



**Town of Swan River**  
***BUILDING BY-LAW***

No. 2/2021

***"Healthy Housing for our Homes"***



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## ***BUILDING BY-LAW NO: 2/2021***

### ***SECTION I Title***

This by-law may be cited as The Town of Swan River Building By-law.

### ***SECTION 2 Scope & Definitions***

#### ***2.1 Scope:***

- 2.1.1 This by-law applies to the whole of The Town of Swan River.
- 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 This by-law shall comply with the Town of Swan River Zoning by-law in order to regulate and restrict the use of land and the use and location of buildings and structures in the Town of Swan River.
- 2.1.4 The requirements of the *Code* are hereby adopted and shall apply to all work falling within the scope and jurisdiction of this by-law.
- 2.1.5 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:

" <i>Audit</i> "	means a random review of design or construction work by the <i>authority having jurisdiction</i> to ascertain compliance with the <i>Code</i> and this by-law
" <i>Authority Having Jurisdiction</i> "	means the Town of Swan River and, where the context requires, such building inspector or other authority lawfully appointed by the Town of Swan River to administer and enforce the provisions of this by-law
" <i>Code</i> "	means the Manitoba Building Code as established, adopted and revised from time to time under Section 3 of the Buildings and Mobile Homes Act
" <i>Council</i> "	means the municipal council of the Town of Swan River
" <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. A <i>permit</i> is not valid unless the <i>permit</i> has a number. The <i>permit</i> cannot be assigned a number until the <i>permit</i> fee is paid.
" <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>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 *stories* of an existing *building* or structure shall not be increased unless the entire *building* or structure conforms to the requirements 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 applies 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* affected 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. A *permit* is not valid unless the *permit* has a number. The *permit* cannot be assigned a number until the *permit* fee is paid.
- 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 4.2.4. 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 the *authority having jurisdiction*.
- 3.4.5 No person shall knowingly submit false or misleading information to the *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 sign 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 The Town of Swan River fee schedule 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 may be 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 one year 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, including construction or demolition of non-structural walls or construction or demolition of interior doorways;
  - (d) underpinning;
  - (e) moving of buildings into and within the Town of Swan River which are not new buildings must be upgraded to town specifications prior to relocating;
  - (f) the removal of any *building* or structure, or portion thereof;
  - (g) the excavation of any land for any purpose of erecting or location on or above it, any *building* or structure;
  - (h) the installation, addition, complete-renewal of any mechanical system;
  - (i) the installation, construction, *alteration* or extension of a spray paint

- operation, spray painting booth, dip tank or other special process; or
- (j) the *alteration*, addition, erection or re-erection of a sign.

4.2.1.2 A *building permit* will not be required for:

- (a) patching, painting or decorating;
- (b) replacement of open landing and stairs
- (c) replacement of air conditioning units, furnace replacements or furnace replacement due to change of fuel supply.
- (d) installation of vertical or horizontal loop geo-thermal field.
- (e) replacement of shingles
- (f) non-structural alterations or repairs where the value of such work is less than twenty thousand dollars (\$20,000) including:
  - i) replacement of stucco or siding;
  - ii) replacement of doors or windows when the opening is not altered;
  - iii) installation of cabinets and shelves;

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* of this or any other by-law.

4.2.1.4 Before the issuance of a *building permit* for cases described in Subsection 5.1.16(1), the *owner shall* (unless the *authority having jurisdiction* waives such requirement) submit Letters of Assurance in the forms set out in Schedules F, G and H, 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 H, as attached hereto, confirming that the *owner* will ensure that the *building* will be constructed in accordance with the Code.

#### 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, 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 ***Development Permits:***

No person shall commence or cause to be commenced, any building which is an assembly occupancy, institutional occupancy, high hazard industrial occupancy, more than 6450 ft<sup>2</sup> or higher than 3 stories, which requires a building permit from the Office of The Fire Commissioner, unless a development permit has been obtained from the *authority having jurisdiction*.

#### 4.2.4 ***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.

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

- (a) the *occupancy* of any new occupied *building* or structure or portion thereof;
- (b) 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;
- (c) 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;
- (d) for a change or addition of an *occupancy* classification of a suite in a *building*; and
- (e) for a change from a use not previously authorized to a new use.

4.2.4.2 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 Schedule I, 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.

- 4.2.4.3 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*.
- 4.2.4.4 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.
- 4.2.4.5 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.
- 4.2.4.6 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.
- 4.2.4.7 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*.
- 4.2.4.8 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*.
- 4.2.4.9 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*.

