

MUNICIPALITY OF THE DISTRICT OF YARMOUTH



**Building By-Law
B-028-26**

Effective
Date:

BE IT RESOLVED by the Council of the Municipality of the District of Yarmouth that the following By-law be enacted and that the CAO file a copy with the office of the Minister of Environment and Labour or The Minister responsible for the Building Code Act pursuant to Section 7 of the Building Code Act, R.S.N.S. 1989, c. 46.

Part 1

Short Title

1.1 This By-law may be cited as the Municipality of the Yarmouth Building By-law.

Part 1 Purpose

1.1 The purpose of this by-law is to outline when building and occupancy permits are required, the application and inspection process, and the roles and responsibilities of property owners, applicants, and the authority having jurisdiction.

Part 2 Definitions

In this By-law, unless otherwise defined herein, definitions contained in the Building Code Act, Nova Scotia Building Code Regulations and National Building Code of Canada apply to this By-Law.

2.1 “**Act**” or “**The Act**” means the Nova Scotia Building Code Act, as amended from time to time;

2.2 “**Agent**” means a person who is authorized to act for, or in the place of, another;

2.3 “**applicant**” means the *owner* or ~~his or her~~ **their** agent, appointed in writing by the *owner*;

2.4 “**architect**” means a member or licensee of the Nova Scotia Association of *Architects*;

2.5 “**authority having jurisdiction**” means any person appointed as the *building* official;

2.6 “**building**” means a *building* as defined by the National *Building* Code of Canada;

2.7 “**building code**” means the National Building Code of Canada, as amended from time to time;

2.8 “**building official**” means a person appointed as a *building* official under section 5 of the Act;

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- 2.9 “**CAO**” means the Chief Administrative Officer of the Municipality;
- 2.10 “**construct**” means to do anything in the erection, installation, extension, relocation, *material alteration* or material repair of a *building* and includes the installation of a factory-made *building* fabricated or moved from elsewhere;
- 2.11 “**demolition**” means the doing of anything in the removal of a *building* or any material part thereof;
- 2.12 “**material alteration**” and “material repair” means work that is done in the alteration or repair of a *building* which work is covered by the *Building Code*, and which:
- 2.12.1 is a non-structural repair or alteration which has a monetary value of more than \$5,000;
- 2.12.2 is a repair or alteration to the structure of a *building*.
- 2.13 “**National Building Code of Canada**” means the National *Building Code* issued by the *National Research Council*;
- 2.14 “**National Research Council**” means the Associate Committee on the National *Building Code* of the *National Research Council* of Canada;
- 2.15 “**occupancy**” or “**class of occupancy**” means the use or intended use of a *building*, as defined in the National *Building Code* of Canada;
- 2.16 “**owner**” includes a person controlling the property under consideration, and also includes **prima facie** the assessed *owner* of the property whose name appears on the assessment roll prepared in accordance with the Assessment Act;
- 2.17 “**permit**” means a *permit* issued pursuant to *The Act*;
- 2.18 “**professional engineer**” means a member or licensee of the Association of Professional Engineers of the Province of Nova Scotia;
- 2.19 “**Regulations**” means the Nov Scotia Building Code Regulations;
- 2.20 “**superstructure**” means that part of a *building* above the foundation;
- 2.21 “**The Act**” means the Nova Scotia *Building Code Act*.

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Part 3 Permit required

3.1 A permit is required, prior to commencing work, if work regulated by the Building Code is to be done. In accordance with the Building Code, a permit is required, prior to commencing work, for:

3.1.1 the design, construction, erection, placement and occupancy of new buildings; and

3.1.2 the alteration, reconstruction, demolition, removal, relocation, occupancy and change of occupancy classification of existing buildings in the Municipality.

3.2 In addition to the permit requirements of the Regulations, a building permit is required for material alterations.

Part 4 Permit Not Required

4.1 Except as required by another enactment, a permit is not required for the following (but not limited to – see Regulations for complete details):

4.1.1 accessory buildings not greater than 20 square metres (215.2 square feet) in area; and

4.1.2 interior and exterior non-structural material alterations and material repairs with a monetary value of five thousand dollars (\$5000) or less.

4.2 Notwithstanding 4.1 above, the Building Code shall still apply.

Part 5 Building Permit Application

5.1 Before issuing a building permit, a complete application shall be filed with the authority having jurisdiction.

5.2 Before issuing a building permit, the authority having jurisdiction shall be satisfied that a development permit has been issued pursuant to the Land Use By-Law of the Municipality.

