

**Town of Hampton**  
**By-law No. 214-20**  
**BUILDING BY-LAW**

The *Council* of the Town of Hampton, under the authority vested in it by Section 10(1) of the *New Brunswick Local Governance Act* and Section 62 of the *New Brunswick Community Planning Act, Chapter 19* enacts as follows:

**Title**

1.
  - a) This by-law may be cited as the “Building By-Law;”
  - b) The provisions of this by-law apply to the entire area within the town boundaries of the Town of Hampton.

**Application**

2. This By-Law shall apply to:
  - a) The design and construction of a building or structure, or part thereof;
  - b) The whole or any part of a building or structure that is located or relocated (i.e. mobile home, building relocation);
  - c) The whole or any part of a building or structure that is demolished, any and all remaining part(s), as well as, the work involved in the demolition;
  - d) The alteration of a whole building or structure or part thereof; the by-law only applies to the part or parts being altered if the part not being altered is completely self-contained with respect to the facilities and safety measures required;
  - e) A change in building use/occupancy; applies to all parts affected by the change.
3. The issuance of a permit under this by-law does not relieve the owner of any duty or responsibility for obtaining any additional permits/ approvals required by any Federal or Provincial Act or Regulation or restrictive covenant related to the property.

## Definitions

4. In this By-Law, words used which are not defined herein but are defined in the National Building Code, shall have the same meaning as defined therein:
- a) **Alter/ Alteration** – means, as applied to a building or structure or part thereof, a change or rearrangement in the structural parts or means of egress; or as an enlargement, whether by extending the side, front, or rear of a building or structure or by increasing the height; or in the moving from one location or position to another.
  - b) **Building** – means a structure having a roof supported by columns or walls or supported directly on the foundation and used for the shelter or accommodation of persons, animals or goods.
  - c) **Building Inspector** – means such person that may be appointed, as per Section 71(2) of the *New Brunswick Local Governance Act*, by Council to act as an officer necessary for the administration of the local government as it relates to building and construction.
  - d) **Building Permit** – means a permit issued under this by-law which confirms the construction is in accordance with applicable codes and by-laws. The issuance of such does not relieve the owner of any applicable Federal/ Provincial Acts or Regulations.
  - e) **Code** – means the most recent provincially adopted version of the *National Building Code of Canada*, including amendments, revisions and errata subsequently issued hereto.
  - f) **Construct/ Construction** – means to do anything in the erection, installation, extension or material alteration or repair of a building or structure and includes the installation of a building/ structure unit fabricated or moved from elsewhere.
  - g) **Council** – means the duly elected council of the Town of Hampton.
  - h) **Demolish/ Demolition** – means to raze, level, ruin, wreck, destroy, or tear down, in whole or in part, a building or structure.
  - i) **Development Officer** – means the Municipal Planning Officer appointed by Council under Section 10(1)(b) of the *New Brunswick Community Planning Act 2017-c.19*.
  - j) **Development Permit** – means a permit issued under this by-law which confirms the work is in accordance with applicable Town of Hampton by-laws, policies and

procedures. The issuance of such does not relieve the owner of any applicable Federal/ Provincial Acts or Regulations.

- k) **Duly Authorized Person** – means a person who is given the authority to stand in the place of another.
- l) **Inspection Reports** – means written confirmation from a qualified person that the work, is in conformance with the plans and specifications, and any amendments thereto, as filed with the Town, and in compliance with the Code. Otherwise known as Certificates of Review/ Field Review Commitments and Confirmations.
- m) **Land Gazette** – means the Service New Brunswick information repository of land-related notices, restrictions, and other information about land parcels. It allows users to find out essential information related to land parcels, or if requirements set out in the *New Brunswick Community Planning Act* were not met by a home builder.
- n) **Maintain/ Maintenance** – means cosmetic, non-structural work.
- o) **Occupancy** – means the use, or intended use of a building or structure, or part thereof, for the shelter or support of persons, animals or property.
- p) **Occupancy Certificate** – means a certificate issued by the Building Inspector stating that the building/ structure/ use meets this and other applicable by-laws.
- q) **Owner** – means the registered landowner according to Service New Brunswick Land Registry Office or a duly authorized person (i.e. contractor, engineer etc.).
- r) **Order** – means a notice of violation issued under an Act or by-law.
- s) **Peace Officer** – means a police officer and any other person who is made a peace officer by an Act and who is acting in the performance of that person's statutory duties or in relation to an offence or suspected offence under that Act.
- t) **Person** – means any individual, firm, company, association, institution, society, corporation or group.
- u) **POPA** – means the *New Brunswick Provincial Offences Procedures Act*.
- v) **Public Right of Way (ROW)** – means property owned by the Town including roads and streets whether provincially designated or not; also includes storm water conveyance systems along roads & streets.

