

**RURAL MUNICIPALITY OF
BROKENHEAD**

BUILDING BY-LAW NO. 2134-14

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BUILDING BY-LAW NO 2134-14

SECTION 1 Title

This by-law may be cited as the Rural Municipality of Brokenhead Building By-law.

SECTION 2 Scope & Definitions

2.1 Scope:

- 2.1.1 This by-law applies to the whole of the Rural Municipality of Brokenhead.
- 2.1.2 This by-law applies to administration and enforcement in 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*.
- 2.1.3 The requirements of the *Code* are hereby adopted and shall apply to all work falling within the scope and jurisdiction of this by-law.
- 2.1.4 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 the *authority having jurisdiction*.

2.2 Definitions:

- 2.2.1. The words and terms in italics in this by-law shall have the meaning prescribed in subsection 2.2.3 herein, and if no definition is provided herein they shall have the meanings as prescribed 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.
- 2.2.2. Definitions of words and phrases used in this by-law that are not specifically 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.
- 2.2.3 Words and terms in italics in this by-law shall have the following meanings:

"Audit"

means a random review of design or construction work by the *authority having jurisdiction* to ascertain compliance with the *Code* and this by-law

" <i>Authority Having Jurisdiction</i> "	means the Brokenhead River Planning District and, where the context requires, such building inspector or other authority lawfully appointed by Brokenhead River Planning District to administer and enforce the provisions of this by-law
" <i>Code</i> "	means the National Building Code as established, adopted and revised from time to time.
" <i>Council</i> "	means the municipal council of the Rural Municipality of Brokenhead
" <i>Permit</i> "	means written permission or written authorization from the <i>authority having jurisdiction</i> in respect to matters regulated by this by-law
" <i>Person</i> "	means and includes any individual, corporation partnership, firm, joint venture, syndicate, association or trust, and any other form of entity or organization
" <i>RTM</i> "	means ready to move houses being houses or <i>buildings</i> constructed in one location and moved to a different location
" <i>Temporary Structure</i> "	shall mean a structure that is not permanently anchored or attached to the ground (ie. a wedding tent, shed on skids)
" <i>Valuation</i> "	shall mean the total monetary worth of all construction or work, including all painting, papering, roofing, electrical work, plumbing, permanent or fixed equipment, including any permanent heating, elevator equipment or fire sprinkler equipment, and all labour, materials and other devices entering into and necessary to the prosecution of the work in its completed form. No portion of any <i>building</i> including, mechanical, electrical and plumbing work, shall be excluded from the valuation for a <i>permit</i> .

SECTION 3 General

3.1 *Application Generally:*

This by-law applies to 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*.

3.2 *Limited Application to Existing Buildings:*

- 3.2.1 When a *building* or any part of it is altered or repaired, the *Code* applies to the parts of the *building* altered or repaired except that where in the opinion of the *authority having jurisdiction*, the *alteration* will affect the degree of safety of the existing *building*, the existing *building* shall be improved as may be required by the *authority having jurisdiction*.
- 3.2.2 The number of *storeys* of an existing *building* or structure shall not be increased unless the entire *building* or structure conforms with the requirement of the *Code*.
- 3.2.3 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 the *authority having jurisdiction*.
- 3.2.4 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.
- 3.2.5 When a *building* is damaged by fire, earthquake or other cause, the *Code*, the requirements of this by-law and the appropriate regulations under the Fire Prevention Act, and the Manitoba Fire Code, apply to the work necessary to reconstruct damaged portions of the *building*.
- 3.2.6 When an *unsafe condition* exists in or about a *building*, the *Code*, the requirements of this by-law and the appropriate regulations in the Fire Prevention Act, and the Manitoba Fire Code, shall apply to the work necessary to correct the *unsafe condition*.
- 3.2.7 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.

3.3 **Exemptions:**

3.3.1 These requirements do not apply to

- (a) sewage, water, electrical, telephone, rail or similar systems located on a street or a public transit right of way.
- (b) 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*.
- (c) flood control and hydro electric dams and structures.
- (d) mechanical or other equipment and appliances not regulated in this by-law.
- (e) accessory *buildings* not greater than 10 square meters in *building* area subject to the concurrence of the *authority having jurisdiction*.
- (f) a *farm building*, other than a *farm building* used as residence, an attached garage or carport.

3.4 **Prohibitions:**

- 3.4.1. Any person who fails to comply with any order or notice issued by any *authority having jurisdiction*, or who allows a violation of the requirements of this by-law or of the *Code* to occur or to continue, contravenes the provisions of this by-law.
- 3.4.2. 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.
- 3.4.3. 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 the *authority having jurisdiction* 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.
- 3.4.4. 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 an *occupancy permit* has been issued by *authority having jurisdiction*.
- 3.4.5. No person shall knowingly submit false or misleading information to the or *authority having jurisdiction* concerning any matter relating to this by-law.
- 3.4.6. 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 appropriate government authority.

3.4.7 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.