5.3 Every Application for a *permit* shall:

5.3.1 Identify and describe in detail the work and *occupancy* to be covered by the

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permit for which application is made,

- 5.3.2 Describe the land on which the work is to be done by a description that will readily identify and locate the *building* lot,
 - 5.3.3 Include the plans and specification as required by the *Building Code* and show the *occupancy* of all parts of the building,
 - 5.3.4 State the valuation and square footage of the proposed work and be accompanied by the required fee, and
 - 5.3.5 State the names, addresses and telephone numbers of the *owner*, *architect*, professional engineer or other designer and constructor.
- 5.4 Before issuing a demolition permit, the authority having jurisdiction shall be satisfied that the building is not subject to the provisions of a By-Law passed pursuant to the Heritage Property Act.
- 5.5 When an application for a *permit* has not been completed in conformance with the requirements of this By-Law within six months after it is filed, the application shall be deemed to have been abandoned.
- 5.6 The Municipality may withhold the issuance of a building permit until satisfied that any and all applicable federal, provincial and municipal regulatory requirements have been met including, but not limited to, any requirements under a Land-Use By-law, Subdivision By-law, or Municipal Planning Strategy.

Part 6 Building Permits

- 6.1 A *permit* is valid for twelve months from the date of issue and is renewable at the discretion of the CAO who may delegate to the authority having jurisdiction.

~~The authority having jurisdiction may, in the case of the construction of new buildings or structures or additions to existing structures, withhold a building permit until satisfied that any permit required pursuant to the Public Highways Act has been obtained.~~

- 6.2 Any *permit* issued for part only of a *building* shall be clearly marked as for part of a *building* only, and shall also indicate that a *permit* for the entire *building* is not assured. This *permit* shall be clearly marked "At Owner's Risk".
- 6.3 A *permit* for a whole project may be issued conditionally upon the submission of additional information prior to commencing the work for which the information is of such

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a nature that withholding the *permit* until the information was available would delay the work unreasonably. The condition shall be set out on the face of the *permit*.

Part 7 Occupancy Permits

7.1 An occupancy permit is required:

7.1.1 to allow the occupancy of a building or part thereof, or

7.1.2 when the occupancy of the building or part thereof is changed.

7.2 Upon application by the owner, an *authority having jurisdiction* may issue an occupancy permit for all or part of a building prior to the completion of work for which a building permit was issued, where no unsafe condition exists or will exist because of the work being undertaken or not completed.

7.3 An occupancy permit may be withheld until the Municipality is satisfied that the provisions of the Land Use By-Law, the Heritage Property Act, applicable Development Agreements and any other regulations or by-laws enacted, have been complied with. The Building Official shall not issue an occupancy permit for the property before the assigned civic number is posted for the property.

Part 8 Assignment of Agent

8.1 Consent must be provided to the Municipality *authority having jurisdiction* in writing (letter, e-mail or assignment of agent form), by the owner of the property, should they require a contractor or agent to apply for, pick-up and/or be responsible for the building/demolition permit on their behalf. The Municipality's officers and agents shall only communicate regarding the permit or application with the property owner or their assigned agent.

Part 9 Permit Fees

9.1 All applicable fees, as established in the Municipal Fees Policy, shall be paid in full before a building permit, occupancy permit, or demolition permit, is issued.

9.2 Fees for *permits* shall be levied in accordance with the Municipality's Fees Policy.

9.3 No refund will be issued for abandoned *permits*.

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9.4 Refunds will be issued for rejected permit applications exceeding \$100.

Part 10 Inspections

10.1 The Municipality ~~authority~~ having jurisdiction shall be notified 48 72 hours in advance of when an inspection is desired, and the authority having jurisdiction shall be given an opportunity to inspect at the stages of construction required by the Act.

10.2 The authority having jurisdiction may require additional inspections depending upon the complexity of the construction, to ensure compliance with the Act and Building Code.

Part 11 Offences

11.1 Offences Penalties for violations of this By-Law shall be in accordance with The Act.

**Part 7
Coming Into Force**

7.1 This By-Law shall have effect from and after April 1, 1987.

Part 12 Repeal

12.1 This By-law hereby repeals and replaces Building By-Law B-028-91.

