permitted herein, no person shall occupy or use or permit the occupancy or use or change the occupancy or use of any building or part thereof, for which an occupancy permit is required hereunder.
- (2) An occupancy permit is required from MSTW for:
 - (a) the occupancy of any new building or structure or portion thereof for a commercial purpose;
 - (b) the occupancy of any existing building or structure where an alteration is made thereto;
 - (c) for a change from one major occupancy group to another or a change from one division to another within a major occupancy group in any existing building or structure, or part thereof, as per the Codes;
 - (d) for a change from one use to another within the same division in a major occupancy group which results in an increase in the occupant load;
 - (e) for a change or addition of an occupancy classification of a suite in a building; and
 - (f) for a change from a use not previously authorized to a new use.
- (3) Every Owner or Tenant shall, where required, obtain an occupancy permit from MSTW before any:
 - (a) occupancy of a building;
 - (b) change in the occupancy of any building or part of it.

- (4) The granting of a permit by MSTW shall not in any way relieve the Owner of a building from full responsibility for carrying out the work or having it carried out in accordance with these requirements, including ensuring that the occupancy of the building, or any part of it, is in accordance with the terms of the permit.
- (5) MSTW may issue an interim occupancy permit, subject to compliance with provisions to safeguard persons in or about the premises, to allow the occupancy of a building or part of it for the accepted use before commencement or completion of the construction or demolition work.
- (6) MSTW may issue an interim occupancy permit for a partial use of a building or structure subject to any conditions imposed by MSTW.
- (7) No change shall be made in the type of occupancy or use of any building or structure, which would place the building or structure in a different occupancy group, or divisions within a group, unless such building or structure is made to comply with the requirements of the Code for that occupancy group, or division within a group.
- (8) MSTW may issue an Interim Occupancy Permit for the temporary use of a building, or part thereof.
- (9) An Interim Occupancy Permit should be for a period not more than six (6) months, but before the expiration of such period, the Interim Occupancy Permit may be renewed by MSTW.
- (10) An applicant for an Occupancy Permit shall supply all information requested by the MSTW, in forms prescribed by MSTW, to show compliance with the By-Law and any other relevant By-Laws.
- (11) The required Occupancy Permit shall be displayed and maintained as required by Codes.
- (12) MSTW may withhold issuing an Occupancy Permit on completion of the building or part of the building, until the Owner has provided letters to certify compliance with the Code, these requirements and the requirements of applicable Acts, Regulations or By-Laws.
- (13) When the occupancy of a building or any part of it is changed, the requirements of this By-Law apply to all parts of the building effected by the change.

- (14) Prior to an Occupancy Permit being granted the Owner shall install visible building numbers on the building.

4.2.4 **Demolition Permits:**

- (1) No person shall commence or cause to be commenced the demolition or relocation of any building or structure, or portion thereof, unless a demolition permit has first been obtained from MSTW.
- (2) An application for a demolition permit shall be in forms prescribed by MSTW and the Municipality.
- (3) The demolition of a building or structure shall be subject to the requirements of the Codes, including, but not limited to
 - (a) maintaining site safety as per the Codes;
 - (b) complying with all Municipal By-Laws, regulations, and procedures;
 - (c) disconnecting and securing all utilities; and
 - (d) removing old foundation, leveling the ground, and making the site clean, sanitary, and safe as to the satisfaction of MSTW.
- (4) When the whole or any part of a building is demolished, the requirements of this By-Law apply to the work involved in the demolition and to the work required to any parts remaining after demolition to the extent that deficiencies occurring or remaining after demolition require correction.

