

Agriculture and Land

BUILDING CODES ACT

Regulations



Land Division

Building Codes Act Regulations

Plain language version of key points

BACKGROUND

The Prince Edward Island Building Codes Act is new legislation that was passed in spring 2017. The *Building Codes Act* and its Regulations adopt the National Codes of Canada; outline the requirements and procedures for issuing and acquiring building permits; and list the requirements for the qualifications required of building officials.

The intent of the Building Code Act Regulations is to detail the minimum building standards acceptable to maintain the safety of buildings, with regard to the

- i. design, construction, erection, placement, use and occupancy of new buildings;
- ii. alteration, demolition, removal and relocation and changes to the use and occupancy of existing buildings; and
- iii. work necessary to correct unsafe conditions in existing buildings.

Definitions

Authority having jurisdiction - means the Minister or a council of a municipality that enforces the Building Codes Act and Regulations.

Constructor - means a person who contracts with an owner to undertake or direct a project on behalf of the owner, and includes an owner who contracts with more than one person for the work on a project or personally undertakes or directs the work on a project or part of a project.

Home-based business - means a business or service use that is located in a dwelling unit that is used or occupied as a home.

Prime consultant - means a professional engineer or architect licensed under an enactment to practice the person’s profession in the province who is designated by the owner as the person responsible for overseeing and coordinating the work of all design professionals or consultants involved in a project to ensure the overall plans and specifications meet the requirements of the Act and these regulations.

Professional - means a professional engineer or architect.

PART 1 - INTERPRETATION AND APPLICATION

Part 1 gives the definitions and describes how the codes will be applied. The National Building Code of Canada, 2015, and the National Energy Code of Canada for Buildings, 2015 have been adopted, including all revisions, amendments and corrections made by the Canadian Commission on Building and Fire Codes, and the National Research Council of Canada.

Application and exemptions

The rationale for exempting buildings that lawfully existed prior to the coming into force of the regulations are explained. Above all else such buildings must be determined to be safe. Where a permit has already been issued for the alteration to a building the new regulations will only apply to the parts of the building that are being altered, repaired, relocated, or demolished.

The “Alternative Compliance Requirements for Existing Buildings (Schedule B) may be used for renovations to a building, including a heritage building, that existed prior to the coming into force of these regulations, except where a change of occupancy classification results in an occupancy with an increased fire hazard risk.

Other exemptions

A series of exemptions are also provided that relate to

- i. above-ground or below-ground bulk storage tanks;
- ii. buildings that fall within the scope of the National Farm Building Code of Canada, 1995;
- iii. free-standing signs and fences;
- iv. retaining walls or exterior steps;
- v. interior and exterior non-structural alterations and material repairs of \$5,000 or less;
- vi. any building that meets the requirements for a resource use as defined in the Subdivision and Development Regulations (EC693/00) under the *Planning Act* R.S.P.E.I. 1988 Cap. P-8 relating to low human occupancy;
- vii. accessory buildings not greater than 20 square metres (215.2 square feet) in area
- viii. single-storey exterior wooden deck that is less than 600 millimeters above ground level and less than 55 square meters in area and does not support a roof;
- ix. tents erected for a temporary purpose.

Home-based businesses

Permits are required for the construction or renovation of a dwelling unit for the purpose of running a home-based business, or for a change of use for a home-based business.

Plans, drawings and other information must be supplied to the building official assessing the proposed home-based business. Information will be needed to determine the

- i. type of business use of the dwelling unit and the confirmation of its residential status;
- ii. the total floor area of the dwelling unit and the percent of the floor area to be used as the home-based business.

A permit will be issued if the building official is satisfied that the applicant’s proposed home-based business will meet all of the criteria specified. This permit will not be transferable.

PART 2 – PERMITS

Part 2 provides information on the process for granting permits, making fee payments, providing notice of work, owner and contractor responsibilities and exemptions.

Division 1 – General permits and fees

Permits are required for all building work regulated by the codes, including a change of occupancy or a change of building use. A **permit fee** based on the costing standard of the authority having jurisdiction will be charged. The accepted costing standard for the provincial government is that set out in Schedule C. Where the authority having jurisdiction is the council of a municipality, the fee is established by the council for that municipality.

Building permits can be withheld until a development permit has been granted under the Subdivision and Development Regulations under the *Planning Act* R.S.P.E.I. 1988, Cap. P-8.

Where a **mobile or modular home** has fallen into disrepair, or been modified in such a way that it no longer meets the requirements of the CSA standard to which it was originally built, a building authority may still issue a building permit after the fact, provided the mobile or modular home is safe for

occupancy. If the property is considered unsafe a building permit may be issued to remedy any unsafe condition.

