

THE RURAL MUNICIPALITY OF ST. FRANÇOIS XAVIER**BY-LAW NO. 1-2019**

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF ST. FRANÇOIS XAVIER TO PROVIDE FOR THE ADOPTION OF PROVINCIAL CODES, THE APPOINTMENT OF A BUILDING INSPECTOR, THE ADMINISTRATION AND ENFORCEMENT OF THE BUILDING PERMIT SYSTEM AND TO REPEAL BY-LAW 9-2013

WHEREAS:

- A. The Rural Municipality of St. François Xavier Zoning By-law regulates the construction of buildings within the Rural Municipality of St. François Xavier (the “Municipality”) and requires that development permits be obtained before such work may be commenced.
- B. Pursuant to *The Buildings and Mobile Homes Act* the Municipality is required to adopt and enforce The Manitoba Building Code.
- C. The Council of the Municipality (the “Council”) wishes to provide for the appointment of a building inspector and provide for a system of building permits that harmonizes the administration of the Zoning By-law.

NOW THEREFORE the Council in meeting duly assembled enacts as a by-law the following:

Interpretation

1. In this by-law,

“AHJ” means/refers to the "Authority Having Jurisdiction”

"Building" means a structure used or intended to be used in supporting or sheltering any use or occupancy;

"Code" means The Manitoba Building Code, The Manitoba Fire Code, or The Manitoba Plumbing Code.

"Owner" means the registered owner of the land;

"Renovate" means to reconstruct part or all of the interior or exterior of a building without enlargement or structural alteration.

2. Schedule A & B forms part of this by-law.

Adoption of Codes

- 3. The Municipality adopts The Manitoba Building Code, The Manitoba Fire Code, and The Manitoba Plumbing Code, as provided for in the Province of Manitoba's Regulations 164/98, 163/98 and 161/98 respectively.
- 4. If the Province of Manitoba replaces a Code or makes amendments to it, the Municipality adopts such amendments automatically, without further action by Council.

Building permit required

- 5. No person shall construct, erect, place, enlarge, structurally alter, renovate, demolish, relocate, remove or change the occupancy of a Building without first obtaining a building permit.
- 6. A building permit is not required for a utility shed up to 120 square feet in area and 8 feet in height but an application for a building permit must be completed and filed with the Municipality in order to ensure compliance with the requirements of the Zoning By-law.

7. Where a building permit is required, no preparatory work, including excavation, may take place on the land before the permit is obtained.
8. A building permit issued by the Municipality satisfies the Zoning By-law requirement for a development permit.

Application for building permit

9. Where the Building is of a class for which the building permit is administered by the Province of Manitoba, an application for a building permit must be made to the Office of the Fire Commissioner and that office shall administer that building permit. A development permit for the Building must be obtained from the Municipality in accordance with the Zoning By-law.
10. An application to the Municipality for a building permit may be made by the owner or a person authorized in writing by the owner. The application must include:
 - (a) a completed and signed application form;
 - (b) information as to the location and intended purpose of the Building;
 - (c) a stamped engineered plan or plans showing the dimensions of the Building or work and bearing the name and business address of the designer;
 - (d) plans and specifications of the proposed work in sufficient detail to show that the proposed Building or work complies with this by-law, the Codes, the Zoning By-law and any other requirements as set by the Municipality;
 - (e) a statement of the applicant's estimated value of the work proposed;
 - (f) if the application is for a Residence, Ready-to-Move Residence or a Commercial, Recreational or Church Building, a Surveyor's Staking Certificate, including a Site Plan, issued by a registered Manitoba Land Surveyor;
 - (g) the deposit set out in Schedule A; and
 - (h) the fee set out in Schedule A.
11. The fee is to be based on the building inspector's and/or the municipality's estimate as to the estimated value of the proposed work. If, upon completion of the work, the building inspector is satisfied on the basis of documents provided by the applicant that the value was lower than the building inspector's estimate, then the fee will be adjusted and a refund paid to the applicant by the Municipality.
12. If the requirements of the building permit, this by-law, other by-laws, or other conditions required by the Municipality or the building inspector are not satisfied, the deposit set out in paragraph 10(g) shall be used to pay Municipality's legal, engineering or other costs of ensuring compliance with these requirements. The balance of the deposit will be returned to the applicant after final inspection, less any costs incurred by the Municipality for extra inspections and/or damage to Municipal property including roadways and ditches or the costs of correcting any violation of the terms of the building permit or other terms as may have been set by the Municipality.
13. Applications for a building permit and the documents submitted to support the application are the property of the Municipality.
14. If the building inspector determines that site conditions, building size or building complexity warrant it, the building inspector may require an applicant to submit with an application the following additional documents:
 - (a) structural, electrical, mechanical or fire suppression drawings prepared and sealed by an architect or professional engineer with relevant expertise or experience; or
 - (b) a surveyor's certificate.

