

**RURAL MUNICIPALITY OF  
ST FRANCOIS XAVIER  
BY-LAW NO. 2025 01  
LOT GRADE BYLAW**

*BEING A BY-LAW OF THE RURAL MUNICIPALITY OF ST FRANCOIS XAVIER TO  
REGULATE THE GRADING OF PROPERTY, ESTABLISH LOT GRADE ELEVATIONS AND  
PREVENT DAMAGE TO MUNICIPAL INFRASTRUCTURE.*

**WHEREAS** Sub-section 294.1(2) of *The Municipal Act* <sup>S.M. 196, c. 58 – Cap. M225</sup> subject to the rights of any other party under *The Water Resources Administration Act* or *The Water Rights Act* gives jurisdiction over every drain within its boundaries to the municipality;

**AND WHEREAS** section 231(b) of *The Municipal Act* provides that Council may pass by laws to enhance the ability of the municipality to respond to present and future issues in the municipality;

**AND WHEREAS** section 232 (1)(a) of *The Municipal Act* provides that Council may pass by-laws for municipal purposes with respect to the safety, health, protection and well-being of people, and the safety and protection of property;

**AND WHEREAS** section 232 (1)(h) of *The Municipal Act* provides that Council may pass by-laws for municipal purposes with respect to drains and drainage on private or public property;

**AND WHEREAS** section 232 (2)(d) permits Council to establish fees or other charges for services, activities or things provided or done by the Municipality;

**AND WHEREAS** section 232 (2)(e), subject to regulations, permits Council to pass a by-law that provides for a system of permits;

**AND WHEREAS** section 245 (1), subject to Section 242 and 242 (2) (b) of *The Municipal Act* permits a Municipality to take whatever action or measures necessary to remedy a contravention of a by-law;

**AND WHEREAS** the Council of the Rural Municipality of St. Francois Xavier deems it expedient and in the public interest to pass a by-law to establish building construction regulations governing the grading and landscaping of property to manage surface water runoff, elevations and grades of new buildings to prevent damage from overland flooding and prevention of damages to municipal infrastructure;

**THERE BE IT RESOLVED** the Council of the Rural Municipality of St. Francois Xavier in meeting duly assembled enacts as follows:

**SECTION 1 - INTENT OF BY-LAW:**

The intent of this By-Law is to establish construction regulations governing:

- a) Grading and landscaping of property for purposes of managing surface water runoff to minimize the negative impact on the respective property and adjacent private or public property.
- b) Elevations and grades of new buildings for the purposes of preventing damage from overland flooding and minimizing emergencies caused by floodwaters.
- c) Prevention of damages to municipal infrastructure as a result of any work related to the development of property or construction of buildings where lot grade permits are issued.

**SECTION 2 - DEFINITIONS:**

Unless the context otherwise requires, where used in this By-law;

**Applicant** - means owner, or such other person authorized in writing by the owner to make application for a Lot Grading Permit;

**Building** - means the definition contained in the Municipal Zoning By-law;

**Building Lot Grade** means the lot grade elevation of the finished ground surface immediately adjacent to the foundation of a building and at the location so identified on the LOT GRADING PERMIT;

**Designated Officer** means a person appointed by resolution of Council or by by-law, or any authorized employee or agent of the Rural Municipality of St. François Xavier, who is responsible for the administration and enforcement of this by-law, including but not limited to the review and approval of lot grading plans, conducting inspections, and issuing orders or notices in accordance with the provisions herein.

**Downspout** - means a nominally vertical pipe that is installed to carry storm water from a roof;

**Dwelling** - means the definition contained in the Municipal zoning By-law;

**Elevation** - means the vertical distance above or below sea level or local datum;

**Elevation Certificate** - A document prepared by a licensed surveyor verifying the elevation of a building in relation to a benchmark.

