

RURAL MUNICIPALITY OF MONTCALM

BY-LAW NO. 418/90

A BY-LAW OF THE RURAL MUNICIPALITY OF MONTCALM being a by-law to regulate and control new and existing construction, including the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, occupancy or change in occupancy of any building, erection or structure or addition to a building, erection or structure.

WHEREAS "THE BUILDINGS AND MOBILE HOMES ACT" C.C.S.M. Cap. B93, Section 4 provides as follows;

Notwithstanding anything to the contrary in any other Act of the Legislature, each municipality unless excluded under clause 2(2)(c) shall adopt and enforce any building construction code or building construction standard adopted, established or prescribed under section 3 for the province or the municipality or the part of the province in which the municipality is situated, and may make such by-laws as are necessary for those purposes.

AND WHEREAS pursuant to section 3 a code has been adopted, established and prescribed for the province;

AND WHEREAS the Rural Municipality of Montcalm desires to adopt the code and enact a by-law to provide for the administration and enforcement of the code;

NOW THEREFORE the Council of the Rural Municipality of Montcalm, in open meeting duly assembled, ENACT AS FOLLOWS:

SECTION 1 TITLE

1.1 This by-law may be cited as "the Rural Municipality of Montcalm Building By-Law".

SECTION 2 SCOPE

2.1 This by-law applies to the whole of the Rural Municipality of Montcalm.

2.2 This by-law applies to new and existing construction, including the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, occupancy or change in occupancy of any building, erection or structure or addition to a building, erection or structure.

2.3 This by-law adopts the building construction codes and building construction standards contained in The Manitoba Building Code as adopted, established and prescribed under section 3 of The Building and Mobile Homes Act (which code shall hereinafter be referred to as "the Code").

2.4 This by-law is intended to and does establish the administrative requirements and procedures for the enforcement of the Code.

2.5 This by-law does not apply to

- (a) farm buildings other than those used as residences, attached garages and car ports;
- (b) public works located on a street or on a public transit right-of-way;
- (c) public utility towers and poles, television and radio or other communication aerials and towers, except for loads resulting from those located on or attached to buildings;
- (d) flood control and hydro electric dams and structures or mechanical or other equipment and appliances not specifically regulated in the Code, or
- (e) an accessory building not greater than 108 sq. ft. (10m<sup>2</sup>) in building area provided it does not create a hazard.

SECTION 3 DEFINITIONS OF WORDS AND PHRASES

3.1 Unless otherwise expressly provided or unless the context otherwise requires, words and expressions in this by-law have the same meaning as the words and expressions in the Code.

3.2 For the definition of words used in this by-law that are not included in this section or in the Code, reference should be made to the standard English Dictionary.

3.3 The words and terms used in this by-law have the following meanings:

Building: means any structure used or intended for supporting or sheltering any use or occupancy.

Building, farm: means any building or structures situated on a farm and used for the purpose of operating the farm. Commercial, industrial, and residential buildings (including attached garages and car ports) shall not be construed as farm buildings.

Building inspector: means

(i) the person appointed by the Council to administer and enforce this by-law; or

(ii) in the event the Municipality should in the future form part of a Planning District, the person or persons appointed as development officers by the Board of the District to administer and enforce this by-law.

Code: means The Manitoba Building Code adopted, established and prescribed under section 3 of The Buildings and Mobile Homes Act.

Council: means the Municipal Council of the Rural Municipality of Montcalm.

District: means planning district or districts of which the Municipality may from time to time form a part and which shall have jurisdiction over all or any part of the land located within the boundaries of the Municipality.

District Board: means the Board of a district.

Municipality: means the municipal corporation of the Rural Municipality of Montcalm.

Person: means any person, firm, partnership, cooperative, body corporate or politic and shall be deemed to include the plural where the context so requires.

Relocation: means the moving of an existing building or structure from one location to another location.

Renovation: means the reconstruction of 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.

Repair: means work done to an existing building for the purpose of maintenance and not amounting to a renovation.

