

THE RURAL MUNICIPALITY OF CARTIER

BY-LAW NO. 1621-11

Being a By-Law of the Rural Municipality of Cartier to provide the adoption of provincial codes, the appointment of a building inspector, the administration and enforcement of the building permit system

The Council of the Rural Municipality of Cartier in meeting duly assembled at Elie, Manitoba enacts as a by-law the following:

Background and purpose

1. The Rural Municipality of Cartier Zoning By-law regulates the construction of buildings and requires that development permits be obtained before such work may be carried out. Under The Buildings and Mobile Homes Act the municipality is required to adopt and enforce The Manitoba Building Code.
2. Under The Planning Act the municipality is responsible for the administration and enforcement of the municipality's Zoning By-law and building by-law.
3. The council wishes to provide for the appointment of a building inspector and provide for a system of building permits that harmonizes with administration of the Zoning By-law.

Interpretation

4. In this by-law,

"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.

Adoption of Codes

5. The municipality adopts without changes The Manitoba Building Code, The Manitoba Fire Code, and The Manitoba Plumbing Code, as provided for in the province's Regulations 164/98, 163/98 and 161/98 respectively.
6. If the province replaces a Code or makes changes to it, the municipality adopts such changes automatically, without further action by council.

Building permit required

7. 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.
8. 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 must be completed in order to ensure compliance with the requirements of the Zoning By-law.
9. Where a building permit is required, no preparatory work, including excavation, may take place on the land before the permit is obtained.
10. A building permit issued by the municipality fulfills the requirement of the Zoning By-law for a development permit.

Application for building permit

11. Where the building is of a class for which the building permit is administered by the province, an application must be made to the Office of the Fire Commissioner and is administered by that office. Nevertheless, a development permit for the building must be obtained from the municipality under the Zoning By-law.

12. 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 plan or plans showing the dimensions of the building or work;
- (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 other requirements;
- (e) a statement of the applicant's estimated valuation of the work proposed;
- (f) the fee called for in By-Law 1615-11 Fees and Charges By-Law.

13. The fee will be based on the building inspector's opinion as to the estimated value of the work proposed. 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 by the municipality.

14. Plans and specifications submitted with building permit applications must bear the name and business address of the designer.

15. Permit applications and the documents submitted with them become the property of the municipality.

16. If the building inspector considers that site conditions or a building's size or complexity warrant it, the building inspector may require an applicant to submit in connection with an application:

- (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;
- (c) drainage plans.

In this case the application is not complete until the requested documents are submitted.

17. A building permit for a new building must not be issued until the site is served by a culvert and crossing satisfactory to the Public Works department of the municipality.

18. If on the basis of the application and the information supplied with it, it appears to 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 provincial laws and regulations, the building inspector may issue a building permit to the applicant.

19. 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.

20. A building permit may be issued subject to conditions (including the requirement of an agreement between the owner and the planning district or 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 provincial laws and regulations;
- (c) efficient provision of municipal services and protection of municipal property; or
- (d) proper site safety, maintenance and clean-up.

21. A holder of a building permit may request the building inspector to approve alterations to plans and specifications. If in the opinion of the building inspector the nature and complexity of the alterations warrant it, the building inspector may suspend the issued building permit and require an additional fee for review and approval of the alterations.

Performance agreements

22. Before a permit may be issued 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, an owner must enter into a performance agreement with the municipality.

Building inspector

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

25. 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;
- (d) make inspections of buildings and premises when requested at an appropriate stage of construction and with reasonable advance notice.

26. 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 that 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 provincial laws or regulations, 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 issuance;
 - (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; 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 provincial laws and regulations; or
 - (ii) there is an unsafe condition.

Owner's responsibilities

27. 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 provincial laws and regulations. The issuance of a building permit and inspection by the building inspector do not relieve the owner of this responsibility.

28. 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.

29. An owner must during construction keep the building permit with approved plans and specifications in a conspicuous place on the premises.

30. An owner and a holder of a building permit must comply with an order of the building inspector, a condition under which a building permit was issued, or an agreement.

31. No person shall make a false or deliberately misleading statement in an application, plan or other document.

32. 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

33. An owner, an applicant, or a holder of a building permit may request the municipality to review a decision or order of the building inspector, by giving a written notice to the CAO within 14 days of receiving the decision or order.

34. Upon receiving a request for review, the CAO must set a date and time for the review by the municipality, and notify the person of the date of the review.

35. At the time and place set out in the notice, the municipality will convene the review. The person who made the request may appear in person or by counsel. After reviewing the order, the board may confirm, vary, substitute or cancel the decision or order.

Offence and costs

36. 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 8, a penalty equal to the building permit fee.

37. 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;
- (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.

Repeal and transitional

38. By-law No. 1601-08 is repealed.
39. Permits, orders and decisions made under the repealed by-law remain in effect, unless revoked or changed under this by-law.
40. An application for a building permit that was made under the repealed by-law but not granted continues under this by-law.
41. Council may from time to time, by resolution, amend this by-law.

DONE AND PASSED by the Council of the Rural Municipality of Cartier, in Council duly assembled this 28th day of November, A. D. 2011.

Roland Rasmussen
Reeve

Anne Burns, CMMA
Chief Administrative Officer

Read a first time this 14th day of November, A. D. 2011.
Read a second time this 28th day of November, A. D. 2011.
Read a third time this 28th day of November, A. D. 2011.