

ORDINANCE No. 2023-01

CONSTRUCTION BY-LAW OF THE MUNICIPALITY OF BELLE-BAIE

Pursuant to the Municipal Act, the municipal council of the City of Belle-Baie, duly convened, hereby enacts:

WHEREAS, the enforceability of by-laws is subject to the requirements of section 15 (1) of the *Local Government Act*.

WHEREAS, pursuant to section 15 of the *Local Government Act*, an ordinance may be adopted under the conditions specified in subsection 3.

WHEREAS, notices issued by local governments may be posted in accordance with section 70(1) of the *Local Government Act*.

IT IS DECREED THAT the municipal council of the town of Belle-Baie adopt this bylaw under the procedure for adopting bylaws in accordance with section 5 of the *Act respecting the administration of the Building Code*.

I certify that this instrument
is registered or filed in the
Gloucester
County Registry Office,
New Brunswick

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registered or filed in the
Gloucester
County Registry Office,
New Brunswick

2023-05-01 11:38:59 4379576
date/date time/heure n° d'instrument
Emma E. Demore
Registrar-Conservateur

Decree No. 2023-01

Construction order of the municipality of Belle-Baie

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1. DECLARATORY AND INTERPRETATIVE PROVISIONS

1.1 INTERPRETATION

For the interpretation of this bylaw, unless the context indicates a different meaning, any word, term or expression has the meaning and significance assigned to it in section 1.3.

If a word, term or expression is not specifically defined in the building by-law, it shall be used in the sense attributed to it in the zoning by-law and then in the common sense defined in the dictionary.

In this decree, in the event of any contradiction between the text and a title, the text shall prevail.

Where a restriction or prohibition prescribed by this decree or any of its provisions is found to be incompatible or inconsistent with any other regulation or provision of this decree, the most restrictive or prohibitive provision shall apply, unless otherwise specified.

In this document, the masculine gender is used in a neutral sense and refers to both women and men.

1.2. REPEAL

The City of Beresford Bylaw entitled "Bylaw 10-1990 — Building Bylaw" and its amendments, Bylaw 10-01-200 and Bylaw 10-01-2009, are hereby repealed.

The Nigadoo Village Bylaw entitled "Bylaw 2-1990 — Nigadoo Construction Bylaw" and its amendments, Bylaw 2-1991, Bylaw 2-01-2000, Bylaw 2-02-2005, and Bylaw 2-03-2009 are hereby repealed.

The Petit-Rocher Village Bylaw entitled "Bylaw 10-01-90 — Petit-Rocher Construction Bylaw" and its amendments, Bylaw 10-02-2000, 10-03-2005, and 10-04-2009, are hereby repealed.

The Pointe-Verte Village Bylaw entitled "Bylaw 61—Construction Bylaw" and its amendments, Bylaw 61-01-2000 and Bylaw 61-01-2009, are hereby repealed.

The repeal of the by-laws mentioned in the preceding paragraphs does not have the effect of canceling a contravention or conferring acquired rights on anyone who, on the date of coming into force of this by-law, contravenes one or more provisions of the repealed by-law. The Council reserves the right to take legal action against anyone who was in violation on the date of entry into force of this decree.

The repeal of the decrees mentioned in paragraphs 1 to 4 of this article does not affect permits legally issued under the authority of the repealed decree, nor the rights acquired prior to the entry into force of this decree.

1.3 TERMINOLOGY

The following definitions apply to this order.

Agent d'mm ěn a gem en t

Person designated within the meaning of the Urban Planning Act.

Expansion

Work intended to increase the floor area or volume of a building or structure.
structure.

Land development

Refers to landscaping, drainage infrastructure, parking areas, and pedestrian zones.

Architect

Refers to a registered member or licensee of the Association and, in the context of Part IV of this Act, also means a former member, a former licensee, and a sole proprietorship, partnership, or corporation currently or formerly engaged in the practice of architecture within the meaning of section 13;

Land surveyor

Means a member in good standing of the New Brunswick Association of Land Surveyors authorized under the New Brunswick Land Surveyors Act, 1986 to engage in the business of surveying in New Brunswick.

