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June 17, 2014
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Town of Nackawic

Building By-law

By-law No. B1

I certify that this instrument
is registered or filed in the

York
County Registry Office,
New Brunswick

J'atteste que cet instrument est
enregistré ou déposé au bureau
de l'enregistrement du comté de

Nouveau-Brunswick

June 17, 2014 14:32 33872376
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Nancy Chisholm
Registrar/Conservateur

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**Town of Nackawic
By-law No. B-1
BUILDING BY-LAW**

The Council of the Town of Nackawic under the authority vested in it by section 59 of the Community Planning Act enacts as follows:

SECTION 1: TITLE

1(1) This By-law may be cited as the Town of Nackawic Building By-law and it hereby repeals and replaces the former Building By-law 13-(90) and all amendments thereto.

SECTION 2: PURPOSE AND SCOPE

2(1) The purpose of this By-law is

- (a) to prescribe standard 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;
- (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, and;
- (d) to prescribe fees for permits.

2 (2) A permit is not required for the following work on a structure containing a maximum of two dwelling units:

- (a) Re-roofing;
- (b) Painting;
- (c) Plaster repairs;
- (d) Drywall patching;
- (e) Window replacement of the same size or smaller, excluding bedroom windows;

- (f) Retaining walls less than 1 metre in height from the top of the wall to the lowest adjacent surface;
- (g) Recreation structures such as play equipment, poles for flags or clotheslines;
- (h) Insulating, finish floor replacement, wallpapering, replacing exterior cladding for residential properties only, eavestroughing, cosmetic decorations;
- (i) Fences less than 2.4 meters in height;
- (j) Repairing or replacing existing exterior decks, landings or stairs valued at less than \$1000.00 and,
 - (a) Where the replacement is of the same configuration as the item being replaced;
 - (b) Where such replacement conforms to the requirements of the Town of Nackawic, Zoning By-law.

SECTION 3: INTERPRETATION

- 3 (1) The provisions of this By-law are severable. If any provision is for any reason held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this By-law.
- 3 (2) Nothing in this By-law shall relieve any person from the obligation to comply within the requirement of the Zoning By-law, Subdivision By-law or any other By-law of the Town of Nackawic in force from time to time, or the obligation to obtain any license, permit, authority or approval required under any By-law the Town of Nackawic or Act or Regulation of the Provincial or Federal Government. In the event of conflict between this By-law and any other Act or Regulation, the most restrictive obligation shall prevail.

SECTION 4: DEFINITIONS

In this By-law;

“accessory building” means a detached building located on the same lot as the main building or main use to which it is accessory, the use of which is naturally or customarily incidental or complementary to the main use of the land or building: not to be used for human occupancy.

“alter” means, in relation to a building or structure, to make any structural or other change thereto which is not for purposes of maintenance or cosmetic decoration only, and also includes any change in the purpose for which any land, building or structure is used (for example only, when a building formerly used as offices is changed to be used in part or in whole for a food services business, or when a single family residence is going to be in part rented out, and so become a two unit residence);

“authority having jurisdiction” means the Building Inspector

“building” means any structure used or intended to be supporting or sheltering any use or occupancy;

“Building Inspector” means the person appointed by the Council of the Town of Nackawic to administer and enforce this By-law for the Town of Nackawic;

“Commission” means the Regional Service Commission #11 as established by Regional Service Commission Act;

“Code” means the current edition of the National Building Code of Canada as adopted by The Province of New Brunswick and all amendments thereto;

“Council” means the Town of Nackawic Council;

“Development”, “Development Officer”, and any other words therein defined have the meanings given to them in Section (1) of the Community Planning Act;

“lot” means any parcel of land which is contained as a separate lot description in a deed of land or as shown as an approved lot in an approved plan of subdivision filed in the registry of deeds;

“occupancy” means the use or intended use of a building or part thereof, for the support, shelter, housing or enclosure of persons, animals or chattels;

“Zoning By-law” means the Town of Nackawic Zoning By-law;

“use” means the purpose for which land or a building or a structure, or any combination thereof is designed, arranged, erected, intended, occupied or maintained;

“Town” means the Town of Nackawic;

“width” means, in relation to a lot,

- (a) Where the side lot lines are parallel, the distance measured across the lot at right angle to such lines, or;**
- (b) Where the side lot lines are not parallel, the distance measured across the lot along a line parallel to a line joining the points at which the side lot lines intersect the street line, such parallel line being drawn through the point at which the lines of minimum setback required by By-law or regulation, intersects a line from the midpoint of and perpendicular to the line in which it is parallel.**

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

SECTION 5: ADOPTION OF BUILDING CODE

- 5 (1) The latest edition of the National Building Code of Canada, as adopted by the Province of New Brunswick including any amendments thereto, is hereby adopted as the standard for all work undertaken in the Town.
- 5 (2) The Building Inspector shall keep a copy of the Code available for public use, inspection and examination, at the office of the building inspector during regular business hours.

