



**TOWN OF ST. STEPHEN
NOTICE OF SECOND READING
OF THE FOLLOWING PROPOSED BY-LAW:**

By-Law No. L-10, "Building By-Law"

The residents of the Town of St. Stephen are hereby advised that the Council of the Town is considering Second Reading of the above-referenced proposed by-law (copy attached) at the Regular Session of Council on Monday, December 21, 2015 commencing at 7:00 p.m. in Council Chambers, 73 Milltown Blvd., Suite 112 (entrance at back corner of building).

The purpose of the by-law is to govern how the Town controls construction or any prescribed standards relating to construction within its boundaries and will repeal the existing by-law.

Please be advised that a copy of the proposed by-law may also be examined by interested parties at the Town Office, at the above noted address, between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday.

Joan M. Flewelling
Town Clerk

Town of St. Stephen

Building By-Law

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Under the authority vested in it by Section 59 of the Community Planning Act, the St Stephen Town Council enacts as follows:

1. DEFINITIONS

1(1) In this by-law,

“**alter**” means, in relation to a **building** or **structure**, to make any structural or other change thereto which is not for purposes of **maintenance** only;

“**building**” means a roofed erection with solid exterior walls which is permanently affixed to a site and which is used or intended as a shelter for persons, animals or chattels;

“**building inspector**” means a Building Inspector, or his or her designate, or such other officer appointed by Town **Council**, to administer and enforce the Building By-law for the Town of St. Stephen;

“**building permit**” means written permission or written authorization from the **Building Inspector** to perform work regulated by the Building By-law for the Town of St. Stephen for the construction, erection and/or installation of buildings and/or **structures** and/or parts thereof;

“**Council**” means the Town of St. Stephen Town Council;

“**demolish**” means to do anything in the removal of a **building** or **structure** or any material part thereof, and **demolition** has a corresponding meaning;

“**demolition permit**” means written permission or written authorization from the **Building Inspector** to perform work regulated by the Building By-law for the Town of St. Stephen for the removal of a **building** or **structure** or any material part thereof;

“**dwelling**” means a main **building**, or portion thereof, other than a mobile home, mini-home, or trailer, which contains one or more units;

“**maintenance**” means upkeep which is cosmetic and non-structural;

“**other buildings**” means any **building** other than single/two family and multi residential buildings, which may or may not require a **building permit** as set out in Schedule “B”;

“**owner**” means a person who holds title to real property and includes any person who has entered into an agreement to purchase the real property, and includes the agent of such person and a contractor engaged by the **owner** to undertake **work**;

“**permit**” means a **building** or **demolition permit**;

“**permit holder**” shall be the **owner** or appointed agent of the owner;

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“**structure**” means anything that is erected, built or constructed of parts joined together or any such erection fixed to or supported by the soil or by any other structure. A structure shall include buildings, walls and signs, fences exceeding 2 m (6.56 ft) in height and other similar erections. It does not include utility lines or poles, traffic control devices, pavement, curbs, sidewalks, or statutory notices;

“**total estimated cost**” (**tec**) means the total monetary worth of all construction or **work** involved in the project including wall finishes, miscellaneous structures, roofing, electrical, plumbing, HVAC equipment, elevator equipment, fire sprinkler, and all other labour, materials, and other devices necessary to complete the **work**;

“**town**” means the Town of St. Stephen;

“**work**” means the building, locating or relocating, demolishing, altering, structurally altering, repairing or replacing, or any combination thereof, of a **building** or **structure**;

“**working days**” means Monday thru Friday, excluding Holidays.

2. SCOPE

2(1) The purpose of this by-law is:

- (a) to prescribe standards for the building, locating or relocating, demolishing, altering, repairing, or replacing, or any combination thereof, of a **building** or **structure**;
- (b) to prohibit the undertaking or continuing of **work** mentioned in clause (a) in violation of standards prescribed hereby; and,
- (c) to prescribe a system of permits for **work** mentioned in clause (a), their terms and conditions, the conditions under which they may be issued, suspended, reinstated, revoked and renewed, their form and fees therefore.

3. ADOPTION OF CODE

3(1) The latest edition of the *National Building Code of Canada* (the “*Code*”), as adopted by the Province of New Brunswick, and amendments thereto, is hereby adopted as the standard for all **work** undertaken in the Town of St Stephen,

3(2) Notwithstanding subsection (1) of this section, no penalty clause or administrative procedure contained in the *Code* is adopted.