4.2.5 **Relocation Permits:**

- (1) Should a building or structure be relocated within the MSTW, the Owner is responsible for obtaining any and all necessary permits from MSTW and the Municipality having jurisdiction with regard to placing the building or structure at the new location.
- (2) A building or structure shall not be relocated if the building or structure, in the opinion of the Municipality or MSTW,
 - (a) is in such a state of deterioration or disrepair, or otherwise so structurally unsafe that it could not be moved without endangering persons or property;

- (b) cannot with a reasonable amount of time and effort and money be brought to comply with the Codes and this By-Law; or
 - (c) would be in contravention of the zoning By-Law, or other By-Law, or registered development agreement of the property to which the building or structure is intended to be relocated.
- (3) All relocations must provide MSTW and the Municipality with:
- (a) Haul Route;
 - (b) Insurance Certificate;

4.2.6 Sign Permits:

- (1) No Permanent Sign shall be constructed, placed, erected, altered, or added onto without a sign permit first being obtained by MSTW.
- (2) Notwithstanding that a sign permit is not required for signs other than those described in 4.2.5.1., all signs must comply with the Codes and the provision of this or other applicable By-Laws and the work shall not place the building or structure in contravention or further contravention of the Codes or this or any other By-Laws.
- (3) In order to ensure compliance, MSTW may require the following with respect to any sign proposed to be constructed, placed, erected, altered or added onto:
 - (i) Include, as part of those plans and specifications, details concerning the placement, size, structure, materials and anchoring of all signs,
 - (ii) Professional design and inspection.

SECTION 5 PRIVATE POOLS

5.1 Special Construction Standards

5.1.1 Fences and Access

- 5.1.1.1 An outdoor Private Pool shall be enclosed with a fence or other suitable barrier constructed in accordance with the following requirements, as set out in the Code, as amended from time to time:

- a) a minimum height of 1.5 m or an equivalent barrier at the discretion of MSTW to prevent unauthorized access;
- b) there shall be no openings, other than a door to a building or a gate as described below in subsection (c), and it shall not be possible for a child to crawl under either the fence or the gate;
- c) any gate shall be self-closing, shall be at least 1.5 m in height and shall be equipped with a lockable latch to prevent unauthorized entry;
- d) where a chain link fence is used, the outside surface of the fence or gate shall be at least No. 11 gauge;
- e) where other than a chain link fence is used, the outside surface of the fence or gate shall be relatively smooth so as not to provide foot or toe holds,
- f) if, in the opinion of the Authority Having Jurisdiction, there is any undesirable feature pertaining to the enclosure, suitable steps shall be taken to correct the situation.

5.1.2 Maintenance

- 5.1.2.1 The enclosure surrounding an outdoor Private Pool shall be maintained in good repair.

5.1.3 Plumbing Requirements

- 5.1.3.1 The water in a Private Pool and its recirculation system shall be separated from the make-up water supply and from the sewer or drainage system by air gaps or other backflow preventers.
- 5.1.3.2 Pool waste-water shall be disposed of into a storm sewer, municipal drain or be contained within the confines of the Owner's property.

5.1.4 Structural Requirements

- 5.1.4.1 The structural design of a Private Pool that is an in-ground swimming pool must bear the seal of a professional engineer competent in the structural designing of in-ground swimming pools.

SECTION 6 LIMITED APPLICATION, EXEMPTIONS AND PROHIBITIONS

6.1 Limited Application to Existing Buildings:

- 6.1.1 Any construction or condition that lawfully existed before the effective date of this By-Law need not conform to the requirements of this By-Law if such construction or condition does not constitute an unsafe condition in the opinion of MSTW.
- 6.1.2 When a building or any part of it is altered or repaired, the Codes applies to the parts of the building altered or repaired except that where in the opinion of MSTW, the alteration will affect the degree of safety of the existing building, the existing building shall be improved, as may be required, by MSTW.
- 6.1.3 The requirements of this By-Law apply where the whole or any part of a building is relocated either within or into the area of jurisdiction of MSTW.
- 6.1.4 When a building is damaged by fire, or other cause, the Codes, the requirements of this By-Law and the appropriate regulations under The Fires Prevention and Emergency Response Act, apply to the work necessary to reconstruct damaged portions of the building.