3.5 **Mobile Homes and RTM's**

3.5.1 Mobile homes and/or RTM's shall comply with the requirements of the *Code*.

3.5.2 The *authority having jurisdiction* may require any or all of the following in respect to a mobile home or RTM sought to be located within the area of jurisdiction of the *authority having jurisdiction*:

- (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 mobile home or RTM in the location of its construction together with a copy of any or all inspection reports;
- (d) such inspections or certifications as the *authority having jurisdiction* may deem necessary in order to ensure compliance with the *Code* and this by-law.

SECTION 4 Permits

4.1 **Application:**

4.1.1 Except as otherwise allowed by the *authority having jurisdiction*, every application for a *permit* shall be in the form prescribed by the *authority having jurisdiction* and shall:

- (a) identify and describe in detail the work and occupancy to be covered by the *permit* for which the application is made,
- (b) describe the land on which the work is to be done by a description that will readily identify and locate the *building* lot,
- (c) state the *valuation* of the proposed work and be accompanied by the required fee as set out on Schedule A hereto; and,
- (d) include those plans and specifications set out on Schedule B hereto (unless otherwise waived by the *authority having jurisdiction*), and show the *occupancy* of all parts of the *building*,
- (e) state the names, addresses and telephone numbers of the owners, *architect*, *professional engineer* or other *designer*, *constructor* and any inspection or testing agency engaged to monitor the work or part of the work.
- (f) include such additional information as maybe required by the *authority having jurisdiction*

- 4.1.2 When an application for a *permit* has not been completed in conformance with the requirements of the *authority having jurisdiction* within six months after the date of filing, the application shall (unless otherwise extended by the authority having jurisdiction) be deemed to have been abandoned, and can only be reinstated by re-filing.
- 4.1.3 A *permit* shall expire and the right of an owner under the *permit* shall end if
- (a) the work authorized by the *permit* is not commenced within six months from the date of issue of the *permit* and actively carried out after that, or
 - (b) the work authorized under the *permit* is suspended for six months unless otherwise extended by the *authority having jurisdiction*.
- 4.1.4 Any revision to the original application described in article 4.1.1 shall be made in the same manner as for the original *permit*.
- 4.1.5 Applications for *permits* may be filed, and *permits* may be issued to an *owner*, or to a *constructor* or other properly authorized agent of the *owner*.

4.2 *Permits:*

4.2.1 *Building Permits:*

- 4.2.1.1 Except as permitted in Article 4.2.1.2 herein, unless a *building permit* has first been obtained from the *authority having jurisdiction*, no *person* shall commence or cause to be commenced:
- (a) the location, placement, erection or construction of any *building* or structure or portion thereof;
 - (b) the addition, extension, improvement, *alteration* or conversion of any *building* or structure, or portion thereof;
 - (c) the repair, rehabilitation, or *renovation* of any *building* or structure, or portion thereof;
 - (d) underpinning;
 - (e) the relocation or removal of any *building* or structure, or portion thereof;
 - (f) the excavation of any land for any purpose of erecting or location on or above it, any *building* or structure;
 - (g) the *alteration*, addition, erection or re-erection of a sign.

4.2.1.2 A *building permit* is not required for:

- (a) patching, painting or decorating;
- (b) replacement of stucco, siding or shingles with the same material;
- (c) replacement of doors or windows when the opening is not altered;

- (d) replacement of open landing and stairs;
- (e) construction of fences, outside of the LUD of Tyndall-Garson;
- (f) installation of cabinets and shelves;
- (g) a detached accessory storage building not greater than 10 square meters in building area;
- (h) non-structural alterations or repairs where the value of such work in less than five thousand dollars (\$5,000.00);

4.2.1.3 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.

4.2.1.4 Before the issuance of a *building permit* for cases described in Subsection 5.1.17(1), the *owner shall* (unless the *authority having jurisdiction* waives such requirement) submit Letters of Assurance in the forms set out in Schedules C and D, as attached hereto, which:

- (a) confirm that the *owner* has retained the necessary architects or professional engineers for all the applicable disciplines, for professional design and inspection; and
- (b) incorporate the architects' or professional engineers assurance of professional design and commitment for inspection.

4.2.1.5 Before the issuance of a *building permit*, for cases in which professional design is not required, the *owner* shall (unless the *authority having jurisdiction* waives such requirement) submit a Letter of Assurance, in the form set out in Schedule E as attached hereto, confirming that the *owner* will ensure that the *building* will be constructed in accordance with the *Code*.

4.2.1.6 Before the issuance of a *building permit*, for construction projects in which the *owner and/or their agents* may cause damage to municipal infrastructure the *owner and/or their agents* shall submit a Letter of Assurance, in the Form set out in Schedule "H" as attached hereto, confirming that the *owner and/or their agent* will be responsible for costs accrued in the repair of public infrastructure (*roads, sidewalks, ditches etc.*) so damaged by the *owner and/or their agents* during the construction of their project.

4.2.2. **Plumbing Permits:**

4.2.2.1 Except as provided in sentence 4.2.2.2., no person shall construct, extend, alter, renew or repair or make a connection to a plumbing system unless a *permit* to do so has been obtained.

4.2.2.2 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 repaired, if no change to the piping is required.

4.2.2.3 When required by the *authority having jurisdiction*, the application shall also be accompanied by a plan that shows:

- (a) the location and size of every building drain, and of every trap and clean out fitting that is on a building drain;
- (b) the size and location of every soil or waste pipe, trap and vent pipe; and
- (c) a layout of the potable water distribution system including pipe sizes and valves.

