

## Chapter 15

### **BUILDING CODE ACT**

*(Assented to June 8, 2012)*

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

#### DEFINITIONS AND INTERPRETATION

##### Definitions

1. (1) In this Act,

"Advisory Committee" means the Nunavut Building Advisory Committee established under section 23; (*comité consultatif*)

"architect" means a person who is authorized to practise as an architect in a province or territory; (*architecte*)

"building" means a building as defined in the Code, and includes premises in a building as well as an addition built to an existing structure and, where applicable, the building site and the land adjoining a structure; (*bâtiment*)

"building official" means a person appointed as a building official under section 21; (*agent du bâtiment*)

"Chair" means the Chair of the Advisory Committee designated under subsection 23(5); (*président*)

"chief building official" means the person appointed as chief building official under section 21; (*chef du service du bâtiment*)

"Code" means the National Building Code of Canada as adopted in the regulations pursuant to section 4; (*Code*)

"construct" means to do anything in the erection, installation, extension, relocation, or material alteration or material repair of a building and includes the installation of a factory-made building unit fabricated or moved from elsewhere; (*construire*)

"engineer" means a person who is qualified to practice professional engineering under the *Engineering and Geoscience Professions Act* (Northwest Territories); (*ingénieur*)

"National Building Code of Canada" means the National Building Code of Canada issued by the National Research Council; (*Code national du bâtiment du Canada*)

"occupancy" or "class of occupancy" means the use or intended use of a building, as defined in the Code; (*occupation ou catégorie d'occupation*)

"owner" means any person, firm or corporation that controls the property under consideration; (*propriétaire*)

"permit" means a permit issued pursuant to this Act, unless the context suggest otherwise. (*permis*)

#### Meaning of Government of Nunavut

(2) For greater certainty, "Government of Nunavut" includes every public agency within the meaning of the *Financial Administration Act*.

#### Meaning of construction

(3) For greater certainty, "construction" includes demolition of a building or any part of a building.

#### Application

**2.** (1) Subject to subsection (2), this Act applies to the design and construction of a building in Nunavut.

#### Non-application

(2) This Act or the regulations under this Act do not apply to a prescribed building or class of buildings or prescribed type of construction.

#### Conflict

(3) This Act and the regulations prevail in the event of a conflict with the *Cities, Towns and Villages Act*, the *Hamlets Act* or the regulations made under those Acts, to the extent of the conflict.

#### Government bound by Act

**3.** This Act binds the Government of Nunavut.

## BUILDING STANDARDS

### Code of Standards

#### Adoption of National Building Code of Canada and other codes

**4.** For the purpose of establishing minimum standards for the construction of buildings in Nunavut, the Commissioner in Executive Council may make regulations:

- (a) adopting by reference, in whole or in part, and with such modifications as may be considered necessary or advisable, a prescribed edition of the National Building Code of Canada;
- (b) adopting by reference, in whole or in part, any other code of standards respecting materials, equipment or appliances used or installed in the construction of a building; and

- (c) amending, repealing or replacing any provision of a code adopted pursuant to paragraph (a) or (b).

### Compliance with Standards

#### Prohibition

**5.** No person shall construct, occupy, allow to be occupied, or change the class of occupancy of a building to which this Act applies unless

- (a) a permit has been issued and is in force; and
- (b) the work and occupancy conforms with
  - (i) this Act, the regulations and the Code,
  - (ii) the terms and conditions of the permit.

### Permits

#### Issuance of permits

**6.** (1) A building official shall issue a permit if the following conditions are satisfied:

- (a) the owner makes an application in accordance with the regulations and provides all prescribed information;
- (b) the owner pays the prescribed fee;
- (c) the proposed building or the proposed construction complies with this Act, the regulations and the Code.

#### Change of information

(2) Once a permit is issued, the owner shall inform the building official of any change in any information contained in the application.