If additional documentation is required by the building inspector, the application is not complete until such additional documents are received by the Municipality.

15. A building permit for a new building will not be issued until appropriate culverts and crossings have been installed and inspected to the satisfaction of the Municipality.
16. If the application and the associated documentation supplied with it, confirm to the satisfaction of the building inspector that the proposed Building, work or use does not contravene this by-law, a Code, the Zoning By-law, other by-laws or the laws and regulations of the Province of Manitoba, the building inspector may issue a building permit to the applicant.
17. A building permit is issued in the name of the owner and, where the applicant is not the owner, to the owner and the applicant jointly.
18. A building permit may be issued subject to conditions (including the requirement of an agreement between the owner and the Municipality) for the purposes of
 - (a) administration of this by-law;
 - (b) ensuring compliance with this by-law, a Code, the Zoning By-law, other by-laws or the laws and regulations of the Province of Manitoba;
 - (c) efficient provision of municipal services and protection of municipal property; or
 - (d) proper site safety, maintenance and clean-up.
19. An owner or applicant to whom a building permit has been issued may request the building inspector approve alterations to plans and specifications. On receipt of such request the building inspector may suspend the issued building permit and request and additional fee for the review and approval of the alterations.
20. In the event that all of the conditions of a building permit including inspections and the issuance of a final inspection / occupancy permit, if required, are not met by the permit holder within 3.5 years (42 months) of the issuing date of the building permit, the deposit shall be forfeit and shall become the property of the Municipality. The permit holder may request an extension of the original permit deadline for the fee as per schedule "A", paragraph 10(g).
21. In the event of a change of ownership, the deposit shall be considered to be the property of the new owner as of the date of legal ownership. Section 20 would apply.

Performance agreements

22. An owner must enter into a performance agreement with the Municipality prior to obtaining a permit for moving a building (except a mobile home or factory built building) from a site within or outside the Municipality to a site in the Municipality (except within "AL" Agricultural Livestock Zone).

Occupancy Requirements

23. An owner must obtain an occupancy permit from the building inspector prior to making use of the Building, other than for a single family dwelling. An occupancy permit may be issued when the following conditions are satisfied:
 - a. successful compliance with all conditions set out in the building permit;
 - b. in the case of a multiple family dwelling, a Building Location Certificate, including proof of building elevation, and where applicable lot grading elevations are required, issued by a registered Manitoba Land Surveyor has been received by the Municipality; and
 - c. successful compliance with any other condition of occupancy that has been imposed by either Council or the building inspector.
24. In the case of a single family dwelling, occupancy is not allowed until the following conditions are satisfied:

- a. successful compliance with all conditions set out in the building permit;
- b. a Building Location Certificate, including proof of building elevation, issued by a register Manitoba Land Surveyor has been received by the Municipality; and
- c. successful compliance with any other condition of occupancy that has been imposed by either Council or the building inspector

Building inspector

The office of the building inspector is established to carry out the powers, duties and functions of a designated officer under this by-law.