Building

A structure used or intended to be used to support or shelter any use or occupation. A building is covered by a roof resting on exterior walls.

Change of use

A change in the nature of the use or intended use of a building or part thereof for the purpose of sheltering or housing persons, animals, or property.

Code

Current edition of the National Building Code of Canada adopted by the province, including revisions, errata and corrections to errata published subsequently.

The Regional Services Commission (RSC)

The Chaleur Regional Services Commission established under the Regional Services Act.

Council

The municipal council of the Town of Belle-Baie under the Local Governance Act, Chapter 17, Section 18.

Construction

Means anything built or erected on or under the ground or attached to anything on the ground, and includes all buildings.

Construction

The act of carrying out an activity related to the construction, installation, or expansion of a building or the performance of major alteration or repair work on it, including the installation of a building unit manufactured elsewhere or transported from another location.

Courtyard

The New Brunswick Court of King's Bench, one of its judges.

Demo shot

The act of carrying out an activity related to the removal of a building or a significant part thereof.

To build

Means to construct, build, assemble, or move a building or structure, including preparatory work for the construction, assembly, or movement of a building or structure.

Habitation

As defined in the Canada National Building Code, any part of a building comprising one or more dwellings.

Geodetic height

Elevation or height of a given point on earth above the geodetic reference frame.

Engineer

Means a member in good standing of the New Brunswick Association of Engineers and Geoscientists who is registered or licensed to practice engineering in New Brunswick.

Building inspector

Means:

A person whose primary responsibility with respect to a regional service commission is to ensure the enforcement of local government by-laws;

A building inspector appointed under the Local Governance Act or a person appointed under that Act whose primary responsibility is to ensure compliance with bylaws relating to buildings and construction work.

End

Means as defined in the Canada National Building Code.

Modify

Means, with respect to a building or structure, the making of a structural or other alteration to it for purposes other than simple maintenance.

Occupancy

Refers to the use or intended use of a building or part thereof for the purpose of sheltering or housing persons, animals, or property.

Development permit

A document signed by the planning officer and issued by the Commission if a project complies with the provisions contained in the zoning bylaw and the Planning Act. A development permit may be issued in conjunction with a building permit.

Building permit

Document signed by the building inspector and issued by the Commission if a project complies with the provisions contained in the building bylaw. A building permit may be issued in conjunction with a development permit.

Owner

Holder of the title to real property and, in addition, the person who has entered into a purchase agreement relating to such property.

Structure

A combination of materials intended to form a structure for occupancy, use, or decoration, whether installed on, below, or above the surface of a parcel of land.

Non-habitable area

The exterior part of the building that is an adjoining or projecting structure and is an area where one cannot eat, live, or sleep: balcony, exterior staircase, gallery, gazebo, marquee, covered exterior passageway, patio, pergola, steps, porch, portico, tambour, terrace, etc.

Permit holder

Refers to the person applying for the permit or the owner of the property.

Work

The act of erecting, constructing, installing or reinstalling, demolishing, modifying, structurally modifying, repairing or replacing a building, construction, structure, use or any combination of these activities.

Use

Refers to the purpose for which land, a building or structure, or a combination of these elements, is designed, arranged, built, occupied, or maintained.

1.4 SCOPE OF APPLICATION

This bylaw applies to the entire territory of the City of Belle-Baie, as provided for in the Local Governance Act.

1.5 SCOPE OF APPLICATION OF THE DECREE

The purpose of this decree is:

- a. To establish standards for the construction, installation, or relocation, demolition, replacement, or any type of modification of a building, structure, or any combination of these works;
- b. To prohibit, undertake, or continue any work referred to in paragraph 1.5 a. in violation of the standards prescribed by this decree;
- c. To establish a permit system for all work referred to in paragraph 1.5 a. and to determine the terms and conditions for the issuance, suspension, reinstatement, revocation, and renewal of such permits, as well as their form;
- d. To prescribe the fees applicable to any construction permit.