#### Cancellation of permit

(3) A building official may revoke a permit if

- (a) the owner of the building
  - (i) has made a false or mistaken statement about a relevant fact in the application,
  - (ii) has made a change respecting a relevant fact in the application without informing the building official or, where applicable, without obtaining the approval of the building official,
  - (iii) has contravened this Act, the regulations or the Code in relation to the building for which the permit was issued,
  - (iv) has refused to allow an inspection that is authorized or required pursuant to this Act, or;
  - (v) has failed to comply with an order under sections 10 to 13; or
- (b) the construction in respect of which the permit was issued
  - (i) has not been seriously commenced within twelve months after its issuance; or

- (ii) is substantially suspended or discontinued for more than 12 months.

#### Notice of intent

(4) A building official shall not revoke a permit until the building official has given written notice of the intention to do so, at least 10 days prior to the proposed date of revocation, to the owner of the building and the owner is given an opportunity to make submissions.

#### Decision

(5) A decision to revoke a permit and the reasons therefore shall be communicated in writing to the owner.

#### Deemed meaning of owner

(6) Where a person other than the owner applies for a permit, a reference to "owner" in this Act shall be read as a reference to "the permit-holder and the owner".

## ENFORCEMENT

### Inspections

#### Powers on inspection

7. (1) For the purpose of ensuring compliance with this Act or the regulations, a building official may, at any reasonable time,
- (a) enter a building;
  - (b) enter in or on an adjoining structure, premises or property necessary for the purposes of conducting the inspection;
  - (c) be accompanied into the building and assisted by a person who has special or expert knowledge on any matter to which this Act or the regulations relate;
  - (d) require the production of any document or thing that the building official considers relevant to the inspection;
  - (e) conduct any test, make any inquiry and take any sample, measurement, photograph or video recording that the building official considers necessary; and
  - (f) require the owner or any person performing or responsible for the construction to take and supply at his, her or its expense such tests and samples as the building official considers necessary.

#### Removal and return of documents

(2) A building official may, on giving a receipt, remove any document from the building, may make a copy or extract of any or all part thereof, and shall return the document as soon as possible after the making of the copies or extracts.

Report on sample

(3) If a building official takes a sample pursuant to paragraph (1)(d), a copy of any report on the sample shall be given to the owner or, if the owner is not the permit holder, the permit holder.

Peace officer

(4) A building official may request the assistance of a peace officer for the purposes of this section.

Entry of private dwelling

**8.** (1) Despite paragraph 9(1)(a), a building official shall not enter the occupied part of a private dwelling except in the following circumstances:

- (a) with the consent of the occupier;
- (b) under the authority of a warrant; or
- (c) where the building official has reasonable grounds to believe that exigent circumstances exist.

Exigent circumstances

(2) For the purpose of paragraph (1)(c), "exigent circumstances" means that the conditions for obtaining a warrant exist but the delay necessary to obtain a warrant would result in a danger to persons or property or in the removal, loss or destruction of evidence.

## Warrants

Warrant

**9.** (1) On an application that may be made without notice to the occupier or owner, a justice of the peace or judge may issue a warrant authorizing the entry of a place by any person referred to in the warrant if the justice or judge is satisfied that

- (a) a building official cannot obtain the occupier's or owner's consent to enter a private dwelling or has been refused entry to a private dwelling;
- (b) there are reasonable grounds to believe that entry to the dwelling is necessary to further an investigation or proceeding under this Act.

Order for seizure

(2) On an application that may be made without notice to the owner, a justice of the peace or judge may issue an order authorizing the seizure of a document or thing by any person referred to in the order if the justice or judge is satisfied that

- (a) a building official has been refused the production of a document or thing under paragraph 9(1)(c); and
- (b) there are reasonable grounds to believe that the production of the document or thing is necessary to further an investigation or proceeding under this Act.

Warrant and order

(3) An order under subsection (2) authorizing seizure of a document or other thing may be included in a warrant under subsection (1) authorizing entry of a place, or may be made separately from such a warrant.

Timing

(4) A warrant issued under subsection (1) and an order made under subsection (2) shall

- (a) be executed at a reasonable time, or as specified in the warrant or order; and
- (b) expire at the end of the day specified in the warrant or order or at the end of the fourteenth day after the warrant or order is issued or made, whichever day ends first.