4.2.3. *Occupancy Permits:*

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.

4.2.3.1 An *Occupancy Permit* is required from the *authority having jurisdiction* for:

- (a) the *occupancy* of any new *building* or structure or portion thereof except a single-family dwelling, a two-family dwelling or a multi-family dwelling without shared exit facilities;
- (b) the *occupancy* of any existing *building* or structure where an *alteration* is made thereto, except a single-family dwelling, a two-family dwelling or a multi-family dwelling without shared exit facilities;
- (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;
- (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.

4.2.3.2 Before the issuance of an *occupancy permit*, the *owner* shall (unless the *authority having jurisdiction* waives such requirement) submit Letters of Assurance in the form set out in the applicable Schedules F and G, as attached hereto, confirming that the construction of the *building*, work or project conforms with the plans, specifications and related documents for which the *building permit* was issued.

4.2.3.3 *The authority having jurisdiction* may issue an *Interim Occupancy Permit* for a partial use of a *building* or structure subject to any conditions imposed by the *authority having jurisdiction*.

4.2.3.4 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.

4.2.3.5 The *authority having jurisdiction* may issue a *Temporary Occupancy Permit* for the use of a *building* or structure approved as a temporary *building* or structure.

4.2.3.6 A *Temporary Occupancy Permit* shall be for a period not more than six (6) months, but before the expiration of such period, the *Temporary Occupancy Permit* may be renewed by the *authority having jurisdiction* for two further six months periods.

4.2.3.7 Notwithstanding apparent compliance with this by-law, the *authority having jurisdiction* may refuse to issue an *Occupancy Permit* if the *building*, structure or proposed use is to the *authority having jurisdiction's* knowledge in violation of a Zoning by-law, or any other by-law of the *authority having jurisdiction*.

4.2.3.8 An applicant for a *Occupancy Permit* shall supply all information requested by the *authority having jurisdiction* to show compliance with the by-law and any other relevant by-laws of the *authority having jurisdiction*

4.2.3.9 The required *Occupancy Permit* shall be displayed and maintained in a legible condition by the *owner* or his agent in a location acceptable to the *authority having jurisdiction*.

4.2.4. ***Demolition Permits:***

4.2.4.1 No person shall commence or cause to be commenced the demolition of any *building* or structure, or portion thereof, unless a *Demolition Permit* has first been obtained from the *authority having jurisdiction*.

4.2.4.2 The demolition of a *building* or structure shall be subject to the requirements of the *Code*.

4.2.5 ***General:***

4.2.5.1 No permit shall be assigned or transferred without the written consent of the *authority having jurisdiction*.

SECTION 5 ***Duties, Responsibilities & Powers***

5.1. Duties and Responsibilities of the Owner:

- 5.1.1 Every *owner* shall allow the *authority having jurisdiction* to enter any *building* or premises at any reasonable time for the purpose of administering and enforcing the requirements of this by-law..
- 5.1.2 Every owner shall obtain all permits or approvals required in connection with proposed work, prior to commencing the work to which they relate.
- 5.1.3 Every owner shall:
 - (a) ensure that the plans and specifications on which the issue of any *permit* was based are available continuously at site of the work for *audit* or *inspection* during working hours by the *authority having jurisdiction*, and that the *Permit*, or true copy thereof, is posted conspicuously on the site during the entire execution of the work.
 - (b) keep visible at all times during construction the street number of the premises in figures at least 3 inches (75 mm) high and visible from the street or sidewalk.
- 5.1.4 Every *owner* shall give notice to the *authority having jurisdiction* of dates on which he intends to begin work prior to commencing work on the building site.
- 5.1.5 Every owner shall before commencing the work, give notice in writing to the *authority having jurisdiction*, prior to commencing the work, listing
 - (a) the name, address and telephone number of
 - (i) the *constructor* or other person in charge of the work;
 - (ii) the *designer* of the work;
 - (iii) the person reviewing the work; and
 - (iv) any *inspection* or testing agency engaged to monitor the work or part of the work.
 - (b) any change in or termination or employment of such persons during the course of the construction immediately that such change or termination occurs.
- 5.1.6 Every owner shall give sufficient notice to the *authority having jurisdiction*.
 - (a) of intent to begin work that the *authority having jurisdiction* has directed may be subject to *audit* during construction,
 - (b) of intent to cover work that the *authority having jurisdiction* has directed may be subject to *audit* during construction; and