- 25. The person appointed as development officer by the Municipality is deemed to be the building inspector under this by-law, without further action by Council. If the planning district has appointed a building inspector, that building inspector shall also be included as a building inspector under this by-law, without further action by Council.
- 26. The building inspector must
 - (a) administer this by-law;
 - (b) keep records of applications and plans received, inspections and tests made, permits and orders issued, and all other reports and documents connected with the building inspector's functions;
 - (c) examine and process applications and plans received by the Municipality;
 - (d) make inspections of buildings and premises when requested at an appropriate stage of construction and with reasonable advance notice.
- 27. The building inspector shall have the following powers:
 - (a) the powers of inspection and enforcement under Division 3, Part 7 of *The Municipal Act*;
 - (b) the power to order work on a building or premises to stop if a building permit has not been obtained;
 - (c) the power to order work on a building or premises to stop until a condition is rectified, if in the building inspector's opinion;
 - (i) work is being carried out not in compliance with the building permit, plans submitted, a condition under which a building permit was issued, an agreement, a Code, the Zoning By-law, another by-law or the laws or regulations of the Province of Manitoba, or
 - (ii) there is an unsafe condition;
 - (d) the power to revoke a building permit if;
 - (i) it was issued in error;
 - (ii) the applicant submitted false or misleading information;
 - (iii) the work has not started within 6 months of the building permit being issued;
 - (iv) work is discontinued for a year;
 - (v) a condition under which the building permit was issued has not been met;
 - (vi) there is contravention of an agreement required pursuant to paragraphs 18 or 20 herein; or
 - (vii) there is unauthorized deviation from the approved plans and specifications.

- (e) the power to prohibit occupancy of a building if in the building inspector's opinion:
 - (i) there is a breach of this by-law, a Code, the Zoning By-law, a condition under which a building permit was issued, an agreement, another by-law or the laws and regulations of the Province of Manitoba; or
 - (ii) there is an unsafe condition.

Owner's responsibilities

- 28. An owner must ensure that construction complies with this by-law, a Code, the Zoning By-law, a condition under which a building permit was issued, an agreement, another by-law or the laws and regulations of the Province of Manitoba. The issuance of a building permit and inspection by the building inspector do not relieve the owner of this responsibility.
- 29. The owner is liable for the cost of repairing damage to municipal property (including roads) occurring in the course of Building work or the moving of a Building. If the holder of a permit is not the owner, both the holder and the owner have this liability, jointly and severally.
- 30. An owner must, during construction keep the building permit with approved plans and specifications in a conspicuous place on the premises.
- 31. An owner and the holder of a building permit must comply with any order of the building inspector, any condition under which a building permit was issued, or any agreement pursuant to this by-law.
- 32. No person shall make a false or deliberately misleading statement in an application, plan or other document.
- 33. No person shall obstruct or interfere with a building inspector's performance of the functions of a building inspector under this by-law or a Code.

Review

- 34. An owner, an applicant, or a holder of a building permit may request that Council review a decision or order of the building inspector, by giving a written notice to the Chief Administrative Officer within 14 days of receiving the decision or order.
- 35. Upon receiving a request for review, the Chief Administrative Officer must set a date and time for the review by Council, and notify the person of the date of the review.
- 36. At the time and place set out in the notice, Council will convene the review. The person who made the request may appear in person or by counsel. After reviewing the order, Council may confirm, vary, substitute or cancel the decision or order.

Offence and costs

- 37. A person who contravenes this by-law or a Code, including an owner on whose land a contravention takes place, is guilty of an offence and is liable to:
 - (a) a fine of not more than \$1000;
 - (b) a penalty equal to the cost of enforcement, to a maximum of \$2500; and
 - (c) in the case of a contravention of section 7, a penalty equal to the building permit fee.
- 38. The following amounts may be collected and enforced by the Municipality in the same manner as a tax may be collected or enforced under *The Municipal Act*:
 - (a) a fine or penalty imposed on conviction;
 - (b) the cost of repairing damage to municipal property (including roads) that occurs in the course of building work or moving a building; or

- (c) the cost of any action taken under this by-law associated with the conduct giving rise to the offence or related to enforcement under this by-law.

District-wide zoning by-law

39. If the planning district adopts a district-wide zoning by-law under *The Planning Act* replacing the Municipality's Zoning By-law, reference in this by-law to the Municipality's Zoning By-law shall be deemed to automatically mean the planning district's Zoning By-law, without further action by Council.

Repeal and transitional

40. By-law No. 9-2013 is repealed.
41. Permits, orders and decisions made under the repealed by-law remain in effect, unless revoked or changed under this by-law.
42. An application for a building permit that was made under the repealed by-law but not granted continues under this by-law.

