

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

The Council of Hampton, under the authority vested in it by Section 10 (1) of the New Brunswick Local Governance Act (2017, c 18) and Section 5 (1) of The Building Code Administration Act (2020, c. 8):

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 boundaries of the town of Hampton.

Purpose

3. The purpose of this by-law is to:
 - a) prescribe standards for the constructing, removing, relocating, demolishing, altering, repairing, or replacing, or any combination thereof, of a building or structure; and
 - b) prohibit the undertaking or continuing of work herein mentioned in clause (a), in violation of standards prescribed hereby; and
 - c) prescribe a system of permits for work mentioned in clause (a), their terms and conditions, the conditions under which they may be issued, enforced, suspended, reinstated, revoked and renewed, their form and fees thereof.

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) **Accessory Building / Structure** means a building and/or structure that is incidental, subordinate, complementary and exclusively devoted to the main use, main building, or structure located on the same Lot.
 - b) **Act** means the Building Code Administration Act
 - c) **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.
 - d) **Area** means the space within the outside surfaces or footprint limits.
 - e) **Building** means a building as defined in the Code.

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

- f) **Building Inspector** means a person who has the primary responsibility for the enforcement of by-laws or other laws with respect to building and construction, appointed by Council under the Local Governance Act,
- g) **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.
- h) **Code** means the most recent provincially adopted version of the National Building Code of Canada, including amendments, revisions and errata subsequently issued hereto.
- i) **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.
- j) **Council** means the duly elected council of the town of Hampton.
- k) **Demolish/ Demolition** means to raze, level, ruin, wreck, destroy, or tear down, in whole or in part, a building or structure.
- l) **Development Officer** means a development officer as defined in the Community Planning Act.
- m) **Department Director** means the person (or designated representative) responsible for the Department for Planning, Engineering and Development within Hampton.
- n) **Development Permit** means a permit issued under the Zoning By-law which confirms the work is in accordance with applicable Hampton by-laws, policies and procedures. The issuance of such does not relieve the owner of any applicable Federal/ Provincial Acts or Regulations.
- o) **Duly Authorized Person** means a person who is given the authority to stand in the place of another.
- p) **Hampton** means the town of Hampton
- q) **Inspection Reports** means written confirmation from a qualified person and/or professional that the work is in conformance with the plans and specifications, and any amendments thereto, as filed with Hampton, and in compliance with the Code. Otherwise known as Certificates of Review/ Field Review Commitments and Confirmations.

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

- r) **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 essential information related to land parcels, or if requirements set out in the Building Code Administration Act and/or Community Planning Act were not met by a builder.
- s) **Manufactured Building:** Site assembled and/or factory constructed buildings and structures that are constructed to the provincial regulation standards:
 - i. (a) the National Standard of Canada CAN/CSA A277-16 Procedure for certification of prefabricated buildings, modules, and panels; and
 - ii. (b) the National Standard of Canada CAN/CSA-Z240 MH Series-16 *Manufactured Homes*.
- t) **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.
- u) **Occupancy Certificate** means a certificate issued by the Building Inspector stating that the building/structure use meets this and other applicable by-laws.
- v) **Order** means a notice of violation issued under an Act or by-law.
- w) **Overnight Accommodation** means a building with a minimum of one bedroom or single sleeping quarters
- x) **Owner** means the registered landowner according to Service New Brunswick Land Registry Office or a duly authorized person (i.e. contractor, engineer etc.).
- y) **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.
- z) **Person** means any individual, firm, company, association, institution, society, corporation or group.
- aa) **Public Assembly:** the occupancy or use of a building, or part thereof, by gathering of persons for civic, political, travel, religious, social, educational, recreational, or like purposes, or for consumption of food or drink.
- bb) **POPA** means the New Brunswick Provincial Offences Procedures Act.

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

- cc) **Qualified Professional** means a person 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.
- dd) **Record Drawing** means a signed and stamped drawing submitted by a qualified professional upon completion of the work, which reflects all changes made in the plans and specifications during the construction process, and shows the exact dimensions, geometry, and location of all elements of the work completed; also known as an "as-built drawing".
- ee) **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.
- ff) **Temporary Building** means a structure erected on a construction site intended to be used only during the period of construction, that is incidental to a main construction project, which are only permitted to continue up to sixty days following completion of the main construction project.
- gg) **Temporary Garage** means a collapsible structure covered with plastic or fabric, used for the purpose of temporarily storing vehicles and/or the covering of and must be located behind the building line
- hh) **Use** means the purpose for which land, building or structure, or any combination thereof is designed, arranged, erected, intended, occupied or maintained.
- ii) **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.

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

Application

8. 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;
 - e) A change in building use and/or occupancy applies to all parts affected by the change.
 - f) Manufactured building
9. 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.