- (c) when work has been completed and before *occupancy*.
- 5.1.7 Every *owner* shall give notice in writing to the *authority having jurisdiction*
- (a) immediately upon any change in ownership or change in the address of the *owner* occurs prior to the issuance of an *Occupancy Permit*;
 - (b) prior to occupying any portion of the *building* if it is to be occupied in stages; and
 - (c) of any such other notice as may be required by the *authority having jurisdiction*.
- 5.1.8 Every *owner* shall give such other notice to the *authority having jurisdiction* as may be required by the provisions of the *Code* or this by-law.
- 5.1.9 Every *owner* shall make, or have made at his own expense, the tests or *inspections* necessary to prove compliance with these requirements and shall promptly provide a copy of all such test or *inspection* reports to the *authority having jurisdiction* when and as required by the *authority having jurisdiction*.
- 5.1.10 Every *owner* shall provide an up-to-date survey of the *building* site when and as required by the *authority having jurisdiction*.
- 5.1.11 When required by the *authority having jurisdiction*, every *owner* shall uncover and re-cover at his own expense any work that has been covered contrary to an order issued by the above authority.
- 5.1.12 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 undertaking work for which a *building permit* was or was not required.
- 5.1.13 Except in one and two family dwellings and their accessory buildings, every *owner* shall, where required, obtain an *occupancy permit* from the *authority having jurisdiction* before any
- (a) *occupancy* of a *building* or part of it after construction, partial demolition or *alteration* of that *building*, or
 - (b) change in the *occupancy* of any *building* or part of it.
- 5.1.14 Should *occupancy* occur before the completion of any work being undertaken, every *owner* shall ensure that no *unsafe condition* exists or will exist because of the work being undertaken or not completed.
- 5.1.15 The granting of a permit by the *authority having jurisdiction* 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*.

5.1.16 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.

5.1.17 (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 an *architect*, *professional engineer* or both are retained to undertake professional design and inspection.

(2) Professional design and inspection referred to in sentence (1) requires that an *architect*, *professional engineer* or both be responsible

- (a) for the design and that all appropriate plans, specifications and related documents meet the requirements of the *Code*. and 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 an *architect* or *professional engineer* pursuant to Sentences 5.1.17.(1) and (2) is terminated during the construction period, work shall be discontinued until a replacement has been appointed.

(4) The requirements of Sentences 5.1.17(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 the *authority having jurisdiction*.

5.1.18 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 an *architect* or *professional engineer*.

5.1.19 Every *owner* who undertakes to construct, alter, reconstruct, demolish, remove or relocate a *building* shall provide *supervision* and coordination of all work and trades.

5.1.20 Every *owner* 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.

5.2 *Duties And Responsibilities Of The Constructor:*

- 5.2.1 Every *Constructor* shall ensure that all construction safety requirements of the *Code* are complied with.
- 5.2.2 Every *Constructor* is responsible 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 Council.
- 5.2.3 Every *Constructor* is responsible jointly and severally with the *owner* for work actually taken.

5.3 *Duties & Responsibilities of Authority Having Jurisdiction:*

- 5.3.1 *The authority having jurisdiction* shall administer this by-law and shall have the powers of enforcement more particularly set out in Article 5.5 herein.
- 5.3.2 *The authority having jurisdiction* 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 *Code* and this by-law for such time as required by the provisions of the Municipal Act
- 5.3.3 Where the *authority having jurisdiction* seeks to enforce any of the powers set out in Article 5.5.2 herein, the *authority having jurisdiction* shall issue in writing such notices or orders as may be necessary to inform the *owner* of the contravention of the *Code* or this by-law.
- 5.3.4 The *authority having jurisdiction* shall provide, when requested to do so, all reasons for refusal to grant a *permit*.

5.4 *Duties and Responsibilities of the Designer:*

- 5.4.1 When a *designer* is retained, the *designer* shall ensure that the design of the *building* conforms to the *Code*.
- 5.4.2 When a *professional engineer* or *architect* 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*.
- 5.4.3 Every *designer* is required to submit to the *authority having jurisdiction*:
 - (a) all information needed for review of the design;
 - (b) any changes to the design for which a permit has or may be issued;
 - (c) copies of all *inspection* reports for *inspections* done by the *designer* and others, and
 - (d) any other documentation or certification required by the *authority having jurisdiction*.

5.4.4 Every *designer* 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.

5.4.5 If the responsible *architect* and or *professional engineer* withdraws from the project, he shall immediately advise the *authority having jurisdiction*.

5.4.6 Prior to the issuance of an occupancy permit, the responsible architect and/or professional engineer shall, where required by the *authority having jurisdiction*, submit a certificate stating:

"The construction has been reviewed under my supervision in accordance with recognized professional inspection standards, and that to the best of my/our knowledge the structure was constructed in accordance with the accepted drawings and specifications and requirements of the applicable by-laws".

5.4.7 The responsible architect and/or professional engineer shall sign, date and seal all of the documents referred to in this article.

5.5 *Powers of Authority Having Jurisdiction:*

5.5.1 The *authority having jurisdiction* may enter any *building* or premises at any reasonable time to *audit* for compliance with the *Code* or these requirements, or to determine if an *unsafe condition* exists.

5.5.2 The *authority having jurisdiction* is empowered to issue orders for:

- (a) an *owner* or authorized agent to hold at specific stages of construction in order to facilitate an *audit* or *inspection*;
- (b) a person who contravenes these requirements to comply with them within the time period that may be specified;
- (c) work to stop on the *building* or any part of it if such work is proceeding in contravention of these requirements, or if there is deemed to be an *unsafe condition*;
- (d) the removal of any unauthorized encroachment on public property;
- (e) the removal of any *building* or part of it constructed in contravention of these requirements;
- (f) the cessation of any *occupancy* in contravention of these requirements;
- (g) the cessation of any *occupancy* if any *unsafe* condition exists because of work being undertaken or not completed, and
- (h) correction of any *unsafe condition*.