DONE AND PASSED by the Council of the Rural Municipality of St. François Xavier, in Council duly assembled this 19th day of March, A. D. 2019

Rick Van Wyk
Reeve

(SEAL)

Shelley Jensen
Chief Administrative Officer

Read a first time this 5th day of March A. D. 2019

Read a second time this 19th day of March A. D. 2019

Read a third time this 19th day of March A. D. 2019

Schedule “A”

Bylaw No. 1-2019 BUILDING PERMIT FEES

1. Deposit

A deposit of **\$3, 000.00** must be paid for per building permit applications for Residences, Ready-to-Move Residences, and Commercial, Recreational and Church Buildings. The fee must be paid for per building permit applications for the addition to, structural alteration of, repair or renovation of a building or structure where the value of assumed work is over \$100,000.05

A deposit of **\$1, 500.00** must be paid for per building permit applications for the construction of, the addition to, structural alteration, repair or renovation of a building or structure where the value of assumed work is over \$25,000.05 and up to \$100,000.00

A deposit of **\$750.00** must be paid for per building permit applications for the construction of, the addition to, structural alteration, repair or renovation of a building or structure where the value of assumed work is between \$5,000.00 and \$25,000.00

A deposit or the remainder thereof is to be returned once the Building Inspector has reviewed and signed off on the building permit as being completed.

The deposit or a portion thereof (as per section 7), shall be forfeited when:

- any inspections deemed required during the construction process have been neglected, omitted or left incomplete for any reason;
- when Final Inspection has failed by the designated employee, officers, or employees of the municipality;
- construction is not completed within forty-two (42) months from the time of the permit being issued.

2. Building Permits – Residential

This section applies to the construction, erection, placement, alteration, repair or renovation of a building or structure, based on the following table –

\$0 – 100,000 of estimated value (see below)	0.80 % of value
Balance over \$100,000	0.55 % of value
Minimum fee, unless otherwise stated	\$100

Assumed construction values for estimating

Finished ‘floor’ space on any level of structure	\$50.00 ft ²
Unfinished attached structures eg. Unfinished garages & basement	\$40.00 ft ²
Additions/renovations including mobile homes	\$50.00 ft ² finished space \$40.00 ft ² unfinished space
Existing dwellings being relocated (includes foundation)	\$40.00 ft ² plus administration fee of \$75
Replacement of foundations, basement, piles, grade beam and under-pinning	\$40.00 ft ²
Detached accessory structures	\$30.00 ft ²
Open porches or decks	\$15.00 ft ²

Fire damage of structure repairs -replacement	\$30.00 ft ²
Ready to move dwellings built in the Planning District	\$40.00 ft ²
Ready to move dwellings built outside the Planning District (includes foundation)	\$45.00 ft ² plus administration fee of \$75
Temporary building placement	\$25.00 per month
Mobile home – outside of any mobile home park Minimum fee	\$40.00 ft ² finished space \$175.00
Outside swimming pools, in-ground or above-ground (2 ft. or more in depth) including surrounding deck	\$125.00
Development permit	\$75.00
Demolition – any building/structure or part thereof	\$75.00

3. Building Permits – Commercial & Industrial

Valuation is as per contract	
\$0 – 100,000	1.% of value
Balance Over \$100,000	0.6% of value
Minimum building permit fee	\$200.00
Fire Damage	0.6% of contract
Development Permit	\$200.00

4. Building/Development AG Permits – Farm

Valuation is as per contract	
\$0 – 100,000	.8% of value
Balance Over \$100,000	0.6% of value
Minimum building permit fee	\$100.00
Granaries	\$100.00 per structure
Fire Damage	0.6% of contract
Development permit	\$100.00

5. Plumbing Permits

Per fixture, including floor drain, roof vent and laundry standpipe. Does not include rough-ins for future fixtures	\$17.00
Minimum fee	\$75.00

6. Occupancy & Inspections

Where a building permit is required pursuant to zoning regulations for the use of a building, structure or land, the fee for an occupancy permit shall be as follows:

Occupancy permit	\$0.00
Interim Occupancy permit	\$50.00
Penalty charge occupying building prior to occupancy permit being granted	\$250.00

7. Penalty Fees

Where for any reason, an inspection relating to the permit, is missed, as determined by the AHJ, the fine is to be paid by the party responsible or deducted from the deposit as required.	\$150.00 per incident
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Where for any reason, a permit is not obtained before the commencement of the work for which a permit is required, the applicable fee or fees are doubled.