SECTION 6: APPOINTMENT OF BUILDING INSPECTORS

- 6 (1) The appointed Building Inspector shall exercise such powers and perform such duties as are provided by this By-law.

SECTION 7: DEVELOPMENT AND BUILDING PERMITS

General

- 7 (1) No person shall undertake a development or change of use in the Town of Nackawic without first acquiring a Development or Building Permit issued by the Building Inspector.
- 7 (2) A Development or Building 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 one year in such manner that any exterior surface intended to be clad or remains unclad in excess of six 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.
- 7 (3) If for reasonable cause the activity or construction authorized by a permit issued herein is not commenced within six months, the Development Officer or Building Inspector, as the case may be, may at his/her discretion, on application, renew such permit with no additional cost.
- 7 (4) 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 supervised by an Architect or Engineer registered to practice in the Province of New Brunswick.

- 7 (5) 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

Development Permits

- 7 (6) A person seeking a Development Permit only shall make application in writing to the Building Inspector and such application shall
- (a) be in a form prescribed by the Commission;
 - (b) be signed by the owner of the subject lands or authorized agent;
 - (c) be accompanied by the appropriate fee prescribed in Section 11;
 - (d) state the intended use or purpose of the intended work, building or structure;
 - (e) contain such other information as the Building Inspector may require for the purpose of determining compliance with this By-law, the National Building Code of Canada, the Town of Nackawic Zoning By-law, and other applicable Regulations, and;
 - (f) be accompanied with a Watercourse and Wetland Alteration Permit from Department of Environment if any of the development is located within 30 metres of a wetland or watercourse, as defined by Regulation.
- 7 (7) The following work carried out under a Development permit is exempt from the application of the code;
- (a) the location of mini-homes, mobile homes on blocking;
 - (b) detached storage sheds, baby barns less than 17 m² in floor area;
 - (c) a free standing deck less than 10 m² in area and having less than 600mm between the bottom of the floor joists and the finished ground.
 - (d) Demolishing of a building subject to the owner of a property which an open basement or excavation exists as a result of the demolition or destruction of a structure or the expiry or revocation of a permit shall, at his own expense and without delay, backfill such basement or excavation with granular material to a level grade and maintain it so as not to be dangerous or unsightly.

Building Permits

- 7 (8) No person shall undertake or continue the building, locating or relocating, demolishing, altering, replacing or change of use of a building unless a Building Permit has been issued pursuant to this section.
- 7 (9) A person seeking to obtain a Building Permit shall make application in writing to the Building Inspector, and such application shall;

- (a) be in form prescribed by the Commission;
- (b) be signed by the owner of the subject lands or authorized agent;
- (c) state the intended use of the building or structure;
- (d) be accompanied by the appropriate fee prescribed in Section 11;
- (e) set out the total estimated cost of the proposed work;
- (f) be accompanied by plans showing specifications and scale drawings of the building with respect to which the work is to be carried out, unless waived by the Building Inspector, showing:
 - (i) the dimensions of the building;
 - (ii) the dimensions and the proposed use of each room or floor area;
 - (iii) the location and dimensions of each door and window;
 - (iv) foundation plan, floor plans;
 - (v) front, rear and side elevations; and
 - (vi) cross-section of building;
 - (vii) location of the building on the lot;
 - (viii) the elevation and /or grades of the foundation with respect to the elevation of the storm and /or sewer drain pipe, street and adjacent properties, as applicable;
- (g) Contains such other information as the Building Inspector may require for the purpose of determining compliance with this By-law, the National Building Code of Canada, the Town of Nackawic Zoning By-law, and other applicable Regulations, and;
- (h) Affirm that the work will be done to the specifications of the National Building Code and the other relevant By-laws, and that the applicant recognizes that this is his/her and/or his/her contractor's responsibility to ensure that the standards are indeed met.

7 (10) In the case of buildings which exceed 600 m² (6485 square feet) in building area, exceed three storeys in building height or which are used for assembly, institutional or hazardous industrial or commercial purposes, no permit shall be issued unless the plans and specification are certified under the seal of an architect or professional engineer registered to practice in the Province of New Brunswick.

7 (11) The issuance of a Building Permit will be withheld until the applicant can demonstrate the ability to connect to the town sewage system, possession of an approved on-site sewage disposal system assessment or there is an existing septic system on the property to connect the proposed building to or the proposed building does not require a sanitary septic facility.

7(12) A permit issued pursuant to this By-law shall be valid for the duration of the project, provided the construction does not stop for a period in excess for one year.

7(13) 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.

SECTION 8: DUTIES AND POWERS OF THE BUILDING INSPECTOR

8(1) The Building Inspector shall

- (a) administer this By-law;
- (b) keep the proper records of all applications received, permits and orders issued, inspections and tests made, and shall retain copies for all papers and documents connected with the administration of his/her duties, and;
- (c) keep a copy of the Code available for public use, inspection and examination.