- 5.5.3 The *authority having jurisdiction* may 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.
- 5.5.4 The *authority having jurisdiction*, may require an owner to submit, in addition to the information required in Article 4.1.1, an up-to-date plan or survey, prepared by a registered land surveyor, *architect* or *professional engineer*, as is appropriate to the work, and which shall contain sufficient information regarding the site and the location of any *building*
- (a) to establish before construction begins that all the requirements related to this information will be complied with; and
 - (b) to verify that, upon completion of the work, all such requirements have been complied with.
- 5.5.5 The *authority having jurisdiction* may ask for any other documentation or tests deemed necessary at the expense of the owner.
- 5.5.6 Notwithstanding any other provisions herein, wherein the opinion of the *authority having jurisdiction* the site conditions, the size or complexity of a *building*, part of a *building* or *building* component warrant, or for any other reason, the *authority having jurisdiction*, may require that the *owner* have the following done at his/her expense:
- (a) the appropriate plans, specifications and related documents be reviewed by and bear the seal or stamp of an *architect* or *professional engineer*, and
 - (b) the work be inspected during construction by the *architect* or *professional engineer* responsible for the work.
- 5.5.7 The *authority having jurisdiction* may 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 to the *authority having jurisdiction*.
- 5.5.8 The *authority having jurisdiction* may refuse to issue any permit
- (a) whenever information submitted is inadequate to determine compliance with the provisions of these requirements,
 - (b) whenever incorrect information is found to have been submitted,
 - (c) that would authorize any *building* work or *occupancy* that would not be permitted by these requirements, or
 - (d) that would be prohibited by any other Act, regulation or by-law.

- 5.5.9 The *authority having jurisdiction* may revoke a permit by written notice to the permit holder if
- (a) there is contravention of any condition under which the permit was issued,
 - (b) the permit was issued in error, or
 - (c) the permit was issued on the basis of incorrect information,
 - (d) the work is being done contrary to the terms of the permit.
- 5.5.10 The *authority having jurisdiction* may place a *valuation* on the cost of the work for the purpose of determining permit fees. Such *valuation* shall take precedence over any valuation provided by the *owner*.
- 5.5.11 The *authority having jurisdiction* may issue an *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.
- 5.5.12 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 *authority having jurisdiction* 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.
- 5.5.13 Notwithstanding any other provisions herein, when, in the opinion of the *authority having jurisdiction*, immediate measures need to be taken to avoid an imminent danger, the *authority having jurisdiction* may take such action as is appropriate, without notice and at the expense of the *owner*.
- 5.5.1 The *authority having jurisdiction* 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.
- 5.5.15 The *authority having jurisdiction* may issue to the *owner* an order or notice in writing to correct any *unsafe conditions* observed in any *building*.

SECTION 6 *Appeal*

- 6.1 Any person aggrieved by any decision or order of the *authority having jurisdiction* as to the issuance of permits, the prevention of construction or *occupancy* of *buildings*, the demolition or removal of buildings, or structures, or any other

matter herein may, within fifteen (15) days from the date of the decision, appeal to the *Council*. All decisions or orders remain in effect during the appeal process.

- 6.2 *Council* may hear the appeal as a committee of the whole or by subcommittee especially established for this purpose.
- 6.3 Upon the hearing of an appeal, the *Council* may:
- (a) uphold, rescind, suspend or modify any decision or order given by the *authority having jurisdiction*;
 - (b) extend the time within which compliance with the decision or order shall be made; or
 - (c) make such other decision or order as in the circumstances of each case it deems just;

and the decision or order of the *Council* upon being communicated to the appellant, shall stand in place of the decision or order against which appeal is made, and any failure to comply with the decision or order is an offense.

SECTION 7 *Offenses and Penalties*

- 7.1 Any person who contravenes or disobeys, or refuses or neglects to obey
- (a) any provision of the *Code* or this by-law or any provision of any other by-law that, by this by-law, is made applicable; or
 - (b) any order or decision of the Council under Article 6 herein;

for which no other penalty is herein provided is guilty of any offense and liable, on summary conviction, to a fine not exceeding five thousand dollars (\$5,000.00), or in the case of an individual, to imprisonment for a term not exceeding six months or to both such fine and such an imprisonment

- 7.2 Where a corporation commits an offense against the *Code* or 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 that constitutes the offense, is likewise guilty of the offenses and liable, on summary conviction, to the penalty for which provision is made in Subsection 7.1 aforesaid.
- 7.3 Where the contravention, refusal, neglect, omission, or failure, continues for more than one day, the person is guilty of a separate offenses for each day it continues.

SECTION 8 *Repeal*

- 8.1 By-law No. 2047-07 is hereby repealed.

- 8.2 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.
- 8.3 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.

DONE and PASSED in Council duly assembled in the R.M. of Brokenhead Municipal Office in Manitoba this Day of , 2014 A.D.


Reeve


Chief Administrative Officer

Read a 1st time this 27th day of May A.D.2014.

Read a 2nd time this 24th day of June A.D. 2014.