1.6 ADOPTION OF THE CODE

The latest edition of the code adopted by the province of New Brunswick, with the exception of Part 8 entitled "Safety Measures at Construction Sites," is adopted as the standard with which all *work* undertaken on *buildings* and *structures* in the municipality must comply.

1.7 EXEMPTION FROM THE BUILDING CODE

The exemptions provided for in Regulation 2021-2 entitled General Regulation—Building Code Administration Act apply to the entire municipal territory.

2. PROVISIONS RELATING TO BUILDING PERMITS

2.1 REQUIREMENT FOR PERMITS

No person may undertake or continue any work unless the following conditions are met:

- a. The work complies with:
 - the Code;
 - to this order and to other applicable laws, regulations, decrees, and orders;
 - the terms and conditions of the building permit;

- b. A development permit has been issued, if required;
- c. A building, demolition, or change of use permit has been issued, if required.

2.2 FORMAT

2.2.1 Minimum information

An application for a *building permit* must be submitted to the *Commission* by the owner or their representative with the following information:

- a. Name and contact details of the owner or their representative;
- b. Name and contact details of the person who will carry out the work;
- c. Location of the work;
- d. Type of work;
- e. Intended use;
- f. Description of the project;
- g. Signature of the owner or representative and date of the application;
- h. Estimated cost of the work, including labor and materials;

2.2.2 Required documents

The following additional documents must accompany a permit application, depending on the type of permit and in the form prescribed by the Director of Planning, in order to ensure the project's compliance, unless exempted by *the building inspector*:

- a. Specifications and construction plans, drawn to scale and legible, prepared by a competent person or technologist, foundation plan, floor plan, including the following information as required:
 -
 - A full cross-section with detailed drawings of the stairs, as well as relevant details on the walls, window dimensions—including unobstructed window openings for bedrooms—and terraces;
 - The site plan and workshop drawings of the trusses, stamped and signed by an engineer;
 - The layout plan and shop drawings for industrialized triangular floor beams, bearing the seal and signature of an engineer;
 - The drawings of industrialized lintels or beams, bearing the seal and signature of an engineer;
 - Where construction is to take place on land known to have been filled or where the soil is unstable, the results of a soil survey and the recommendations arising therefrom, bearing the seal and signature of a geotechnical engineer licensed to practice in the Province of New Brunswick;
 - The intended use of each room or floor area;
 - Any other plans or information requested by *the building inspector*

- b. Layout plan, site plan, general plan, subdivision plan, survey plan, or location plan, including the following information as necessary:
- Dimensions, area, and boundaries of the land;
 - Dimensions of existing and proposed *structures*: main *building* (*residential*, commercial, industrial, or other), secondary and accessory *buildings* and *structures* (garage, shed, porches, etc.), signs;
 - Distances of *buildings* from the boundaries of the land, streets, waterways, and wetlands, if applicable;
 - Zone boundaries;
 - Easements and rights of way;
 - Parking area, parking spaces, access and circulation lanes, including proposed dimensions;
 - Loading/unloading area, loading/unloading space, access and circulation lanes, including proposed dimensions;
 - Buffer zone and landscaping details, if required by the zoning ordinance;
 - Garbage storage area (garbage container);
 - Fence;
 - Signage plan;
 - Description and information on use;
- c. Any other additional plans, information, permits, approvals, details, or professional certifications necessary to understand the project and ensure compliance with this order and other applicable laws, regulations, decrees, and orders.

2.2.3 Professionals or certified professionals

All plans referred to in section 2.2.2 a. accompanying a permit application must be certified by the seal and signature of a qualified architect or engineer in New Brunswick if the *work* referred to in the permit application consists of a building or *structure* that:

- a. Has a floor area greater than 600 m² or a height greater than 3 stories and houses main uses from Group C (residential), Group D (business establishments), Group E (commercial establishments), Group F divisions 2 and 3 (medium-risk industrial establishments and low-risk industrial establishments);
- b. Has a use that falls within Group A (meeting establishments), Group B (health care, treatment, or detention establishments), or Division 1 of Group F (very high-risk industrial establishments) of the Socle classification;
- c. Is classified as a civil protection facility; or
- d. Contains *construction* details for which *the building inspector* requires a certified design.