8(2) Subject to subsections 7(6) through 7(13), and payment of the applicable fee listed under section 11, where

- (a) An application has been made, and
- (b) The proposed work set out in the application conforms with this By-law and all other applicable By-laws;

The Building Inspector shall issue the permit for which the application has been made.

8(2) The Building Inspector may:

- (a) enter upon any land, any building or premises at any reasonable time for the purpose of administering or enforcing this By-law;
- (b) cause a written order to be served upon the owner of any property directing him/her to correct any condition that constitutes a contravention of this By-law;
- (c) 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 conditions meets the requirements of this By-law;

- (d) revoke or refuse to issue a permit, where in his/her opinion, the results of the test referred to in section 8 (2) (c) are not satisfactory;
- (e) may refuse to issue a Building Permit, when he/she has reason to believe and does believe that the estimate cost of work provided by the applicant is unreasonable, and;
- (f) revoke or refuse to issue a permit where in his opinion the work does not conform with this By-law and all other applicable By-laws, provincial Acts and Regulations, as determined by the Building Inspector.

SECTION 9: ENFORCEMENT

- 9 (1) Where a person violates 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, or compliance with the Code within a reasonable time mentioned in the notice.
- 9 (2) Where a person fails to comply with an order mentioned in subsection 9 (1), the Building Inspector may suspend or revoke the Building Permit, or, with authorization of the Town, apply to the Court of Queen's Bench to have the order complied with, and may, if the conditions leading to the suspension are subsequently corrected, reinstate the suspended permit.

SECTION 10: RESPONSIBILITY OF PERMIT HOLDER

- 10 (1) 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 or enforcement of this By-law;
- 10 (2) Where a Building Permit has been issued, the person named in the permit shall give to the Building Inspector, sufficient notice as defined below, exclusive of Saturday, Sunday and Holidays, for inspection purposes.
 - (a) at least 48 hours notice of the intention to start work authorized by the permit;
 - (b) at least 48 hours notice of the placement of a foundation wall below land surface prior to any backfilling of the excavation;
 - (c) at least 24 hours notice prior to pouring concrete in insulated concrete forms;
 - (d) at least 24 hours notice prior to pouring concrete for a structural slab;

- (e) at least 48 hours notice when insulation and vapour barrier are completed, prior to any dry walling;
 - (f) notice of the completion of the work described in the permit within 10 days of such completion; and
 - (g) such other information as may be required hereunder.
- 10 (3) Where tests of any materials are made to ensure conformity with the requirements of the By-law, records of the test data shall be kept available for inspection during the carrying out of the work authorized.
- 10 (4) The approval of plan or specifications, the issuing of a Building Permit or any inspections hereunder do not relieve a person of any duty or responsibility for carrying out works in accordance with this By-law.
- 10 (5) 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.
- (a) a copy of the Building or Development Permit, for a minimum of 10 days,
 - (b) a copy of any plans and specifications approved by the Building Inspector, throughout the duration of the work.

SECTION 11: SCHEDULE OF FEES

- 11 (1) No Development Permit may be issued under this By-law until a fee of five dollars (\$5.00) per thousand dollars (\$1000.00) of total estimate of cost of construction has been paid to the commission.
- 11(2) No Building Permit may be issued under this By-law until a fee of twenty-five dollars (\$25.00) plus five dollars (\$5.00) per thousand dollars (\$1000.00) of total estimate of cost of construction including labour and materials, has been paid to the commission.
- 11(3) Where both a Development Permit and Building Permit are required, only the fee for the Building Permit will apply.
- 11(4) Where the required permit fee is based on this "Total Estimated Cost" of the work. The "Total estimated cost" means the cost of all material and labour except the cost of the land, well and septic system.

11(5) Upon written request by the applicant, the permit fee may be 50% refunded within 6 months (six) from the date of issue provided no work has been commenced under the permit. Upon being refunded by the Town, the permit shall be deemed to be cancelled.

11(6) Where the Building Inspector believes the "Total Estimated Cost" is too low the cost shall be based on the following minimum construction costs per square meter.

Home Construction & additions: \$1076.00/ m² (\$100.00/sq.ft)

Attached garage: \$161.00/ m² (\$15.00/sq.ft)

Foundation only: \$161.00/ m² (\$15.00/sq.ft)

This is to certify that By-law No. B-1, "A Building By-law" has been enacted by the Town Council of the Town of Nackawic and that the said By-law was:

Read First Time by Title on March 3, 2014

Read Second Time in its Entirety on March 17, 2014

Read Third Time and Enacted on March 17, 2014

This By-law shall come into full force and take effect and be binding on all persons as of and from the date filed at the Registry Office.

Nancy Cronkhite, Mayor



Duncan Walker, Clerk