Read a 3rd time this 24th day of June A.D.2014.

Schedule "A" By-Law # 2134-14

Section 1. Development & Building Permits

New Fees

Single Family Dwellings, Multi-Family Dwellings, & Cottage

- | | |
|--|----------------------|
| a) New construction and additions | \$ 0.40 per sq. foot |
| b) Attached garages | \$ 0.25 per sq. foot |
| c) Mobile homes | \$ 0.35 per sq. foot |
| d) Ready-to-Move | \$ 0.25 per sq. foot |
| e) Replacement of new foundation | \$ 0.25 per sq. foot |
| f) Rebuild or repairs due to fire | \$ 0.25 per sq. foot |
| g) Development permits for structures greater than 6000 sq. ft | \$110.00 flat rate |
| h) Interior/Exterior renovations | \$100.00 flat rate |

Accessory Building & Structures

- | | |
|---|-----------------------------|
| a) New construction and additions | \$ 0.25 per sq. foot |
| b) Canvas type structures | \$ 0.10 per sq. foot |
| c) Buildings less than 150 sq ft which do not create a hazard | no building permit required |
| d) Swimming pools (above and in ground) | \$100.00 flat rate |
| e) Decks, porches, sunrooms, gazebos | \$100.00 flat rate |
| f) Fences (<i>applies to LUD of Tyndall-Garson only</i>) | \$ 40.00 flat rate |

Commercial & Industrial Buildings

- | | |
|--|----------------------|
| a) New construction and additions less than or equal to 6000 sq. ft. | \$ 0.40 per sq. foot |
| b) Renovations | \$150.00 flat rate |
| c) Development permits for structures greater than 6000 sq ft. | \$150.00 flat rate |

Agricultural Buildings (Development Permits)

- | | |
|--|--------------------|
| a) New construction
Barns, Stables, Riding arenas | \$110.00 flat rate |
|--|--------------------|

Moving or Relocation permits (whole or in part)

- | | |
|---|--------------------|
| a) Single Family Dwelling (within the municipality) | \$ 85.00 flat rate |
| b) Single Family Dwelling
(inspection required outside of municipality) plus mileage per km at the current rate (\$0.49/km) | \$150.00 flat rate |
| c) Accessory Buildings & Structures (within the municipality) | \$ 50.00 flat rate |
| d) Accessory Buildings & Structures
(inspection required outside of municipality) plus mileage per km at the current rate (\$0.49/km) | \$100.00 flat rate |
| e) Commercial & Industrial Buildings (within the municipality) | \$150.00 flat rate |
| f) Commercial & Industrial Buildings
(inspection required outside of municipality) plus mileage per km at the current rate (\$0.49/km) | \$300.00 flat rate |

Demolition Permits (whole or in part)

- a) Any type of structure \$ 40.00 flat rate

Plumbing Permit

- a) Fixture drain \$ 15.00 each
- b) Floor drain \$ 15.00 each
- c) grease, oil, mud, sand or other interceptor \$ 30.00 each
- d) minimum charge for plumbing permit \$ 55.00 flat rate

Miscellaneous Fees, Refunds & Penalties

Any building or structure erected prior to the issuance of a permit will be subject to **two (2) times the permit fees** by the Development Officer or up to **four (4) times the permit fees** by resolution of Council.

Whenever a **permit is revoked** under the provision of the building by-law, **no portion of the permit fee shall be refunded.**

Any building or structure classified **Temporary** shall be the set rate listed above for said building or structure divide by 1/24 and multiplied by the number of months the structure will remain on the site. **(permit fee(s) x 1/24 x number of months {max months of 12})**

Permit Refunds will apply when the permit is requested in writing and will be subject to a **25% or a minimum \$35.00 administration fee.**

The Department Head of the Planning & Development Department may in special circumstances waive, reduce or grant a refund of all or part of the permit fee(s).

Additional Inspections (above the allotted number of inspections) related to a development or building permit during regular municipal working hours. \$ 55.00 per site visit

Additional Inspections (above the allotted number of inspections) related to a development or building permit outside of regular municipal working hours. \$ 70.00 per site visit

Section 2. Planning Fees

New Fees

Planning Fees

- a) Variance \$ 250.00 flat rate
- b) Minor Variance by D.O. \$ 135.00 flat rate
- c) Conditional Use \$ 400.00 flat rate
- d) Re-Zoning \$1100.00 flat rate
- e) Zoning By-law Amendment \$1100.00 flat rate

- f) Development Plan Amendment \$1100.00 flat rate
- g) Street Name Change \$ 750.00 flat rate*
*plus actual cost of advertising
- h) Removal of Building Restriction Agreement \$ 75.00 flat rate
plus actual legal & consulting fees cost

Section 3. Licenses

New Fees

Planning Office Fees

- a) Photocopying
 - i) 8 ½ " X 11" \$ 0.25 per page
 - ii) 11" X 17" \$ 0.50 per page

- b) Planning Documents & Correspondence
 - i) Zoning By-law (current) \$ 35.00 per doc.
 - ii) Zoning By-law (past editions) \$ 45.00 per doc.
 - iii) Development Plan \$ 35.00 per doc.
 - iv) Zoning Memorandums \$ 50.00 per doc.
 - v) Zoning Letter (verifying permitted land use) \$ 35.00 per doc.
 - vi) Outstanding Orders/Building Deficiency Letter \$ 55.00 flat rate
(includes limited file search)
 - vii) Civic Address Letter \$ 35.00 flat rate

- c) Building & Development Permit Documents & Correspondence
 - i) copy of building permit application form \$ 5.00 per doc.
 - ii) copy of building permit inspection report \$ 10.00 per doc.
 - iii) copy of building plans \$ 10.00 per doc.
(only if plans are in 11" X 17" format or less)
 - iv) Deposit for building plans \$ 250.00 per doc.

