

**BE IT RESOLVED** by the Council of the Town of Mahone Bay that the Building By- Law made pursuant to the Building Code Act, S.N.S. 1986, c.3. and passed by the said Council on the 13th day of October 1987 be and is hereby repealed and the following Building By-Law is hereby enacted in substitution therefore.

## **BUILDING BY-LAW**

### **PART 1 – DEFINITIONS**

1. In this By-Law:
  - (a) **"Act"** means the Building Code Act, R.S. c.46, s.1.
  - (b) **"Authority having jurisdiction"** means the Council of the Town of Mahone Bay and its inspectors acting pursuant to Section 5 of the Act.
  - (c) **"Building"** means a building as defined from time to time by the Building Code;
  - (d) **"Building Code"** means the regulations made pursuant to Section 4 of the Building Code Act.
  - (e) **"CAO"** means the Chief Administrative Officer of the Town of Mahone Bay.
  - (f) **"Clerk"** means the Clerk of the Town of Mahone Bay.
  - (g) **"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.
  - (h) **"Council"** means the Council of the Town of Mahone Bay.
  - (i) **"Demolish" or "Demolition"** means the doing of anything in the removal of a building or any material part thereof.
  - (j) **"Inspector"** means a person appointed as an Inspector by the Council of the Town of Mahone Bay pursuant to Section 5 of the Act.
  - (k) **"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:
    - (1) is a non-structural repair or alteration which has a monetary value of more than \$5,000.00 or
    - (2) is a repair or alteration to the structure of the building.
  - (l) **"National Building Code of Canada"** means the National Building Code issued by the National Research Council.
  - (m) **"Occupancy" or "Class of Occupancy"** means the use or intended use of a building as defined in the Building Code.

- (n) "**Owner**" includes a person controlling the property under a 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.
- (o) "**Permit**" means a permit issued pursuant to this by-law and includes a Building Permit, a Demolition Permit, an Occupancy Permit, and pursuant to this by-law.
- (p) "**Regulations**" means the regulations made pursuant to Section 4 of the Act.
- (q) "**Square foot**" in respect to construction include the sum of the square feet of each floor level and ½ the square footage of the basement area and does not include the area deemed as attic space.
- (r) "**Temporary Building**" means a structure to be placed on a property for a temporary use including but not limited to a construction trailer; and tents used for festivals, concerts or wedding that exceed 250 sq ft.
- (s) "**Town**" means the Town of Mahone Bay.
- (t) "**Value**" means the total value of construction including the market value of labour, materials and equipment and includes the market value of any donated or subsidized labour, material and equipment and includes the market value of the property owner's labour, material and equipment.

## **PART II – PERMITS:**

2.

- (a) A Building Permit shall be required where a person wishes to construct a building to which this by-law applies and shall be in the form approved from time to time by the CAO of the Town.
- (b) A Demolition Permit shall be required where a person wishes to demolish a building to which this by-law applies and shall be in the form approved from time to time by the CAO of the Town.
- (c) An Occupancy Permit shall be required where a person wishes to occupy any building or a portion of a building to which a Building Permit applies and where a person wishes to change the class of occupancy of a building or any portion of a building except that Occupancy Fees would not apply to exterior stairs, decks and landings and interior renovations to existing dwelling units which are already occupied and shall be in the form approved from time to time by the CAO of the Town.
- (d) A permit shall be required for the placement of a temporary building to which this by-law applies and shall be in the form set forth approved from time to time by the CAO of the Town.