Getting a permit

Before a permit can be given to an applicant they must provide:

- i. detail of the work and occupancy to be covered by the permit for which application is made;
- ii. building lot identification using property mapping, a unique parcel identifier, a PID for the lot, or a description of the permits location;
- iii. all plans and specifications required by sections 2.2 and 2.3 of Division C of the National Building Code, including a site plan, a foundation plan, a floor plan, a framing plan including floor and roof truss layout, building elevations, a deck framing plan and cross-sections, as applicable;
- iv. a valuation of the proposed work and the proposed start date;
- v. contact information of the owner, architect, professional engineer or other designer, the constructor and any agency engaged to monitor the work or part of the work;
- vi. a description of building systems, materials and appliances to be used in the work;
- vii. any information requested the authority having jurisdiction; and
- viii. the fee required by the authority having jurisdiction.

Requirements when professional design is required

Where a building or part of a building is to be designed by a professional, the owner must also provide

- i. professionally designed and stamped drawings or plans;
- ii. a Code design review prepared by the professional;
- iii. a letter of undertaking by the owner in the approved format; and
- iv. the applicable declarations in writing from the professional responsible for the design and its subsequent implementation.

Changes to the building that depart from requirements of the codes, regulations, or the conditions of a permit, are not allowed without first obtaining permission in writing from the authority having jurisdiction.

Note: The professional (architect and/or professional engineer) must be licensed to practice in Prince Edward Island.

Land survey or location certificate

An owner will submit, on the request of a building official, an up-to-date plan of a lot survey or surveyor’s location certificate, prepared by a land surveyor who is a member of the Association of Prince Edward Island Land Surveyors to

- i. establish before work begins that the requirements of any enactment related to the site and the location of the building will be complied with; and
- ii. verify, on completion of the work, compliance with the relevant enactments.

Responsibility

The owner, owner’s agent or constructor shall ensure that all professionals involved in the work will provide the building authority having jurisdiction all the information required by the regulations. Furthermore, the owner, owner’s agent, constructor, prime consultant and other professionals involved

in the work will bear all the responsibility for carrying out the work or having it carried out in accordance with these regulations, the permit and the codes.

Site grading

The building official may require an owner to grade their property to conform to any storm water management or drainage plan in force.

Permission to proceed

Permission to proceed with excavation or construction will only be granted after the plans for the entire building site having been submitted and approved. Any **special permission** to proceed with a partial excavation or construction of a building is not an assurance that a permit for any other work on the project will be granted, or that the project as a whole will be approved. When work has been completed the owner must notify the authority having jurisdiction and must not proceed with any further work until a new permit has been issued.

Occupancy permit

An occupancy permit may be given before completion of building work if the authority having jurisdiction is satisfied that the building is safe to inhabit.

An occupancy permit is required

- i. to allow the initial occupancy of a building or part of a building;
- ii. when the occupancy classification of a building or part of a building has changed; or
- iii. to allow partial demolition or alteration of a building while the building is still being occupied.

If an owner asks for occupancy before all building work is finished, the owner shall

- i. apply for the occupancy permit and pay the applicable fee set out in Schedule C; and
- ii. ensure that no unsafe condition exists or will exist because of the work being undertaken or not yet completed.

Temporary Building or Occupancy

In special circumstances **selective compliance** with the codes may be allowed that exempts the contractor from codes that apply to

- i. the erection and existence of a temporary building, or part of a temporary building; or
- ii. a temporary change of occupancy classification for an occupancy which, because of its nature, will exist for a short time only.

Division 2 - Responsibilities and Obligations

An owner shall ensure that all required permits or approvals are obtained prior to commencing the work to which they relate.

Notice by owner or constructor

The owner or a constructor must provide the authority having jurisdiction of any **change to the startup date** on the building site. They must also give notice in writing to the authority having jurisdiction of

- i. the name, address and telephone number of the constructor or other person in charge of the work,
- ii. the prime consultant and other professionals who will review aspects of the work, and

- iii. any inspection or testing agency engaged to monitor the work or part of the work; and
- iv. any change in or termination of employment of a person about whom notice was given during the course of the construction, as soon as practicable but not later than 3 days following the change or termination.

Notice of changes

In order to receive an occupancy permit the owner or a constructor must give notice in writing to the authority having jurisdiction

- i. as soon as any change in ownership or change in the address of the owner occurs before it can receive an occupancy permit; and
- ii. prior to occupying the building, or any portion of it, should it be occupied in stages.

Plans at site

An owner or a constructor must ensure that any required stamped plans, specifications and related documents on which the issuance of a permit was based are available at the site of the work for inspection during working hours by a building official of the authority having jurisdiction.