2.3 XEMPTION PERMIT

Notwithstanding section 2.1, a *building permit* is not required for structures that must still comply with the Code:

- a. Painting;
- b. Insulation;
- c. Repair or reinstallation of residential interior finishes;
- d. Replacement of exterior roof covering for residential classes;
- e. Fencing;

- f. A chicken coop if it is a secondary use as defined in the zoning bylaw;
- g. Temporary installations as defined in the zoning bylaw.

2.4 ISSUANCE OF THE PERMIT

The building *inspector* issues the *building or demolition permit* if the following conditions are met:

- a. The permit application is accompanied by all the documents and information required by this decree;
- b. The application complies with this order and other applicable laws, regulations, decrees, and orders;
- c. The planning officer has approved the work in accordance with subsection 108(1) of the Planning Act;
- d. Payment of the construction or demolition fees has been received.

2.4. Foundation and completion

Any building requiring a foundation must have said foundation completed within a maximum of 12 months following the issuance of the *building permit*.

The exterior finishing of any building must be completed within the most restrictive of the following time limits:

- a. Within 12 months of occupying the *building*; or
- b. Within 24 months of the issuance of *the building permit*; or
- c. Any other provisions set out in the zoning ordinance.

2.4.2 validity

The permit issued under this ordinance is valid for one year from the date of issue, after which it is deemed void unless renewed by the building inspector.

2.5 REVOCATION OF THE PERMIT

2.5.1 Causes for revocation

The building inspector may revoke a building permit if the work:

- a. Contravene the permit issued and the owner, summoned by the building inspector, fails to correct the situation within the specified time limit;
- b. Contravene this by-law and other applicable laws, regulations, decrees, and by-laws;
- c. Does not correspond to the permit;
- d. The permit was issued in error;
- e. The permit was issued on the basis of incomplete or false information;
- f. The work has not begun within six months of the permit being issued;
- g. The work has been stopped or suspended for more than six consecutive months.

2.5.2 r revocation procedure

The inspector shall give written notice of the suspension or revocation of the permit to the owner or the person acting on their behalf.

When a permit is revoked pursuant to section 2.5.1 or an application for a permit is withdrawn without work having commenced, the municipality retains 100% of the fees.

The inspector reinstates the suspended permit if the requirements of the Act, its regulations, and the Code, as well as the terms and conditions for issuing the permit, have been met.

The holder of a revoked permit must apply for a new permit in accordance with the terms and conditions set out in this bylaw and must pay the applicable fees.

3. OBLIGATIONS AND RESPONSIBILITIES WITH RESPECT TO THE LEGISLATION

3.1 'S OBLIGATIONS

3.1.1 Inspection procedure

The holder of a *building permit* must give two business days' notice and grant access to the site to *the building inspector* in order to inspect the progress of the work at the following stages:

- a. Foundation before backfilling;
- b. Structure after installation of services;
- c. Pre-drywall inspection of insulation and vapor barrier prior to wall installation and ceiling finishing;
- d. Final inspection before occupancy of the building or when *construction* is complete.

3.1.2 Obligations during the entire construction process

Throughout the duration of the works, the holder of a *building or demolition permit* must:

- a. Display the building permit on the property in a conspicuous location for the entire duration of the work;
- b. Notify the building inspector that the construction, demolition, or alteration work is ready for inspection;
- c. Keep a copy of the plans and specifications approved by the building inspector on site ;
- d. Be liable for the cost of repairing any damage caused to municipal property as a result of the work covered by the permit;
- e. Perform or have performed, at their own expense, the necessary tests and inspections to ensure that the work complies with the requirements of this order and send the building inspector a copy of all test and inspection reports;
- f. Ensure that the public does not have access to the unsafe construction site;
- g. When modifying or changing any information provided in an application submitted in accordance with section 2.2, immediately file the modifications or changes with the building inspector, such modifications or changes being subject to the approval provided for in section 2.4.