Structure: means anything constructed or erected with a fixed location on or in the ground or attached to something having a fixed location on or in the ground.

SECTION 4 PROHIBITIONS

4.1 No person shall work or authorize or allow work to proceed for which a permit is required unless a valid permit exists for the work to be done.

4.2 No person shall deviate from the accepted plans and specifications forming a 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 such change.

4.3 No person shall occupy or allow the occupancy of any building or part thereof or change the occupancy unless the owner has obtained an occupancy permit or a certificate of occupancy as required by section 8 hereof.

4.4 No person shall cause, allow or maintain any unsafe condition with respect to the construction, reconstruction, demolition, alteration, relocation or occupancy of a building or a structure.

4.5 No person shall knowingly submit false or misleading information in connection with any application or other matter under this by-law.

#### SECTION 5 DUTIES AND RESPONSIBILITIES OF THE OWNER

5.1 Every owner shall allow the building inspector to enter any building or premises at any reasonable time for the purpose of administering and enforcing the Code and this by-law.

5.2 Every owner shall obtain all permits, acceptances and approvals required in connection with the proposed work prior to commencing the work to which they relate.

5.3 Drawings and Specifications: Every owner shall ensure that the drawings and specifications on which the issue of the building permit was based are available continuously at the site of work for inspection during working hours by the building inspector and that the permit or a true copy thereof is posted conspicuously on the site during the entire execution of the work.

5.4 Notices:

5.4.1 Every owner shall give notice to the building inspector of the dates on which he intends to begin work prior to commencing work on the building site.

5.4.2 Every owner shall give notice to the building inspector

- (a) of intent to do work that has been ordered to be inspected during construction;
- (b) of intent to cover work that has been ordered to be inspected prior to coverings; and
- (c) when work has been completed so that a final inspection can be made.

5.4.3 Every owner shall give notice in writing to the building inspector immediately of any change in ownership or change in the address of the owner that occurs prior to the issuance of an occupancy permit or certificate of occupancy.

5.4.4 Every owner shall give such other notice to the building inspector as may be required by the provisions of this Code or this by-law and shall comply in all respects with this by-law and the Code.

5.5 Every owner shall provide an up-to-date survey of the building site when and as required by the building inspector.

5.6 When required by the building inspector, every owner shall uncover and replace at his own expense any work that has been covered contrary to the provisions of this by-law or the Code.

5.7 Every owner is responsible for the cost of repair of any damage to public property or works located thereon that may occur as a result of the undertaking of work for which a permit was required by this by-law.

5.8 No person shall deviate from the requirements of the conditions of the permit without first obtaining from the building inspector permission to do so and such permission shall be in writing except for minor changes which conform to the Code.

SECTION 6 DUTIES AND RESPONSIBILITIES OF THE CONSTRUCTOR

- 6.1 Every constructor shall ensure that all construction safety requirements of the Code are complied with.

SECTION 7 BUILDING PERMITS

- 7.1 (1) Building permits mandatory: No excavation shall be made nor shall any construction work be undertaken nor any building or structure relocated unless and until a permit has first been had and obtained from the Municipality.

(2) A building permit shall be in writing.

(3) A building permit shall be obtained from the Municipality by the owner or his agent for the excavation, erection, alteration, reconstruction, removal, relocation, addition or installation to any building or structure prior to the commencement of any work.

- 7.2 (1) Application for a building permit: An application for a building permit shall be made in writing and shall be signed by the owner thereof and shall contain a declaration by the owner or his duly authorized agent that the information contained in such application is true.

(2) An application for a building permit shall include or shall be accompanied by such plans, specifications and other information and material as may be required to determine whether the proposed work is in compliance with the provisions of the Code and this by-law.

(3) An application for a building permit shall set forth fully the particulars of the location, breadth, height, materials to be used in construction and intended use of the building to be erected, altered or relocated and the estimated value of such new building or alteration when completed (exclusive of the value of the land upon which the same is situate).