- w) **Qualified Person** – means a professional licensed to practice the work concerned in the Province of New Brunswick, this includes, but is not limited to, Architect, Professional Engineer or Land Surveyor.
- x) **Record Drawing** – means a signed and stamped drawing submitted by a contractor or qualified person upon completion of the work. They reflect all changes made in the plans and specifications during the construction process, and show the exact dimensions, geometry, and location of all elements of the work completed; also known as an “as-built drawing”.
- y) **Storm Water Conveyance System** – means drainage ditches and swales or berms, or storm sewer systems approved by the Town used for the controlled movement of surface water run-off that is the result of natural precipitation.
- z) **Structure** – means anything constructed on, above, or below the surface of the ground, or attached to something on the ground and includes all buildings; excludes power/ telephone poles or lines.
- aa) **Town** – means Town of Hampton.
- bb) **Use** – means the purpose for which land, building or structure, or any combination thereof is designed, arranged, erected, intended, occupied or maintained.
- cc) **Work** – means the construction, locating/ relocating, demolishing, altering, structurally altering, repairing or replacing, or any combination thereof, of a building or structure; also includes the excavation/ re-grading of land(s).

### **Adoption of Code**

5. The *National Building Code of Canada (Code)*, in its latest provincially adopted edition, shall apply, except for section on Barrier Free Design.
6. The *Barrier Free Design Building Code Regulation*, under *the New Brunswick Community Planning Act*, in its latest addition, shall apply as the standard.
7. Notwithstanding the above, no penalty clause or administrative procedure contained in the *Code* is adopted.

### **Appointment of Building Inspector**

8. As per Section 71(2) of the *New Brunswick Local Governance Act, 2017-c.18*, Council may appoint an officer who shall exercise such powers and perform such duties as are provided by this By-Law.

### **Prohibition**

9. No owner shall construct a building or structure in the Town unless
- a) a development permit and building permit has been issued, and
  - b) the construction work conforms,
    - i) with the *Code*;
    - ii) with the standards prescribed in this by-law; and
    - iii) with the terms and conditions of the issued development permit and corresponding building permit.

### **Building Inspector Duties & Powers**

10. The Building Inspector shall:
- a) administer this by-law;
  - b) keep proper records of all applications received, permits and orders issued, inspections and testing made, and shall retain hard or digital copies of documents connected with the administration of their duties as per Town of Hampton Building Permitting Policy PD 2020-001POL; and
  - c) keep one (1) copy of the *Code* available for public use, inspection and examination.
11. For the purpose of ensuring compliance with this by-law, the Building Inspector may, at any reasonable time:
- a) enter, with owner permission, any building, structure or real property within Town boundaries, as per Section 133(1) of the *New Brunswick Community Planning Act, 2017-c.19* and in accordance with the *Town of Hampton Building Inspection Policy PD 2020-002POL*;
  - b) be accompanied and assisted by a person who has special or expert knowledge;
  - c) conduct tests, make inquiries and take samples, measurements, photographs, video recordings that the Building Inspector considers necessary;

