

BUILDING BY -LAW

BY-LAW #151-16

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The Council of the Town of Sussex under the authority vested in it by Section 59 of the Community Planning Act enacts as follows.

1 TITLE

- (1) This By-law may be cited as the “Building By-Law”
- (2) The provisions of this by-law apply to the entire area within the Town limits of the Town of Sussex.

2 PURPOSE

The purpose of this By-Law is:

- (1) to prescribe standards for the building, locating or relocating, repairing, altering, demolishing, or replacing a building or structure;
- (2) to prohibit the undertaking or continuing of work mentioned in Clause (1), which is in violation of standards prescribed hereby;
- (3) to prescribe a system of permits for work mentioned in Clause (1), their terms and conditions, the conditions under which they may be issued, suspended, reinstated, revoked and renewed, their form and fees therefore; and
- (4) to prescribe that no building or structure shall be constructed, structurally altered, repaired or demolished except in accordance with the standards prescribed by this By-Law.

3 INTERPRETATION

In this By-Law:

- (1) ***“alter”*** means, in relation to a building or structure, make any structural or other change thereto which is not for purposes of maintenance only;
- (2) ***“arterial and collector highways”*** means, respectively, highways so designated under the Highway Act;
- (3) ***“authority having jurisdiction”*** means, the Building Inspector for the Town of Sussex.
- (4) ***“building”*** means any structure used or intended for supporting or sheltering any use or occupancy;
- (5) ***“building inspector”*** means a person designated by the Council of the Town of Sussex to enforce this bylaw;
- (6) ***“code”*** means the latest edition of the National Building Code of Canada as adopted by the Province of New Brunswick;
- (7) ***“development officer”*** means the development officer as defined in the Community Planning Act;
- (8) ***“dwelling”*** means building, as defined in the Code adopted by Section 3, containing one or more dwelling units;
- (9) ***“floor elevation”*** means, the height at which the surface of the floor of the first storey of a building or structure is to be finished;
- (10) ***“foundation”*** means, any structure constructed of wood, concrete or any other approved building material designed to support other parts of a building or structure;
- (11) ***“street line”*** means, the common line between a street and a lot;

3 INTERPRETATION (*cont'd*)

- (12) “*structure*” means anything constructed or erected on or below the ground, or attached to something on the ground and includes all buildings;
- (13) “*work*” means the building, locating or relocating demolishing, altering, structurally altering, repairing or replacing, or any combination thereof, of a building or structure.

4 ADOPTION OF CODE

The National Building Code of Canada, (hereinafter called the Code), with future revisions and amendments thereof, except for Part 5 Environmental Separations and Part 8 Safety Measures at Construction and Demolition Sites as designated in an order in Council under the Community Planning Act, R.S.N.B. 1973 c. C-12, is adopted by reference as follows:

- (1) Parts 1, 2 and 7 thereof apply to all buildings, except farm buildings;
- (2) Parts 3, 4, and 6 thereof apply to all buildings, except farm buildings, used for major occupancies classified as:
 - a) Group A, Assembly Occupancies,
 - b) Group B, Care or Detention Occupancies, and
 - c) Group F, Division I, High Hazard Industrial Occupancies;
- (3) all buildings exceeding 600 meters squared in building area or exceeding three (3) storeys in building height used for major occupancies classified as
 - a) Group C, Residential Occupancies,
 - b) Group D, Business and Personal Services Occupancies,
 - c) Group E, Mercantile Occupancies, or

4 ADOPTION OF CODE (*cont'd*)

- d) Group F, Division 2 and 3, Medium and Low Hazard Industrial Occupancies;
- (4) Part 9 applies to buildings of 3 storeys or less in building height, or having a building area not exceeding 600 meters squared and which are used for major occupancies classified as
- a) Group C, Residential Occupancies, (see Appendix A-9.1.1.1.)
 - b) Group D, Business and Personal Services Occupancies,
 - c) Group E, Mercantile Occupancies, or
 - d) Group F, Division 2 and 3, Medium and Low Hazard Industrial Occupancies; and
- (5) This code applies both to site assembled and factory made buildings.
- (6) Notwithstanding the above, no penalty clause or any administrative procedure contained in the National Building Code of Canada is adopted.
- (7) The following standard publications are adopted by reference and shall apply as if written out herein in full:
- i. Canadian Housing Code.
 - ii. Canadian Plumbing Code.
 - iii. Canadian Standards Association
 - iv. American Water Works Association.
 - v. American Society for Testing Materials.
- (8) Reference to Standards and Codes shall mean the latest edition of such publication adopted and published by the Province of New Brunswick at the date of submission of the application for a building permit.
- (9) The Town of Sussex hereby adopts, pursuant to Section 59 of the Community Planning Act, the barrier-free design Building Code regulation 2011-61 under said Community Planning Act.