(building plans only released to owner to make copies & return to municipality within 30 days)

SCHEDULE "B"

*This is Schedule "B" to By-Law No. 2134-14
respecting*

*List of Plans or Working Drawings
to accompany applications for permits*

- 1) The Site Plan
- 2) Floor Plans
- 3) Foundation Plans
- 4) Framing Plans
- 5) Roof Plans
- 6) Reflected Ceiling Plans
- 7) Sections and Details
- 8) Building Elevations
- 9) Electrical Drawings
- 10) Heating, Ventilation and Air Conditioning Drawings
- 11) Plumbing Drawings

Schedule C

Pursuant to Subsection 4.2.1.4 of the Building Bylaw

Note: To be submitted prior to issuance of a Building Permit
The information provided is relied upon by the authority having jurisdiction.

ASSURANCE OF RETENTION OF PROFESSIONAL

RE: Design and Inspection of Construction by a
professional engineer or architect, known as the
"Prime Consultant"

The Authority Having Jurisdiction

Date

Dear Sir

RE:

(Address of Project)

(Legal Description of Project)

The undersigned has retained as the Prime Consultant,

to undertake and/or coordinate the design and inspections of the applicable registered professionals required for this project in order to ascertain that the design will comply and construction of the project will substantially conform in all material respects with the current Building Code and other applicable safety standards, except the construction safety aspects.

As used herein, inspections shall mean such reviews of the work at the project site and at fabrication locations, where applicable, as the registered professional, on the basis of professional discretion, considers necessary in order to ascertain that the work conforms in all respects to the plans and supporting documents prepared by the registered professional for which he permit is issued by the municipality for the pr project. This includes keeping records of all site visits and any corrective action taken as a result thereof

The owner and the prime consultant will notify the Authority Having Jurisdiction in writing prior to any intended termination of or by the prime consultant. It is understood that work on the above project will cease as of the effective date of such termination, until such time as a new appointment is made.

The owner hereby certifies that all required Municipal and Provincial Permits and other required authorizations will be obtained prior to the commencement of construction.

Prime Consultant's Information

Owner's Information

Prime Consultant's Name (Print)

Owner's Name (Print)

Prime Consultant's Signature
agent's

Owner's or Owner's appointed
signature

Address (Print)

Date _____

Occupation (Print)

(Affix Coordinating Professional's Seal here)

Title of Agent (if applicable) (Print)

Address (Print)

The Corporate Seal of

was hereunto affixed in the presence of

(Print name of witness)

(Affix Owner's Corporate Seal here)

The above must be signed by the owner or the owner's appointed agent. The signature must be witnessed by the prime consultant. If the owner is a company, the corporate seal of the company must be affixed to the document in the presence of its duly authorized officers. The officers must also sign, setting forth their positions in the company. The prime consultant is to be registered in the Province of Manitoba as a member in good standing in the Association of Architects or the Association of Professional Engineers

Schedule D

Pursuant to Subsection 4.2.1.4 of the Building By-law

Note: To be submitted prior to issuance of a Building Permit
Separate form to be submitted by each registered professional.
The information provided is relied upon by the Authority Having Jurisdiction

**ASSURANCE OF PROFESSIONAL DESIGN AND
COMMITMENT FOR INSPECTION**

The Authority Having Jurisdiction

(Address)

Date

Dear Sir:

Re: _____

(Legal Description of Project)

The undersigned hereby gives assurance that the design of the (initial applicable item/items)

- | | |
|-------|--------------------------|
| _____ | ARCHITECTURAL |
| _____ | STRUCTURAL |
| _____ | MECHANICAL |
| _____ | PLUMBING |
| _____ | FIRE SUPPRESSION SYSTEMS |
| _____ | ELECTRICAL |
| _____ | GEOTECHNICAL - temporary |
| _____ | GEOTECHNICAL - permanent |

components of the project as shown on the plans and supporting documents prepared by this registered professional conform to all the applicable requirements of all applicable acts, regulations and by-laws. Further, the undersigned will be responsible for inspections of the above referenced components during construction.

The undersigned also assures competence in the necessary fields of expertise to undertake the project on the basis of training, ability and expertise in the appropriate professional and technical disciplines.

As used herein, inspections shall mean such reviews of the work at the project site and at fabrication locations, where applicable, as the registered professional, on the basis of professional discretion, considers necessary in order to ascertain that the work conforms in all respects to the plans and supporting documents prepared by this registered professional for which the building permit is issued by the municipality for the project. This includes keeping records of all site visits and any corrective action taken as a result thereof

The undersigned also undertakes to notify the Authority Having Jurisdiction in writing as soon as practical if his contract for inspection is terminated at any time during construction.