**Foundation** - means portion of a structure that is designed to minimize movement due to moisture and frost;

**Highway** - includes any highway, road, road allowance, street, lane, or thoroughfare, dedicated to the public use as a highway or opened or made as a highway under this or any other Act of the Legislature, and any bridge, floodway, pier, ferry, square or public place, dedicated to the public use as a highway and any highway improvements or works thereon or appurtenant thereto;

**Land Drainage Sewer** - means a sewer that carries storm water and surface water, street wash, weeping tile water, and other wash waters or drainage but excludes domestic wastewater and industrial wastes;

**Land Surveyor** - means an individual who has received a commission to practice as a surveyor of lands and is licensed to practice in the Province of Manitoba and is a member in good standing in the Association of Manitoba Land Surveyors.

**Lot** - means a piece, plot or parcel of land or an assemblage of contiguous parcels of land in one ownership, having a frontage and/or flankage on a public street;

**Lot Grade Elevation** - means the elevation of the finished ground surface at any specific reference point or at any point on the slope between two specific reference points on a lot;

**Lot Grading** - is a general term referring to the combination of lot grade elevations and resultant slopes within a given lot;

**Lot Grading Certificate** - A document completed by a qualified surveyor certifying that all lot grading requirements have been met.

**Lot Grading Permit** - means a written approval issued by a "Surveyor, Civil Engineer, or Civil Engineer Technologist", pursuant to this By-law, wherein the Building Lot Grade and Lot Grade Elevations of a specific lot are established;

**Municipality** - means the Rural Municipality of St. François Xavier;

**Perching** - means to slope the grade away from building in both directions to drain around the building.

**Professional Civil Engineer** - means a person who holds a valid and subsisting certificate of registration or temporary license entitling that person to practice as a professional civil engineer in Manitoba and is a member in good standing of the Association of Professional Engineers and Geoscientists of the Province of Manitoba.

**Property Owner** - means a person in whose name a subject property is registered;

**Residential Property** - means a property intended for use by one or two families only;

**Splash Pad** - means a cast-in-place or precast concrete structure rigidly attached to a building to carry roof runoff and weeping tile water away from the building foundation;

**Storm Water** - means water from rainfall or snowmelt or a combination of the two, and includes weeping tile water;

**Wastewater Sewer** - means a sewer that carries liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, together with quantities of ground, storm and surface water that are not admitted intentionally.

Attached to and forming part of this by-law are the following schedules:

Schedule "A" – Permit Fees & Lot Grade & Damage Deposits

Schedule "B" – Typical Lot Grading & Swales

Schedule "C" – Typical Grade Elevations & Perching

2.1 Council may from time to time, by resolution, amend every schedule attached to this by-law.

### **SECTION 3 – LOT GRADE PERMIT APPLICATIONS**

1. The applicant shall obtain a Lot Grading Permit prior to the issuance of a Building Permit to construct a building or structure on residential property, commercial property and industrial property.
2. All Lot Grade Permit applications shall be made at the offices of the Rural Municipality of St. Francois Xavier.
3. A Lot Grading Permit may be required for any building or structure where the ground will be disturbed through excavating or digging, changing the ground elevation, for example, when building a permanent foundation.
4. The property owner or his designate shall prepare the Lot Grade Permit application.

#### **Residential Lot Grade Permit Application Requirements:**

One copy of a site plan showing:

- a) The proposed building locations with distances.
- b) The building grade elevation.
- c) Any present or proposed driveways, garages, in ground swimming pools, roof drain downspouts, sump pump discharge pipe.
- d) Location and Elevation of other permanent items that will impact lot grading (buildings, fences, trees)
- e) Flow direction of overall lot grading
- f) Profile of building with property showing section view of the foundation and first floor of the building
- g) Any other information the Designated Officer deems pertinent to the grading and drainage of the property.
- h) One copy of a drainage plan prepared by the Land Surveyor, Professional Civil Engineer, or Civil Engineer Technologist.
- i) Payment of required Fees & Deposits as per Schedule A.

#### **Commercial, Industrial and Multiple Residential Sites Lot Grade Permit Application Requirements - (includes campgrounds)**

One copy of a plan of the new building and lot grading prepared by a Professional Civil Engineer, Surveyor, or Civil Engineer Technologist that indicates:

- a) all drainage and runoff originating on the property will remain on the property and be

directed to existing municipal drainage systems while not altering existing drainage on adjacent properties.

- b) Building Location(s) with distances.
- c) Location and Elevation of other permanent items that will impact lot grading (buildings, fences, trees).
- d) Flow direction of overall lot grading.
- e) Profile of building with property showing section view of the foundation and first floor of the building.
- f) Elevation benchmark.
- g) Existing elevations from topographic survey of property, adjacent property edges, ditch and road and ditch (average every 7 meters).
- h) Final Finished Grade Elevations for swales and building
- i) Swale % grades, size, cross section, depth and location
- j) Downspout and sump-pump discharge locations
- k) Proposed hard surfaces & driveways.
- l) Existing easements
- m) Erosion control
- n) Runoff Controls if required (catch basins, land drainage sewer and discharge control)
- o) Any other information the Designated Officer deems pertinent to the grading and drainage of the property.

#### **Other Site Conditions:**

If other site conditions occur that are not outlined within this by-law (i.e.: corner property, in-fill lot, restricted yards, residential lots larger than two (2) acres etc..) then the Designated Officer may:

- a) Vary or waive some of the requirements of the Lot Grading Plan.
- b) Deny the issuance of a Lot Grade Permit if it is the Municipality's best interest to do so. The Applicant has the right to appeal the denial to Council.

The Applicant shall make application for a Lot Grading Permit at least ten (10) working days prior to the requirement of the permit/ commencement of construction.

#### **SECTION 4 - LOT GRADING REQUIREMENTS**

1. Requirements of the Lot Grade Permit and corresponding Lot Grade Plan are to be followed to ensure that intent of this by-law is enacted for the benefit of the Municipality.
2. The Building Grade Elevations shall be the finished landscaping elevation immediately adjacent to the lowest point at the foundation of the building.  
Depending on the type of construction this elevation will typically be (but not limited to):
  - a) Residential Dwelling = 6" Lower than the basement windows
  - b) Mobile Home = Top of gravel pad/ Bottom of skirting
  - c) Slab on Grade = 6" Lower than top of slab
3. The final Building Grade Elevation must be approved to meet the set elevation to reduce potential damage to the building from overland flooding. The Building Grade Elevation is approved by the Designated Officer and shall be based on the Rural Municipality's best available 1-in-200-year flood information.
4. Perching shall be soil graded and landscaped surrounding the perimeter of the building to achieve effective positive drainage away from the foundation.
5. Perching must be approved to ensure the runoff is directed away from the foundation and the Building Grade Elevation is maintained through potential settlement.
6. Swales shall be compacted soil ridge, small ditch or channel designed with gradual slopes and consistent grading to direct runoff. Swales must be completely clear to allow runoff to drain along the designated location without ponding or obstruction (Fences may be permitted if there is no obstruction of flow). Swales must be constructed in the designated location dependent on the planned area as indicated on the Lot Grade Plan.



7. Swales must be approved to control the surface runoff on the property and minimize the negative impact on the respective property and adjacent private or municipal property.
8. Lot Grade Elevations shall be the finished landscaping elevation at a specific reference point or point between two reference points on the property (i.e. swales, near the perimeter of the property).
9. Lot Grade Elevations must be approved to ensure the swales and lot grading achieve the overall lot grade plan requirements.
10. Lot Grading shall be the finished landscaping elevation, slope and grade of the overall property to direct runoff from the building and Perching towards the perimeter of the property.
11. Lot Grading must be approved to ensure the overall property runoff is directed to the designated location (swales, municipal drainage system) without unnecessary ponding or obstruction.
12. Roof downspouts shall be a nominally vertical pipe with suitable elbow that is installed to carry water from a roof. Downspouts ends must have erosion control and shall be located to direct drainage away from the building but not directly onto adjacent property (must end minimum 0.6m from property line).
13. Downspouts must be approved to minimize the negative impact of roof runoff on the respective property and adjacent private or municipal property.
14. Sump pump discharge pipes shall be a pipe or hose that discharges weeping tile water from a building to the outside. Sump Pump Discharge Pipes ends must have erosion control and shall be located to direct drainage away from the building but not directly onto adjacent property (must end minimum 2m from property line).
15. Sump Pump Discharge Pipes must be approved to minimize the negative impact of excess water on the respective property and adjacent private or municipal property.
16. Substantially Complete Landscaping shall be a property where the existing ground has been compacted and meets all elevation, grading, perching, swale and all other lot grade requirements which includes finishing landscaping material (topsoil, seed, sod, rocks, etc.).
17. Substantially Complete Landscaping must be approved to ensure the existing property, at the time of sign off, meets all requirements and to minimize grading disruptions through potential settlement or final landscaping.
18. Civic Address Signage shall be a permanent sign that is clearly visible from the roadway indicating the designated address for the building.
19. Civic Address Signage must be approved to ensure all new buildings follow the Municipality's most recent Civic Addressing By-Law.
20. Runoff Controls shall be drainage structures (underground pipes, catch basins, outlet restrictors, detention areas) located on private property with the purpose of reducing the maximum allowable rate of water discharge from entering the Municipal Drainage System.
21. Discharge Controls may be required for Commercial, Industrial, Multiple- residential buildings, buildings that covers large area of the total property or any building that the Designated Officer deems excess discharge will be a concern for the downstream Municipal Drainage System. Discharge Controls must be approved to prevent negative impact on the downstream Municipal Drainage System.
22. Damage to Municipal Infrastructure shall be any situation where the condition of the infrastructure is worsened because of any work related to the development of property or

construction of buildings where lot grade permits are issued. Examples of damage would be considered (but not limited to): Asphalt damage, mud on roadway, grassed ditch disturbance, covering of curb stop, etc.

23. The Applicant must repair, restore or re-establish all Municipal Infrastructure deemed damaged by the Designated Officer to the condition it was in prior to construction.
24. The condition of Municipal Infrastructure at the time of final inspection must be approved to prevent unwarranted damages and repair costs incurred by the Municipality.

## **SECTION 5 – LOT GRADE PROCESS**

1. The Applicant must ensure that all lot grading is completed in accordance with the requirements of this By-law and Final Lot Grading Approval is given by the Municipality within two (2) years of the issuance of the Lot Grading Permit.
2. The property owner must ensure that Finished Landscaping is placed upon the entire property within one (1) year of receiving Final Lot Grading Approval, with the purpose of eliminating unsightliness and minimizing changes of the approved lot grading due to excess runoff or erosion.
3. The applicant/ owner can request to extend the deadline for Final Lot Grading Approval or Finished Landscaping in writing to the Municipality. The Designated Officer may grant up to one (1) year extension if deemed reasonable.
4. The Applicant must inform the Designated Officer in writing at least ten (10) working days prior to the requirement of the Building Grade Elevation, Lot Grade Elevation or Final Lot Grading Inspection.
5. Lot Grade Elevations and Inspection will generally be completed within the period from May 1<sup>st</sup> to October 31<sup>st</sup> of each year, subject to snow cover and wet conditions.
6. After the Lot Grading Permit has been issued, the Applicant shall request in writing that the Municipality or its designate set the Building Grade Elevation prior to the requirement of the elevation (start of construction). The Municipality or its designate must mark the exact location of the proposed building on site and corners of the property with suitable marker stakes.
7. The Municipality or its designate will indicate the Building Grade Elevation on a visible marking (Lot Grade Stake, tree, pole) on or near the property. The Applicant is responsible for ensuring that Lot Grade Stakes are protected until no longer required.
8. The Municipality or its designate shall set the Finished Lot Grade Elevations prior to the requirement of the elevations (final yard grading/shaping).
9. The Municipality or its designate will indicate any required Finished Lot Grade Elevations on Lot Grade Stakes near the designated locations as indicated on the Lot Grade Plan.
10. The Applicant shall request that the Municipality or designate complete the final inspection to determine approval of all lot grading requirements in writing prior to the return of the Lot Grade Damage Deposit.
11. The Designated Officer will inspect the property to determine compliance with all requirements of this by-law. The Designated Officer will notify the Applicant in writing if the property does not meet any of the requirements in accordance with *this Bylaw*.
12. When the Municipality inspects and determines that all lot grade requirements have been met, they will inform the Applicant of Final Lot Grading Approval in writing. The Applicant must provide written confirmation that they understand and agree to the requirements of Maintenance of Approved Lot Grading prior to the Municipality returning the Lot Grade Deposit.
13. During the Lot Grading Permit Process, prior to Final Lot Grading Approval, the original Applicant may transfer the Lot Grade Permit to another Applicant through both parties

completing a Lot Grade Permit Transfer Document. Once completed and submitted to the Municipality, the new Applicant will be responsible for all requirements involved in the Lot Grade Permit & Deposit process and subsequent maintenance.

14. The Applicant and any future owners shall be responsible for ensuring that all features of the property involved in the Lot Grade Requirements (swales, elevations, downspout locations, etc.) are maintained to the condition and state that they were at the time of Final Lot Grading Approval.
15. The Designated Officer will notify the current owner in writing if the property does not meet any of the requirements in accordance with *Section 6*.
16. The Applicant will be charged fees when the Municipality or designate is required to complete more than the standard four (4) site visits to re- inspect or any other service related to lot grading compliance. Charges for additional site visits will be in accordance with Schedule 'A' or deducted from the Lot Grade Deposit.
17. The Municipality's Designated Officer may, pursuant to Section 239(1) and 239(3) of The Municipal Act enter upon property for the purpose of survey, observation or inspection associated with the enforcement of compliance with the Lot Grading Permit and the provisions of this By-law.
18. The Applicant shall ensure that employees of the Municipality or its designates are not interfered with in any way in the performance of the duties imposed on them by this By-law.

## **SECTION 6 – REMEDIAL ACTION**

### **Compliance: Final Lot Grading Approval**

1. Upon Final Lot Grading Inspection, the Designated Officer will direct the Applicant in writing on any actions required to meet Final Lot Grading Approval within a specified reasonable time limit.
2. If the Applicant neglects or refuses to comply with the directions within the time limit specified, the Municipality will complete the necessary actions and charge the cost of the work against the Applicant's Lot Grade Deposit.
3. Where the cost of the work exceeds the value of the deposit held, the Municipality may charge the cost of such excess against the Applicant, and in default of payment:
  - a) Recover the cost as a debt due to the Municipality;
  - b) Charge the cost against the land concerned as taxes due and owing in respect of that land and recover the cost as such.

### **Compliance: Maintenance of Approved Lot Grading**

1. If an Owner does not maintain all features of the property involved in the lot grading requirements to the condition and state that they were at the time of Final Lot Grading Approval, then the Designated Officer will provide the Owner a Notice of Contravention and shall direct the Owner of the required corrective action(s) within a specified reasonable time frame. As part of the remedial measures, the Designated Officer may also require that the Owner submit a new Lot Grading Plan prepared by an Engineer.
2. Where the Applicant neglects or refuses to comply with Notice of Contravention within the time limit specified, the Municipality will complete the necessary action(s) and charge the cost of the work against the Owner, and in default of payment:
  - a) Recover the cost as a debt due to the Municipality;
  - b) Charge the cost against the land concerned as taxes due and owing in respect of that land and recover the cost as such.

## **Order to Remedy**

1. An Order to Remedy will be issued against the Owner if the Designated Officer deems that the following 3 conditions occur:
  - a) The property does not meet all Lot Grading Requirements;
  - b) The outstanding Lot Grading Requirements present a potential negative impact on the respective property and/or buildings (i.e.: Building Grade Elevation constructed below established flood elevation);
  - c) Final Lot Grade Approval cannot be achieved within reasonable means (I.e. beyond standard landscaping, yard grading, window wells)
2. If an Order to Remedy is issued, the Municipality will not return the outstanding Lot Grade & Damage Deposit. Any Notice of Contravention or Order to Remedy sent by the Municipality will apply to the Property Owner listed on the Lot Grading Permit, Transfer Document or Status of Title.
3. The Municipality shall not be held liable for any costs incurred fulfilling the requirements as set out in the Notice of Contravention and the Failure to Comply Order.

## **SECTION 7 - FEES AND DEPOSITS**

### **Fees**

1. The Applicant must pay the Municipality the applicable fee for the Lot Grading Permit Application in accordance with Schedule 'A'.
2. The Applicant must pay the applicable fee for the Municipality or its designate to complete more than the standard four (4) site visits to re-inspect or any other service related to lot grading compliance in accordance with Schedule 'A'.

### **Lot Grade Deposit**

1. The Applicant must pay the Municipality the applicable Lot Grade Deposit fee with the Lot Grading Permit Application in accordance with Schedule 'A'.

This deposit shall be retained by the Municipality and used to complete the Lot Grade Inspection and Certification steps as outlined in Schedule 'A' until the following approvals have been obtained by the Designated Officer:

- Final Lot Grade Approval has been issued in accordance with Section 6 of this By-Law.
- Final Inspection and Approval has been issued for the Dwelling or Building;
- Occupancy Permit has been issued for the Dwelling or Building as set out in the Municipality's Building By-Law.

## **SECTION 8 – GENERAL PENALTIES**

1. A person who receives an Order to Remedy a contravention may appeal such order in accordance with the Municipality's General Enforcement By-Law, as amended from time to time. Council's decision on the issue is final and not subject to further appeal.
2. The Municipality or the Designated Officer may take whatever action or measures are necessary to remedy the contravention of this By-Law in accordance with the Municipality's General Enforcement By-Law, as amended from time to time.
3. Any person who contravenes, disobeys, or refuses or neglects to obey or comply with any provision of this By-Law or any Order under this By-Law or the Municipality's General Enforcement By-Law, as amended from time to time, is guilty of an offence and is liable to fines and penalties as set out in the Municipality's General Enforcement By-

Law, as amended from time to time.

4. Where a contravention, refusal, neglect, omission or failure continues for more than one day, the person is guilty of a separate offence for each day it continues.

#### **SECTION 9 - EFFECTIVE DATE**

1. All By-laws, resolutions and order passed relative to the grading and landscaping of property to manage surface water runoff, elevations and grades of new buildings to prevent damage from overland flooding and prevention of damages to municipal infrastructure, are hereby repealed upon the date this By-law comes into effect.
2. That this By-law shall be deemed to have come into force and take effect on the day it is passed by Council.

**DONE AND PASSED** by the Council of the Rural Municipality of St. Francois Xavier, in regular session assembled in St. Francois Xavier , Manitoba, this 22nd day of April, 2025.

  
Reeve

  
Chief Administrative Officer

Read a first time this 8<sup>th</sup> day of April, 2025  
Read a second time this 22<sup>nd</sup> day of April, 2025.  
Read a third time this 22<sup>nd</sup> day of April, 2025.

## SCHEDULE 'A'

### PERMIT FEES AND LOT GRADE & DAMAGE DEPOSITS

**"FEE"** – Required Fee for Lot Grade Permit Application

**"DEPOSIT"** – Required Deposit for Lot Grade & Damage Deposit

**"RE-INSPECTION"** – Required Fee for additional inspection beyond 1<sup>st</sup> follow up inspection.

	RESIDENTIAL DWELLING	COMMERCIAL/ INDUSTRIAL/ MULTI-RESIDENTIAL
<b>"FEE"</b>	<b>\$500</b>	<b>\$500</b>
<b>"DEPOSIT"</b>	<b>\$5,000</b>	<b>\$7,000</b>
<b>"RE-INSPECTION"</b>	<b>\$625</b>	<b>\$625</b>

#### Inspection & Certification Stages:

The following inspections will be conducted by a qualified Manitoba Land Surveyor or civil engineering professional contracted by the RM of St. Francois Xavier :

- i. Initial House Control Layout & Staking
  - Establishing excavation grades and staking building corners
  - Price: \$975.00 + GST
- ii. Building Location Certificate
  - Verifies building placement matches approved plans
  - Price: \$725.00 + GST
- iii. Final Grade Setting
  - Establishes contours and grading for final landscaping
  - Price: \$625.00 + GST
- iv. Lot Grading Certification
  - Conducted after rough grading and before final landscaping
  - Includes completed checklist or letter of approval
  - Price: \$625.00 + GST

\*Total Surveyor Fees: \$2,950.00 + GST

\*Surveyor Fees will be deducted from the lot grade deposit.