- d) direct that tests of materials, devices, construction methods, structural assemblies or foundation conditions be made or sufficient evidence or proof be submitted at the expense of the owner, where such evidence or proof is necessary to determine whether the material, device, construction method or foundation condition meet the requirements of this by-law;
- e) require the owner to supply additional plans, drawings or specifications pertaining to a building project where, in the Building Inspector's opinion, the plans are unclear or do not comply to the minimum standards of the *Code*, or part of the by-law;
- f) issue such order prohibiting the covering of any work;
- g) order work uncovered where:
  - i) the notice for inspection required was not received;
  - ii) the work was covered despite an issued order prohibiting the covering of such work; or
  - iii) there is reasonable cause to believe that the construction is not in compliance with this or any other applicable by-law.
- h) require the owner, to engage a qualified person for an assessment of design and inspection of construction, or certification of, a building or part thereof, when necessary;
- i) revoke or refuse to issue a permit where to the best of their knowledge the information within an application or supplemental information is insufficient to conduct a proper assessment or results of the tests referred to in Section 10(d)(e) are not satisfactory;

12. Specifications and scale drawings designed outside of Part 9 or under Part 3 or 4 of the *Code* shall not be accepted by the Building Inspector unless they are certified by a qualified person.

13. A Building Inspector may request the assistance of a peace officer for the purposes of this by-law.

14. The Building Inspector may answer relevant questions as may be reasonable with respect to the provisions of this by-law but shall not assist in the laying out of work and acting in a designer capacity.

15. The Building Inspector is not required to inspect work to which Part 4 of the *Code* applies or work that has been certified by a qualified professional, an Inspection Report for such work will be required to be submitted by a qualified professional.

## **Responsibility of Owner**

16. The issuance of a permit, the approval of plans/ specifications or inspections made hereunder, does not relieve the owner of any duty or responsibility for carrying out work in accordance with this by-law or any other applicable Federal or Provincial Act or Regulation.
17. Where a Building Permit has been issued, the owner shall:
  - a) Allow the Building Inspector to enter upon the property or building at any reasonable time for the purpose of making any inspection that may be necessary for the administration or enforcement of this by-law.
  - b) Provide, to the Building Inspector, at least forty-eight (48) hours (excluding Saturday, Sunday or Holiday), notice of the intention to begin the work.
  - c) Provide, to the Building Inspector, at least forty-eight (48) hours' notice (excluding Saturday, Sunday or Holiday) prior to requiring the following applicable inspections:
    - i) Pre-Pour Footings
    - ii) Footings and Foundation Walls
    - iii) Drainage Tile prior to backfill
    - iv) Sewer Connection prior to backfill (Public Works Dept.)
    - v) Pre-Pour Floor
    - vi) Structural/ Framing
    - vii) Insulation & Poly
    - viii) Pre-Cladding
    - ix) Final prior to Occupancy
  - d) Post, in a conspicuous place on the property to which the permit was issued, a copy of the Building or Demolition Permit.
  - e) Keep, on the property to which the permit was issued, a copy of any plans and specifications for which the permit was issued.
  - f) Where a qualified person is engaged, the following are the responsibility of the owner:
    - i) Ensure requested assessments or inspection reports from a qualified person are provided to the Building Inspector.
    - ii) Ensure that hard and digital copies of the Record Drawings for all engineered work and connections to municipal infrastructure are submitted to the Building Inspector.
18. All Inspection Reports and Record Drawings requested by the Town are to be submitted prior to the issuance of an Occupancy Certificate.

19. No person shall occupy a building until such time as an Occupancy Certificate has been issued by the Building Inspector.

**Building Permits**

20. An owner seeking to obtain a Building Permit shall make application in writing to the Building Inspector, such application shall:
- a) be in a form prescribed by the Council;
  - b) be signed by the owner or by their duly authorized agent;
  - c) state the intended use of the building or structure;
  - d) include a copy of the specifications and scale drawings of the building (digital is preferred) with respect to which the work is to be carried out including, but not limited to:
    - 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
    - iv) a drainage plan (Storm Water Conveyance System) for the land after development, including, but not limited to, the grades of the streets and sewers abutting the land, and
    - v) the position, height and horizontal dimensions of all buildings on, and those proposed to be located on the land referred to;
  - e) set out the total area of the proposed work, and
  - f) contain such other information as the Building Inspector may require for the purpose of determining compliance herewith.
21. A Building Permit Fee shall be calculated using an estimated value of construction for the work described in an application, based on established construction costs as per Schedule "A" Building Permit Rates.
22. The Building Inspector shall issue the Building Permit requested where:
- a. an application mentioned in Section 20, together with the other applicable and requested information as per Section 20(f), and permit fee, have been received;
  - b. the Development Officer has approved the work with the issuance of a Development Permit; and