#### 4.2.5 ***Demolition Permits:***

- 4.2.5.1 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*.
- 4.2.5.2 The demolition of a *building* or structure shall be subject to the requirements of the *Code*.

#### 4.2.6 ***General:***

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

4.2.6.2 Where for any reason a permit is not obtained before commencement of the work for which a permit is required:

- a) The owner shall:
  - i) Be fined 10% of the permit fees prescribed in schedule “A” of this by-law.
  - ii) Have five business days to obtain the valid permit.
- b) In the case the valid permit is not obtained for the work within five business days from commencement of the work, the owner shall be fined the remaining 90% totaling twice the amount of the original prescribed fee.

4.2.6.3 The permit fees as described in Schedule “A” of this by-law that are not paid by the end of the fiscal year, will be recovered in like manner as municipal taxes.

## **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 75mm (3”) 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 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.
- 5.1.14 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*.
- 5.1.15 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.
- 5.1.16 (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 engineer/architect, 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 5.1.16(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*.
- 5.1.17 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*.

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

5.1.19 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 stop work 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, whereas in 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 if a building permit is required. 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*.
- 5.5.14 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. 8/2018

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 by the Council of The Town of Swan River, at Swan River, Manitoba,  
this 4th day of May, 2021.

Lance Jacobson

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Mayor

Derek Poole

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Chief Administrative Officer

Read the first time on the 2nd day of March, 2021  
Read the second time on the 20th day of April, 2021  
Read the third time on the 4th day of May, 2021

## **SCHEDULE "A"**

*This is Schedule "A" to By-Law No. 2/2021  
respecting*

*Classes of permits and permit fees*

See current Town of Swan River Fee Schedule for classes of permits and permit fees

## **SCHEDULE "B"**

*This is Schedule "B" to By-Law No. 2/2021  
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"**

*This is Schedule "C" to By-Law No. 2/2021  
respecting  
Moving of Buildings into and within the Town of Swan River  
which are not new buildings.*

1. That only new buildings are permitted to be moved into and within the Town of Swan River without consideration by Council in session.
2. That should any person, firm, or corporation apply to move into or within the Town, any building that is not a new building, the said party may apply directly to Council with the following information:
  - a) The size (and proposed occupancy) of the building.
  - b) A site plan, drawn to scale, showing the location of the proposed building with respect to the property lines and/or any other buildings on the property.
  - c) A copy of a current building inspection report, on the building(s) in question, by the Town of Swan River Building Inspector.
  - d) That the building(s) to be moved is subject to Building Inspection fees as follows:
    - i) \$200.00 plus \$0.35 per kilometer traveled (return).
    - ii) Additional fees may apply where the building(s) is located more than 150 kilometers from the Town of Swan River.
3. That the Building Permit fees be the same as the fees in the Building Permit by-law.
4. If approved the building must be upgraded to Town of Swan River specifications prior to relocation.

Council will consider each such application on its merits and in the best interest of the Town and of the applicant.

## **SCHEDULE "D"**

*This is Schedule "D" to By-Law No. 2/2021  
respecting  
Accessory buildings used as a solid fuel fire appliance.*

1. Solid fuel burning appliances, as an accessory building, shall not be allowed in any residential zone.
2. In all other zones other than residential, solid fuel burning appliances shall conform to the Manitoba Building Code.
3. The accessory building used as a solid fuel fire appliance shall have a clearance of 25 feet from the main building or any other accessory use building on the site as well as 25 feet from any property line.

## **SCHEDULE "E"**

*This is Schedule "E" to By-Law No. 2/2021  
respecting  
Subsoil Drainage*

1. Where a municipal storm sewer exists and is accessible to the property along frontage/flankage or otherwise, all commercial buildings and apartments shall connect to the system .
2. The weeping tile drains or storm water drains of any building in the Town, shall not be connected to the sanitary sewer system.
3. Where buildings are provided with a subsurface drainage system, the system shall be constructed so that the drainage is directed to a sump pit equipped with a pump and discharged to the outside of the building in conformance with the following:

### Sump Pit

- a) Have walls and bottoms constructed of concrete, polyethylene, polypropylene, fiberglass or other suitable material.
- b) Be provided with covers adequate to support the occupancy floor load.
- c) Be kept readily accessible for ease of service.
- d) Capacity - designed to hold approximately 2 hours of ground water seepage in the event of a power failure. In a building of less than 2000 ft<sup>2</sup> the sump pit surface area shall be a minimum of 5 ft<sup>2</sup> and recessed to a minimum depth of 2.5 feet.