Execution

(5) A person named in a warrant or order may use such force as is reasonable and necessary to make the entry and exercise any power specified in the order, and may call on any other person he or she considers necessary to execute the warrant.

Identification

(6) On the request of an owner or occupant of the structure, premises or property, a person executing a warrant or order shall identify himself or herself and explain the purpose of the entry.

Return of document or thing seized

(7) A document or thing that has been seized under this Act shall be returned to the person from whom it was seized after it is no longer needed for the investigation or proceeding under this Act.

### Building Official's Orders

Order to uncover construction work

- 10.** (1) A building official may, for the purposes of an inspection, order that the construction work be uncovered if
- (a) the work has been carried out without a permit being issued; or
  - (b) the building official has reasonable grounds to believe that the construction work has not been constructed in compliance with this Act, the regulations, the Code or the terms of the permit.

Notice respecting right to apply for Advisory Committee ruling

(2) In making an order made under subsection (1), the building official shall provide notice of the right to apply to the Advisory Committee for a ruling under section 17.

Compliance order

**11.** (1) A building official, who is satisfied on reasonable grounds that construction is being undertaken in contravention of any provision of this Act, the regulations or the Code, may issue an order in writing directing compliance with that provision.

Content of order

(2) An order made under subsection (1) must set out

- (a) the nature of the contravention and the reasons for the order;
- (b) the location of the building or the part of the building in respect of which the order is made;
- (c) an explanation of the work to be carried out or the action required to be taken;
- (d) the period of time within which the order must be complied with; and
- (e) a notice respecting the right to apply to the Advisory Committee for a ruling under section 17.

Posting order

(3) The building official may post a copy of the compliance order at the site of the construction, and no person, except a building official or a person authorized in writing by the building official, may remove the copy.

Stop work order

(4) If an order is not complied with within the time specified or, where no time is specified, within a reasonable time in the circumstances, the building official may order that all or any part of the construction cease.

Posting order

(5) The building official shall post a copy of the stop work order at the site of the construction, and no person, except a building official or a person authorized in writing by the building official, may remove the copy.

Prohibition

(6) If an order to cease construction is made pursuant to subsection (4), no person shall perform any act in respect of the construction of the building in respect of which the order is made other than

- (a) such work as is necessary to carry out any other order of the building official made pursuant to this section; or
- (b) such work as is necessary to make the site of the construction safe.

Unsafe condition order

**12.** (1) A building official, who is satisfied that a building is in an unsafe condition by reason of serious non-compliance with the Code, faulty construction, dilapidation, unsoundness of structural strength, open or unguarded condition, abandonment or any other reason, may issue an order in writing directing the building to be repaired or demolished or directing the carrying out of any other action that the building official considers necessary in order to eliminate the unsafe condition.

Content of order

- (2) An order made under subsection (1) must set out
- (a) the nature of the unsafe condition and the reasons for the order;
  - (b) the location of the building or the part of the building in respect of which the order is made;
  - (c) an explanation of the action required to be taken;
  - (d) the period of time within which the order must be complied with; and
  - (e) a notice respecting the right to apply to the Advisory Committee for a ruling under section 17.

Posting order

(3) The building official shall post a copy of the order at the site of the unsafe building, and no person, except a building official or a person authorized in writing by the building official, may remove the copy.

Emergency order

**13.** (1) A building official, who is satisfied that a building poses an imminent danger to the safety of the occupants or the public, may issue an order in writing directing the immediate carrying out of any work that the building official considers necessary to terminate the danger.

Content of order

- (2) An order made under subsection (1) must set out
- (a) the nature of the danger and the reasons for the order;
  - (b) the location of the building or the part of the building in respect of which the order is made;
  - (c) an explanation of the work to be carried out or the action required to be taken; and
  - (d) the period of time within which the order must be complied with.

No review

(3) For greater certainty, an emergency order is not subject to a ruling by the Advisory Committee under section 18.

Service of orders

**14.** An order made by a building official shall be served on the person performing or responsible for the construction, the owner, and on such other persons affected thereby as the building official considers appropriate.

Effect of order

**15.** If a building official makes an order, no person shall perform any construction work on the building or part of the building in respect of which the order was made,

- (a) other than any work necessary to carry out the order or make the building safe; or



- (b) unless authorized by the official building.

