

## BY-LAW No. 09-23

### BY-LAW No. 09-23 being the Building By-law for the Municipal District of St. Stephen

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The Council of the Municipal District of St. Stephen, under authority vested in it by the Building Code Administration Act (2020), and amendments thereto, hereby makes the following by-law:

#### **Definitions**

**1** In this By-law

“accessory building” means a building located on the same lot as the main building to which it is accessory and which has a use that is naturally or customarily incidental or complementary to the main use of the land or building but does not include a building designed for public congregation;

“building inspector” means a person as defined in the Building Code Administration Act;

“building” means a building as defined in the National Building Code of Canada;

“change of use” means to change the use of a building or part of a building in such a way that affects its occupancy classifications under the National Building Code of Canada;

“Code” means the National Building Code adopted by reference in the regulations under the Building Code Administration Act, and includes all revisions, errata and corrections to errata issued from time to time;

“construct” means to do anything in the erection, installation, extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere;

“constructor” means a person constructing a building, and includes a contractor and subcontractor;

“demolish” means to do anything in the removal of a building or a material part of a building;

“development officer” means a development officer as defined in the Community Planning Act;

“maintenance” means any non-structural work that does not meet the definition of ‘construct’ under this by-law and does not affect the fire safety of a building under Code, nor affect the life safety, health, or accessibility for the occupants of a building under Code;

“National Building Code of Canada” means version of the National Building Code of Canada or National Energy Code as referenced in the Building Code Administration Act and amendments thereto;

“owner” means a person who holds title to real property and includes a person who has entered into an agreement to purchase the real property; and,

“regional service commission” means a regional service commission established under the Regional Service Delivery Act.

## **2 Purpose & Scope**

(a) The purpose of this By-law is to:

- (i) prescribe a system of permits for:
  - construction work, and
  - demolition work,
- (ii) prescribe the terms and conditions for the issuance of those permits,
- (iii) prescribe the terms and conditions of those permits,
- (iv) prescribe the grounds on which the issuance of those permits may be refused,
- (v) prescribe the grounds on which those permits may be suspended, revoked or reinstated,

- (vi) provide for the form and manner in which applications for the issuance of those permits may be made and the content of the applications,
- (vii) prescribe the fees for the issuance of those permits, and
- (viii) provide for the circumstances in which the fees paid for those permits may be refunded.

(b) Even if no construction work is proposed, no person shall change the use of a building or part of a building with respect to the occupancy classifications of the Code or permit the use to be changed unless a building permit has been issued.

### **3 Exemptions**

(a) The following are exempt from the application of the Act, this Building By-law and the Code:

- (i) an accessory building with a total floor area that is not greater than 55 m<sup>2</sup> and that is not intended for overnight accommodation;
- (ii) a building on a construction site that is intended to be used only during the course of construction on the site and that is not intended for overnight accommodation;
- (iii) a building with a total floor area that is not greater than 58.06 m<sup>2</sup> that is intended for overnight accommodation; and,
- (iv) a temporary building which is not intended to remain where it is erected or located for more than 28 days.

### **4 Notice of commencing construction**

(a) Before commencing construction or demolition work, an owner or a person acting on behalf of the owner shall provide written notice to the local government or regional service commission, as the case may be, with the following information:

- (i) the date on which work on the building site is to commence;

- (ii) the names of all constructors, architects, engineers or designers, as the case may be, that will perform work with respect to the building or demolition permit; and
- (iii) the name of all inspection or testing agencies engaged to monitor the work or part of the work.

(b) During the course of construction, the owner or a person acting on behalf of the owner shall, as soon as practical, give written notice to the local government or regional service commission of any change in, or termination of, the employment of a person referred to in subsection (a), and in no case shall the notice be given later than 72 hours after the change in, or termination of, the employment.

## **5 Posting on the premises**

- (a) For the purpose of section 8 of the Act, an owner or a person acting on behalf of the owner shall ensure that a copy of the building or demolition permit, as the case may be, is posted before the construction or demolitions work begins and shall remain posted until the completion of the work.
- (b) An owner or a person acting on behalf of the owner shall ensure that all approved plans and specifications related to the building and construction are made available to the building inspector on the premises referred to in section 8 of the Act during working hours.

## **6 Obligations of constructor**

- (a) In addition to the requirements of the Act, a constructor shall construct a building in accordance with
  - (i) the *National Energy Code of Canada for Buildings 2011* as adopted under subsection 3(2) of the Act,
  - (ii) the description of the construction work contained in the building permit, and
  - (iii) any plans approved by the building inspector.

- (b) If the work for which a building permit is issued is not under the control of a constructor, the owner shall be deemed to be the constructor and accept the responsibilities and obligations of the constructor.