6.2 Exemptions:

- 6.2.1 The following are not subject to permits under this By-Law:
 - (1) sewage, water, electrical, telephone, rail or similar systems located on a street or a public transit right of way;
 - (2) public utility towers or poles, television and radio or other communication aerials and towers, except for loads resulting from those located on or attached to buildings;
 - (3) flood control and hydroelectric dams and structures; or
 - (4) mechanical or other equipment and appliances not regulated in this By-Law;

6.3 Prohibitions:

- 6.3.1 No person shall fail to comply with any order or notice issued by the Municipality or MSTW, or who allows a violation of the requirements of this By-Law or of the Codes to occur or to continue, contravenes the provisions of this By-Law.
- 6.3.2 No person shall undertake any work or authorize or allow work to proceed on a project for which a permit is required unless a valid permit exists for the work to be done.
- 6.3.3 No person shall deviate from the accepted plans and specifications forming part of the permit, or omit or fail to complete, prior to occupancy,

work required by the said accepted plans and specifications, without first having obtained the acceptance of MSTW to allow such deviation except for minor changes to accepted plans and specifications which, when completed would not cause a violation of the Code or other By-Laws.

6.3.4 Where an occupancy permit is required by Section 4.2.3 herein, no person shall occupy or allow the occupancy of any building, or part thereof, or change the occupancy, unless and until MSTW has issued an occupancy permit.

6.3.5 No person shall knowingly submit false or misleading information to MSTW concerning any matter relating to this By-Law.

6.3.6 No person shall excavate or undertake work on, over or under public property, or erect or place any construction or work or store any materials thereon without receiving prior approval in writing from the Municipality and MSTW.

6.3.7 No person shall allow the ground elevations or the property boundaries of a building lot to be changed so as to place a building, or part of it, in contravention of the requirements of this By-Law, unless the building, or part of it, is so altered, after obtaining the necessary permit, such that no contravention will occur because of the change of the property boundary or grades.

6.3.8 No person shall allow the ground elevations of a building lot or site to be changed so as to cause surface water to flow or drain towards a building on the same lot or site, or, unto an adjacent lot or building site.

6.3.9 No person shall restrict or intend to restrict surface water to flow or drain its natural course.

6.4 **Mobile Homes, RTM Homes, Modular Homes and Pre-Manufactured Homes**

6.4.1 Mobile homes, RTM's, modular homes, and pre-manufactured homes and dwellings shall comply with the requirements of the Codes.

6.4.2 MSTW shall require any or all the following with respect to a mobile home, RTM, modular home, or pre-manufactured home, sought to be located within the area of jurisdiction of the Municipality:

- (a) the submission of a complete set of plans and specifications;
- (b) the seal of an Engineer licensed in the Province of Manitoba in respect to all building components requiring professional certification;

- (c) submission of copies of any or all permits taken out for the above-described home types in the location of its construction together with a copy of any or all inspection reports;
- (d) all inspections or certifications as MSTW may deem necessary in order to ensure compliance with the Code and this By-Law;
- (e) CSA or OFC Label for mobile homes;
- (f) WETT stamp approved for installation of wood burning appliances.

SECTION 7 POWERS, DUTIES AND RESPONSIBILITIES

7.1 Powers of MSTW:

7.1.1 MSTW has the authority and jurisdiction to:

- (a) enter any building or premises at any reasonable time to inspect for compliance with the Codes or these requirements, or to determine if an unsafe condition exists;
- (b) direct that tests of materials, equipment, devices, construction methods, structural assemblies or foundation conditions be made, or sufficient evidence or proof be submitted at the expense of the Owner, where such evidence or proof is necessary to determine whether the material, equipment, device, construction or foundation condition meets these requirements;
- (c) ask for any other documentation or tests deemed necessary at the expense of the Owner;
- (d) require any Owner to submit, at the Owner's expense, an up-to-date plan of survey prepared by a Manitoba Land Surveyor which shall contain sufficient information regarding the building lot and location of any building or structure
 - i) to establish before construction begins that all requirements of the Codes in relation to this information will be complied with; and
 - ii) to verify upon completion of the work that all such requirements have been complied with.
- (e) require any Owner to submit, at the Owner's expense:

