

BY-LAW NO. 2023-05

A BUILDING BY-LAW FOR FUNDY ALBERT

BE IT ENACTED by the Council of Fundy Albert under the authority vested in it by the *Building Code Administration Act*, SNB 2020, c 8, the *Community Planning Act*, S.N.B. 2017, c. 19 and the *Local Governance Act*, S.N.B., 2017, c. 18 as follows:

1. Definitions

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.

“**Act**” means the *Building Code Administration Act*, SNB 2020, c 8, or any amendment thereto. (*Loi*)

“**building**” means a building as defined in the Code.

“**building inspector**” means

(a) a person who has the primary responsibility to a regional service commission for the enforcement of local government by-laws or other provincial laws with respect to building and construction within the region, and

(b) a building inspector, or a person who has the primary responsibility for the enforcement of by-laws or other laws with respect to building and construction, appointed under the *Local Governance Act*.

“**Code**” means the *National Building Code* adopted by reference in the regulations, and includes all revisions, errata and corrections to errata issued from time to time. (*Code*)

“**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*.

“National Energy Code” means the *National Energy Code of Canada for Buildings*, adopted by reference in the regulations, and includes all revisions, errata and corrections to errata issued from time to time.

“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.

“regulations” means the *General Regulation – Building Code Administration Act*.

“work” means to construct or to demolish a building or a material part of a building.

2. Adoption of Code

2.1 For the purposes of this by-law, the Code is adopted.

2.2 For the purposes of this by-law, the National Energy Code is adopted.

3. Prohibitions

3.1 A person shall not undertake or continue any work unless:

- (1) A permit has been issued under this by-law; and
- (2) The work conforms with
 - (a) In the case of construction, the Code and the National Energy Code;
 - (b) The standards prescribed by this by-law;
 - (c) The terms and conditions of the permit issued pursuant to this by-law;
 - (d) The description of the construction work contained in the permit; and
 - (e) Any plans approved by the building inspector.

4. Non-Material work

4.1 The following work shall not be considered material and shall be exempted from the requirements of obtaining a permit:

- (1) for all buildings:
 - (a) maintenance of heating equipment, ventilation or electrical equipment, provided such maintenance does not affect fire separations or fire dampers,

- (b) interior or exterior painting,
 - (c) replacement of baseboards and window casings,
 - (d) replacement of flooring,
 - (e) replacement of built in furniture,
- (2) for buildings containing only a single- or two-unit dwelling and associated accessory buildings:
- (a) re-roofing, up to 25% of roof sheathing replacement,
 - (b) changing doors, provided they are in the same type, location and size,
 - (c) replacing exterior deck flooring where such repairs are the same type and configuration as that being repaired,
 - (d) plaster and drywall repairs not within a fire separation,
 - (e) wallpaper installation,
 - (f) installation of gutters or downspouts,
 - (g) installation of storm doors and shutters,
 - (h) refacing or replacement of kitchen cabinets,
 - (i) repairing or reinstalling cosmetic interior trim, or
 - (j) replacement of fascia board and soffit, and
- (3) any buildings listed under section 5 of Regulation 2021-2 under the Act that are exempt from application of the Act, Regulation 2021-2 and the Code.

5. Application Process

- 5.1 An owner or a person acting on behalf of the owner seeking to obtain a permit for any work as required under this by-law shall make an application in writing to the building inspector and shall pay the fees required by this by-law, at the time of making the application.

Building Permit Application

- 5.2 The building permit application shall include the fee referred to at section 7 and contain the following information:
- (1) The name, telephone number, civic address and email address of;

- (a) The owner or a person acting on behalf of the owner, as the case may be;
 - (b) All constructors, architects, engineers or designers that will perform work with respect to the building permit;
 - (c) All inspection or testing agencies engaged to monitor the work or part of the work;
- (2) The location of the property where the work will be performed, including the civic number, street name and property identification number (PID);
 - (3) A detailed description of the scope of the work to be performed;
 - (4) The approximative cost of the proposed work;
 - (5) A description of the intended use of the building or structure;
 - (6) 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
 - (7) A description of any building system, material or appliance.

Demolition Permit Application

5.3 A demolition permit application shall include the fee referred to at section 7 and contain the following information:

- (1) The location of the property where the work will be performed, including the civic number, street name, lot number and property identification number;
- (2) A detailed description of the scope of the work to be performed; and
- (3) An application for a demolition permit shall include the provincially approved location where any demolition debris will be disposed.