### Sump Pump

- a) Automatically controlled by a float level switch and set to maintain the water level below the lowest drain tile in the pit.
- b) Submersible CSA approved rate for continuous duty.
- c) The motor connected to a separate electrical circuit with no provision for connection of additional equipment or appliance.
- d) A minimum ¼ HP and capable of discharging a minimum flow of 12 gal/minute @ 12' of head.

### Discharge Pipe System

- a) A minimum of 1¼" in diameter.
- b) A union joint near the pump to facilitate pump removal.
- c) Ensure the pipe maintains proper drainage where it passes through the basement wall to avoid water freezing in the pipe.
- d) Sump water to discharge outside onto a splash pad with slope away from the foundation wall.

## **SCHEDULE "F"**

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"

Town of Swan River  
Box 879  
Swan River, Manitoba  
R0L 1Z0

\_\_\_\_\_  
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 project. This includes keeping records of all site visits and any corrective action taken as a result thereof.

**SCHEDULE "F" (Page 2)**

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  
signature

\_\_\_\_\_  
Owner's or appointed agent's

\_\_\_\_\_  
Address (Print)

Date \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Occupation (Print)

\_\_\_\_\_  
Title of Agent (if applicable) (Print)

(Affix Coordinating Professional's Seal here)

\_\_\_\_\_  
Address (Print)

The Corporate Seal of

\_\_\_\_\_  
was hereunto affixed in the presence of

\_\_\_\_\_  
(Print name of witness)

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.

(Affix Owner's Corporate Seal here)

# SCHEDULE "G"

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 Town of Swan River  
Box 879  
Swan River, Manitoba  
R0L 1Z0

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
\_\_\_\_\_

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.

**SCHEDULE "G"(Page 2)**

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 "H"

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 Town of Swan River  
Box 879  
Swan River, Manitoba  
R0L 1Z0

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

\_\_\_\_\_  
Name (Print)

### Owner's Information

\_\_\_\_\_  
Owner's Name (Print)

**SCHEDULE "H"(Page 2)**

\_\_\_\_\_  
Signature  
signature

\_\_\_\_\_  
Owner's or appointed agent's

\_\_\_\_\_  
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 “ I ”**

Pursuant to Subsection 4.2.1.4. of the Town of Swan River Building By-Law

**LETTER OF CERTIFICATION FOR FINAL OCCUPANCY  
ASSURANCE OF PROFESSIONAL FIELD REVIEW AND COMPLIANCE**

*Note: To be submitted after the completion of the project but prior to the final inspection by the Authority Having Jurisdiction. A separate letter must be submitted by each registered professional.*

*Project Information:*

	Building permit number
Discipline or Part (i.e., Structural or Part 4)	
	Date
Name of Project (print)	
Address of Project (Print)	

*Registered Professional Information:*

Name (Print)	(seal)	(seal)
Address (Print)		

I hereby give assurance that:

- I have fulfilled my obligations for field review as required for the project as outlined in the previously submitted letters of assurance: Schedules G & H;
- I am a registered professional who is registered in the Province of Manitoba as a member in good standing with the Engineers Geoscientists Manitoba or the Manitoba Association of Architects;
- The project is substantially complete and approved for occupancy;
- I, (or my designate, has) have completed periodic reviews of the project at appropriate stages of construction;
- In my professional opinion the design and construction of this project was carried out in substantial compliance with the applicable provisions of the Manitoba Building Code, the Manitoba Energy Code for Buildings, and the Manitoba Plumbing Code, and the plans submitted in support of the application for the building permit. This includes any additional plans, documents, review of plans and design decisions that have been part of my responsibility and related to Code issues applicable to my discipline that were not detailed as part of the submitted permit application.
- The design and construction of any building elements of a Part 9 building that are not compliant to Part 9 of the Manitoba Building Code(MBC) comply with the requirements of Division B, Part 4 or other applicable Parts of the MBC.
- I have informed the Town of Swan River Authority Having Jurisdiction in cases where I am aware that the construction has materially deviated from the submitted plans.
- I am not aware of any deficiencies or I have reported any deficiencies to the Town of Swan River Authority Having Jurisdiction that would compromise compliance with the aforementioned code(s).

*If registered professional is a member of a firm, complete the following:*

I am a member of the firm \_\_\_\_\_  
I sign this letter on behalf of the firm. (Print name of firm)