5 APPOINTMENT OF BUILDING INSPECTOR

- (1) The Council shall appoint a Building Inspector who shall exercise such powers and perform such duties as are provided by this By-law.
- (2) The Building Inspector shall:
 - a) administer this By-Law;
 - b) keep one (1) copy of the adopted Codes available for public use, inspection and examination; and
 - c) keep proper records of all applications received, permits and orders issued, inspections and tests carried out and retain copies of all papers and documents connected with the Administration of his duties.

6 APPROVAL IN PART

- (1) When , in order to expedite work, approval of a portion of the building is desired prior to the issuance of a permit for the whole project, application shall be made for the complete project and complete plans and specifications covering the portion of the work for which immediate approval is desired, shall be filed with the “authority having jurisdiction”.
- (2) Should a permit be issued for part of a building or structure, the holder of such permit may proceed without assurance that the permit for the entire building or structure will be granted.

7 NEW FOUNDATIONS

- (1)
 - a) Where an application for a building permit is made and the work described therein involves new foundation construction, a building permit for such construction shall be issued on the condition that construction of the building or structure shall not proceed beyond the foundation form work prior to the placing of concrete. At this stage, a New Brunswick land surveyor shall, in writing, confirm the location of the form work prior to the placement of concrete and

NEW FOUNDATIONS (cont'd)

shall deliver this written confirmation to the office of the Building Inspector of the Town of Sussex. Upon approval by the Building Inspector, the foundation may be poured according to the location of the form work.

- b) The construction of the building or structure shall not proceed beyond the foundation stage, unless the Development officer of the Town of Sussex has received and approved a building location survey plan, prepared by a surveyor licensed in the Province of New Brunswick.
- (2) A building location survey plan referred to in Section 7(1)(b) shall indicate the distances from the outer walls of the foundation to the property boundary lines and to other buildings on the property and shall be signed by a New Brunswick land surveyor before being received and considered by the Development Officer of the Town of Sussex.
- (3) All new foundations for new developments shall be formed and poured such that the lowest elevation of the top of the foundation wall shall have a minimum elevation of 0.46 metres or 460 millimetres above the center line of the affronting street (s). This is applicable to all new development to be placed or erected, located or relocated on any registered building lot or any parcel of land which is greater in mean elevation than 0.92 metres or 920 millimetres lower than the centerline elevation of the aforementioned street(s).

If any building lot or any parcel of land has a mean lot elevation lower than 0.92 metres or 920 millimetres below the centerline of the affronting street(s), the requirement of 7(3) is waived but a proposed lot grading plan must be submitted with the required building plans and approved by the Building Inspector prior to the issuance of a Building Permit.

- (4) The requirements of subsection (1) and (2) for new foundations may not be required for proposed additions to existing buildings and structures or for proposed accessory buildings if the owner of the land can demonstrate on the required plot plan for Building Permit purposes

NEW FOUNDATIONS *(cont'd)*

that the proposed addition or accessory building exceeds the minimum front yard setback requirement by ten percent (10%) and the side and rear yard setback requirement by twenty-five percent (25%). Distances between buildings or structures are included in the twenty-five percent (25%) requirement.

8 BUILDING PERMITS

- (1) No person shall commence or continue any of the work referred to in Section 2 (4), or any part thereof, unless a building permit therefore has been issued pursuant to this Section.
- (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 property owner or owner's agent,
 - c) state the intended use of the building or structure;
 - d) unless waived by the Building Inspector, include, subject to Subsection (7), one (1) copy of the specifications and scale drawings of the building or structure with respect to which the work is to be carried out, showing
 - i. the dimensions of the building or structure,
 - 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,
 - iv. the grades of the streets and sewers abutting the land mentioned in Sub-clause (iii), and
 - v. the position, height and horizontal dimensions of all buildings and those proposed to be located on, the land referred to;
 - e) set out the total estimated cost of the proposed work; and

BUILDING PERMITS (cont'd)

f) contain such other information as the Building Inspector may require for the purpose of determining compliance herewith.