#### Responsibility for cost of complying with order

**16.** The owner is responsible for paying the cost of complying with an order made under this Act, including any costs arising out of satisfying a building official that the order has been complied with.

### ADVISORY COMMITTEE

#### Disputes

##### Application for Advisory Committee ruling

**17.** (1) A person aggrieved by the decision of a building official may, within 14 days after receipt of that decision, apply to the Advisory Committee for a ruling on any of the following grounds:

- (a) the denial or cancellation of a permit;
- (b) an interpretation of the technical requirements of the Code or the sufficiency of compliance with those requirements;
- (c) the making of an order pursuant to sections 10 to 13.

##### Making application

(2) The applicant shall

- (a) file a written notice of the dispute with the Chair; and
- (b) cause notice of the application to be served on the building official.

##### Hearing

(3) The Advisory Committee shall, within 30 days after the later of paragraphs (2)(a) and (b) has been completed, conduct a hearing, consider the matter and render its decision in writing.

##### Panels

(4) The Advisory Committee may act in panels and the Chair shall determine

- (a) whether to assign a matter to the full Advisory Committee or a panel; and
- (b) where a matter is assigned to a panel, the composition of the panel.

##### No bias

(5) In order to reach the best decision based on fulsome deliberations and multiple perspectives, a member of the Advisory Committee who has prior knowledge of, or is interested in, a dispute may participate in the hearing.

##### Practices and procedures

(6) Subject to the regulations, the Advisory Committee may establish its own practices and procedures for the conduct and hearing of disputes.

No stay

(7) Unless otherwise ordered by the Advisory Committee, an application for a ruling does not operate as a stay of the decision of the building official.

Expert advice

(8) The Advisory Committee may seek advice from such experts in the matter under consideration as it considers advisable, but the Advisory Committee shall not make a ruling until the parties to the dispute have received any report received by the Advisory Committee pursuant to this subsection and have been given a reasonable opportunity to respond to it.

Written decision

(9) A decision of the Advisory Committee shall be in writing although, where time constraints warrant, an oral decision may precede a written one.

Service of decision

(10) A decision of the Advisory Committee shall be served on the parties to the dispute.

Ruling re: interpretation of the Code

**18.** (1) On the request for a ruling respecting the interpretation of the requirements of the Code, the Advisory Committee may make a ruling

- (a) confirming the building official's interpretation where the Advisory Committee is satisfied that that interpretation is reasonable in the circumstances;
- (b) confirming the applicant's interpretation where the Advisory Committee is satisfied that that interpretation is reasonable in the circumstances; or
- (c) setting out the interpretation the Advisory Committee considers appropriate in the circumstances.

Ruling re: order to uncover work

(2) On the request for a ruling respecting an order to uncover work made pursuant to section 10, the Advisory Committee may make a ruling:

- (a) confirming the order where the Advisory Committee is satisfied that it was reasonable in the circumstances;
- (b) revoking the order where the Advisory Committee is satisfied that it was not necessary; or
- (c) varying the order where the Advisory Committee considers it appropriate in the circumstances.

Ruling re: compliance order

(3) On the request for a ruling respecting a compliance order made pursuant to section 11, the Advisory Committee may make a ruling:

- (a) confirming the order where the Advisory Committee is satisfied that compliance with the order would result in compliance with the Code; or
- (b) revoking or varying all or any part of the order where the Advisory Committee is satisfied that:
  - (i) compliance with the order would not result in compliance with the Code; or
  - (ii) a proposal submitted by the owner will result in conditions that are equal to or better than those that are required or intended by the Code.

Ruling re: unsafe condition order

(4) On the request for a ruling respecting an unsafe condition order made pursuant to section 12, the Advisory Committee shall make a ruling:

- (a) confirming the order where the Advisory Committee is satisfied that an unsafe condition exists and that the steps set out in the order are necessary to eliminate the unsafe condition;
- (b) revoking the order where the Advisory Committee is satisfied that:
  - (i) an unsafe condition does not exist; or
  - (ii) the steps set out in the order are not necessary to eliminate the unsafe condition; or
- (c) varying the order where the Advisory Committee considers it appropriate in the circumstances.