8. Special Inspections

Any inspection requested and provided for where a building permit was issued, and conducted outside of regular office hours

Fee:	\$55.00 per hr. plus mileage (at current municipal rate)
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Inspection of any structure being relocated to the Planning District

Fee:	\$55.00 per hr. plus mileage (at current municipal rate)
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9. Building Permit Reports

Building permit report/work orders	\$75.00
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10. Building Permit Yearly Extension

Whenever a building permit is about to expire, a permit holder may request an extension PRIOR to the existing deadline. This will be considered on an individual basis for a one-year extension.

Fee:	\$250.00
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11. Refunds

Whenever a permit is revoked or voluntarily surrendered, and the application has not been processed, there is no charge.

If the application has been processed, a refund will be made less 20% of the permit fee and less \$75.00 per inspection completed.

12. Sign Permits	Fee:	\$50.00
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Schedule “B”

MTCML 0021

BUILDING PERMIT
NOTICE

Local Authority		Date		
Address		Phone	Permit Number	
The undersigned hereby applies for a Permit to build in accordance with this application; all by-laws and regulations applicable hereto, and all conditions stated on the reverse. The accuracy of the information which follows and the accompanying plans and specifications with the representations therein contained are the responsibility of the owners and are hereby made a part of this application.				
Location of Building		OCCUPANCY PERMIT REQUIRED: YES NO		
(No. or Section)	(Street or Township)	(City of Town or Range)	(Municipality)	
Between (cross street) and (cross street)				
Zoning District:	Lot Number:	Plan Number:	Lot Size:	
DESCRIPTION OF WORK:		CLASS OF WORK		
		1) NEW	4) RECONSTRUCTION	7) DEMOLITION
		2) ADDITION	5) RELOCATION	8) CHANGE IN OCCUPANCY
		3) ALTERATION	6) REMOVAL	9) FACTORY BUILT RELOCATABLES
Valuation of Work:		Building Permit Fee:	Plan Review Fee:	
Applicant:	Address:	Phone:	Fax:	
Owner:	Address:	Phone:	Fax:	
Architect/Engineer/Designer:	Address:	Phone:	Fax:	
Contractor:	Address:	Phone:	Fax:	
DOCUMENTS IN TRIPLICATE: ☐ PLANS ☐ SITE PLAN ☐ SURVEY ☐ TITLE # ☐ OTHERS				
ZONING BY-LAW		PROPERTY ZONED	ABUTTING PROPERTIES ZONED	
EXISTING OCCUPANCY PERMIT NUMBER		REQUESTED OCCUPANT LOAD		
USE CODE		EXISTING PROPOSED		
TYPE OF LOT		WIDTH/AREA AREA OF LOT	WIDTH/AREA REQUIRED	
MAX. PERMITTED LOT COVERAGE		MAX. HEIGHT PERMITTED	NO. OF BLDGS.	
AREA OF BLDG. UNIT		SQ. FT.	EXISTING STRUCTURES OF SITE (Y/N)	
MAX. PROTECTION INTO YARDS		YARDS REQUIRED FRONT	SIDE SIDE REAR	
PARKING REQUIRED		PROVIDED	LOADING REQUIRED	
REMARKS				
BUILDING BY-LAW PART OF CODE SPRINKLER FIREWALLS				
OCCUPANCY GROUP ARTICLE BLDG. AREA NEW CONST. (M²)				
REMARKS				

DECLARATION

I, the undersigned (please print), am the authorized agent/owner named in this application for a Building Permit

I, undertake to observe and perform the provisions of Federal or Provincial statutes or regulations, the applicable by-law or by-laws, schemes, regulations or orders and plans continued in force pursuant to the Manitoba Building Code including any applicable zoning by-law, any agreement entered into affecting said land, and all specifications or instructions issued by the duly authorized officers of the authority having jurisdiction in respect of the work incidental to the subject matter of this application and if the permit involves or affects the placing of or the position of any building or structure on or in respect of land to do all work so that the building or structure will be wholly within the boundaries of the lot or parcel of land indicated in this application and to indemnify the municipality against all losses, costs, changes or damages caused by or arising out of anything done pursuant to any permit issued under this application.

Signature of Authorized Agent: Date:

WHEN PROPERLY VALIDATED (in this space) THIS IS YOUR PERMIT			
Validated:	Date:	Permit No.:	
Comments:			
FOR OFFICE USE ONLY			
Type of Construction:	# of Storeys:	Size of Bldg.:	Const. Article:
Occupancy Group:	Major Occupancy:	Plumbing Permit: (Yes, No)	Fee Paid: