

# Blacks Harbour

## BY-LAW NO. R.1 A BUILDING BY-LAW

Under the authority vested in it by section 59 of the *Community Planning Act*, the **Council** of Blacks Harbour enacts as follows:

### DEFINITIONS AND INTERPRETATIONS

#### Definitions

1 The following definitions apply in this by-law.

“alter” means, in relation to a **building** or **structure**, to make any structural or other changes thereto which is not for the purpose of **maintenance** only.

“building” means a roofed erection with solid exterior walls which is permanently affixed to a site and which is used or intended as a shelter for persons, animals or chattels.

“Building Inspector” means the person appointed by the **Council**, or a person designated by the **Building Inspector**, to enforce this By-law.

“Council” means the Mayor and Councillors of Blacks Harbour.

“Code” means the latest edition of the *National Building Code of Canada* as adopted by the Province of New Brunswick and amendments thereto.

“demolish” means to do anything in the removal of a **building** or **structure** or any material part thereof, and “demolition” has a corresponding meaning

“designer” means a Professional Engineer or Architect authorized to practice in the Province of New Brunswick.

“dwelling” means a main **building**, or portion thereof, other than a mobile home, mini-home, or trailer, which contains one or more **dwelling** units.

“maintenance” means, in relation to a **building** or **structure**, any upkeep or repairs thereto performed personally by the **owner**, or under contract, which are non-structural in nature.

“normal maintenance” includes painting, insulating, carpeting, or other finish flooring but normal **maintenance** would not include moving or changing partitions, interior finishes on a public corridor in a **building** and all other repair **work**.

“owner” means a person who holds title to real property and includes any person who has entered into an agreement to purchase the real property, and includes the agent of such person and a contractor engaged by the **owner** to undertake **work**.

“permit” means a **building permit** issued pursuant to this by-law and includes a demolition **permit**.

“permit holder” shall be the **owner** or the appointed agent of the **owner**.

“public works” means the construction of utility lines and water and sewer piping within an easement or street right-of-way including transformers, switchers, hydrants, manholes and pumps that form part of the **village** public utility system.

“sign” means any display of advertisement, placard, boarding, billboard, or other means of public notice or announcement whether erected or posted, and which is suitable or adaptable for such purpose, whether or not it is used at the time for such purpose.

“structure” means an erection other than a **building**, power or telephone pole or line.

“temporary structure or **building**” means a **structure** or **building** that is not intended for permanent use and has sides manufactured from a pliable material such as canvas or plastic and **structures** or **buildings** in this category would typically be referred to as tents, other than camping, temporary garages or vehicle shelters.

“total estimated cost” means the total monetary worth of all construction or **work** involved in the project including wall finishes, miscellaneous **structures**, roofing, electrical, plumbing, HVAC equipment, elevator equipment, fire sprinkler equipment, and all other labour, materials and other devices necessary to complete the **work** and may be abbreviated to TEC.

“Village” means Blacks Harbour or the Village of Blacks Harbour.

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

## SCOPE

### Purposes of the By-law

2 The purposes of this by-law are:

- (a) to prescribe standards for the **building**, locating or relocating, **demolishing**, **altering**, structurally **altering**, repairing or replacing, or any combination thereof, of a **building**, **structure** or **sign**,

- (b) to prohibit the undertaking or continuing of such **work** in violation of standards prescribed by this by-law; and
- (c) to prescribe a system of **permits** for such **work**, their terms and conditions, the conditions under which they may be issued, suspended, reinstated, revoked and renewed, their form and the fees to be paid therefore.

## **NATIONAL BUILDING CODE**

### **Adoption of Code**

- 3(1)** The latest edition of the National Building Code of Canada as adopted by the Province of New Brunswick, and amendments thereto, is hereby adopted as the standard for all **work** undertaken in the **Village**.
- 3(2)** The **Village** shall keep one printed and one electronic copy of the **Code** available in the **village** office for public use, inspection and examination during regular business hours.
- 3(3)** This by-law and the **Code** apply to site assembled and factory made **buildings** and **structures**.

## **BUILDING INSPECTOR**

### **Appointment of Building Inspector**

- 4** The **Council** shall appoint a **Building Inspector** who shall administer and enforce this by-law.

### **Duties of the Building Inspector**

- 5(1)** The **Building Inspector** shall keep proper records of all applications received, **permits** and orders issued, inspections and tests made, and shall retain copies of all papers and documents connected with the administration of this by-law.
- 5(2)** The **Building Inspector** shall keep one copy of the **Code** available for public inspection.

### **Powers of the Building Inspector**

- 6(1)** The **Building Inspector** may enter any property, **building, structure** or premises at any reasonable time for the purpose of administering or enforcing this by-law.
- 6(2)** The **Building Inspector** may cause a written order to be served upon the **owner** of any property directing the **owner** to correct any condition that constitutes a contravention of this by-law.
- 6(3)** The **Building Inspector** may direct that tests of materials, devices, construction methods, structural assemblies or foundation conditions be made, or that sufficient evidence or proof be

submitted at the expense of the property **owner**, where such evidence or proof is necessary to determine whether the material, device, construction or foundation condition meet the requirements of this by-law.

6(4) The **Building Inspector** may revoke or refuse to issue a **permit** where in the opinion of the **Building Inspector** the **work** does not conform with this by-law and all other applicable by-laws, Acts and Regulations of the Province of New Brunswick.

### **Stop Work Order by Building Inspector**

7(1) When, in the opinion of the Building Inspector, work is being done in violation of the provisions of this by-law, or in variance with the terms of any permit issued for such work, the Building Inspector may order all work on the job stopped until such violation or variance is eliminated and any work or installation made in violation of this by-law is corrected, and on the making of such order the permit under which such work is purported to be done shall be suspended.

7(2) No **work** shall be done in violation of an order made pursuant to subsection 7(1), except as may be necessary to prevent injury or damage to persons or property and such exception shall be approved by the **Building Inspector**.

7(3) If within 30 (thirty) days of the making of an order pursuant to section 7(1), any such violation or variance is eliminated, and any **work** or installation made in violation of this by-law is corrected, the **Building Inspector** shall reinstate the **permit**.

7(4) If such violation or variance is not eliminated and such **work** or installation is not corrected within the time prescribed in subsection 7(3), the **Building Inspector** shall revoke the **permit**.

7(5) The holder of a revoked **permit** must apply for a new **permit** in the manner provided in this by-law and must pay the fees required for the issuance of a new **permit**.

## **BUILDING PERMIT PROCESS**

### **Permit Required**

8(1) An **owner**, or other person, shall not undertake or continue the **building**, locating or relocating, **demolishing**, **altering** or replacing of a **building**, **structure** or **sign** unless a **building permit** has been issued by the **Building Inspector**.

8(2) A **building permit** is not required for the following:

- (a) **maintenance work**,
- (b) **signs** permitted by section 18.23 of the **Village Rural Plan**, and,
- (c) **Public Works**.

## Permit Application

9(1) An **owner** or other person seeking to obtain a **building** or demolition **permit** shall submit the following:

- (a) an application form prescribed by the **Village** completed in full,
- (b) where required by this by-law or the **Building Inspector**, two (2) copies of legible scale drawings and specifications,
- (d) all applicable deposits and fees, and
- (e) all other information required by the **Building Inspector**.

9(2) For an **owner**, or other person, seeking to obtain a **building permit** for a residential **dwelling**, the site and **building** or **structure** drawings shall include the following:

- (a) dimensions of the property and the **building** or **structure** and location of same on the said property,
- (b) proposed final lot grading including geodetic elevations of grade at the perimeter of the foundation and elevation of the top of the foundation walls,
- (c) elevations of the streets and sewer services abutting the property,
- (d) height and views of each **building** or **structure** face,
- (e) dimensions and proposed use of each room or area of the **building** or **structure**, and
- (f) any other information that the **Building Inspector** may require for the purpose of determining compliance with this by-law.

9(3) For **structures** other than residential **dwellings**, structural drawings may be required at the discretion of the **Building Inspector**.

9(4) The drawings and specifications for **buildings** or **structures**, or any component thereof, that fall under Part 3 and Part 4 of the **Code** shall be stamped and sealed by a professional engineer or architect and the **permit holder** shall provide to the **Building Inspector** written confirmation from the **designer** that, in accordance with subsection 2.6 of the **Code**, the construction was found to be in conformance with the design.

## Permit Fees

10(1) The required **permit** fee is based on the “**total estimated cost**” of the **work**.

**10(2)** The fees prescribed in subsection 10(3) are payable to the **Village** in respect to **building permits** issued by the **Building Inspector**.

**10(3)** The **permit** fees are attached in Schedule A.

**10(4)** The **permit** fee may be 50% refunded if within 6 (six) months from the date of issue no **work** has been completed under the **permit** and upon being refunded by the **Village**, the **permit** shall be deemed to be cancelled.

**10(5)** Where **work** requiring a **permit** has been commenced prior to the issuance of the required **permit**, the fees required by subsection 10(3) shall be doubled.

**10(6)** Where the **Building Inspector** believes that the **total estimated cost** is too low, the cost shall be based on the minimum construction costs per square metres as follows:

(a) Home Construction	Main Floor . . . . .	\$807 / sq m (\$75 / sq ft)
	Second Floor . . . . .	\$431 / sq m (\$40 / sq ft)
	Finished Basement . . . . .	\$377 / sq m (\$35 / sq ft)
	Unfinished Basement . . . . .	\$216 / sq m (\$20 / sq ft)
(b) Additions . . . . .		Same as new construction
(c) Decks . . . . .		\$108 / sq m (\$10 / sq ft)
(d) Garage . . . . .		\$269 / sq m (\$25 / sq ft)
(e) Shed . . . . .		\$108 / sq m (\$10 / sq ft)
(f) Multi-Residential Construction (Apartments) . . . . .		\$538 / sq m (\$50 / sq ft each floor)
(g) Commercial Construction . . . . .		\$753 / sq m (\$70 / sq ft)
(h) Warehouse Construction . . . . .		\$431 / sq m (\$40 / sq ft)

**Surveyor’s Real Property Report**

**11(1)** Where an application for a **permit** is submitted and the **work** described therein involves new foundation construction or foundation extensions, a **permit** for such construction shall be issued on the condition that the construction of the **building** or addition shall not proceed beyond the foundation stage unless the **Building Inspector** has received and approved a Surveyor’s Real Property Report.

**11(2)** The Surveyor’s Real Property Report shall show the distances from the outer walls of the foundation to the property boundary lines, the geodetic elevations at the top of each level of the foundation wall, the geodetic elevations at the property corners, mid point of each property line and

at the bottom of any drainage swale and shall be signed by a New Brunswick Land Surveyor before being received and considered by the **Building Inspector**.

**11(3)** Where an appropriate Surveyor's Real Property Report exists for a property undergoing a foundation **alteration** or extension, the **Building Inspector** may waive the requirement for a new Surveyor's Real Property Report.

### **Deposits**

**12(1)** In the case of new **buildings** and additions constructed under Part 9 of the National Building **Code** or **work** involving **buildings** and **structures** under Part 3 or Part 4 of the **Code**, every person who applies for a **permit** shall submit to the **Village** in the form of cash, debit, certified cheque or money order a deposit equal to one and one half percent (1.5%) of the **total estimated cost** of the **work**.

**12(2)** The deposit may be returned to the applicant,

- (a) until the Surveyor's Real Property Report has been submitted and approved by the **Building Inspector** if the construction has not proceeded beyond the foundation stage,
- (b) provided any improper location and elevation of the foundation has been corrected,
- (c) provided all inspections and **work** have been carried out as required by this by-law in a reasonable time, and
- (d) provided municipal property or infrastructure has not been damaged.

**12(3)** If municipal property or infrastructure is damaged by the **work**, the deposit, or an adequate portion thereof, shall be used to cover the cost of repairs to the satisfaction of the **Village**, and if the cost of repairs exceeds the deposit, the additional cost shall be a debt due and owed to the **Village** by the **permit holder** and the property **owner**.

**12(4)** Where applicable a water and sewer fee deposit shall accompany the application for a **building permit** as required by the **Village** administration policies.

### **Permit Issuance**

**13(1)** Upon receipt of an application as prescribed by subsection 9(1) the **Building Inspector** shall issue a **permit** provided,

- (a) the application is completed as required by subsection 9(1),
- (b) the **Building Inspector** has determined that the proposed **work** conforms to this by-law and any other applicable by-law and all acts and regulations of the Province of New Brunswick,

(c) there are no unresolved financial or other matters between the applicant for the **permit**, or the property **owner**, and the **Village**, including water and sewerage and any debts due the **Village**,

(d) the Development Officer has approved the **work** pursuant to subsection 81(1) of the *Community Planning Act*, R.S.N.B. 1973, c-12, and

(e) a plumbing **permit** has been issued by the Province of New Brunswick if the **work** described in the application involves plumbing.

**13(2)** A **permit** issued pursuant to this by-law shall be valid for a period of six (6) months from the date of issuance after which time the **permit** shall be null and void, unless extended or renewed by the **Building Inspector**.

**13(3)** A **building permit** issued hereunder shall be deemed null and void if **work** has not commenced within six (6) months from the date of issuance.

**13(4)** A **permit** issued hereunder may be revoked

(a) if there is a contravention of any provision of this by-law or any condition set out in the **permit**,

(b) if the **permit** was issued in error, or

(c) if the **permit** was issued on the basis of incorrect information supplied by the applicant

**13(5)** The issuance of a **permit**, and the review of drawings and specifications or inspections by the **Building Inspector** shall not relieve the **permit holder** or **owner** from full responsibility for carrying out the **work** in accordance with this by-law, the **Code** and other applicable by-laws, acts and regulations.

**13(6)** The **work** shall not commence until a **permit** has been paid and issued.

**13(7)** Attached hereto as Schedule B is a guide to some classes of **work** where **permits** are or are not required.

## **RESPONSIBILITY OF OWNER**

### **Compliance with Orders**

**14** An **owner** of property and a **permit holder**, and in accordance with section 93 of the *Community Planning Act*, shall comply with all orders, notices and requests issued by the **Building Inspector**.

**15** Pursuant to subsection 6(1) of this by-law, and in accordance with section 92 of the *Community Planning Act*, **owners**, occupants and **permit holders** shall allow **Building Inspectors** to enter any

**building** or premises, or part thereof, owned or occupied by them at any reasonable time for the purpose of administering and enforcing this by-law.

### **Plans at Site**

**16** A **permit holder** shall ensure that the plans and specifications on which the issue of the **building permit** was based are available continuously at the **work** site for inspection during working hours, and that the **permit**, or a true copy thereof, is posted conspicuously on the site during the entire execution of the **work**.

### **Notice to Building Inspector**

**17** A **permit holder** shall give to the **Building Inspector** sufficient notice, exclusive of Saturdays, Sundays and holidays, for inspection purposes, as follows:

- (a) 24 hours prior to the placement of foundation footings,
- (b) 24 hours prior to backfilling of the foundation,
- (c) 48 hours prior to interior sheathing of walls and ceilings, and
- (d) 48 hours prior to occupancy.

### **No Deviation from Permit**

**18** Neither the **permit holder** nor the **owner** shall deviate from this by-law, nor from the conditions of a **permit** nor omit **work** that is required by this by-law nor the conditions of the **permit** and they shall be responsible to ensure that all **work** meets the requirements of the by-law, notwithstanding that a **permit** has been issued for the **work** and the drawings and specifications have been approved by the **Building Inspector** and inspections have been performed.

### **Dumpster on Site**

**19** A **permit holder** shall have on site during **work** a dumpster and under no circumstances is **building** refuse to be left at the curb for regular garbage pick up.

### **Building Debris**

**20** A **permit holder** shall keep a construction site free of **building** debris at all times.

## **OFFENCES AND PENALTIES**

### **Offences and Penalties**

**21** A person who does any of the following commits an offence punishable under Part II of the *Provincial Offences Procedure Act* as a Category B offence:

(a) knowingly makes a false or misleading statement, either orally or in writing, to any of the following persons while that person is engaged in carrying out that person's duties or powers under this by-law:

- (i) the **Building Inspector**; or
- (ii) the Chief Administrative Officer of the **village**;

(b) knowingly gives false information on an application for a **permit**;

(c) violates or fails to comply with subsection 7(2);

(d) violates or fails to comply with section 18;

(e) violates or fails to comply with section 19;

(f) violates or fails to comply with section 20.

### **Voluntary Penalty**

**22(1)** Every person charged with an offence under Section 21 may, on or before the date that a charge pertaining to the offence has been laid in Provincial Court, make a voluntary payment of the minimum fine for a Category B offence to the **Village** and upon receipt of the payment the fine shall be deemed payment in full.

**22(2)** If the voluntary payment set out in subsection 22(1) has not been received on or before the hearing date scheduled for entering of a plea before the Provincial Court, the person charged with the offence is liable on conviction to a fine of not more than the maximum fine that may be imposed for commission of an offence punishable under Part II of the *Provincial Offences Procedure Act* as a Category B offence.

**22(3)** Section 21 is in addition to offences, penalties and remedies prescribed in the *Community Planning Act* and is not to be construed as excluding any such provisions or in any way in derogation thereof.

### **AMENDMENTS**

**23** The **Council** may, from time to time, amend, by resolution, Schedule A of this by-law.

## REPEAL

### Repeal of Existing By-laws

**24(1)** By-law No. 74-9, Building By-law, **passed by Village Council on November 12, 1974, and amendments thereto**, are hereby repealed.

**24(2)** The repeal of By-law No. 74-9, and amendments thereto, shall not affect any penalty, forfeiture or liability, incurred before such 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 matter or thing whatsoever completed, existing or pending at the time of repeal.

**READ FIRST TIME BY TITLE:** *May 11, 2011*

**READ SECOND TIME IN ITS ENTIRETY:** *June 15, 2011*

**READ THIRD TIME BY TITLE AND ENACTMENT:** *June 15, 2011*

In Witness Whereof, Blacks Harbour has caused its corporate seal to be hereunto affixed to this By-law the *15<sup>th</sup>* day of *June, 2011*.

*TM James*

Mayor

*Heather Chase*

Clerk

**Schedule A**

**Permit Fees**

Demolition Permit	.....	\$30
Residential Roof	.....	\$60
\$0 - \$1,499 TEC (including temporary shelters)	.....	\$30
\$1,500 - \$4,999 TEC	.....	\$75
\$5,000 - \$14,999 TEC	.....	\$85
\$15,000 - \$99,999 TEC	.....	\$5.50 per thousand
\$100,000 and up TEC	.....	\$6.00 per thousand

**Schedule B**

<b>Description of the Work</b>	<b>Single Family Duplex Row Houses</b>	<b>Other Buildings</b>
	<u>Permit Required</u>	<u>Permit Required</u>
Re-roofing	Yes	Yes
Combustible siding; wood, vinyl	Yes	Yes
Non-combustible siding; aluminum, brick, stucco	Yes	Yes
Painting	No	No
Ceramic Tile	No	No
Plaster, drywall repairs (except fire separations)	No	No
Window replacement	Yes	Yes
Structural repairs, sagging floor or roof, wall bulge	Yes	Yes
Insulating except foamed plastic for interior walls; styrofoam, etc.	No	No
Replacement of floor covering	No	No
Fencing	Yes	Yes