- c. the proposed work conforms, to the best of the Building Inspector's knowledge, with this and any other applicable By-Law.
23. 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, or
  - b. is not discontinued or suspended in excess of one year; a one-year extension may be provided by the Building Inspector where deemed appropriate.
24. Any deviation, omission, or revision of work, for which the permit has been issued, requires approval of the Building Inspector and shall be accounted for on Record Drawings to be submitted to the Building Inspector upon request.

### **Demolition or Removal Permits**

25. An owner shall not undertake or continue the demolition or relocation of a building or structure unless a demolition/ removal permit has been issued pursuant to this section.
26. Where a building is requested to be demolished/ relocated, the Building Inspector shall require a notarized Statutory Declaration from the owner stating that there are no debts in arrears or taxes outstanding with respect to the building or land on which the building is situated; the Building Inspector, upon receipt of the applicable permit fee, and the above mentioned declaration shall issue a permit for the removal in a form prescribed in this by-law.
27. Where a building is to be relocated from its site to another site within town limits and the Building Inspector is satisfied that there are no debts in arrears or taxes outstanding with respect to the building or the land on which the building is situated by way of a notarized Statutory Declaration from the owner, and the building when placed on its new site and completed, to the best knowledge of the Building Inspector, will conform with the requirements of this and any other applicable by-law, the Building Inspector, upon receipt of the applicable fee, shall issue a permit for the relocation in the form required.
28. All permits issued under this section expire six (6) months from the date of issue except that the Building Inspector may renew a permit for another six (6) months upon written request.

### **Special Provisions**

29. For building lots requiring new access from the public right of way, said access must conform with the *Town of Hampton Access Policy* unless otherwise approved by the Building Inspector through consultation with the Public Works Department.
30. Where a building is proposed to be located below the crown of the public right of way, a plan for building location and drainage management must be submitted and reviewed by the

Building Inspector, in consultation with the Public Works Department, prior to the issuance of a Building Permit.

### **Enforcement**

31. The Building Inspector, shall place the *owner's* property on the *Land Gazette* if the *work* for which the permit was issued has not been completed in accordance with any condition of the permit, this By-Law or any other applicable By-Law at the expiration of the permit.
32. As per Section 138(1) of the *New Brunswick Community Planning Act 2017-c.19*, any person who violates or fails to comply with any provision of this by-law is deemed to have committed an offence.
33. As per Section 133(4) of the *New Brunswick Community planning Act 2017-c.19*, where an *owner* violates any provision of this By-Law, the Building Inspector may, by an order served personally on or sent by registered mail to the owner, state the nature of the violation and order the remedy or cessation, thereof within a reasonable time mentioned in the order.
34. As per Section 134(1) of the *New Brunswick Community Planning Act 2017-c.19*, where an owner fails to comply with an order, within a reasonable time as mentioned in the order, 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.
35. As per Sections 134(4) of the *New Brunswick Community Planning Act 2017-c.19*, where an owner fails to comply with an order issued under this by-law, the Town may cause the ordered action to be undertaken and may recover the costs of the order from the owner through an action in a court of competent jurisdiction resulting in a lien on the property concerned until recovered from the owner.
36. As per Section 135(1) of the *New Brunswick Community Planning Act, 2017-c.19*, where an owner fails to comply with an order, the Town may make an application to the Court of Queen's Bench of New Brunswick or a judge of that court for any order issued under the Act for the purposes of compliance with the by-law.
37. The Building Inspector shall enforce applicable by-laws in accordance with the above conditions and the *Town of Hampton By-Law Enforcement Policy PD 2020-002POL*.