3(3) One copy of the *Code* shall be filed in the office of the Building Inspector, and be kept available for public use, inspection, and examination.

3(4) This by-law and the *Code* applies to site assembled and factory made **buildings** and **structures**.

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4. APPOINTMENT OF BUILDING INSPECTOR

- 4(1) The Council shall appoint a Building Inspector who shall administer this by-law, and who shall keep the proper records of all applications received, permits and orders issued, inspections and tests made, and shall retain copies of all papers and documents connected with the administration of his or her duties.

5. POWERS OF THE BUILDING INSPECTOR

- 5(1) The **Building Inspector** may enter any property, **building, structure** or premises at any reasonable time for the purpose of administering or enforcing this by-law.
- 5(2) The **Building Inspector** may cause a written order to be served upon the **owner** of any property directing the **owner** to correct any condition that constitutes a contravention of this by-law.
- 5(3) The **Building Inspector** may direct that tests of materials, devices, construction methods, structural assemblies or foundation conditions be made, or that sufficient evidence or proof be submitted at the expense of the property **owner**, where such evidence or proof is necessary to determine whether the material, device, construction or foundation condition meet the requirements of this by-law.
- 5(4) The **Building Inspector** may revoke or refuse to issue a **permit** where in the opinion of the **Building Inspector** the **work** does not conform with this by-law and all other applicable by-laws, Acts and Regulations of the Province of New Brunswick.

6. BUILDING PERMIT

- 6(1) No person shall undertake or continue the building, locating or relocating, demolishing, altering or replacing of a building unless a building permit therefore has been issued pursuant to this section. No **permit** shall be issued until the fee set out in Section 14 has been paid to the Town of St. Stephen.
- 6(2) A person seeking to obtain a **building permit** shall make application in writing to the **Building Inspector** and such application shall:
- (a) be in a form prescribed by the **Council**;
 - (b) be signed by the applicant who shall be the **owner** of the property or by his or her duly authorized agent;
 - (c) state the intended use of the **building**;
 - (d) where required by this by-law or the **Building Inspector** provide two copies of legible scale drawings and specifications, including:
 - i) the dimensions of the **building**;
 - ii) the proposed use of each room or floor area;
 - iii) the dimensions of the land on which the **building** is, or is to be situated;

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- iv) the grades of the streets and sewers abutting the land mentioned in sub clause (iii) and the policy of the **Town** will be to provide the grade of the street as requested; and,
 - v) the position, height and horizontal dimensions of all **buildings** on, and those proposed to be located on, the land referred to, for exterior renovations only.
- (e) set out the **total estimated cost** of the proposed **work**; and,
 - (f) contain such other information as the **Building Inspector** may require for the purpose of determining compliance herewith.
- 6(3) Where an application has been received and the proposed **work** conforms with this and any other applicable by-law, code, or provincial regulation, the **Building Inspector** shall issue the **building permit** requested.
- 6(4) In the case of **buildings** or parts thereof which exceed 600 square metres in building area or three (3) storeys in building height, no permit shall be issued unless the plans and specifications provided in a permit application, including all civil engineered site work and connections to municipal infrastructure, are certified under the seal of an Architect or of a qualified Professional Engineer skilled in the work concerned and licensed to practice in the Province of New Brunswick.
- 6(5) In the case of manufactured homes or modular homes, the following additional provisions shall apply for the purposes of obtaining a **building permit**:
- (a) Manufactured homes: the property **owner** shall provide a detailed foundation and anchorage drawing, a certificate of compliance with the Canadian Standards Associations CAN/CSA Z240 MH Series "Manufactured Homes" at the time of manufacture, and the name and address of the manufacturer;
 - (b) Modular homes: the applicant shall provide a detailed foundation and anchorage drawing, a certificate of compliance with the Canadian Standards Associations CAN/CSA A277 at the time of manufacture, and the name and address of the manufacturer; and,
 - (c) Existing manufactured homes: a **building permit** for the repair of or **maintenance** to an existing **building** shall require a letter of approval from the property **owner**, and may, where structural integrity or an increase in living space is involved, be subject to a certification process for the purposes of ensuring compliance with the Canadian Standards Associations CAN/CSA Z240 MH Series "Manufactured Homes" at the time of manufacture.