The issuance of a permit, the review of documents attached to the application, or inspections carried out by *building inspector* during the performance of *the work* shall in no way relieve the permit holder of full responsibility or obligation to perform work in accordance with this bylaw, the *Code*, and other applicable legislation.

The holder of a permit to demolish a *building or structure* must dispose of debris and other materials resulting from the demolition in accordance with all applicable regulations and at a location approved by the relevant departments.

3.2 OBLIGATIONS OF THE BUILDING INSPECTOR

The building inspector:

- a. Ensures the application and enforcement of the building by-law;
- b. Visits and inspects, at any reasonable time, any real estate or personal property to determine whether this order is being complied with. He or she may be accompanied, if necessary, by any relevant person. The owners, tenants, or occupants of the premises visited are required to receive him or her and answer any questions he or she may ask;
- c. Keeps a record of permit applications received, permits issued, orders to communicate, inspection reports, tests performed, and keeps a copy of the documents and records related to the performance of his duties;
- d. Order that tests be carried out in accordance with the *Code* on materials, devices, construction processes, load-bearing functional elements, or the condition of the foundation, or, if it is necessary to prove compliance with this order, order the production of sufficient evidence in this regard at the owner's expense;
- e. Revokes, suspends, or refuses to issue a *building permit* when it is of the opinion that the results of the tests referred to in paragraph 3.1.2. e. do not meet the requirements of this order;
- f. Order the contractor to provide the necessary evidence that the construction plans have been followed when the necessary inspections have not been carried out;
- g. Reinstate the *building permit* when the materials, devices, construction processes, functional load-bearing elements, or foundation meet the requirements of this order;
- h. Refuses to issue a *building permit* if the materials do not comply with this decree and other applicable laws, regulations, decrees, and orders;
- i. Initiate the procedures provided for in the Building Code Administration Act when /raxaux are in violation of the building permit;
- j. Revokes a *building permit* if the work does not comply with this order or with other applicable laws, regulations, decrees, and orders.

The *building* sector shall keep a copy of the *Code* available to the public during normal business hours for use, review, and consultation.

4. PROVISIONS RELATING TO BUILDINGS

4.1 FOUNDATIONS AND EXCAVATIONS OPEN

The owner of land containing foundations or excavations left open following the demolition or destruction of a building must, if construction work is not undertaken immediately, backfill the foundations or excavations left open to the average ground level without delay; otherwise, he must immediately erect, in a careful and workmanlike manner, a wall made of good materials, without openings, with a minimum height of 1.8 meters around the perimeter of the foundations or excavation left open, and maintain this wall to prevent it from becoming dilapidated or unsightly as long as the foundations or excavation left open constitute a danger.

4.2 SHIELDING OF BUILDINGS

The use of building materials and their assembly for the purpose of shielding a *building* against firearms or explosives is prohibited for *buildings* or *structures* used for the following purposes:

- a. The residential use group;
- b. Counter service restaurants and restaurants;
- c. Entertainment businesses and adult entertainment businesses;
- d. Motels, Inns, Hotels, and Lodging Complexes;
- e. Community centers;
- f. Secondary uses Single-family housing, workers' camps, garden pavilions, and tourist lodgings.

4.3 PROHIBITED WORK

The following *work* is prohibited on the *buildings* and *structures* listed in section 4.2:

- a. Installation of laminated glass or any other bulletproof glass in windows and doors; Installation of steel protective shutters inside or outside;
- Installation of armored or reinforced doors to withstand the impact of firearms or explosives;
- Installation of an observation tower;
- Installation of metal grilles or bars on doors and windows, with the exception of basements and cellars in buildings.

5. PRICING

5.1 ISSUANCE FEES

Permit fees are indicated in accordance with Policy P2023-02 — City of Belle-Baie Pricing Policy.

When a building inspector believes that the estimated cost of the work (including labor and materials) is unreasonable, they may refuse to issue the *building permit*.

5.2 REFUND

The *Commission* may refund the full amount of the fees for a *building permit* for which the works described therein have not commenced only if the permit application is withdrawn at any time prior to the issuance of the permit.