- i) the appropriate plans, specifications and related documents be reviewed by and bear the seal or stamp of a design professional;
 - ii) the work be inspected during construction by the design professional responsible for the work.
- (f) issue a Building Permit at the risk of the Owner with, if necessary, conditions to ensure compliance with these requirements and any other applicable regulations, to excavate or to construct a portion of a building before all the plans of the project have been submitted;
- (g) issue a permit, at their discretion, for the entire construction project or, when requested, may issue separate permits for aspects or stages of the construction project;
 - i) permits issued for aspects or stages of the construction project does not mean that approval has been or will be given of plans or for other aspects or stages of the project. An Owner who proceeds with construction to the extent authorized by the permit must assume the risk that plans for the other aspects or stages of the project may not be accepted by MSTW.
 - ii) issue a permit on the condition that, before specific aspects or stages of construction authorized in the permit are initiated, the Owner must provide and MSTW must approve information, plans, or details of plans that are not available at the time the permit is issued, provided those plans are not relevant to the aspects or stages of construction which are permitted to proceed in the interim.
- (h) establish the text of a certificate signed and sealed by a design professional that the Owner must submit as part of an application for a permit for construction or occupancy.
- (i) rely on a certificate of or representation by a design professional, as to the compliance of plans and drawings or other documents, or of construction, with the Codes and applicable By-Laws. For greater clarity, MSTW may establish circumstances in which no examination or review whatsoever of certain aspects, or parts, or of the entirety, of the plans and drawings or other documents signed and sealed by a design professional, or of construction review by a design professional, will be conducted by the MSTW before a permit or an interim or final occupancy permit is issued.
- (j) refuse to issue any permit, at their discretion, where:
 - i) the information submitted is inadequate or incomplete to determine compliance with the requirement;
 - ii) incorrect information was submitted;

- iii) the building work or occupancy would not be permitted by this By-Law;
 - iv) any other Act, Regulation or By-Law prohibits the works proposed;
 - (k) revoke a permit, at their discretion, by written notice to the permit holder and Owner where:
 - i) there is a contravention of any condition under which the permit was issued;
 - ii) the permit was issued in error;
 - iii) the permit was issued on the basis of incorrect information;
 - iv) the person performing the work is deemed incompetent by MSTW;
 - v) the work being done is contrary to the terms of the permit;
 - vi) the work pursuant to the permit is creating an unsafe environment or is adversely impacting adjacent property or municipal property.
 - (l) accept modifications or variations, at their discretion, that will substantially accomplish the intent of the Act, regulations or Codes;
 - (m) require, at their discretion, a detailed and substantiated cost estimate for the work to determine the required construction security deposit or permits fees;
 - (n) require, at their discretion, a detailed and substantiated final project cost, to determine if supplemental fees are payable to MSTW or appropriate refunds are warranted;
 - (o) take immediate measures, at their discretion, that need to be taken to avoid an imminent danger, without notice and at the expense of the Owner;
- 7.1.2 Should the measurements of a site plan submitted as part of an application for permit appear to be inaccurate, MSTW may rely on other property information to verify the accuracy of the site plan.
- (1) In the event that a building or structure are not in compliance with site plan, MSTW and the Municipality shall engage a qualified third party to investigate and prepare a report over any measurements or inaccuracies. All costs shall be borne by the Owner of the Property.
 - (2) The Designated Officer shall have the discretion to commence enforcement pursuant to Section 8 of this By-Law.

- (3) The Municipality and MSTW shall not be held liable for damages or additional processes required as a result of accepting the applicant's or authorized agent's site plan measurements.

7.2 Duties and Responsibilities of MSTW

- 7.2.1 MSTW shall keep copies of all applications received, permits and orders issued, inspections and tests made, and of all papers and documents connected with the administration of the Codes and this By-Law for such time as required by the provisions of the Municipal Act.
- 7.2.2 MSTW shall provide, when requested to do so, all reasons for refusal to grant a permit.
- 7.2.3 MSTW shall accept any construction or condition that lawfully existed prior to the effective date of the Codes unless the construction or condition constitutes an unsafe condition or contravenes some other By-Law or regulations.
- 7.2.4 MSTW shall answer such relevant questions as may be reasonable with respect to the provisions of the Codes or this By-Law when requested to do so but shall refrain from assisting with design or from acting in the capacity of design professional.