Prohibitions

10. No person shall construct a building or structure in Hampton unless a development permit and building permit has been issued, and the construction work conforms with;
- a) the Code, and
 - b) the standards prescribed in this by-law, and
 - c) the terms and conditions of the issued development permit and corresponding building permit.
11. No person shall demolish a building or structure in Hampton unless a demolition permit has been issued, and the work conforms with:
- a) the standards prescribed by this by-law, and
 - b) the terms and conditions of the issued demolition permit.
12. 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, even if no construction work is proposed, unless a development permit and corresponding building permit has been issued.
13. No person shall occupy a building to which the permit was issued, until such time as an Occupancy Certificate has been issued by the Building Inspector.

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

Exemptions

14. The following are exempt for the application of the Building By-Law:

- a) A building that that is one (1) storey and intended for overnight accommodation, with a total area that is not greater than 30 square meters in all zones, except for:
 - i. In a Rural zone, the total area is not greater than 58 square meters.
- b) An accessory building that is one (1) storey with a total area is not greater than 55 square meters.
- c) An accessory structure that is less than 600 mm in height from the ground level and not intended for public assembly.
- d) Fences, rooftop and ground solar panels
- e) A temporary building or garage
- f) Maintenance where work does not impact on the drainage, structure, energy, fire protection, safety and occupancy of the building/structure, which may include, but not limited to:
 - i. Repair(s) to drywall/plaster, paint, flooring cover, shingles, wallpaper, gutters, downspouts, kitchen cabinetry, aesthetic such as interior trim and finishes, exterior siding and deck boards, and any other items determined by the Building Inspector and/or Department Director.

15. Any work exempted under section 14 shall not be inspected for all stages of construction, upon completion and/or occupancy.

Appointment of Building Inspector

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

Building Inspector Duties & Powers

17. The Building Inspector shall:

- a) be appointed by Council;
- b) administer this by-law;
- c) 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 Hampton *Building Permitting and Inspection Policy PLED-2024-BPIP-001*; and

18. For the purpose of ensuring compliance with this by-law, the Building Inspector may, at any reasonable time:

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

- a) enter, with consent of the occupant or has obtained an entry warrant, any building, structure or property within Hampton boundaries for which the inspector has the responsibility of conducting inspections, in accordance with Hampton's *Building Permitting and Inspection Policy 2024-01-BPIP*;
 - b) be accompanied and assisted by a person and/or qualified professional 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) 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;
 - e) issue an order, under section 33 of this by-law, prohibiting the covering of any work;
 - f) issue an order, under section 33 of this by-law, to uncover any work 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;
 - iii. there is reasonable cause to believe that the construction is not in compliance with this or any other applicable by-law.
 - iv. require the owner, to engage a qualified professional for an assessment of design and/or inspection of construction, or certification of, a building or part thereof, when necessary;
 - v. perform any other duty or power prescribed by this by-law or regulation.
 - g) May revoke or refuse to issue a permit where, in the opinion of the Building Inspector and the Department Director, the work does not conform with this by-law and all other applicable by-laws, Acts and Regulations of the Province of New Brunswick.
19. Specifications and 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 professional.
20. A Building Inspector may request the assistance of a peace officer for the purposes of this by-law.
21. 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.
22. The Building Inspector is not required to inspect work that is outside of Part 9 or under Part 3 or 4 of the Code 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.

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

Building Permits

23. 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 approved by the Department Director.
 - b) be signed by the owner or their duly authorized agent.
 - c) state the intended use of the building or structure, which may be provided on the Development Permit application.
 - d) Include a copy of the specifications and 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 total area of the storey and use of each room including the floor area,
 - iii. contain other such other information as the Building Inspector may require for the purpose of determining compliance herewith.
 - e) Include a copy of the development permit application, specification, and drawings of the site with respect to the work is to be carried out including, but not limited to:
 - i. the proposed use of the property, including any information as required by the Development Officer for the purposes of determining compliance with the Zoning By-Law,
 - ii. the dimensions of the land on which the building is or is to be situated, and
 - iii. the area, position, height and horizontal dimensions of all buildings on, and those proposed to be located on the land referred to;
 - iv. a site drainage plan for the land after development, including, but not limited to, the grades of the streets and sewers abutting the land
 - f) Include a copy of any provincial and/or federal approvals as required by legislation.
24. 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 *the Hampton Annual Rates Schedule*.
- a) A Building Permit fee shall be refunded if a permit is discontinued or suspended, except for base amount intended to offset administrative cost.
25. The Building Inspector shall issue the Building Permit requested where:
- a) an application mentioned in Section 23, together with the other applicable and requested information as per Section 23, and permit fee, have been paid to Hampton;

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

- b) the Development Officer (or designated representative) 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.
 - i. In the case of manufactured buildings, all plans, specifications, construction and occupancy are to be in accordance with the General Requirements for **Manufactured Buildings Policy 2024 – 02 – MBP**, submitted for review and accepted by Hampton prior to issuance of permit.