Change of Use Permit

5.4 A person shall not:

- (1) Change the use of a building or part of a building with respect to the occupancy classification of the Code; or
- (2) Allow the change of use of a building or part of a building with respect to the occupancy classification of the Code;

Without first obtaining a building permit.

Special Application Requirements for Commercial Projects

- 5.5 Work described in this section shall be designed and reviewed during construction by an architect, engineer, or interior designer as required by the scope of work, authorized and registered to practice in New Brunswick:
- (1) New constructions and additions, including mezzanine additions and floor infills, of buildings which;
 - (a) exceeds 600m² in building area or exceeds 3 stories in building height, or
 - (b) is used for Group A - Assembly, Group B - Institutional, Group F Division 1 - High Hazard Industrial occupancies.
 - (2) Renovations to suites which:
 - (a) exceeds 600 m² in area, and
 - (b) involves work with fire separations, life safety systems, exterior walls, main entrances or public corridors.
 - (3) construction and modifications that are designed in conformance with Part 4 of the Code;
 - (4) foundation designs requiring soils bearing capacity exceeding 75 kPa;
 - (5) installations of fire alarm systems, replacement of fire alarm panel and replacement of more than 20 fire alarm devices;
 - (6) installations of sprinkler systems, changes in classifications as per NFPA 13 or replacement and additions of sprinkler sections with greater than 20 heads;
 - (7) installations of emergency power supplies that serve life safety systems;
 - (8) installations of commercial cooking equipment in conformance with the Code;
 - (9) installations of ventilation units and/or ventilation distribution systems in conformance with the Code in areas greater than 300 m²;
 - (10) alternate solutions in conformance with the Code;
 - (11) site servicing and drainage plans in connection with new constructions and additions;
 - (12) Energy Design in conformance with the Code;
 - (13) Integrated Fire Protection and Life Safety Systems Testing in conformance with the Code

6. Issuance of Permit

- 6.1 Upon receipt of a complete application, and upon receipt of payment of all fees required by this by-law, the building inspector shall within a reasonable time issue a permit, provided that:
- (1) The proposed work complies with this by-law; and
 - (2) A development officer has approved the proposed work pursuant to subsection 108(1) of the *Community Planning Act*, S.N.B. 2017, c. 19.
- 6.2 A permit issued pursuant to this by-law shall be valid for a period of one year from issuance after which time the permit shall expire unless it is renewed by the building inspector.
- 6.3 The issuance of a permit or the review of the drawings and specifications, or inspections made by the building inspector during construction of the work shall not relieve the permit holder from full responsibility for carrying out the work in accordance with the requirements of this by-law, the permit and all other applicable laws.

7. Fees

- 7.1 The fee for a permit shall be the following:
- (1) For a building permit, \$25 plus \$5 for each \$1,000 of the estimated construction cost of the work to be performed, based on the cost calculator of the Southeast Regional Service Commission; and
 - (2) For a demolition permit; \$25.
- 7.2 Despite anything contained in this By-law, a permit application for work to be carried out by or on behalf of the local government to which this by-law applies shall be exempt from the requirements of this section.
- 7.3 Despite anything contained in this By-law, where work has begun prior to the issuance of a building permit, the fee therefore shall be two times that provided for in this By-law.

8. Refusal to Issue a Permit

- 8.1 A building inspector may refuse to issue a building permit or demolition permit if:
- (1) The application for the permit is incomplete or contains information that is false;
 - (2) The fee for the permit has not been paid; or
 - (3) The information is not sufficient to determine compliance with the Code.

9. Notice of Commencing Construction

9.1 Before commencing any work, an owner or a person acting on behalf of the owner shall provide written notice to the regional service commission, as the case may be, with the following information:

- (1) The date on which work on the building is to commence;
- (2) The names of all constructors, architects, engineers or designers, as the case may be, that will perform work with respect to the permit; and
- (3) The name of all inspection or testing agencies engaged to monitor the work or part of the work.

9.2 During the course of construction, if there is a change in, or termination of, the employment of a person referred to in this section, the owner or a person acting on behalf of the owner shall, no later than 72 hours after the change, give written notice to the regional service commission of the change.

10. Posting on the Premises

10.1 An owner or a person acting on behalf of the owner shall ensure that a copy of the permit is posted in a prominent place on the premises, before the work begins and shall remain posted until the completion of the work.

10.2 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 during working hours.

11. Inspection Requirements

11.1 At least one inspection shall be made at each of the following stages of construction:

- (1) On the completion of the footings and foundations, but before the commencement of any backfilling;
- (2) On substantial completion of structural framing;
- (3) On installation of the vapor barrier (pre-drywall); and
- (4) On completion of construction or before occupation of the building.

