

**THE MUNICIPALITY OF EMERSON-FRANKLIN
BY-LAW NO. 02-18**

*A By-law concerning the Operation and Management of Water Distribution Systems in the
Municipality of Emerson-Franklin*

WHEREAS:

- A. The Municipality constructed, installed, operates and maintains water supply and distribution systems and related infrastructure in the Municipality of Emerson-Franklin;
- B. Sections 231, 232 and 236 of *The Municipal Act* authorize a council to pass by-laws for municipal purposes regulating and dealing with public utilities and the safety, health, protection and well-being of people, establishing fees or other charges for services, activities or things provided or done by the municipality, and for the enforcement of by-laws, including creating offences;
- C. Sections 250 and 252 of the Act empower a municipality to operate and maintain works, facilities and utilities, and to set terms and conditions in respect of users, including
 - i. setting, charging and collecting fees and other charges,
 - ii. providing for the right of entry onto private property to determine compliance with other terms and conditions, to determine the amount of fees or other charges, or to disconnect a service, and
 - iii. to discontinue or disconnect a service and refuse to provide the service to users who fail to comply with the terms and conditions;
- D. Council of the Municipality wishes to ensure the safe, viable and successful operation of the water distribution systems, and therefore deems it advisable and in the public interest to pass this By-law;

THEREFORE The Municipality of Emerson-Franklin, in council assembled enacts as a by-law the following:

1. Purpose of By-law

The purpose of this By-law is to establish terms and conditions concerning the operation, management and use of the water distribution systems and related infrastructure constructed, installed, operated and maintained in the Municipality of Emerson-Franklin

2. Definitions

“municipal water pipes” means the water pipes, valves, curb stop and any other equipment or material related to the water distribution system located within the municipal right of way.

“premises” means a parcel of land, and includes any house or building on the parcel of land.

“user” means, as the context requires, the applicant for water service, the owner or occupant of premises requiring water service, or the person to whom invoices are sent for water supplied to premises.

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“water service” means, in respect of premises, a connection to the water distribution system for the supply and receipt of water, including any necessary equipment and material, and the actual supply and receipt of water from the water distribution system.

“water service pipes” means the water pipes connecting a curb stop to premises to supply and receive water from the water distribution system, and water pipes laid for that purpose.

“water distribution system” means the system of infrastructure and works necessarily incidental to the distribution and supply of water by the Municipality, or any part of such system.

3. Designated officer

- a. The officer designated by Council by resolution from time to time is responsible for the administration and enforcement of this By-law (“designated officer”).

4. Water Service

- a. Every premises with water service pipes must have water service.

5. Application for water service

- a. Before the Municipality will provide water service, the user must apply to the Municipality.
- b. The user shall pay for water supplied to premises as indicated by the water meter and at the rates established by Council by by-law and approved by the Public Utilities Board from time to time.
- c. The user must also pay the cost of installing water service, including any labour and equipment, and the municipal inspection fee (“water service connection fee”) as set out in Schedule “A” of this By-law.
- d. If an application for water service is for premises resulting from a subdivision or change in a plan of subdivision, the user
 - i. is responsible for the cost and qualified installation of municipal water pipes and water service pipes, and
 - ii. must pay the water service connection fee.
- e. If an application for water service is for premises with no water service pipes, the user
 - i. is responsible for the cost and qualified installation of water service pipes, and
 - ii. must pay the water service connection fee.
- f. If an application for water service is for premises with water service pipes, the user is not required to pay the water service connection fee.

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- 6. Installation and maintenance of water service pipes and municipal water pipes**
- a. Water service pipes and municipal water pipes required by this By-law must be constructed and installed in accordance with municipal standards, including designs and specifications approved by the Municipality.
 - b. The user shall keep water service pipes in good repair and working order.
 - c. The user shall protect all water service pipes from frost and is responsible for any damage. The Municipality is not responsible for any resulting damages.
 - d. The Municipality is responsible for maintenance of the municipal water pipes.
- 7. Installation and maintenance of water meters**
- a. Water meters will be supplied by the Municipality, and installed as directed by the Municipality. Ownership of the water meters will remain with the Municipality.
 - b. Where in the opinion of the designated officer a water meter cannot be conveniently placed inside a home or building on a premises, the meter must be installed in a meter chamber accommodating remote meter reading, at the user's cost at a location on the premises approved by the Municipality.
 - c. Once installed to the satisfaction of the Municipality, no person shall change the location of a water meter without the written consent of the designated officer.
 - d. No person shall make, cause or permit any connection to be made to water service pipes or municipal water pipes so as to use water that has not passed through a meter.
 - e. No person shall open, tamper or interfere with any water meter, or do anything that interferes with the proper measurement of the quantity of water passing through the water meter.
 - f. The user must pay the cost of any repairs to or replacement of any water meter damaged or removed from any premises while in the user's possession.
 - g. Where there is a discrepancy between the water meter's register and the reading on the read-out device, the reading at the water meter will be considered to be correct. The Municipality will adjust and correct the user's account accordingly.
 - h. A user must report any leaks that may develop at the water meter to the Municipality immediately. The Municipality is not responsible for any resulting damage.
 - i. A user desiring and requesting their meter be tested for accuracy shall deposit with the Municipality the sum of \$120.00 which will be retained if the meter when tested shall be found to register within the allowable limits of variation from accuracy. If the meter is found to register in excess of the allowable limits the deposit shall be refunded and the consumer's account adjusted. The allowable limit of variation shall be 4% of average flow.
- 8. Operation of water distribution system**
- a. No person except the Municipality shall remove, tamper with or in any way interfere or cause or permit to be removed, tampered or interfered with any valve, water meter, hydrant, structure, water main, water service pipes, municipal water pipes, or any component of the water distribution system.

