

VILLAGE OF FUNDY-ST. MARTINS BY-LAW NO. 14

A BY-LAW TO REGULATE CONSTRUCTION, REPAIR AND DEMOLITION OF BUILDINGS AND STRUCTURES

Under the authority vested in it by the *Local Governance Act* and the *Building Code Administration Act*, and amendments thereto, the Council of the Village of Fundy-St. Martins enacts as follows:

SECTION 1 – TITLE AND INTREPRETATION

1.1. This By-law may be cited as the "Fundy-St. Martins Building By-law."

1.2. In the interpretation of this document, the following grammatical rules apply:

- (a) The word "shall" is mandatory and not permissive.
- (b) Words used in the present tense shall include the future.
- (c) Words used in the singular number shall include the plural, and vice versa.
- (d) Words shall be read with all changes of gender or number required by the context.
- (e) The word "used" shall include "intended to be used", "arranged", and "designed".
- (f) All other words shall carry their customary meaning except for those explicitly defined hereinafter.

SECTION 2 – PURPOSE

2.1 By-law Purpose:

The purpose of this By-law is to prescribe standards and a system of permits for construction, locating, relocating, altering, repairing, replacing, or demolishing a building or structure. It serves to:

- (a) Prohibit the undertaking or continuing of work in violation of standards prescribed herein.
- (b) Prescribe the terms, conditions, application processes, fees, and grounds for refusal, suspension, revocation, or renewal of permits.
- (c) Govern the design, construction, occupancy, use, alteration, and demolition of new and existing structures, as well as work necessary to correct unsafe conditions.
- (d) Mandatory requirement: Even if no construction work is proposed, no person shall change the use of a building or part of a building with respect to the occupancy classifications of the Code unless a building permit has been issued.

SECTION 3 – DEFINITIONS

3.1. In this By-law, the following terms shall have the meanings hereby assigned to them:

"alter/alterations" means in relation to a building or structure to make any structural or other change thereto which is not for the purposes of maintenance only.

“building” means any structure used or intended for supporting or sheltering any use or occupancy.

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

“Building Inspector” means the person or persons appointed by the Regional Service Commission or Council to administer and enforce this By-law.

“change of use” means to change the use of a building or part of a building in such a way that affects its occupancy classifications under the National Building Code of Canada.

“Code” means the most recent provincially adopted version of the National Building Code of Canada, including amendments, revisions, and errata subsequently issued thereto.

“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.

“Council” means the Council of the Village of Fundy-St. Martin’s.

“demolish” means to do anything in the removal of a building or a material part of a building.

“development officer” means the person or persons appointed by the Regional Service Commission as defined in the *Community Planning Act*.

“maintenance” means any non-structural work that does not meet the definition of ‘construct’ under this by-law and does not affect the fire safety, life safety, health, or accessibility of a building or its occupants under the Code.

“owner” means the person shown as the registered owner of the land and includes the agent of said person, the contractor(s) engaged by the owner to undertake a project, and also any person having a contract with the owner to purchase the property.

“qualified professional” means a person who is registered or licensed to practice in the work concerned in the Province of New Brunswick as a Professional Engineer or Architect;

“regional service commission” means a regional service commission established under the *Regional Service Delivery Act*.

“total estimated cost” means the total monetary worth as determined by the applicant and accepted by the Building Inspector of all proposed work including proposed construction and demolition including all wall finishes, tapering, roofing, electrical work, plumbing, permanent heating equipment, elevator equipment, fire sprinkler equipment and all labour, materials and other devices necessary for the completion of the proposed work;

“Village” means the Village of Fundy-St. Martin’s.

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

SECTION 4 – ADOPTION OF THE CODE

4.1 Adoption of the Code:

(a) 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 Village. The Building Inspector shall keep one copy of the adopted Code available for public use, inspection, and examination.

SECTION 5 – APPOINTMENT OF BUILDING INSPECTOR

5.1 Appointment of Building Inspector:

(a) The Regional Service Commission or Council shall appoint a Building Inspector who shall exercise such powers and perform such duties as are required to administer and enforce this By-Law pursuant to the *Building Code Administration Act*.

SECTION 6 – EXEMPTIONS

6.1 The following are exempt from the application of the Act, this Building By-law, and the Code:

- (a) An accessory building with a total floor area that is not greater than 55 m² and that is not intended for overnight accommodation.
- (b) A building on a construction site that is intended to be used only during the course of construction on the site and that is not intended for overnight accommodation.
- (c) A building with a total floor area that is not greater than 58.06 m² that is intended for overnight accommodation.
- (d) A temporary building which is not intended to remain where it is erected or located for more than 28 days.