### **Severability**

38. If any part of this by-law shall be held to be invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this by-law.

**By-Law Repealed**

39. *By-Law No. 123-95* and all amendments thereto, is hereby repealed.
40. The repeal of *By-Law No. 123-95, Building By-Law*, shall not affect any by-law infraction, penalty, forfeiture or liability, incurred before such a 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 Agreement completed, existing or pending at the time of repeal.

READ FIRST TIME: April 14, 2020

READ SECOND TIME: April 14, 2020

READ THIRD TIME AND ENACTED: May 12, 2020

  
Megan O'Brien Harrison, Town Clerk

  
Ken Chorley, Mayor

## SCHEDULE "A"

### RATE STRUCTURE\* FOR BUILDING PERMITS

\*Subject to change, based upon Building Permit Rate Policy

#### DECKS AND PATIOS

Basic Permit Fee	\$ 25.00
Additional Permit Fee (per \$1000 of est. value)	5.00
Estimated Value determined as follows (calculated by office):	\$ 8.00 per sq. ft

#### INTERIOR/ EXTERIOR BUILDING RENOVATIONS, UPGRADES, AND ALTERATIONS (EXCLUDES ROOFING)

Basic Permit Fee	\$ 25.00
Additional Permit Fee (per \$1000 of est. value)	\$ 5.00
Estimated Value determined as follows (calculated by office):	
Kitchen	\$ 55.00 per sq. ft
Bathroom	\$ 35.00 per sq. ft
Other Living Space (including full or partial basement finishing)	\$ 55.00 per sq. ft
Pools (above/below ground)	\$ 25.00/ \$50.00 per sq. ft
Commercial	\$ 85.00 per sq. ft

#### NEW RESIDENTIAL HOUSES

Basic Permit Fee	\$ 25.00
Additional Permit Fee (per \$1000 of est. value)	\$ 5.00
Estimated Value determined as follows (calculated by office):	
Main Floor	\$ 130.00 per sq. ft
Succeeding Stories	\$ 85.00 per sq. ft
Attached Garage	\$ 75.00 per sq. ft
Attached Deck	\$ 30.00 per sq. ft
Pools (above/below ground)	\$ 25.00/ \$50.00 per sq. ft

#### DETACHED GARAGE

Basic Permit Fee	\$ 25.00
Additional Permit Fee (per \$1000 of est. value)	\$ 5.00
Estimated Value determined as follows (calculated by office):	\$ 75.00 per sq. ft of floor

#### SHED, STORAGE BUILDING, BARNS OR GREENHOUSES

Basic Permit Fee (10 x 12)	\$ 25.00
Additional Permit Fee (per \$1000 of est. value) (above 10 x 12)	\$ 5.00
Estimated Value determined as follows (calculated by office):	\$35.00 per sq. ft

#### NEW COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL PROJECTS

Basic Permit Fee	\$ 25.00
Additional Permit Fee (Based on Contractors Estimate/ Tender Price*)	\$ 5.00 per \$ 1000.00
*official contractor estimate/ tender price must be presented with application	

#### DEMOLITION PROJECTS

Basic Permit Fee	\$ 25.00
Additional Permit Fee (Based on Contractors Estimate)	\$ 5.00 per \$ 1000.00
*official contractor estimate/ tender price must be presented with application	

#### ELECTRICAL WAIVER

Basic Fee (required for any work covered under a provincial permit)	\$ 30.00
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**IF THE PROJECT IS STARTED BEFORE A BUILDING PERMIT HAS BEEN ISSUED THE PROPERTY WILL BE PLACED ON SNB'S LAND GAZETTE FOR BY-LAW NONCOMPLIANCE AND REMAIN THERE UNTIL SUCH TIME AS THE PROPERTY IS BROUGHT INTO COMPLIANCE. PAST DUE ACCOUNTS WILL BE CHARGED INTEREST OF 2% COMPOUNDED MONTHLY.**