7.3 Duties and Responsibilities of the Owner(s) or Authorized Agent:

- 7.3.1 Every Owner and Authorized Agent shall:
 - (1) allow MSTW to enter any building or premises at any reasonable time for the purpose of administering and enforcing the requirements of this By-Law.
 - (2) obtain all permits or approvals required in connection with proposed work, prior to commencing the work to which they relate.
 - (3) ensure that the plans and specifications on which the issue of any permit was based are available continuously at the site of the work for inspection during working hours.
 - (4) Prior to commencing any work, provide written notice to MSTW with the following information:
 - (a) the name, address and telephone number of
 - (b) the constructor or other person in charge of the work

- (c) the person reviewing the work; and any inspection or testing agency engaged to monitor the work or part of the work.
 - (d) any change in or termination or employment of such persons during the construction immediately that such change or termination occurs.
- (5) provide written notice to MSTW advising:
 - (a) the intent to cover work that MSTW has directed and may be subject to inspection during construction;
 - (b) when work has been completed and before occupancy;
 - (c) immediately upon any change in ownership or change in the address of the Owner that occurs prior to the issuance of an occupancy permit;
 - (d) prior to occupying any portion of the building if it is to be occupied in stages;
 - (e) of any such other notice as may be required by MSTW.
- (6) give such other notice to the MSTW as may be required by the provisions of the Codes or this By-Law.
- (7) make, or have made at his own expense, the tests or inspections necessary to prove compliance with these requirements and shall provide a copy of all such test or inspection reports to MSTW.
- (8) provide, at his own expense, an up-to-date legal survey of the lot when and as required by MSTW.
- (9) uncover and re-cover, at the discretion of MSTW, and at their own expense, any work that has been covered contrary to an order issued by MSTW.
- (10) be responsible for the cost of repair of any damage to public property or works located thereon that may occur as a result of undertaking work for which a Building Permit was or was not required.
- (11) undertake to construct, alter, reconstruct, demolish, remove, or relocate a building shall provide supervision and coordination of all work and trades.
- (12) notify MSTW in writing prior to the expiry of a permit.

- 7.3.2 Every Owner and Authorized Agent shall be responsible for scheduling all permit inspections, as required by MSTW.
- 7.3.3 If an Owner and Authorized Agent has failed to obtain a required permit, acceptance, or approval prior to commencing work, the Owner or authorized agent, at the time the work was commenced or carried out – and every subsequent Owner – is nonetheless required to obtain all permits, acceptances and approvals and to pay all applicable fees despite the fact that the work has already commenced or has been completed. For greater clarity, if work for which a permit, acceptance or approval is required has been commenced or carried out without the required permit, acceptance or approval, the current Owner is responsible for obtaining the required permit, acceptance or approval and must pay any fees or penalties associated with the permit, acceptance or approval, including fees for its issuance after the work has been commenced or carried out.
- 7.3.4 Every Owner and every subsequent Owner of a property is responsible for closing any open Building Permit on the property, which includes, but is not limited to, paying all applicable fees, scheduling all remaining inspections, and completing all work as per the approved permit, the Code, and to the satisfaction of MSTW.
- 7.3.5 Every Owner or Authorized Agent shall ensure that all materials, systems, equipment, and the like used in the construction, alteration, reconstruction, or renovation of a building meet the requirements of applicable acts, regulations and By-Laws for the work undertaken.
- 7.3.6 The issuance of a permit by MSTW does not relieve the Owner of the responsibility for carrying out the work or having work carried out in accordance with the Code and this By-Law.
- 7.3.7 When a building or part of it is in an unsafe condition, the Owner shall immediately take all necessary action to put the building in a safe condition to the satisfaction of MSTW.
- 7.3.8 Where a stop work order has been issued by MSTW, the Owner, or his authorized agent, shall stop work immediately, except for the installation or erection of covers or guards to ensure the site is maintained in a safe condition.
- 7.3.9 Where the dimensions of a structural component are not provided in Part 9 of the Code for use in a building within the scope of that part, and such dimensions are to be determined on the basis of calculation, testing or other means of evaluation, the Owner shall retain the services of a design professional.

