



By-Law No. 09-2015

A By-Law to Regulate Buildings and Structures

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Hanwell
By-Law No. 09-2015
A By-Law to Regulate Buildings and Structures

Under the authority vested in it by section 59 of the *Community Planning Act* the Council of the rural community of Hanwell hereby enacts as follows:

SECTION 1: TITLE

- 1(1) This By-Law may be cited as the “Building By-Law” and it hereby repeals and replaces any former Building By-Law and all amendments thereto.

SECTION 2: PURPOSE AND SCOPE

- 2(1) The purpose of this By-Law is:
- (a) to prescribe standards 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) Replacing a roof covering material;
 - (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) Finish floor replacement, wallpapering, eavestroughing, cosmetic decorations non-structural repairs and the replacing exterior cladding for residential properties only;
 - (i) A fence or other form of restriction or Lot line demarcation;
 - (j) Repairing or replacing existing exterior decks, landings or stairs valued at less than \$1000.00 and, where the replacement is of the same configuration as the item being replaced;
 - (k) The installation of paving or bricking of walkways or driveways, landscaping or planting activity, including the excavation of sand, gravel or rock for the landowners on-site use.

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 a Zoning By-Law, Subdivision By-Law or any other By-Law of the rural community of Hanwell in force from time to time, or the obligation to obtain any license, permit, authority or approval required under any By-Law of the rural community of Hanwell 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 subordinate building not used for human habitation, located on the same Lot as the main building, structure or use to which it is accessory, the use of which is naturally or customarily incidental and complementary to the main use of the land, building or structure;

“Altering” means, in relation to a building or structure, making 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 to administer and enforce this By-Law for the Rural Community;

“Commission” means Regional Service Commission 11 as established by the 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 Council of the rural community of Hanwell;

“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;

“Rural Community” means the rural community of Hanwell;

“Rural Plan” means a Rural Plan adopted by the rural community of Hanwell or any Rural Plan in effect for the Rural Community;

“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;

“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 Rural Community.
- 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 Hanwell Rural Community 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, 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 professional 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, and other applicable Regulations; and,
 - (f) be accompanied with a Watercourse and Wetland Alteration Permit from the Department of Environment and Local Government 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 and baby barns less than 17 m² in floor area;
 - (c) a free-standing deck less than 10 m² in area and having less than 600 mm between the bottom of the floor joists and the finished ground;
 - (d) the demolishing of a building, subject to the owner of a property upon 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/her 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;
 - (vi) cross-section of building;
 - (vii) location of the building on the Lot; and,
 - (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) 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, 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 (6458 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 or a Development Permit will be withheld until the applicant can demonstrate the ability to connect to a communal 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 of 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(3) 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 Rural Community, 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 (3) (c) are not satisfactory;
 - (e) 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/her 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 to 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 the Development Permit, or, with authorization of the Rural Community, 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) The permit holder shall 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 Building 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 Building Permit within 10 days of such completion; and,
 - (g) such other inspections 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 Building or Development Permit, the person named therein shall keep posted in a conspicuous place on the property in respect of which the Building or Development Permit was issued:
- (a) a copy of the Building or Development Permit, for a minimum of 10 days; and,

- (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 fifty dollars (\$50.00) 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 the “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 Building or Development Permit fee may be 50% refunded within six months from the date of issue provided no work has been commenced under the Building or Development Permit. Upon being refunded by the Rural Community, the Building or Development 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:
 - a) Home Construction & additions - \$1076.00/ m² (\$100.00/sq.ft);
 - b) Attached garage - \$161.00/ m² (\$15.00/sq.ft); and,
 - c) Foundation only - \$161.00/ m² (\$15.00/sq.ft).

This is to certify that By-Law No. 09-2015, “Building By-Law” received:

FIRST READING (By Title) December 9, 2015
 SECOND READING (In its entirety) January 18, 2015
 THIRD READING AND ENACTMENT (by Title) January 18, 2015

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.

Susan Cassidy, Mayor _____

Melanie Frost, Clerk _____