SECTION 7 – RESPONSIBILITIES AND NOTICES PRIOR TO CONSTRUCTION

7.1 Compliance:

(a) A person shall not undertake or continue work on a building or structure unless the work conforms to the Code, complies with all Village by-laws, Acts, and Regulations of the Province of New Brunswick, and a valid permit has been issued.

7.2 Before Commencing Construction:

Before commencing construction or demolition work, an owner shall provide written notice to the Building Inspector stating:

- (a) The explicit date on which work on the building site is to commence, providing at least 48 hours notice of the intention to start work authorized by the permit.
- (b) The names of all constructors, architects, engineers, or designers performing the work.
- (c) The names of all inspection or testing agencies engaged to monitor the work.
- (d) Notice of any changes: The owner must give written notice of any constructor employment changes or terminations within 72 hours.

7.3 New Foundation Construction:

Where an application involves new foundation construction or foundation extensions, the Building Inspector may require that a permit be issued on the condition that construction shall not proceed beyond the foundation stage unless the Building Inspector has received and approved a Surveyor's Real Property Report which must:

- (a) Show the precise distances from the outer walls of the foundation to the property boundary lines.
- (c) Show the geodetic elevations at the top of the foundation walls.
- (c) Be signed by a New Brunswick Land Surveyor or Professional Engineer.
- (d) Certify that the top of the foundation wall elevations are consistent with the elevations shown on the permit plot plan to a tolerance of +/- 100 mm.

SECTION 8 – DOCUMENTS AND POSTINGS ON SITE

8.1 Copy of Building or Demolition Permit:

- (a) An owner must ensure that a copy of the building or demolition permit, or an approved poster/placard, is posted in a conspicuous place on the property before work begins and remains posted during the entire execution of the work.

8.2 Approved Plans and Specifications:

- (a) All approved plans and specifications related to the building and construction must be made available on the premises to the Building Inspector during working hours.

SECTION 9 – OBLIGATIONS OF CONSTRUCTOR & PERMIT HOLDER

9.1 The following obligations must be met by the constructor and permit holder:

- (a) A constructor or permit holder shall construct the building in accordance with the latest edition of the *National Energy Code of Canada for Buildings* adopted by the Province of New Brunswick, the description in the permit, and all approved plans. They must comply with all orders, notices, and requests issued by the Building Inspector.
- (b) If the work is not under the control of a constructor, the owner is deemed to be the constructor and accepts all corresponding liabilities.
- (c) Permit holders shall not deviate from this By-Law or permit conditions, nor omit work required by this By-Law.
- (c) Where material tests are conducted to ensure conformity, records of the test data must be kept available for inspection during construction and for any period thereafter required by the Building Inspector.
- (d) The approval of plans, the issuing of a permit, or inspections made by the Building Inspector do not relieve the permit holder or owner from full responsibility for carrying out work in accordance with this By-Law.

SECTION 10 – STAGES OF CONSTRUCTION & INSPECTIONS

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

- (a) On completion of footings and foundation walls, but before the commencement of any backfilling. An owner shall not cover over work or place concrete into footing forms until the site has been inspected and approved.
- (b) On substantial completion of structural framing.
- (c) On completion of construction or before the occupation of the building.

10.2 Factory-built, modular, and manufactured homes are not subject to framing inspections if certified to the following standards:

- (a) CAN/CSA A277-16.
- (b) CAN/CSA-Z240 MH Series-16.

10.3 Part 4 of the Code:

- (a) The Building Inspector is not required to inspect work to which Part 4 of the Code applies, or work certified by a qualified professional. A final inspection report must be submitted by the qualified professional stating that all work was completed according to their approved designs, drawings, and specifications.

SECTION 11 – NOTICE OF READINESS FOR INSPECTION

11.1 The notice of readiness for inspection sent by an owner shall contain:

- (a) The civic address and the Service New Brunswick parcel identifier (PID) number.
- (b) The specific stage of construction being reported.
- (c) The requested date and time for the inspection.
- (d) The contact telephone number or approved electronic communication details of the owner.

11.2 Required Inspection Notice:

- (a) At least two full working day's notice must be provided prior to a required inspection.

11.3 Notice of the completion of work:

- (a) Notice of the completion of work described in a permit must be given within 10 working days of such completion.