6. ORDERS, VIOLATIONS, AND PENALTIES

6.1 ORDERS

6.1. Orders

When the building inspector finds that construction or demolition work is being carried out in contravention of the Code or this bylaw, he may order:

- a. The cessation of the work;
- b. Modification of the work to remedy the violation;
- c. The taking of any other measures deemed necessary to make the building or real property safe.

Once an order has been served, it is prohibited to carry out any construction or demolition work in all or part of the building or on all or part of the real property covered by the order, except for work that is necessary to ensure compliance with the order or to make the premises safe.

When an order requires construction or demolition work to be carried out, such work shall be carried out at expense of the owner.

6.1.2 Content of the order

Any order must meet the following conditions to be valid:

- a. It is in writing;
- b. It is signed by the building inspector;
- c. It shall be served on the owner of the land or building to which it relates and, where applicable, on the person who submitted the application for a building or demolition permit on behalf of the owner.
- d. It sets out the reasons justifying the measures specified therein within the time limits set;
- e. It indicates the location of the building or real property or the part thereof to which it applies.

The service of an order or summons to a person under this order is sufficient:

- a. In the case of a natural person, if it is delivered by hand;
- b. In the case of a legal person, if it is delivered by hand to one of its officers, directors, or agents, or to any manager or other person who appears to be responsible for one of its offices or other places of business in the province;
- c. If it is sent by regular mail to their last known address;
- d. If it is served by courier, postage paid, to its last known address;
- e. If it is posted for three consecutive days in a conspicuous place on the premises for which a license has been issued.

Service by regular mail is deemed to have been effected on the fifth day after the date of mailing.

Service by courier, postage paid, shall be deemed to have been effected on the day the sender receives the return receipt bearing a signature appearing to be that of the addressee or when he receives written confirmation from the carrier that the order or summons has been delivered to the addressee.

6.2 OFFENSES AND PENALTIES

6.2.1 Offenses

Any person who acts contrary to this by-law and all regulations, codes, or laws cited therein is committing an offense.

The fees for issuing offenses are indicated in accordance with Policy P2023-02 — City of Belle-Baie Pricing Policy.

If an offense under this bylaw continues for more than one day:

- a. The minimum fine that may be imposed is the minimum fine provided for in this bylaw. multiplied by the number of days during which the offense continues;
- b. The maximum fine that may be imposed is the maximum fine provided for in this decree multiplied by the number of days during which the offense continues.

Where a person who contravenes or fails to comply with an order made under this order is convicted of that contravention or failure, the court convicting the person may order the person to comply with the order.

6.2.2 Penalties

Anyone who commits an offense is liable to a fine as specified in Policy P2023-02 — City of Belle-Baie Pricing Policy.

6.3 IMMUNITY

The following persons and entities shall be immune from prosecution by way of action or other proceeding, including damages, for any act done in good faith or for any omission made in good faith in connection with this bylaw and its amendments:

- a. The Province
- b. The Minister
- c. The Minister of Local Government;
- d. The Code Administrator;
- e. An inspector;
- f. The municipality;
- g. Any person acting or who has acted under this order or in accordance with instructions given by a person or entity referred to in this section.

7. FINAL PROVISIONS

7.1 METHOD OF AMENDMENT

This order may only be amended by another order adopted and, where applicable, approved in accordance with the provisions of the Building Code Administration Act.

7.2 CONFLICT WITH OTHER LAWS, REGULATIONS OR EASEMENTS

Compliance with this order does not exempt the person from complying with any other order, law or regulation applicable in this case.

7.3 EFFECTIVE DATE

This bylaw comes into force on the day it is filed with the provincial land registry office in accordance with the Building Code Administration Act.

Édicté le 18 avril 2023



X

Daniel Gullard
Maire



X

Wanda St-Laurent
Municipal Clerk

First reading, by title: March 21, 2023 Second reading,
by title: April 18, 2023
Third reading and enactment, by title: April 18, 2023

This order was adopted in accordance with sections 70(1)(c) and 15(3)(a) of the Local Government Act.