(4) An application for a building permit shall include the name of the owner, architect, building mover or builders engaged in the work and such other information as may be reasonably required by the building inspector or the Council to ensure compliance with the Code and this By-law.

- 7.3 (1) Granting of building permits: The Municipality shall not issue a permit if the work proposed in the plans and specifications is not in conformity with the requirements of this by-law, the Code, The Public Health Act, any planning scheme, any development plan or basic planning statement in force and effect in the Municipality and the provisions of The Planning Act of Manitoba C.C.S.M. Cap P80. No permit shall be issued unless all required fees in connection with the issuance of the building permit have been paid in full.

(2) The approval of drawings and/or specifications in the issuance of a permit shall not in any way relieve the owner from full responsibility for carrying out any work in accordance with the provisions of the by-law and the Code.

SECTION 8 OCCUPANCY PERMITS/CERTIFICATE OF OCCUPANCY

- 8.1 Occupancy permits mandatory: Every owner shall obtain an occupancy permit or certificate of occupancy from the building inspector prior to any

(a) occupancy of a building or part thereof after construction, partial demolition or alteration of that building; or

(b) change in the major occupancy of any building or part thereof.

- 8.2 Occupancy permits: The building inspector shall not issue an occupancy permit unless the building meets the requirements of this by-law, the Code, The Public Health Act, any planning scheme, development plan, basic planning statement in force or in effect in the Municipality, the provisions of The Planning Act and the required fees have been paid in full.

SECTION 9 PLUMBING PERMITS

9.1 (1) Plumbing permits mandatory: Except as provided in subsection (2) no plumbing system shall be constructed, extended, altered, renewed or repaired nor shall a correction be made to a sewer unless a permit to do so has first been had and obtained.

(2) A permit is not required when a valve, faucet, fixture or a surface water heater is repaired or replaced, a stoppage cleared or a leak repaired if no change to the piping is required.

9.2 (1) Application for a plumbing permit: Every application for a plumbing permit shall be made on a form provided and shall be signed by the owner or his agent and shall contain a certificate certifying that the information contained in the application is true.

(2) An application for a permit shall contain or be accompanied by such plans, specifications and other information as may be required to determine whether the proposed work complies with all the provisions of this by-law and the Code.

(3) An application shall show the name of the plumber by whom the work is to be done, the exact location of the building concerned, including the street, lot, block and plan number, and when required by the building inspectors a plan drawn legibly to scale showing the proposed plumbing system and the location of the building with reference to the street, sewer or sewage disposal system to which it is intended to connect the plumbing system.

9.3 (1) Granting of plumbing permits: The Municipality shall not issue a plumbing permit unless the proposed work is in conformity with the requirements of this by-law, the Code, The Public Health Act and any other relevant provincial regulation or statute relating to plumbing and unless and until all required fees have been paid in full.

(2) Neither the granting of a permit nor the approval of plans and specifications nor inspections made by the building inspector shall in any way relieve the owner from full responsibility for carrying out the work in strict accordance with the provisions of this by-law and the Code.

SECTION 10 SIGN AND DEMOLITION PERMITS

10.1 The application for sign permit shall:

(1) be made on the prescribed form.

(2) include in duplicate a plot plan showing the street lines or other boundaries of the property upon which it is proposed to erect such sign and location thereof upon the property in relation to the other structures upon such property and upon the premises immediately adjoining.

10.2(1) Upon application for a permit to demolish, relocate, or remove a building or structure, the applicant shall submit a statement that the taxes upon the land and building or buildings, or structures have been paid in full, and that the land and building or buildings, or structures have not been sold for taxes, and if so sold, have not been redeemed.

(2) The Municipality may request that an application for a permit to remove, relocate or demolish a building or structure, shall contain one or more of the following:

- (a) a description of the building or structure giving the existing location, construction materials, dimensions, number of rooms and condition of exterior and interior,
- (b) a legal description of the existing site,
- (c) a legal description of the site to which it is proposed that the building or structure is to be moved if located within the Municipality, and
- (d) a plot plan of the site to be occupied by the building or structure if located within the Municipality.