11.4 Notice time periods:

- (a) Notice time periods are exclusive of Saturdays, Sundays, and any statutory holidays.

SECTION 12 – RETENTION OF DOCUMENTS & INFORMATION REQUESTS

12.1 Application Registry:

- (a) The Building Inspector shall maintain a registry of all applications received, permits and orders

issued, and inspections or tests conducted.

12.2 Retention of Documents:

(a) Copies of applications, building/demolition permits, orders, inspection reports, and related electronic records must be kept for no less than seven years from the date of work completion.

12.3 Public Questions:

(a) The Building Inspector shall answer reasonable and relevant public questions regarding the Act, By-law, and Code. However, the inspector shall refrain from assisting in the layout of work and shall not act as a designer, architectural consultant, or engineering advisor.

SECTION 13 – APPLICATION FOR PERMITS

13.1 All Permit Applications:

(a) An application for a permit must be filed with the Building Inspector, and any amendments or changes to application details must be submitted for subsequent review and approval. If an application is incomplete or inactive for six (6) months, the application may be deemed abandoned.

13.2 An application for a building permit must include the prescribed fees and contain:

(a) Names, telephone numbers, civic addresses, and emails of the owner/agent, constructors, architects, engineers, designers, and engaged testing agencies.

(b) Clear property location identifiers (civic number, street name, lot number, PID).

(c) A detailed description of the scope of work and its intended building use.

(d) The approximate total estimated cost of the work.

(e) Copy of specifications and legible scale drawings of the site and building.

13.3 An application for a demolition permit must include the prescribed fee and contain:

(a) Clear property location identifiers (civic number, street name, lot number, PID).

(b) A detailed description of the scope of the demolition work.

SECTION 14 – FEES AND REFUND STRUCTURE

14.1 Required Fees:

(a) No permit shall be issued until all required fees set out in this Section have been paid in full. No mechanical, electrical, plumbing, or structural work shall be excluded from the final valuation of a permit because of other governing agency permits. If an applicant cannot provide a reliable construction value, the Building Inspector may assign an appropriate valuation.

(b) A building permit has a \$25 base fee plus \$5 for each \$1,000 of the estimated construction cost of the work.

(c) A demolition permit has a \$25 flat fee.

14.2 Unauthorized Work:

(a) Where work requiring a permit has commenced prior to permit issuance, and unauthorized work

continues after an order to comply has been delivered, the prescribed permit fees shall be doubled.

14.3 Refund Structure:

(a) In the case of a written request for the withdrawal or abandonment of an application, or the refusal/revocation of a permit, fees may be refunded in accordance with the following:

Stage of Permit Review	Refund Percentage
Administrative functions completed only (application received, entered into database, cost analysis done).	90% refund
Administrative and zoning functions completed only.	75% refund
Administrative, zoning, and plan examination functions completed.	60% refund
Permit has been issued, but no field inspections have been performed.	50% refund

(b) Subject to the provisions of Section 14.3(a), no refunds of permit fees may be given after field inspections have commenced or subsequent to permit expiry.

SECTION 15 – REFUSAL, SUSPENSION, OR REVOCATION OF PERMIT

15.1 The Building Inspector may refuse to issue a building or demolition permit if:

- (a) The application is incomplete, contains false information, or the required fees/deposits are unpaid.
- (b) The information provided fails to prove compliance with the National Building Code, National Energy Code, or provincial standards.
- (c) Unresolved financial or other compliance matters remain outstanding between the owner and the Village and/or RSC regarding the property.
- (d) The Building Inspector believes the applicant's total estimated cost is unreasonable.

15.2 Contravention of this By-law, Code, or Community Planning Act:

- (a) The Building Inspector may issue a written cessation notice, order work stopped, and suspend or revoke a permit if there is a contravention of this By-Law, the Code, the *Community Planning Act*, or any condition under which the permit was issued, including instances where a permit was issued in error or based on false information.
- (b) Written notice of suspension/revocation must be served personally or via registered mail.
- (c) If a violation is eliminated and corrected within 30 days of a stop-work order, the Building Inspector shall reinstate the permit. If the violation is not corrected within 30 days, the permit shall be officially revoked, and the holder of a revoked permit must apply for an entirely new permit and pay all associated full fees anew.