Owner’s responsibility

An owner who undertakes to construct a building or part of a building to which Part 3 or Part 4 of Division B of the National Building Code applies, or a building over 600 square metres in gross area to which Part 9 of Division B of the National Building Code applies, must ensure that the appropriate professionals are appointed to undertake the design of the building work.

Design requirements for structural components

Where the dimensions of a structural component are not provided in Part 9 of the National Building Code and the dimensions are to be determined by calculation, testing or another means of evaluation, the owner must

- i. ensure that a professional engineer is hired to undertake the design of the structural component; and
- ii. provide an undertaking in the approved format that the structural component will be designed in accordance with the National Building Code.

Site conditions, size, or complexity requiring professional design and inspection

Where the size or complexity of a building project require it, the authority having jurisdiction may require the owner to

- i. hire the appropriate professionals to design the building, part of the building or component in accordance with the National Building Code; and
- ii. ensure that the appropriate professionals will provide the declarations respecting field reviews of construction that the building official considers necessary.

Division 3 – Inspections

Notification for inspection

The owner of a building constructed under Part 9 of the National Building Code must notify the authority having jurisdiction so they can carry out inspections following

- i. construction of the footings and the foundation, before commencing backfilling of the laterally supported foundation, and before a superstructure is placed on the foundation;

- ii. framing and the building envelope, including insulation and vapour barrier, before the wall framing is covered; and
- iii. before the final completion of the work.

Timing of notification

An owner must notify the building authority not less than three days prior to completion of the stage of construction to be inspected and not less than three days prior to the final completion of the work.

Modular and manufactured homes

Modular and manufactured homes are subject to all inspections required by Regulation, but will be exempt from inspections if the work has been certified at the factory in accordance with CSA Z240.MH Series “Manufactured Homes” or certified to a CSA Standard A277 “Procedures for the Factory Certification of Buildings” as applicable.

Inspection of professionally designed building

The owner or constructor of a building that is required to be professionally designed must notify the authority having jurisdiction when work has been completed so that a final inspection may be made prior to occupancy.

Repairs to public property

An owner is responsible for the cost of repair of any damage to public property or public works located on public property that is a result of the owner’s undertaking work for which a permit was or was not required.

Discontinuation of work

An owner who is unable to continue or complete work is responsible that worksite is made safe before the site is closed down.

Design

An architect or professional engineer who designs a building or part of a building must ensure that the design meets the requirements of the codes.

Review by professional

An architect or professional engineer who undertakes a review of construction must

- i. review the work at intervals appropriate to the stage of construction to determine compliance with an approved design;
- ii. coordinate with the authority having jurisdiction any changes to the design documents, plans or specifications; and
- iii. be satisfied that the work complies with the design drawings, and provide written confirmation in the format approved by the Minister.

Work on public property

A constructor is responsible for ensuring that no excavation or other work is undertaken on public property, and that no building is erected or materials stored in whole or in part on public property, without approval having first been obtained in writing from the appropriate government authority.

Responsibilities for the work undertaken

A constructor is responsible jointly and severally with the owner for all and any work undertaken.

Discontinuance by constructor

A constructor who is unable to continue work for any reason is responsible, before leaving the site of the work, for ensuring that no unsafe condition remains at the site.

Owner deemed to be constructor

Where the work for which a permit is issued is not under the control of a constructor, the owner is considered to be the constructor with respect to that work, and the responsibilities and obligations assigned to a constructor by these regulations and the codes apply to the owner.

Materials, systems to comply with codes

A constructor must ensure that all materials, systems and equipment used in the construction, alteration, reconstruction or renovation of a building meet the requirements of the codes for the work undertaken.

PART 3 – BUILDING OFFICIALS

Division 1 – Qualifications of Building Officials

Three levels of building official are recognized and the work they are permitted to inspect and approve outlined.

Residential level appointment

Applicants must hold an Associate Residential Diploma issued by the Alliance of Canadian Building Officials Association; or equivalent qualification issued by a provincial association that is a member of the Alliance of Canadian Building Officials Association.

Level I appointment

Applicants must hold an Associate Part 9 Diploma issued by the Alliance of Canadian Building Officials Association; or equivalent qualification issued by a provincial association that is a member of the Alliance of Canadian Building Officials Association.

Level II appointment

Applicants must hold an Associate Part 3 Diploma issued by the Alliance of Canadian Building Officials Association; or; or equivalent qualification issued by a provincial association that is a member of the Alliance of Canadian Building Officials Association.

Appointment of a previously appointed building official

The Minister may confirm the appointment of a building official, and specify the appropriate level on receipt of:

- i. a written request from the authority having jurisdiction that made the appointment; and
- ii. satisfactory evidence of the person's appointment, identity and qualifications.