10.2(3) The owner, or his agent, of a site from which a building or structure is to be removed or demolished shall:

- (a) notify the gas, electric, telephone and water service companies or utilities to shut off and/or remove their service;
- (b) plug the sewer line with a concrete stopper eight (8) feet outside the property line, and
- (c) upon completion of the removal and demolition, put the site in a safe and sanitary condition to the satisfaction of the authority having jurisdiction.

SECTION 11 PERMIT LIMITATIONS

11.1

Building or plumbing permit limitations: Any building or plumbing permit issued by the Municipality under the provisions of this by-law may be revoked if active work pursuant thereto has not started within six (6) months of the date thereof or within such further time as the building inspector may upon application or upon direction from Council or the Board of the District as the case may be, therefore allow.

SECTION 12 PERMIT FEES

12.1

Permit fees: Permit fees shall be made payable to the Municipality and deposited with the Secretary-Treasurer prior to the issue of the permit.

- (1) Building Permit Fees (as per attached Schedule "A")
- (2) Plumbing Permit Fees (as per attached Schedule "A")

SECTION 13 THE BUILDING INSPECTOR

13.1

Appointment of a building inspector: Where the Municipality does not form part of a Planning District, the Council shall appoint a building inspector for the Municipality at such salary and for such period as may be determined by a by-law or resolution in that behalf.

13.2

Duties of the Building Inspector: The Building Inspector shall:

- (1) Examine into the condition of all buildings in said Municipality and all buildings proposed to be built, altered, repaired, or relocated in said Municipality, pursuant to a permit as aforesaid and to see that the provisions of The Public Health Act, the Code, any planning scheme, zoning by-law, development plan, or basic planning statement in force and effect in the Municipality, of The Planning Act and this by-law are properly carried out;
- (2) Keep proper records of all applications and plans received, inspections and tests made, permits and orders issued, and shall retain copies of all reports and documents connected with his duties;
- (3) Examine and process plans and specifications submitted with applications for permits.
- (4) Enter and inspect any building or premises at any reasonable time.
- (5) Give notice in writing to the owner or his agent, of any dangerous or unsafe condition that exists on the premises.
- (6) Prohibit the occupancy of the premises if the provisions of health, zoning, safety and fire regulations effective in the Municipality have not been adhered to.
- (7) Inspect the construction or reconstruction of all buildings.

13.3

Powers of the Building Inspector: The building inspector may:

- (1) Enter any building or premises necessary for the performances of his duties.
- (2) Revoke or suspend a permit if:
  - (a) construction is not started within a period of six months from the date of issuing the permit;
  - (b) construction is discontinued for a period of one year;

13.3 (2)

- (c) there is a violation of any condition under which the permit was issued;
  - (d) any alteration or deviation from the deposited plans and specifications is made without authority.
- (3) Refuse a building, plumbing or occupancy permit if the requirements of the by-law have not been met.
  - (4) Require the owner or his agent to produce any required written clearance from any Department of Government before a permit is issued.
  - (5) Order the person receiving a building permit to take all proper precautions for the guarding of any excavations, the public highway, streets and sidewalks, and from preventing the placing of material, equipment or scaffolding on the highways, streets or sidewalks in any manner that would, in the opinion of the building inspector, constitute an inconvenience or menace to traffic or pedestrians and for the protection of the public generally.
  - (6) Upon the completion of the work, require the holder of the permit to immediately remove all building material, equipment, scaffolding and rubbish from the streets, sidewalks and boulevards and to clean and repair and leave in good condition and repair the streets, sidewalks and boulevards as the same were in before the permit was issued.

SECTION 14 UNSAFE BUILDINGS

14.1

Building Inspector to Report: In the event the building inspector is of the opinion that a building, structure or other premises is by reason of its ruinous, dilapidated, unsafe, or unprotected condition, dangerous to the public safety, he shall immediately report to the Council and provide full details of the apprehended danger to public safety.