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7. DEMOLITION PERMIT

- 7(1) No **building** shall be demolished without the **owner** or **owner's** agent first applying for and acquiring a **demolition permit**. An application for a **demolition permit** shall include the provincially approved location(s) to which the debris will be placed and a receipt from the provincially approved site shall be presented to the **building inspector** upon completion and disposal of the debris.

8. PERMIT CONDITIONS

- 8(1) A **building permit** or **demolition permit**, or the renewal thereof, is issued on the condition that the **work** is:
- (a) started within six (6) months from the date of **permit** approval;
 - (b) not discontinued or suspended for a period of more than six (6) months;
 - (c) carried out in compliance with the specifications contained in the application, unless otherwise approved by the **Building Inspector**; and
 - (d) completed (exterior work) within 12 months of date of **permit** approval.
- 8(2) Where a person violates a condition or any provision of this by-law, the **Building Inspector** may, by written notice served personally on or sent by registered mail to the person named in the **permit**, state the nature of the violation and order the cessation thereof within a reasonable time mentioned in the notice.
- 8(3) Where a person fails to comply with an order mentioned in subsection 8(2), the **Building Inspector** may suspend or revoke the **building permit** and may, if the conditions leading to the suspension are subsequently corrected, reinstate the suspended **permit**.

9. DUTIES OF BUILDING PERMIT HOLDER

- 9(1) Where a **building permit** has been issued, the person named in the permit shall:
- (a) permit the **Building Inspector** to enter upon any property or **building** at all reasonable times for the purpose of making any inspection that is necessary for the administration of enforcement of this by-law;
 - (b) obtain, where applicable, from the appropriate authority, permits relating to building, zoning, water and sewage, plumbing, signs, street occupancy, electricity, telecommunications, highways and all other permits required in connection with the proposed **work**;
 - (c) give to the **Building Inspector** sufficient notice as described below, exclusive of Saturdays, Sundays and holidays, for inspection purposes:
 - i) 48 hours notice prior to placement of foundation footing;
 - ii) 48 hours notice prior to any backfilling of the foundation wall;

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- iii) 48 hours notice for the purposes of a pre-drywall inspection prior to the installation of insulation and after plumbing, ventilation and electrical rough-in is completed;
 - iv) notice of the completion of the **work** described in the **permit** within 10 days of such completion for purposes of a final inspection prior to occupancy; and
 - v) notice required under subsection 9(1)(c) herein, shall be deemed received by the **Building Inspector** upon the delivery or provision of a verbal or written confirmation of receipt from the **Building Inspector** or his/her designate to the **permit** holder.
- (d) ensure the construction site is maintained and left in a clean and neat condition with all construction debris disposed of in a provincially approved site;
 - (e) be responsible for any repair cost associated with damage to any adjoining property or public property as a result of undertaking the **work** described in the **permit**;
 - (f) ensure a driveway culvert, where required by the **Town**, is installed to the satisfaction of the **Town's** Director of Operations or his/her designate;
 - (g) ensure there is no burning of materials in the course of site preparation and construction.
- 9(2) Where tests of any materials are made to ensure conformity with the requirements of this by-law, records of the test data shall be kept available for inspection during the construction of the **building** and for such a period thereafter as required by the **Building Inspector**.
- 9(3) The approval of plans or specifications, the issuing of a **building permit** or any inspections hereunder do not relieve the **owner** of any duty or responsibility for carrying out work in accordance with this by-law.
- 9(4) Where a **building permit** has been issued, the **owner** is not relieved of any duty or responsibility of obtaining any additional permits as required by any provincial act or regulation or by any by-law of the Town of St. Stephen.

10. DOCUMENTS ON SITE

- 10(1) Throughout completion of the **work** authorized by a **permit** issued pursuant to this by-law, the person named therein shall keep:
- (a) posted in a conspicuous place on the property in respect of which the **permit** was issued, a copy of the **building permit** or **demolition permit**; and
 - (b) a copy of any plans and specifications approved by the **Building Inspector** on the property in respect of which the **permit** was issued.