3. A building permit is not required for:
  - (a) Accessory building not greater than 20 square meters (215.2 square feet) in building area;
  - (b) Installation of storm windows;
  - (c) ground level patios and walkways;
  - (d) replacing an existing roofing surface;
  - (e) interior and exterior non-structural repairs which have a monetary value of \$5,000.00 or less.
4. A building permit is required for interior and exterior non-structural repairs which have a monetary value of more than \$5,000.00; except for matters outlined in Sections 3(a) (b) (c) (d)
5. Before a permit is issued, an applicant shall complete an application in the form approved from time to time by the CAO of the Town.
6. Every application for a permit shall:
  - (a) identify and describe in detail the work and occupancy to be covered by the permit for which application is made,
  - (b) describe the land, on which the work is to be done by a description that will readily identify and locate the building lot,
  - (c) include plans and specifications required by the Building Code and show the occupancy of all parts of the building,
  - (d) state the valuation and square footage of the proposed work and be accompanied by the required fee, and
  - (e) state the names, addresses and telephone numbers of the owner, architect, professional engineer or other designer and constructor.
7. 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.
8. A permit, other than a permit for a temporary building, is valid for one (1) year from the date of issuance and may only be renewed upon application in writing by the owner within one (1) year from the date of issuance. A permit, other than a permit for a temporary building, as renewed, shall be valid for a period of one (1) year from the date of renewal
9. A permit may be renewed twice An application for a permit that has been renewed twice and has expired shall be treated as a new application under this bylaw.
9. No permit may be renewed unless the application demonstrates that all approval required prior to the issuance of the permit continue to exist at the date of the application for renewal.

10. Before a building permit is issued, a complete application shall be filed with the authority having jurisdiction.
11. No work shall be carried out except in accordance with the terms of the permit. No substantial changes from the work authorized in the permit is permitted unless a new application is filed with the authority having jurisdiction and a new permit is granted.
12. An application for a building permit for the construction of a building requiring a new on-site sewage disposal system shall be accompanied by a copy of a valid on-site sewage disposal system permit issued by Nova Scotia Environment and the authority having jurisdiction may withhold a building permit until satisfied that there is a valid on-site sewage disposal system permit in force.
13. The authority having jurisdiction may withhold a permit until satisfied that any applicable requirements of the Heritage Property Act and any by-law of the Town of Mahone Bay passed pursuant to the Heritage Property Act, as well as any applicable requirements of the Planning Act, the Town of Mahone Bay Land Use By-Law and any Development Agreement there under have been complied with and that any required development permit has been issued by the development office of the Town of Mahone Bay.
14. The authority having jurisdiction may withhold a permit until satisfied that any applicable requirements of the Fire Safety Act shall be deemed not to have been complied with unless the building plans and specifications required to be submitted have been examined and approved by the Fire Marshal's Office.
15. It shall be the duty of the owner to ensure that any construction, demolition, or occupancy complies with the requirements of all applicable Federal and Provincial Statutes and Regulations and all applicable By- laws of the Town of Mahone Bay.
16. A permit for a temporary building:
  - (a) shall state the date after which the permit is no longer valid,
  - (b) shall state the conditions, if any under which the permit ceases to be valid.
  - (c) The date of which a permit for temporary building is no longer valid may be extended upon application in writing.
17.
  - (a) The issuance of a permit with respect to a part of a building shall not constitute an assurance that a permit will be issued with respect to the entire building or any other parts thereof.
  - (b) Any permit issued with respect to a part of a building may be marked indicating that the permit for the entire building or any other parts thereof is not assured.

18. (a) A permit may be issued at the risk of the owner, with conditions to ensure compliance with the Building Code, to excavate a site or to construct a portion of a building before all the plans of the project have been submitted or accepted.
- (b) The Permit shall be clearly marked "At Owner's Risk".
19. (a) A permit for a whole project may be issued conditional upon the submission of additional information prior to commencing the work for which the information is pertinent;, provided that the information is of such a nature that withholding the permit until the information was available would delay the work unreasonably.
- (b) The condition shall be set out on the face of the permit.

### **PART III – PERMIT FEE**

20. Fees for permit shall be as approved from time to time by resolution of Town Council passed as a duly called meeting of Council. Fees set may include but not limited to the following categories:
  - (a) Minimum Non-Refundable Fee
  - (b) Demolition Permit
  - (c) Occupancy Permit
  - (d) Permit renewal (maximum two renewals)
  - (e) Permit for temporary building
21. Occupancy Permit Fees would not apply to exterior stairs, decks and landings and interior renovations to existing dwelling units which are already occupied.