14.2

Determination by Council: Where as the result of the report from the building inspector or otherwise, Council is of the opinion that a building, structure or other premises is by reason of its ruinous, dilapidated, unsafe, or unprotected condition, dangerous to the public safety, the Council may make an order respecting the building, structure or premises in accordance with the provisions of The Municipal Act C.C.S.M. Cap. M225.

14.3

Building Inspector to Enforce: If the owner does not comply with an order made by Council aforesaid within the period specified in the order, the building inspector shall carry out the order or cause it to be carried out in accordance with the provisions of The Municipal Act.

14.4

Emergency Action: Where, in the opinion of the Council, an unoccupied building is so ruinous, unsafe, or dilapidated as to be dangerous, or likely to cause injury to a person or damage to property, the Municipality may promptly take such reasonable emergency action as is required to eliminate or minimize the hazard in accordance with the provisions of The Municipal Act.

14.5

Accounts to be Kept: The building inspector shall keep an account of the expense of putting the building or property in safe condition or the expense of removing or demolishing a building in contravention of any by-law and any monies received from the sale of such building as provided in The Municipal Act and thereafter deliver an accurate account to the Secretary-Treasurer of the Municipality. Any such costs incurred after deducting any credit due to the owner, mortgagee or other person entitled thereto shall form a lien and charge against the land concerned and may be collected as taxes in arrears in accordance with the provisions of The Municipal Act.

14.6 Approval of Council: Nothing shall be incumbent upon the building inspector to enforce any part of this by-law without first obtaining approval from Council.

14.7 Demolition: The provision of this by-law relating to demolition or removal of a building by Council are not intended to derogate from the authority of Council pursuant to section 323 of The Municipal Act.


SECTION 15 OFFENCES AND PENALTIES


15.1 Any person who contravenes or disobeys, or refuses or neglects to obey any provision of the Code or this by-law for which no other penalty is herein provided, is guilty of an offence and liable, on summary conviction, to a fine not exceeding five thousand (\$5,000.00) dollars for each day that the offence continues.

SECTION 16 REPEAL

16.1 That By-law No. 677 be repealed.

DONE AND PASSED IN COUNCIL, THIS 12<sup>th</sup> DAY OF February  
A.D. 1990.

  
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REEVE

  
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SECRETARY-TREASURER

Read a first time this 14<sup>th</sup> day of February, A.D. 1990.

Read a second time this 18<sup>th</sup> day of February, A.D. 1990.

Read a third time this 28<sup>th</sup> day of February, A.D. 1990.

SCHEDULE "A" TO BY-LAW NO. 418/90

BUILDING PERMIT FEES

- \$ .20 per square foot - dwellings, commercial buildings, additions, to a maximum of \$500.00 for dwelling units only.
- \$ .10 per square foot - work shops, detached car ports, any other accessory building over 108 square feet.
- \$ .10 per square foot - dwelling and other buildings pre-constructed and moved onto site.
- \$ .02 per square foot - plumbing permit fee, excluding outbuildings (\$50.00 maximum per dwelling unit).
- \$10.00 - Development Permit
- \$10.00 - Demolition Permit
- \$10.00 - Sign permit

*Replaced  
by res #  
6521/91*

SCHEDULE "A" TO BY-LAW NO. 418/90

BUILDING PERMIT FEES

1. 20¢ per square foot - Main floor of dwellings, commercial buildings, additions, to a maximum of \$500.00 for dwelling units only. (minimum - \$25.00).
2. 10¢ per square foot - Additional levels as listed in No. 1.
3. 10¢ per square foot - Work shops, detached car ports, any other accessory building over 108 square feet. (minimum - \$20.00).
4. 10¢ per square foot - Dwelling and other buildings preconstructed moved onto site. (minimum - \$20.00).
5. 2¢ per square foot - Plumbing permit fee, excluding out-buildings. (\$50.00 maximum per dwelling unit).
6. \$10.00 - Development Permit.
7. \$10.00 - Demolition Permit.
8. \$10.00 - Sign Permit.