(3) Where:

- a) an application referred to in Subsection (2) has been received; and
- b) the proposed work conforms with this and any other applicable By-Law;

the Building Inspector shall issue the building permit requested in accordance with the Town of Sussex Building Permit policy.

(4) A permit hereunder is issued on the condition that the work mentioned therein:

- a) is commenced within six months from the date of issue of the permit;
- b) is not discontinued or suspended in excess of six months or in such manner that any exterior surface intended to be clad remains unclad in excess of two months; and
- c) is carried out, unless otherwise approved by the Building Inspector, in compliance with the specifications contained in the application for the permit.

(5) Where any person violates a condition referred to in Subsection (4) or any provision of this By-Law, the Building Inspector shall, by written notice, served personally on and 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.

(6) Where any person fails to comply with an order referred to in Subsection (5), 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.

BUILDING PERMITS (cont'd)

- (7) Specifications and scale drawings, referred to in Subsection (2) , for a building permit, in respect of a building or structure referred to in Subsection 3 (b), shall not be considered by the Building Inspector, unless they meet or exceed the standards of the National Building Code.
- (8) Wherever the character of the proposed work requires technical knowledge, such as reinforced concrete, steel, timber construction, trusses and other methods, the Building Inspector may require that the plans and specifications be prepared, signed and sealed, and the construction may be required to be supervised by an Architect or Engineer entitled to practice in the Province of New Brunswick. All costs incurred to be borne by the applicant.
- (9) No person shall, by the issuing of a permit and the approval of plans or specifications or inspections made hereunder, be relieved of any duty or responsibility for carrying out works in accordance with this By-Law.
- (10) Except in the case of permits for the removal or demolition of a building, where the work for which a permit has been issued, has not commenced within six months of the date of issuance, the Building Inspector may revoke the permit, without reimbursement of fees.

9 REMOVAL, RELOCATION, DEMOLITION

- (1) No building shall be removed for the purposes of relocating if the building:
 - a) is in such a state of deterioration or disrepair, or is otherwise so structurally unsafe that it could not be moved without endangering persons or property; or
 - b) is structurally unsafe or unfit for the proposed use at its new location, if the proposed new location is within the Town of Sussex.

REMOVAL, RELOCATION, DEMOLITION (cont'd)

- (2) The application for a removal, relocation or demolition permit shall set forth:
- a) a description of the building, giving the existing location, construction materials, dimensions, number of rooms and condition of exterior and interior;
 - b) a legal description of the existing site of the building.
 - c) a legal description of the site to which it is proposed such building be moved, if located within the Town of Sussex; and
 - d) a plan of the site to be occupied by the building, when relocated.
- (3) A deposit, in the amount set out below, shall be made with the Building Inspector at the time of obtaining a permit for removal or demolition of any building or structure. Deposit to be made either by cash or certified cheque, and payable to the Town of Sussex, will be returned to the applicant upon completion of the work, to the satisfaction of the Building Inspector. This deposit shall be separate from any building permit fees.

TOTAL ESTIMATED COST OF WORK	DEPOSIT
Not more than \$5,000	The greater of \$200 or 30% of the total estimated cost of work
\$5,001 up to \$10,000	20% of the total estimated cost of work
over \$10,000	10% of the total estimated cost of work

REMOVAL, RELOCATION, DEMOLITION *(cont'd)*

- (4) The contractor shall maintain insurance of a kind and amount satisfactory to the Building Inspector and shall lodge evidence of such insurance with the Building Inspector at the time of obtaining a permit for the removal or demolition of any building.
- (5)
 - a) The general contractor shall commence the removal or demolition of building within seven (7) days of the date of issuance of the permit. Upon failure to do so, the Building Inspector may cancel the permit and the deposit will be forfeited to the Town.
 - b) The work of removal or demolition shall be completed within the time specified in the permit. If the said work is not completed within the time specified or in accordance with the provisions herein, the Town may complete the work and charge the cost against the owner.
- (6) Barricades to the satisfaction of the Building Inspector shall be supplied and erected by the contractor to prevent the public from entering the area affected by demolition operations.
- (7) In the filling of basements or large recesses, all concrete, steel, wood debris, rubbish and other non organic materials shall be removed from the site or disposed of in a manner satisfactory to the Building Inspector. All back-fill material shall be clean fill.
- (8)
 - a) Contractors, prior to starting work shall notify the Building Inspector of pre-existing damage to sidewalks, roads and other public property. All damage to sidewalks, roads and other public property caused by this work shall be repaired to the satisfaction of the Building Inspector
 - b) All temporary obstructions relating to the work shall be removed upon completion of work.