Appointment of a professional

The Minister may appoint a professional engineer or architect who is employed by an authority having jurisdiction as a Level II building official.

Expiry of appointment

The appointment of a building official expires on the termination of the building official’s employment with the authority having jurisdiction.

Division 2 - Administrative Provisions

Copies of applications, inspections, and tests

The authority having jurisdiction must keep copies of all applications received, permits and orders issued, inspections and tests made and all records and documents connected with the administration of these regulations.

Notices, orders and remedial measures

The authority having jurisdiction must issue, in writing, any notice or order necessary to inform an owner that a contravention of these regulations has been observed. The building official who issues a notice or order or require remedial or other measures to correct a contravention of the regulations must specify the time within which the measures must be taken.

Service of notice or order

Where the authority having jurisdiction issues a notice or order a copy shall be retained by the building official and a copy shall be sent by regular mail to the address given on the permit application

- i. the owner
- ii. the architect or professional engineer, and
- iii. the constructor

Service on constructor

If the constructor is present during the inspection, the building official may give the notice or order to the constructor personally. Where the order is a stop work order or non-compliance notice, the building official shall post it in a conspicuous place on the work site.

Duty of building official

A building official shall answer any reasonable and relevant questions with respect to the provisions of these regulations and the codes when requested to do so, but will not

- i. assist in the laying out of any work; or
- ii. act in the capacity of a designer.

Direction for tests

A building official may direct an owner to make or have made tests of materials, equipment, devices, construction methods, structural assemblies or foundation conditions, at the owner’s expense, and to submit the results to the building official in order to establish whether the material, equipment, device, construction or foundation condition meets the requirements of these regulations and the codes.

An owner must comply with the direction of the building official.

Reports regarding failure or potential failure

Where any failure occurs during the work which causes or has the potential to cause injury or loss of life, a building official may require the owner or constructor to submit a report stating the nature and details of the failure.

Transitional matters - application

An application for a permit that was begun but not completed before the coming into force of these new regulations is considered to be an application that falls within the scope of the new regulations. However, the authority having jurisdiction for the application may allow the development to proceed using the edition of the National Building Code that was in force at the time the application was started.

Exceptions for developments already underway

The Act and these regulations will not apply to a development permit through the Subdivision and Development Regulations (under to the *Planning Act* R.S.P.E.I. 1988, Cap. P-8) where it was already issued and building work started on or before the date on which these regulations come into force.

Exceptions for single-family or semi-detached homes

The Act and these regulations will not apply to any single-family or semi-detached home (including the building of and changes to sheds, decks or detached garages) until one year after these regulations come into force.

During this period the following will be allowed namely, a) the design, construction, erection, placement, use and occupancy of a new building; (b) alteration, demolition, removal and relocation of an existing building; (c) changes to the use and occupancy of an existing building; or (d) work necessary to correct unsafe conditions in an existing building

Commencement

Provides information on when regulations come into force.

SCHEDULE A

This schedule briefly details amendments made to Parts 1 through 9 of the National Building Code.

SCHEDULE B

Schedule B provides Alternative Compliance Requirements and may be used instead of, or in combination with, the requirements of the National Building Code. This applies to renovations to buildings that existed prior to the coming into force of the new regulations. However, where renovations to buildings led to a change of occupancy classification or an increased fire hazard risk, code requirements will demand attention be given to listed criteria

- Fire Separations
- Non-combustible Construction
- Fire-resistance Rating
- Rating of Supporting Construction
- Continuity of Fire Separations
- Wired Glass
- Mezzanines
- Spatial Separation
- Construction of Exposing Building Face
- Roof Covering Rating
- Interconnected Floor Space
- Separation of Suites

- Corridor Fire Separation
- Corridor Width
- Door Swing
- Stairs, Ramps, Handrails and Guards
- Transparent, Doors and Panels
- Dead-end Corridors
- Exits
- Reduction of Exit Width
- Fire Separation of Exits
- Exits Through Lobbies
- Rooms Opening into an Exit
- Illumination of Exit Signs
- Clearance from Exit Doors
- Fire Escapes
- Fire Escape Construction
- Protection of Fire Escapes
- Vertical Service Space
- Height and Area of Rooms
- Window Areas
- Washrooms Required to be Barrier-Free
- Entrances
- Mechanical Systems

SCHEDULE C

This section provides a list of permit fees for residential building construction determined by size of the building area including garages and deck review. The fees listed include the cost of plan review and the inspections specified in section 25 or listed on the building permit. Fees for all other projects will be determined on the basis of the value of the construction

If the Value of Construction (VOC) is more than \$200,000, the permit fee is equal to \$4.50 per each \$1000 of the VOC. If the VOC is less than or equal to \$200,000, minimum fees will apply, and a list is provided.