- 7.3.10 (1) Every Owner who undertakes to construct or have constructed a building which:
- (a) has structural components falling within the scope of Part 4 of the Code;
 - (b) has structural components specifically requiring a professional engineer design in accordance with the Code; or
 - (c) requires the use of firewalls according to the Code
- shall ensure that a design professional is retained to undertake professional design and inspection.
- (2) Professional design and inspection referred to in sentence (1) requires that a design professional be responsible
- (a) for the design and that all appropriate plans, specifications, and related documents meet the requirements of the Code, the requirements of applicable acts, regulations, and By-Laws, and bear the seal or stamp of the registered professional; and
 - (b) for inspection of construction to ensure compliance with the design and the requirements of applicable acts, regulations, and By-Laws.
- (3) If the engagement of a design professional pursuant is terminated during the construction period, work shall be discontinued until a replacement has been appointed.
- (4) The requirements of Section 7.3.11(1), (2), and (3) shall apply to a change in occupancy, an alteration, addition, reconstruction, or the relocation of a building where and as required by MSTW.
- 7.3.11 The issuance of a Building Permit for cases described in Section 7.3.11(1), the Owner shall (unless MSTW waives such requirement) submit Letters of Assurance, in a form approved by MSTW, which:
- (1) confirm that the Owner has retained the necessary design professional for all the applicable disciplines, for professional design and inspection; and
 - (2) incorporate the design professional's letter of assurance.
- 7.3.12 Every Owner is responsible to ensure that all required setbacks are met and adhered to with respect to any Structure.

- 7.3.13 Every Owner is responsible to ensure that all related asbestos issues are completed in a safe and diligent manner, pursuant to *The Workplace Safety and Health Act*, as amended from time to time, and all related statutes, regulations and policies.

7.4 Duties and Responsibilities of the Constructor:

- 7.4.1 Every constructor, including building, mechanical, and plumbing contractors, shall

- (a) ensure that all work carried out in accordance with this By-Law, the Codes and all provisions as described on all permits (including but not limited to the development permit) and accepted drawings and specifications; and
- (b) when required by MSTW, provide a statutory declaration that his or her work was completed in accordance with the accepted plans and specifications, and the requirements of the Codes and this By-Law;
- (c) shall ensure that all construction safety requirements of the Code are complied with.

- 7.4.2 Every constructor is responsible

- (a) for ensuring that no excavation or other work is undertaken on public property, and that no building is erected, or materials stored in whole or in part thereon without approval first having been obtained in writing from the municipality.
- (b) for scheduling all applicable inspections
- (c) jointly and severally with the Owner for the work undertaken.

- 7.4.3 Every constructor shall give notice to MSTW

- (a) of the intent to cover work that has been ordered to be inspected prior to covering;
- (b) when the work scheduled to be inspected is not ready for inspection; and
- (c) when work has been completed so that a final inspection can be made.

7.5 Duties and Responsibilities of the Design Professional

- 7.5.1 When a design professional is retained, the design professional shall ensure that the design of the building conforms to the Codes.