SECTION 16 – BUILDING PERMIT TERMS & CONDITIONS

16.1 Every building permit is issued subject to the following timeframe rules:

- (a) A Building Permit shall expire if construction work has not commenced within twelve (12) months from the date of permit approval.
- (b) A Building Permit shall expire if construction work is discontinued or suspended for a period exceeding twenty-four (24) months.
- (c) The Building Inspector may grant an extension of a permit where a written request is received prior to the permit expiry date.
- (d) All work must be carried out in strict compliance with specifications contained in the approved application unless otherwise authorized by the Building Inspector.
- (e) A permit may be issued to an owner to excavate or construct a portion of a building before entire project plans are accepted, provided the missing information does not relate to health or safety issues.

SECTION 17 – DEMOLITION AND RELOCATION TERMS & CONDITIONS

17.1 Demolition Permit:

- (a) No person shall demolish, relocate, or cause the demolition or relocation of a building or structure into or within the Village without first obtaining a specific permit from the Building Inspector. An application must be submitted on forms provided by the inspector, accompanied by all requested plans and information.

17.2 Every demolition permit is issued subject to the following timeframe rules:

- (a) Work must commence within 30 days of permit issuance, or by the date specified by the inspector, failing which the permit may be cancelled.
- (b) Work must be completed within the exact time frame specified in the permit or face cancellation.

17.3 No building or structure shall be removed or relocated if the Building Inspector determines it is:

- (a) In such a state of deterioration or structural instability that it cannot be moved safely.
- (b) Structurally unsafe or unfit for the proposed site and intended use at the new location.

17.4 Every demolition or relocation permit is subject to the following conditions:

- (c) The owner shall ensure all utility services are disconnected prior to work starting, including the permanent sealing of the sanitary sewerage connection near the building entrance, if required.
- (d) If required, barricades satisfactory to the Building Inspector must be erected to prevent public entry into the affected area and no structure may be left in a state that poses a danger to the public.
- (e) In filling basements or large recesses, only brick, mortar, and concrete shall be permitted as underlying fill, which must be covered by at least 30 centimetres of clean top-fill, with any remaining cellars or excavations must not be left in a dangerous or unsightly condition.
- (f) All wood, debris, and rubbish must be removed or disposed of satisfactorily and temporary obstructions must be cleared, and all damage to sidewalks, roads, and public property must be repaired to the inspector's satisfaction.

SECTION 18 – POWERS OF THE BUILDING INSPECTOR

18.1 To enforce and administer the provisions of this By-Law, the Building Inspector is empowered to:

- (a) Enter any property, building, or premises within the Village at any reasonable time to perform necessary inspections.
- (b) The inspector shall not enter an occupied part of a private dwelling without the explicit consent of the occupier, an officially issued warrant under the *Entry Warrants Act*, or reasonable grounds to believe the building poses an imminent threat to public or occupant safety.
- (c) Be accompanied and assisted by persons possessing specialized or expert knowledge.
- (d) Serve written orders directing property owners to correct any condition constituting a contravention of this By-Law within a designated timeframe.
- (e) Direct that tests of materials, construction methods, structural assemblies, or foundation conditions be performed at the sole expense of the property owner. Permits may be refused or revoked if test results are unsatisfactory.
- (f) Prohibit the covering of work and order an owner to uncover work at their own expense if it was covered over in violation of notice rules, despite an order prohibiting it, or if there is reasonable cause to believe construction does not comply with this By-Law.
- (g) Order all work stopped immediately on a project if construction violates this By-Law or varies from permit conditions and no work shall continue except as necessary to prevent injury or damage to persons or property as approved by the inspector.

SECTION 19 – WAIVER AND LIMITATION OF LIABILITY

19.1 Waiver and Limitation of Liability:

- (a) Notwithstanding the terms and authorizations within this By-Law, the Village of Fundy-St. Martin's, its Council, or its designated Building Inspector(s) shall not be held liable for any mishaps, accidents, or structural damages resulting from poor workmanship, faulty materials, or unsafe construction practices of which they were unaware.

SECTION 20 – REPEAL

Repeal of St. Martins Building By-law No. 18:

- (a) The St. Martins Building By-law No. 18, and any amendments thereto, are hereby repealed.
- (b) The repeal of said by-law shall not affect any penalty, forfeiture or liability incurred before such appeal or any proceeding for enforcing the same completed or pending at the time of repeal; nor shall it repeal or disturb, invalidate, or prejudicially affect any matter or thing whatsoever completed, existing, or pending, at the time of repeal.

READ FIRST TIME: X

READ SECOND TIME: X

READ THIRD TIME AND ENACTED: X

JOHN CAIRNS, MAYOR

JEAN MCCUMBER, CLERK

DRAFT