Name

(Print)

Date

Signed

Address

Phone

Affix PROFESSIONAL
SEAL here

If the Registered Professional is a member of a firm, complete the following

I am a member of the firm _____
(Print name of firm)

and I sign this letter on behalf of myself and the firm.

Note: The above letter must be signed by a registered professional who is registered in the Province of Manitoba as a member in good standing in the Association of Architects or the Association of Professional Engineers.

Schedule E

Pursuant to Subsection 4.2.1.5 of the Building By-law

Note: To be submitted prior to issuance of a Building Permit

The information provided is relied upon by the authority having jurisdiction

LETTER OF ASSURANCE

The Authority Having Jurisdiction

Date _____

(Address)

Dear Sir:

Re: _____
(Address of Project)

(Legal Description of Project)

The undersigned agrees to undertake and/or coordinate the design review of this project in order to ensure that the design will comply and construction of the project will conform in all respects with all applicable acts, regulations and by-laws.

The owner hereby certifies that all required Municipal and Provincial Permits and other required authorizations will be obtained prior to the commencement of construction.

Designer's Information

Owner's Information

Name (Print)

Owner's Name (Print)

Signature
agent's

Owner's or Owner's appointed
signature

Address (Print)

Date

Occupation (Print)

Title of Agent (If applicable) (Print)

Certification or License

Address (Print)

The Corporate Seal of

was hereunto affixed in the presence of

(Print name and office of signatory)
Affix Owner's Corporate Seal here)

The above must be signed by the owner or the owner's appointed agent. If the owner is a company, the corporate seal of the company must be affixed to the document in the presence of its duly authorized officers. The officers must also sign, setting forth their positions in the company.

Schedule F

Pursuant to Subsection 4.2.3.2 of the Building By-law

Note: To be submitted after completion of the project but prior to official occupancy
The information provided is relied upon the authority having jurisdiction.

ASSURANCE OF COMPLIANCE

The Authority Having Jurisdiction

Date _____

Address

Dear Sir:

Re: _____
(Address of Project)

(Legal Description of Project)

I hereby certify that all aspects of the project conform with the plan and supporting documents which were submitted prior to receiving a building permit and that the construction conforms to the Manitoba Building Code. I further certify that there are no outstanding Municipal or Provincial approvals, permits or other requirements pertaining to the use or occupancy of this project.

Name (print)

Date _____

Signed

Address

Phone

Schedule G

Pursuant to Subsection 4.2.3.2 of the Building By-law

Note: To be submitted after completion of the project but prior to official occupancy
Separate form to be submitted by each registered professional.
The information provided is relied upon by the authority having jurisdiction.

**ASSURANCE OF PROFESSIONAL
INSPECTION AND COMPLIANCE**

The Authority Having Jurisdiction

Date _____

Address

Dear Sir:

Re: _____
(Address of Project)

(Legal Description of Project)

I hereby certify that I have fulfilled my obligation for inspection as outlined in the following previously submitted letters;

SCHEDULE A ASSURANCE OF RETENTION OF PROFESSIONAL
SCHEDULE B ASSURANCE OF PROFESSIONAL DESIGN AND COMMITMENT
FOR INSPECTION

Based on such inspections the following aspects of the project conform in all respects with the plans and supporting documents, including all amendments thereto, prepared by this registered professional for which a permit was issued by the municipality for the project.

_____ COORDINATION OF DESIGN AND Inspection
(to be initialed by the prime consultant)
_____ ARCHITECTURAL
_____ STRUCTURAL
_____ MECHANICAL
_____ PLUMBING

FIRE SUPPRESSION SYSTEMS
ELECTRICAL
GEOTECHNICAL - temporary
GEOTECHNICAL - permanent
(to be initialed by the applicable registered professional)

I hereby enclose the final design plans and supporting documents prepared by this registered professional for the above referenced Project. I further certify that there are no outstanding Municipal or Provincial approvals, permits or other requirements pertaining to the use or occupancy of this project.

Name (print)

Signed

Date

Address

Phone

Affix PROFESSIONAL SEAL here)

If the Registered Professional is a member of a firm, complete the following:

I am a member of the firm _____
(Print name of firm)

and I sign this letter on behalf of myself and the firm.

Note. The above letter must be signed by a registered professional who is registered in the Province of Manitoba as a member in good standing in the Association of Architects or the Association of Professional Engineers.

Schedule H

Pursuant to Subsection 4.2.13 of the Building By-law

NOTE: To be submitted prior to the issuance of a building permit for all construction that may cause damage to municipal infrastructure.

Letter of Assurance

**The Rural Municipality of Brokenhead
P.O. Box 490
Beausejour, Manitoba
R0E 0C0**

Date: _____

Dear Sir/Madam:

RE: Building Project Description _____

Location: _____

The undersigned hereby agrees to compensate the Rural Municipality of Brokenhead for damages caused to municipal infrastructure by myself and/or my agents during the construction project being undertaken on the property listed above and recorded by Building Permit No. _____.

Owner's Information

Contractor's Information