- 7.5.2 When a design professional is required by the Code or the requirements of this By-Law, they shall do inspections to ensure that the construction conforms to the design and the Code.
- 7.5.3 An architect or a professional engineer must not sign and seal any plans, drawings or other documents that are to be submitted as part of an application for a permit, and must not sign and seal a certificate required by MSTW concerning the compliance of construction with Codes and By-Laws, unless he or she
- (a) is a member in good standing of the Manitoba Association of Architects or the Association of Professional Engineers and Geoscientists of Manitoba, as the case may be; and
 - (b) is skilled in the application of the applicable Code or Codes to those aspects of the construction that are represented in the plans, drawing or other documents or that are referred to in the certificate being submitted.
- 7.5.4 Every design professional is required to submit to MSTW:
- (a) all information needed for review of the design;
 - (b) letter of assurance;
 - (c) any changes to the design for which a permit has or may be issued;
 - (d) copies of all inspection reports for inspections done by the design professional and others; and
 - (e) any other documentation or certification required by MSTW.
- 7.5.5 Every design professional shall ensure that all materials, systems, equipment or related matter specified for the construction, alteration, reconstruction or renovation of a building meet the requirements of the Code and the requirements of applicable Acts, regulations and By-Laws for the work to be undertaken.
- 7.5.6 If the responsible design professional withdraws from the project, such design professional shall immediately advise MSTW in writing.
- 7.5.7 Prior to the consideration of issuance of an occupancy permit, the responsible design professional shall, where required by MSTW, submit a Letter of Certification on their firm's letterhead utilizing the applicable portion of the letter format prescribed by MSTW.
- 7.5.8 The responsible design professional shall sign, date, and seal all documents referred to in this section of the By-Law.

SECTION 8 ENFORCEMENT

Offences

- 8.1 MSTW and/or the Municipality has the authority to issue a Letter of Inquiry, Notice of Inspection, Notice of Violation (warning) and an Order to Remedy, on behalf of the Municipality, pursuant to The Planning Act, The Municipal Act and any By-Law duly passed by Municipality or MSTW, with respect to enforcement of this By-Law.
- 8.2 If any building or structure or part thereof or addition thereto is constructed, erected, placed, altered, repaired, renovated or reconstructed in contravention of any provision of this By-Law, MSTW may take any measures as permitted pursuant to this By-Law, the Act, The Municipal Act, The Planning Act or any other statute or applicable municipal By-Law for the purpose of ensuring compliance with this By-Law including, but not limited to:
- (a) entering the building or structure,
 - (b) ordering production of documents, tests, certificates, etc. relating to the building or land,
 - (c) taking material samples,
 - (d) issuing notices to Owner that order action within a prescribed time,
 - (e) eliminating unsafe conditions,
 - (f) completing actions, upon an Owner's non-compliance with an order, adding the expenses incurred to the tax payable on the property, in cooperation with the Municipality.
 - (g) obtaining retraining orders
 - (h) stop work orders.
- 8.3 When any building, construction or excavation or part of it is in an unsafe condition, as a result of being open or unguarded, or because of danger from fire or risk of accident because of its ruinous or dilapidated state, faulty construction, abandonment or other, and when due notice to correct such condition has not been complied with, the Municipality or MSTW may
- (a) demolish, remove, or make safe such building, construction excavation or part of it at the expense of the Owner and may recover such expense in like manner as municipal taxes; and
 - (b) take such other measures as he may consider necessary to protect the public.

Penalty

- 8.4 Any person who contravenes a provision of a By-Law, The Municipal Act, The Planning Act, or any other Act the Municipality is authorized to enforce, is guilty of an offence and, if the By-Law contravened imposes no other penalty, is liable on conviction to a fine of:
- (a) if under The Municipal Act, not more than \$1,000.00 or to imprisonment for a term of not more than three months, or both;
 - (b) if under The Planning Act, in the case of an individual, to a fine of not more than \$5,000.00, or imprisonment for a term of not more than six months, or both; and in the case of a corporation, to a fine of not more than \$20,000.
 - (c) Where the contravention of the By-Law or Act continues for more than one day, the person is guilty of a separate offence for each day it continues.
- 8.5 Where a corporation commits an offence under this By-Law, each director or officer of the corporation who authorized, consented to, connived at or knowingly permitted or acquiesced in the doing of the act or omission that constitutes the offence or offences, is guilty of the offence and is liable to the fine and/or penalty in this By-Law.
- 8.6 Any person who contravenes a provision of a By-Law, The Municipal Act, The Planning Act, or any other Act the MSTW is authorized to enforce, is liable to pay of the charges and costs (including legal fees related to the enforcement) related to enforcing the By-Law.
- 8.7 The fines, penalties and costs (including legal fees related to the enforcement) pursuant to this By-Law shall be paid to the Municipality or MSTW.