26. A permit hereunder is issued on the condition that the work mentioned therein is:

- a) commenced within six months from the date of issue of the permit, and not discontinued or suspended in excess of one year.
 - b) carried out in compliance with the plans and specification contained in the application unless otherwise approved by the Building Inspector;
 - c) completed within one (1)-year from the date of issue of the permit with the issuance of an occupancy certificate. A one-year permit extension may be provided by the Building Inspector where deemed appropriate, subject to the approval of the Department Director, and may include any reasonable terms and conditions deemed necessary to ensure the completion of the work.
27. 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 Relocation Permits

28. An owner shall not undertake or continue the demolition or relocation of a building or structure unless a demolition or relocation permit has been issued pursuant to this section, and subject to section 25.
- a) An application for a demolition or relocation permit shall include:
 - 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 locate the property; and
 - ii. A detailed description of the scope of the work to be performed.

29. 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.

Responsibility of Owner

30. The issuance of a permit, the approval of plans, specifications and/or inspections made hereunder, does not relieve the owner of any duty or responsibility for carrying out work in

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

accordance with this by-law or any other applicable Federal or Provincial Act or Regulation.

31. 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 notice to the Building Inspector, before commencing construction or demolition work
- c) Provide written notice to the Building Inspector, during the course of construction, of any change in, or termination of, the employment of a person referred to in subsection (b), and in no case shall the notice be given later than forty-eight (48) hours after the change in, or termination of, the employment.
- d) Provide, to the Building Inspector, at least forty-eight (48) hours' notice (excluding Saturday, Sunday or Holidays) prior to requiring an inspection for each of the following stage of construction:
 - i. Site Condition *- Prior to establishing a building and/or structure foundation*
 - ii. Foundation & Sewer *- Prior to backfilling a building, structure and/or municipal service*
 - iii. Structural *- Prior to placing of energy rating component (insulation, barrier, etc.)*
 - iv. Energy *- Prior to placing interior sheeting and exterior cladding*
 - v. Fire Safety & Protection *- Prior to placing interior finishes (paint, trim, cabinets, etc.)*
 - vi. Final Occupancy *- Prior to project completion/issuing the Occupancy Certificate*
 - vii. Other inspections as required by Building Inspector
- e) Manufactured home that are not subject to inspection at the stage of construction referred to in subsection 30d), items iii, iv and v.
- f) Accessory buildings and structures under Part 9 of the code are not subject to inspection at the stage of construction referred to in subsection 30d), items ii, iv. and vi.
- g) Post, in a conspicuous place on the property to which the permit was issued, a copy of the Building or Demolition Permit;
- h) Keep, on the property to which the permit was issued, a copy of any plans and specifications for which the permit was issued;
- i) Ensure the construction site is maintained and left in a clean and neat condition with construction debris disposed of at a provincially approved site;
- j) Where a qualified professional is engaged, the following are the responsibility of the owner:
 - i. Ensure requested assessments or inspection reports from a qualified

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

professional 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.
- k) All Inspection Reports and Record Drawings requested by Hampton are to be submitted prior to the issuance of an Occupancy Certificate.

Enforcement

32. The Building Inspector shall place the owner's property on the Land Gazette if:
- a) The owner fails to obtain a Building Permit(s) prior to commencing work, until such time as the required permit is issued or Hampton has registered a notice to the title of the owner's property.
 - b) 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, until such time the work meets requirements, or Hampton has registered a notice to the title of the owner's property.
33. The Building Inspector shall issue an order, as per section 14 of the *New Brunswick Building Code Administration Act* if the construction or demolition work is undertaken in contravention of the Code, the Building by-law, the Act or a regulation under the Act. The Building Inspector may make one or more of the following orders, in accordance with Section 15 of the *New Brunswick Building Code Administration Act*,
- viii. Cessation of the construction or demolition work;
 - ix. Alteration of the construction or demolition work to remove the contravention; and
 - x. Taking any other action required to make the building or real property safe.
- a) When an order under this section is served, no person shall perform any construction or demolition work on the building or real property or the part of the building or real property in respect of which the order was made, other than work that is necessary to carry out the order or make the premises safe in accordance with the order.
 - b) When an order is made that requires construction work or demolition work to be carried out, the owner is responsible for paying the expenses of carrying out the construction or demolition work.
34. Where any person fails to comply with an order under section 33 herein, the Building Inspector may suspend, revoke, or cancel the building permit or demolition permit, and may, if conditions leading to the suspension are subsequently correct within 30 days, reinstate the suspended permit.
35. Subject to subsection 8, for the purposes of Part 2 of the Provincial Offences Procedure Act,

Hampton By-law No. HAM-2024-19
BUILDING BY-LAW

- a) A person who violates or fails to comply with a provision of a building by-law commits an offence punishable as a category B offence.
- h) a person who does any of the following commits an offence punishable as a category E offence:
 - i. violates or fails to comply with subsection 18; and
 - ii. violates or fails to comply with an order of a building inspector under subsection 33.

36. The Building Inspector and/or By-Law Enforcement Officer shall enforce the by-law in accordance with the above conditions and the Hampton *By-Law Enforcement Policy*

Severability

37. 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

38. *By-Law No. 214-20* and all amendments thereto, is hereby repealed.

39. The repeal of *By-Law No. 214-20, 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.