11.2 Factory-built homes, modular homes and manufactured homes constructed following the standards set out at subsection 9(2) of the regulations are not subject to inspection at the stage of construction referred to in paragraph (2) and (3) above.

12. Notice of Readiness for Inspection

- 12.1 An owner or a person acting on behalf of the owner shall notify the building inspector that the construction or demolition work is ready for inspection.
- 12.2 The notice of readiness for inspection shall contain:
- (1) The civic address and Service New Brunswick parcel identifier (PID) for the property identified on the permit;
 - (2) The stage of construction referred to in section 11;
 - (3) The requested date and time for inspection;
 - (4) The telephone number of the owner or a person acting on behalf of the owner; and
 - (5) The email address of the owner or the person acting on behalf of the owner.
- 12.3 An inspection shall be made within two business days of the receipt of the notice of readiness, or the date and time agreed to by the building inspector and the owner or a person acting on behalf of the owner.
- 12.4 No person shall obstruct or interfere with a building inspector who is carrying out or attempting to carry out an inspection.

13. Open Foundations and excavations

- 13.1 The owner of a property upon which an open foundation or excavation exists as the result of demolition or destruction of a building, when new construction is not to proceed without delay, shall forthwith backfill such open foundation or excavation to grade or, when new construction is to proceed without delay, shall forthwith erect in a neat and professional manner a wall constructed of wood materials, without openings, at least 1.8 m in height, around the perimeter of such open foundation or excavation, and shall maintain the same so as not to become dilapidated or unsightly until construction has proceeded to a stage where the open foundation or excavation is no longer a danger.

14. Suspension or Revocation of Permit

- 14.1 A building inspector may suspend or revoke a building or demolition permit if
- (1) There is a contravention of the Act, the regulations or the Code or any term or condition under which the permit was issued,
 - (2) The permit was issued in error, or
 - (3) The permit was issued on the basis of incomplete or false information.

- 14.2 A building inspector shall notify the owner or a person acting on behalf of the owner in writing of the suspension or revocation of the permit.
- 14.3 A building inspector shall reinstate a permit that has been suspended if all requirements under the Act, the regulations and the Code and the terms and conditions under which the permit was issued are complied with.

15. Enforcement

- 15.1 The building inspector is responsible for the enforcement and administration of this by-law.
- 15.2 Where a person undertakes work in contravention of the Code, this by-law, the Act or the regulations, a building inspector may make one or more of the following orders:
- (1) Cessation of the construction or demolition work;
 - (2) Alteration of the construction or demolition work to remove the contravention; and
 - (3) Taking any other action required to make the building or real property safe.
- 15.3 When the building inspector serves an order, no person shall perform any construction or demolition work other than work that is necessary to carry out the order or make the premises safe in accordance with the order.

16. Offences

- 16.1 Any person who violates or fails to comply with a provision of this by-law commits an offence punishable as a category B offence under the *Provincial Offences Procedure Act*.
- 16.2 A person who does any of the following commits an offence punishable as a category E offence:
- (1) Obstructs or interferes with a building inspector who is carrying out or attempting to carry out an inspection; and
 - (2) Violates or fails to comply with an order of a building inspector.
- 16.3 A person who does any of the following commits an offence as a category B offence:
- (1) Constructs without a permit or in violation of the Code, the by-law, the terms and conditions of the permit;
 - (2) Changes the use of a building or its occupancy classification without a permit;
 - (3) Fails to post a building or demolition permit; and

(4) Fails to notify the inspector that the work is ready for inspection.

17. Severability

17.1 Where a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an order to the contrary.

18. Repeal Provisions

18.1 A By-law entitled "Building By-law", being By-law No. 80 of the former municipality of Alma, ordained and passed on the 11th day of July 2000, and all amendments thereto are hereby repealed.

18.2 A By-law entitled "Building By-law", being By-law No. 38 of the former municipality of Hillsborough, ordained and passed on the 5th day of June 2000, and all amendments thereto are hereby repealed.

18.3 A By-law entitled "Riverside-Albert Building By-law", being By-law No. 21 of the former municipality of Riverside-Albert, ordained and passed on the 12th day of March 2001, and all amendments thereto, are hereby repealed.

Read a first time this 6th day of June, 2023.

Read a second time this 6th day of June, 2023.

Read a third time and enacted this 4th day of July, 2023.

Mayor
Robert Rochon

Clerk
Tammy Rampersaud