SECTION 9 APPEALS OF THE BUILDING BY-LAW

- 9.1 A person who received an Order to Remedy a Contravention may, within fourteen (14) days of being served with the Order to Remedy a Contravention, appeal the Order to Remedy a Contravention by requesting the Board of the MSTW to review the Order to Remedy, by providing the Manager of MSTW with a Notice of Objection.
- 9.2 The Notice of Objection in section 9.1 shall:
- (a) provide the name and address of the party appealing the Order (the "Appellant"); and
 - (b) be dated and signed by the Appellant.

- 9.3 Upon receiving a Notice of Objection, the Manager of MSTW shall, within 30 days of receipt of the Notice of Objection, set a date and time for the hearing of the appeal by Board of MSTW and shall advise the Appellant of the date, time and place of the hearing.
- 9.4 The time specified for compliance in an Order to Remedy a Contravention is suspended from the date of receipt of a Notice of Objection until the date upon which Board makes its decision.
- 9.5 At the time and place set out in section 8.4, the Board shall consider the appeal and may hear from the Appellant in person or through counsel.
- 9.6 A hearing may be adjourned at the discretion of the Board.
- 9.7 Upon hearing the appeal or within a reasonable period thereafter, the Board shall in writing, decide to:
- (a) confirm the Order to Remedy a Contravention;
 - (b) provide additional time to comply with the Order to Remedy a Contravention;
 - (c) substitute the Order to Remedy a Contravention;
 - (d) vary the Order to Remedy a Contravention; or
 - (e) cancel the Order to Remedy a Contravention.
- 9.8 If the Appellant fails to appear at the hearing, the appeal shall be dismissed, the Order to Remedy a Contravention shall be automatically affirmed, and no further time will be provided to comply with the Order to Remedy a Contravention.
- 9.9 The decision of the Board is final and is not subject to further appeal.

SECTION 10 REPEAL

- 10.1 Any previous By-Law establishing administrative requirements and procedures for the enforcement of the design, construction, erection, placement and occupancy of new buildings, and the alteration, reconstruction, demolition, removal, relocation, occupancy and change in occupancy of existing buildings and any requirements that are necessary to correct unsafe conditions in existing buildings is hereby repealed.
- 10.2 The repeal of the By-Laws in the last preceding section mentioned shall not revive any By-Law or any provision of any By-Law repealed by them, nor shall the said repeal prevent the effect of any saving clause in the said By-Laws or the application of any of the said By-Laws or any other By-Law or provision of law formerly in force

to any transaction matter or thing anterior to the said repeal to which they would otherwise apply.

10.3 And the repeal of the said By-Laws should not affect:

- (a) any penalty, forfeiture or liability incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed, or pending at the time of such repeal;
- (b) any action, suit, judgment, decree, certificate, execution, process, order, rule or any proceeding, matter or thing whatever, respecting the same had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal;
- (c) any act, deed, right, title, interest, grant, assurance, registry, rule, regulation, contract, lien, charge, matter or thing had, done, made, acquired, established or existing at the time of such repeal;
- (d) any office, appointment, commission, salary, allowance, security, duty or any matter or thing appertaining thereto at the time of such repeal;
- (e) any bond, note, debenture, debt, or other obligation made, executed, or entered into by the Corporation at the time of such repeal;
- (f) shall and such repeal defeat, disturb, invalidate, or prejudicially affect any other matter or thing whatsoever had, done, completed, existing or pending at the time of such repeal.

10.4 Effective Date: This By-Law is hereby adopted and shall come into full force on the fourteen day of January, 2025.

10.5 By-Law No. 1180-81 and By-Law No. 1014-77 is hereby repealed.

DONE AND PASSED by the Council of the City of Winkler, in open session duly assembled this 14th day of January, A.D. 2025.

City of Winkler

Mayor

City Manager



Received first reading the 10th day of December, A.D. 2024.
Received second reading the 14th day of January, A.D. 2025.
Received third reading the 14th day of January, A.D. 2025.