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11. OPEN CELLARS AND EXCAVATIONS

- 11(1) The **owner** of a property upon which an open cellar or excavation exists as the result of **demolition**, destruction of a **building**, when new construction is not to proceed without delay, shall forthwith following such **demolition** or destruction, backfill such cellar or excavation to grade.
- 11(2) The **owner** of a property upon which an open cellar or excavation exists as the result of **demolition** or destruction of a **building**, when new construction is to proceed without delay, shall forthwith following such **demolition** or destruction, erect a wall or fence constructed of approved materials without openings, at least 1.8 metres in height, around the perimeter of such cellar or excavation and shall maintain the same so as not to become dilapidated or unsightly until construction has proceeded to a stage where the cellar or excavation is no longer a danger.

12. STOP WORK ORDER

- 12(1) Whenever any **work** is being done in violation of the provisions of this by-law, or in variance with the terms of any **permit** issued for such work, the **Building Inspector** may order all work on the job stopped until such violation or variance is eliminated and any **work** or installation made in violation of this by-law corrected, and on the making of such order the **permit** under which such **work** is purported to be done shall be suspended. Such stop order, if oral, shall be followed by a written stop order within three (3) **working days**.
- 12(2) No **work** shall be done in violation of such stop order, except as may be necessary to prevent injury or damage to persons or property and is approved by the **Building Inspector**.
- 12(3) If within thirty (30) days of the making of such stop order, any such violation or variance is eliminated and any **work** or installation made in violation of this by-law is corrected, the **Building Inspector** may reinstate the **permit** provided, however, that if such violation or variance is not eliminated and such **work** or installation is not corrected within the said time, the **Building Inspector** may revoke the **permit**.

13. RECORDS

- 13(1) The **Building Inspector** shall keep proper records of all applications received, **permit** and orders issued, inspections and tests made, and shall retain copies of all papers and documents connected with the administration of his or her duties.
- 13(2) The **Building Inspector** shall keep one (1) copy of all adopted *Codes* available for public use, inspection, and examination.

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14. FEES

- 14(1) No **permit** or waiver may be issued in accordance with this by-law until the fees set out in Schedule "A" have been paid in full to the **Town**.
- 14(2) The Town Council may develop a policy to waive building permit fees.
- 14(3) Where **work** requiring a **permit** under this by-law has been commenced by anyone prior to issuance of a **Building Permit**, the fees prescribed herein shall be doubled.
- 14(4) The **permit** may be 50% refunded within six (6) months from the date of approval provided no **work** has been completed under the **permit**. Upon being refunded by the **Town**, the **permit** shall be deemed to be cancelled. *Council reserves the right to increase or decrease this amount.*
- 14(5) Where the **Building Inspector** believes that the **total estimated cost** is too low, the cost shall be based on the minimum construction costs per square metres as follows:
- | | | |
|---|-------------------------------|--|
| (a) Home Construction | Main Floor | \$807 / sq m (\$75 / sq ft) |
| | Second Floor | \$431 / sq m (\$40 / sq ft) |
| | Finished Basement | \$377 / sq m (\$35 / sq ft) |
| | Unfinished Basement | \$216 / sq m (\$20 / sq ft) |
| (b) Additions | | Same as new construction |
| (c) Decks | | \$108 / sq m (\$10 / sq ft) |
| (d) Garage | | \$269 / sq m (\$25 / sq ft) |
| (e) Shed | | \$108 / sq m (\$10 / sq ft) |
| (f) Multi-Residential Construction (Apartments) | | \$538 / sq m (\$50 / sq ft each floor) |
| (g) Commercial Construction | | \$753 / sq m (\$70 / sq ft) |
| (h) Warehouse Construction | | \$431 / sq m (\$40 / sq ft) |
- 14(6) If the proposed **work** involves heavy equipment traversing curbs, sidewalks, asphalt, ditches, water service appurtenances or other **Town** utility structures, a damage deposit in the amount of five hundred dollars (\$500.00) shall be posted with the **Town**.
- 14(7) Failure of compliance with the requirements of this by-law shall result in a deposit being forfeited to the **Town**.

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15. EXEMPTIONS

15(1) Notwithstanding the provisions of subsection 6(1) herein, a person shall be exempt from obtaining a **building permit** for:

- (a) maintenance where **work** does not impact on safety, egress, access, or drainage, examples of which include:
 - i) painting;
 - ii) replacement of finished floor covering;
 - iii) changing interior doors, provided they are the same type, location and sizing;
 - iv) plaster and drywall repairs;
 - v) wallpaper installation;
 - vi) electrical maintenance;
 - vii) installation of gutters or downspouts;
 - viii) installation of storm doors and shutters;
 - ix) re-facing or replacing kitchen cabinetry; or
 - x) installation of cosmetic interior trim;
 - xi) non-structural repairs;
 - xii) repairing existing decks, verandas, landings or stairs where such repairs are of the same type and configuration as that item being repaired, except as required to comply with the *Code* and this by-law.
- (b) **work** where an electrical waiver has been issued pursuant to Section 16 herein.