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- b. The Municipality may at any time temporarily discontinue water service
 - i. for inspecting, cleaning, repairing, or replacing any part of the water distribution system or connecting municipal water pipes and water service pipes, or
 - ii. where its continuation may, in its opinion, be dangerous or cause damage to persons or property.
- c. No person other than the Fire Chief, the Municipality, or someone acting on behalf of either of them, shall open or use any fire hydrant, unless authorized by the Municipality.

9. Cross connection and backflow prevention

- a. No person shall connect water service pipes or municipal water pipes, or cause or permit them to be in any way connected, to a well or supply of water other than the water distribution system.
- b. Wells or other supplies of water on premises with water service can only be used for outdoor use.
- c. Users must, at their expense and as the designated officer may require and direct,
 - i. install such backflow prevention devices as the designated officer may direct and approve, and
 - ii. have the devices inspected and tested by persons qualified to carry out such tests, and submit testing reports.
- d. If the results of a test indicate a backflow prevention device is not in good working condition, the user must have it repaired or replaced within 24 hours of the user receiving the test results. If it is not repaired or replaced as required, the designated officer may immediately discontinue the supply of water to the premises until such time as the device is repaired or replaced to the satisfaction of the designated officer.

10. Designated Officer

- a. Council grants the designated officer all powers, duties, discretion and functions set out in *The Municipal Act*, including sections 239, 241 and 242.
- b. The designated officer may make orders requiring a user or person to remedy any contravention of this By-law ("Order").
- c. An Order will be in writing and may provide that if the person does not comply with the order within the specified time, the Municipality will take the action or measures at the expense of the person.
- d. If a user or person fails to comply with an Order within the specified time, the designated officer may, on the Municipality's behalf and at the person or user's expense,
 - i. take the ordered action or measure, and
 - ii. discontinue the supply of water to the premises.

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- e. The designated officer is entitled to enter and be provided free and clear access to premises to
 - i. install water service upon application or as required by this By-law,
 - ii. examine water service pipes, pipes, valves, connections and fixtures used in conjunction with the water service,
 - iii. inspect, test, repair, remove or replace any water meter,
 - iv. locate a possible cross connection or inspect any backflow prevention device,
 - v. determine whether this By-law is being, or an Order has been, complied with, and
 - vi. if a user or person fails to comply with an Order within the specified time, take any ordered action or measure.
- f. Where the user or person does not provide requested access, the designated officer may issue a written notice requiring access to be provided within a specified time. If access is not so provided, the designated officer may, without further notice,
 - i. discontinue the supply of water to the premises until such time as the requested access is provided, and
 - ii. obtain a court order allowing the Municipality or designated officer access to the premises as the designated officer may require.
- g. Council delegates to the designated officer the authority to expend funds on behalf of the Municipality in connection with the administration and enforcement of this By-law, to a maximum of \$500.00 at any one time.

11. Discontinuing water service

- a. If a user wishes to discontinue water service, the Municipality shall remove the water meter and water service pipes at the user's expense.
- b. The user shall allow the Municipality free and clear access to the premises as may be required to remove the water meter and water service pipes.

12. Offences and Penalties

- a. Any user or person who contravenes any provision of this By-law is guilty of an offence and upon conviction, liable to a fine not exceeding \$1000 plus enforcement costs for each contravention. Where the offence is a continuing one, each day the offence continues is a separate offence.
- b. Any user or person who contravenes any requirement or provision of this By-law is liable to the Municipality for any expense suffered by the Municipality as a result of the violation, including the costs of terminating and reinstating water service and any repair or replacement costs.

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- c. If a user or person fails, upon demand, to pay any amount owed to the Municipality under or as a result of a contravention of this By-law, the amount due is a debt owing to the Municipality. The Municipality may collect it in the same manner as a tax may be collected or enforced under *The Municipal Act*.

13. SEVERABILITY

- a. If a court of competent jurisdiction holds any section, subsection or clause of this By-law invalid, the invalid portion shall be severed and the remainder of this By-law will be deemed to have been adopted without the invalid and severed section, subsection or clause.

By-Law No. 02-2010(formerly RM of Franklin) and By-Law No. 2007/07(formerly Town of Emerson) is hereby repealed.

DONE AND PASSED by the Rural Municipality of Franklin, in open Council, duly assembled, at Dominion City, Manitoba this

Reeve Greg Janzen

C.A.O. Tracey French

READ A FIRST TIME this 9th day of January, 2018.

READ A SECOND TIME this 13th day of February 2018.

READ A THIRD TIME this 13th day of February 2018.

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Schedule "A"
Municipal Water Service Connection Fee

Emerson Water Distribution System Connection Fee (Includes all Premises within the LUD of Emerson and any Rural Lines Connected to the LUD System)	\$2,000.00
Dominion City Water Distribution System Connection Fee (Includes all Premises within Dominion City LI Area and any Rural Lines Connected to Dominion City System)	\$2,000.00
Arnaud and Rural Water Distribution System Connection Fee	\$15,000.00