REMOVAL, RELOCATION, DEMOLITION (cont'd)

- c) A structure or part of a structure shall not be left in such a condition that it constitutes or may constitute a danger to the public.
- (9) On completion of the removal or demolition of a building, the return of the deposit will not be made unless the site is properly cleared to the satisfaction of the Building Inspector and all required repairs to public property are carried out.

10 ELECTRICAL WAIVER

- (1) An electrical Waiver may be issued in place of a building permit when the work is solely of an electrical nature, and:
 - a) is valued at less than one thousand and five hundred dollars (\$1,500.00);
 - b) is not part of a fire alarm or life safety system;
 - c) does not impact any structural aspect of the building;
 - d) does not impact the exterior wall assembly or the building envelope, any fire walls, fire separations, or fire rated materials, fire rated assemblies by conduit penetrations or otherwise; and;
 - e) there is not change in use or intensification of use.
- (2) For the purposes of section 10(1) 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 200 amp service, or similar work.

11 INCREASE IN HEIGHT OF BUILDINGS

- (1) The number of storeys of an existing building shall not be increased unless the entire building conforms structurally with the requirements of this By-Law.
- (2) Additions may be made to existing buildings provided the maximum area permitted for the combined area of the existing building and the addition are not exceeded.
- (3) Every addition to an existing building beyond the maximum area permitted shall be separated from the existing building by a fire wall with a fire resistance rating prescribed by this by-law.

12 TEMPORARY BUILDINGS

- (1) No person shall erect a temporary building without first obtaining a permit from the Building Inspector.
- (2) For the purposes of this Section, a temporary building shall mean a building not exceeding 93 square metres (1000 sq. ft.) in area, one storey in height and erected or placed on a temporary foundation.
- (3) The Building Inspector may issue a permit for a temporary building subject to the restrictions hereinafter set forth:
 - a) temporary buildings may be permitted only for a Group A, Group C, Groups D and E, and Group F, Division 2 and 3 occupancies;
 - b) temporary buildings shall not be permitted for a period of more than one (1) year;
 - c) the erection of any temporary buildings used for human habitation shall require the approval of the Chief of the Fire Department and Medical Health Officer of the Province of New Brunswick; and
 - d) every temporary building shall have at least two exits.

TEMPORARY BUILDINGS *(cont'd)*

- (4) The area limitation of Subsection (2) may be increased upon special approval of the Building Inspector.
- (5) Temporary buildings to be used in connection with construction work may be erected without a permit but shall be removed immediately upon completion of the said work.

13 **OCCUPANCY**

- (1) No change shall be made in the type of occupancy or use of any building which would place the building in a different group or occupancy, unless such building is made to comply with the requirements of this By-Law for that group.
- (2) No person shall occupy a building or part thereof or change the occupancy without first obtaining a final inspection by the Building Inspector.

14 **RESPONSIBILITY OF PERMIT HOLDER**

- (1) When a building permit has been issued, the person named in the permit shall give to the Building Inspector:
 - a) at least 48 hours notice of the intention to start work authorized by the permit;
 - b) at least 24 hours notice of the placement of a foundation wall below land surface prior to any back-filling of the excavation;
 - c) at least 24 hours notice of the completion of all framing prior to insulating
 - d) At least 24 hours notice of the completion of all work prior to dry wall application
 - e) notice of the completion of the work described in the permit within 10 days of such completion; and
 - f) such other information as may be required thereunder.

RESPONSIBILITY OF PERMIT HOLDER (cont'd)

- (2) When 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 carrying out of the work authorized.
- (3) The approval of plans or specifications, the issuing of a permit or any inspections hereunder do not relieve a person of any duty or responsibility for carrying out work in accordance with this By-Law.

15 DOCUMENTS ON THE SITE

During the carrying out of the work authorized by a permit, the person named therein shall keep posted in a conspicuous place on the property in respect of which the permit was issued:

- (1) a copy of the building permit, and
- (2) a copy of any plans and specifications approved by the Building Inspector.