### **PART IV – INSPECTIONS**

22. The Building Official shall be notified a minimum of two (2) business days advance to inspect for compliance with this By-law, the Nova Scotia Building Code Act and the Nova Scotia Building Regulations, and the Nova Scotia Building Code, at the following stages:
  - (a) All construction other than those described in clause 5.1(b) and 5.1(c):
    - i. footings in place
    - ii. below grade insulation,
    - iii. below slab plumbing,
    - iv. the site before commencing backfilling of the laterally supported foundation, before superstructure is placed on the foundation,
    - v. the framing, roof, plumbing and mechanical,
    - vi. insulation and vapor barrier before framing is covered, and
    - vii. before occupancy.

- (b) Mobile/Modular and Manufactured Homes conforming to 1.4.19 of the Nova Scotia Building Code Regulations:
    - i. footings in place,
    - ii. (A) in the case of a mobile home, the site preparation foundation installation and anchorage in accordance with CSA CAN3-Z240.10.1-94"Recommended Practice for Site Preparation, Foundation and Anchorage of Mobile Homes"  
  
(B) In the case of a modular home site preparation. And foundation, basement and anchorage
    - iii. Interconnections of Modules
    - iv. Connection to services
    - v. installation and anchorage, and
    - vi. before occupancy
  - c) Buildings Constructed Outside the Scope of the National Building Code:
    - i. of the intent to undertake construction that will be inspected and will be reviewed as per the appropriate Letter of Undertaking,
    - ii. of the intent to cover construction that has been ordered to be inspected by the Building Official before covering,
    - iii. at intervals deemed necessary by the Building Official based on the complexity of the building, and
    - iv. when construction has been completed so that a final inspection can be made.
  - (d) Demolition:
    - i. at the commencement of the demolition work
    - ii. at such intervals as deemed necessary by the Building Official,
    - iii. when demolition has been completed, and
    - iv. when the demolition site has been covered over or reclaimed
23. By notice in writing, the owner shall give the authority having jurisdiction, five (5) business days within which the inspector may inspect. No construction shall be carried out prior to the end of the said five (5) business day period which will hinder, delay, or prevent an inspection by the inspector.

24. The inspector may, in his sole discretion, waive the necessity of any of the inspections contained in this section of the by-law, if he is satisfied that the requirements of the Building Code have been met.

**PENALTIES**

- 25. Any person who contravenes any provision of this Bylaw is punishable on summary conviction by a fine of not less than \$500 and not more than \$5,000.
- 26. Any person who contravenes any provision of this Bylaw and who is given notice of the contravention may pay to the Town, at the place specified in the notice, 50% of the minimum fine specified in this Bylaw pursuant to the Town’s Payment in Lieu of Prosecution Policy within 14 days of the date of the notice and shall there by avoid prosecution for that contravention.

**EFFECTIVE DATE**

27. This Bylaw shall be effective on the date of publishing.

This is to certify that the foregoing is a true copy of a bylaw passed at a duly convened meeting of the Council of the Town of MAHONE BAY, held the 12<sup>th</sup> day of March 2013

Given under the hand of the Mayor and Chief Administrative Officer and the seal of the Town of MAHONE BAY this 20<sup>th</sup> day of March 2013

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C Joe Feeney, Mayor

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James A Wentzell, CAO

**Clerk’s Notation**

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|---------------------------------|-------------------|
| FIRST READING:                  | February 12, 2013 |
| “NOTICE OF INTENT” PUBLICATION: | February 20, 2013 |
| SECOND READING:                 | March 12, 2013    |
| MINISTERIAL APPROVAL:           | N/A               |
| DATE OF PUBLISHING:             | March 20, 2013    |
| FORWARDED TO THE MINISTER:      | March 21, 2013    |
| FORWARDED TO TOWN WEBSITE:      | March 21, 2013    |