16. ELECTRICAL WAIVER

16(1) Notwithstanding the provisions of subsection 6(1) herein, an **electrical waiver** may be issued in place of a **building permit** when the **work** is solely of an electrical nature, and:

- (a) is not part of a fire alarm or life safety system;
- (b) does not impact any structural aspect of the **building**;
- (c) does not impact the exterior wall assembly or the **building** envelope, any fire walls, fire separations, fire related materials, or fire rated assemblies by conduct penetrations or otherwise; and
- (d) there is no change in the use.

16(2) For the purposes of subsection 16(1) herein, electrical **work** includes, but is not limited to, mast repairs on residential units, service upgrades from fuse panels to breaker panels, service panel upgrades to a maximum of 400 amperage service, or similar work.

16(3) An **owner** seeking to obtain an Electrical Waiver shall make an application in writing, in a form prescribed by the **Building Inspector**, to the **Building Inspector** and shall pay the fees as prescribed in Schedule 'A' attached hereto.

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17. ENFORCEMENT

- 17(1) Where any person violates any provisions of this by-law, the **Building Inspector** may, by written notice served personally on, or sent by registered mail to the person named in the **permit**, order the cessation thereof and stating the nature of the violation.
- 17(2) Where any person fails to comply with an order under subsection 17(1) herein, the **Building Inspector** may suspend or cancel the **building permit** or **demolition permit** and may, if the conditions leading to the suspension are subsequently corrected, reinstate the suspended **permit**.
- 17(3) Any person who violates a provision of this by-law commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a Category B offence.

18. REPEAL PROVISION

- 18(1) By-law No. L-6, Building By-law, passed by Town Council on April 16, 2012, and amendments thereto, is hereby repealed.
- 18(2) The repeal of By-law No. L-6, Building By-law, and amendments thereto, shall not affect any penalty, forfeiture or liability, incurred before such repeal or any proceeding for enforcing the same completed or pending at the time of repeal; nor shall it repeal, defeat, disturb, invalidate or prejudicially affect any matter or thing whatsoever completed, existing or pending at the time of repeal.

IN WITNESS WHEREOF the Town of St. Stephen has caused its corporate seal of the said Town to be affixed to this by-law the _____ day of _____, 2015.

First Reading: _____ October 26, 2015

Second Reading: _____

Third Reading and Enacted: _____

John Quartermain, Mayor

Joan M. Flewelling, Town Clerk

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SCHEDULE "A"

<u>Description of Work</u>	<u>Single Family/ Duplex/Row Houses</u>	<u>Other Buildings</u>
	<u>Permit Required</u>	<u>Permit Required</u>
1. Roofing	No	Yes
2. Combustible Siding	Yes	Yes
3. Non-Combustible Siding, Aluminum, Brick, Stucco	No	No
4. Painting	No	No
5. Ceramic Tile	No	No
6. Plaster, drywall repairs (except fire separations)	No	No
7. Window Replacements	Yes	Yes
8. Structural Repairs, sagging Floor or roof, wall bulge	Yes	Yes
9. Insulating, except foamed plastic for interior walls, Styrofoam, etc	No	No
10. Replacement of floor covering	No	No
11. Fencing	Yes	Yes

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SCHEDULE "B"

1. No **permit** shall be issued in accordance with this by-law until the fee set out in the schedule below has been paid in full to the Town of St. Stephen:

(a) in the case of residential, commercial, industrial and institutional constructions:

Value of Work	Building Permit Fee
\$0 to \$5,000	\$25.00
\$5,001 - \$100,000	\$5.00/\$1,000
\$100,000+	\$500.00 + \$2.50/\$1,000

- (b) in the case of any **work** that will affect Town property, a deposit of five hundred dollars (\$500.00);
- (c) in the case of an **electrical waiver**, a fee of twenty-five dollars (\$25.00); and,
- (d) in the case of a **demolition permit**, a minimum fee of twenty-five dollars (\$25.00).