16 TESTS

The Building Inspector may:

- (1) direct the tests of materials, devices, construction methods, structural assemblies or foundation conditions be carried out, or sufficient evidence or proof be submitted, at no cost to the Town , when such evidence or proof is necessary to determine if any material, device, construction or foundation condition meets the requirements of this By-Law; and
- (2) revoke, suspend or refuse to issue a building permit when, in his opinion, the results of the tests referred to in Clause (1) are not satisfactory.

17 **RECORDS**

- (1) The Building Inspector shall keep 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 duties.

18 **VALUATION OF BUILDINGS FOR THE PURPOSE OF PERMITS**

- (1) The value to be shown on building permits shall mean the total monetary worth of all construction or work including all roofing, electrical work, plumbing, permanent or fixed heating equipment, elevator equipment, fire sprinkler equipment, and any permanent equipment and all labour, materials and other devices entering into and necessary to the prosecution of the work in its completed form.
- (2) No portion of any building including mechanical, electrical and plumbing work shall be excluded from the valuation for a building permit because of any other permits required by any governing By-Law or agency.
- (3) Notwithstanding the provisions of Subsection (1), the value for a building permit in the case of the relocation of a building to a new site shall include the cost to move the building, excavation of the new site, cleaning and leaving the former site in the condition specific in this By-Law and alterations or repairs to the building.

19 SCHEDULE OF FEES

- (1) No permit shall be issued until the fee set out in the Schedule below has been paid to the Municipality.

ESTIMATED COST OF WORK	PERMIT FEE
Up to \$1,000	\$2.00 per \$100. of estimated cost or fraction thereof
Over \$1,000 and up to \$100,000	\$20.00 for the first \$1,000, plus \$2.00 for each additional \$1,000 of estimated cost or fraction thereof
Over \$100,000	\$218.00 plus \$2.00 per \$1,000 of estimated cost or fraction thereof for each additional thousand.
Electrical Waivers	\$25.00 each

- (2) A permit shall not be required for the repair of: veranda, roofing, existing steps, fences, doors, windows, roof shingles, siding or adding insulation, which does not involve the alteration of the use or occupancy, shape or size of the building or structure, where the cost of the work based on the dollar value of material and labour at the current commercial purchase price is three thousand dollar (\$3,000.00) or less, annually.
- (3) Work shall not be split into parts involving costs of less than three thousand dollars (\$3,000.00) for the purpose of avoiding the provisions of this By-Law.

SCHEDULE OF FEES *(cont'd)*

- (4) Where the Building Inspector has reason to believe and does believe that an estimate mentioned in Subsection (1) is unreasonable, he may refuse to issue the permit.
- (5) Where work requiring a permit under this By-law has been commenced by anyone prior to the issuance of a Building Permit, the fees prescribed Table 19(1) shall be multiplied by three (3).
- (6) Notwithstanding anything contained in this by-law, an application for a permit for work to be carried out on property owned by the Town shall be exempt from the requirements of Table 19(1).

20 INSPECTION OR EXAMINATION

The Building Inspector is authorized by the Town Council to enter at any reasonable time, any land or building within the Town of Sussex for the purpose of making an inspection or examination relating to construction, structural alteration, repair, placement or demolition of any building or structure, and of administering or enforcing this By-Law or any provision of the Community Planning Act relating thereto.

21 LIABILITY

Notwithstanding the terms of this By-Law, the Town of Sussex or Building Inspector shall not be held liable for any mishaps or damages resulting from poor workmanship, faulty materials or unsafe construction practices.

22 PLURAL OR FEMININE TERMS

Plural or feminine terms may apply whenever the singular, masculine or feminine is used in this By-law. It shall be considered as if the plural, feminine or masculine has been used where the context of the party of parties hereto so requires.

23 VALIDITY

The invalidity of any section, clause, sentence or provision of this By-law shall not affect the validity of any other part of this by-law which can be given effect without such invalid part or parts.

24 REPEAL

- (1) A By-law entitled "By-law #151-09, Building By-law" enacted March 16, 2009 and amendments thereto is hereby repealed.
- (2) A repeal of the by-law designated in subsection (1) thereof 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 of thing whatsoever completed, existing or pending at the time of repeal.

READ FIRST TIME BY TITLE: March 21, 2016

READ SECOND TIME BY TITLE: March 21, 2016

READ IN ENTIRETY: April 18, 2016

READ THIRD TIME BY TITLE
AND ENACTED: April 18, 2016

Paul I. Maguire
TOWN CLERK

Marc Thorne
MAYOR