## **7 Stages of construction**

- (a) For the purposes of subsection 9(2) and section 10 of the Act, at least one inspection shall be made at each of the following stages of construction:
- (i) on the completion of the footings and foundations, but before the commencement of any backfilling;
  - (ii) on substantial completion of structural framing; and
  - (iii) on completion of construction or before occupation of the building.
- (b) Factory-built homes, modular homes and manufactured homes that are constructed to the following standards are not subject to inspection at the stage of construction referred to in paragraph (1)(b):
- (i) the National Standard of Canada CAN/CSA A277-16 Procedure for certification of prefabricated buildings, modules, and panels; and,
  - (ii) the National Standard of Canada CAN/CSA-Z240 MH Series-16 *Manufactured Homes*.

## **8 Notice of readiness for inspection**

- (a) For the purposes of section 10 of the Act, the notice of readiness for inspection sent by an owner or a person acting on behalf of the owner shall contain the following:
- (i) the civic address and the Service New Brunswick parcel identifier number for the property referred to on the permit;
  - (ii) the stage of construction referred to in section 7;
  - (iii) the requested date and time for the inspection;
  - (iv) the telephone number of the owner or a person acting on behalf of the owner; and

- (v) any other electronic means of communication of the owner or the person acting on behalf of the owner accepted by the local government or regional service commission.
- (b) An inspection shall be made within two days of the receipt of the notice of readiness for inspection, or the date and time agreed to by the building inspector and the owner or a person acting on behalf of the owner.

## **9 Retention of documents**

- (a) A building inspector shall maintain a registry of all applications received, permits and orders issued, inspections and tests made, and shall keep copies of all documents related to the performance of the building inspector's duties.
- (b) The local government and regional service commission shall keep copies of the following documents for a period of no less than seven years from the date of completion of the work to which the building or demolition permit applies:
- (i) all applications for building permits and demolition permits;
  - (ii) the building permits and demolition permits issued;
  - (iii) any orders made by a building inspector under section 14 of the Act;
  - (iv) any inspection reports and tests; and
  - (v) any other document or electronic record related to the administration of the Act.

## **10 Request for information**

- (a) The local government and regional service commission shall answer any relevant question as may be reasonable with respect to the provisions of the Act, the Building By-law and the Code when requested to do so, but shall refrain from assisting in the laying out of any work and from acting in the capacity of a designer or engineering or architectural consultant.

## **11 Application for permits**

(a) An application for a building permit shall include the fee referred to in paragraph 12(a) and contain the following information:

- (i) the name, telephone number, civic address and email address of
  - the owner or a person acting on behalf of the owner, as the case may be,
  - all constructors, architects, engineers or designers that will perform work with respect to the building permit,
  - all inspection or testing agencies engaged to monitor the work or part of the work;
- (ii) the location of the property on which the work is to be performed, its civic number, street name, lot number, property identification number or any other information that could be used to locate the property;
- (iii) a detailed description of the scope of the work to be performed;
- (iv) the approximative cost of the work to be performed;
- (v) a description of the intended use of the building or structure;
- (vi) a copy of the specifications and legible scale drawings of the site and building or structure with respect to the proposed work to be carried out and any other related document required by the building inspector; and
- (vii) If cooling towers are intended to be used as part of the construction, a declaration that the Provincial Department of Health has been, or will be, notified of this intent.

(b) An application for a demolition permit shall include the fee referred to in paragraph 12(b) and contain the following information:

- (i) the location of the property on which the work is to be performed, its civic number, street name, lot number, property identification number or any other information that could be used to located the property; and

- (ii) a detailed description of the scope of the work to be performed.

## **12 Fees**

The fee for a building permit or demolition permit shall be the following:

- (a) for a building permit, \$25 plus \$5 for each \$1,000 of the estimated construction cost of the work to be performed,
- (b) for a demolition permit, \$25, and
- (c) Where work requiring a permit under this by-law has been commenced by anyone prior to issuance of a permit, and unauthorized work has continued after an order to comply has been delivered by a building inspector in accordance with the Act, the fees prescribed under (a) of this section are doubled.

## **13 Refusal to issue permit**

A building inspector may refuse to issue a building or demolition permit if

- (a) the application for the permit is incomplete or contains information that is false,
- (b) the fee for the permit has not been paid, or
- (c) the information provided is not sufficient to determine compliance with the National Building Code, the National Energy Code, or applicable standards referenced therein.

## **14 Suspension or revocation of permit**

(a) A building inspector may suspend or revoke a building or demolition permit if

- (i) there is contravention of the Act, the Building By-law or the Code, or any applicable approval under section 108 of the Community Planning Act, and any term or condition under which the permit was issued,
- (ii) the permit was issued in error, or



same completed or pending at the time of repeal; nor shall it repeal or disturb, invalidate, or prejudicially affect any matter or thing whatsoever completed, existing, or pending, at the time of repeal.

Read the first time this \_\_ day of \_\_\_\_, A.D. 2023.

Read the second time this \_\_ day of \_\_\_\_, A.D. 2023.

Read the third time this \_\_\_\_ day of \_\_\_\_, A.D. 2023.

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Allan MacEachern, Mayor

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Jeff Renaud, Clerk