Appeals

Appeal to Court

**19.** (1) A person aggrieved by the ruling of the Advisory Committee under section 18 may, within 30 days after receipt of the ruling, appeal it to the Nunavut Court of Justice.

Procedure on appeal

(2) The appeal shall be conducted in accordance with the procedure for appeals from tribunals set out in the *Judicature Act*, except that

- (a) despite subsection 86(1) of the *Judicature Act*, the notice of appeal must be filed in the Court and served on all parties directly affected by the appeal within 10 days after service of the order; and
- (b) section 89 of the *Judicature Act* does not apply.

Decision of Court

(3) The Court, on hearing an appeal, may confirm, reverse or vary the ruling of the Advisory Committee, and may make any other order that the Court considers appropriate.

No stay

(4) Unless otherwise ordered by the Court, an appeal does not operate as a stay of the ruling of the Advisory Committee.

## Recommended amendments to the Code

### Application for Advisory Committee recommendation

**20.** (1) A person who feels it is justified may apply to the Advisory Committee suggesting they recommend an amendment to the Code.

### Making application

(2) The applicant shall

- (a) file a written notice of the requested amendment with the Chair; and
- (b) place a deposit in the prescribed amount with the Chair.

### Procedure

(3) Subject to subsection (4), the application shall be considered in accordance with subsections 17(3) to (10), with such modifications as the circumstances may require.

### Rejection by Chair

- (4) The Chair may summarily reject an application if, in the opinion of the Chair,
- (a) the requested amendment is frivolous, vexatious, or utterly without merit; or
  - (b) making the requested amendment would result in an unsafe condition in a building or pose a danger to the safety of occupants or the public.

### Reasons to applicant and other members

(5) If an application is rejected pursuant to subsection (4), the Chair shall, within 10 days of the rejection, provide written reasons for the rejection to the applicant and the members of the Advisory Committee.

### Decision

(6) The Advisory Committee may recommend amending the Code as requested where the Advisory Committee is satisfied that it is reasonable in the circumstances.

### Return of deposit

(7) The deposit placed with the Chair shall be returned to the applicant if the Advisory Committee recommends amending the Code as requested, otherwise the deposit shall be forfeited.

## ADMINISTRATION

### Building officials

### Appointment

**21.** (1) The Minister may appoint a chief building official and building officials who possess the prescribed qualifications.

Restrictions, limitations and conditions

(2) An appointment is subject to the restrictions, limitations and conditions set out in it.

Document of appointment

**22.** Each building official shall be issued with a document establishing his or her appointment, which shall be produced on request.

Advisory Committee

Code Advisory Committee established

**23.** (1) The Nunavut Building Advisory Committee is established.

Appointment

(2) The Advisory Committee consists of not more than 13 members appointed by the Minister.

Representation

(3) The Advisory Committee shall include:

- (a) an architect;
- (b) an engineer;
- (c) a representative of the chief building official's office;
- (d) a representative of the Fire Marshal's office;
- (e) a representative of the Nunavut Housing Corporation;
- (f) a representative nominated by Nunavut Tunngavik Inc.;
- (g) a representative nominated by the Nunavummi Disabilities Makinnasuaqtiit Society;
- (h) a person with experience as a private developer of residential, commercial or institutional buildings in Nunavut;
- (i) a representative nominated by the NNWT Construction Association;
- (j) a representative nominated by the Nunavut Association of Municipalities; and
- (k) up to 3 additional members, as the Minister considers appropriate.

Acting member

(4) A member of the Advisory Committee may designate a person with equivalent characteristics to act in his or her place at a meeting if the member is or will be absent, incapacitated or unable to act.

Chair and Vice-chair

(5) The Minister may designate a Chair and Vice-chair from among the members of the Advisory Committee.

Term

(6) A member holds office, during pleasure, for a term of not more than three years.

Continuation in office

(7) A member of the Advisory Committee whose term of office has expired continues to be a member of the Advisory Committee until he or she is re-appointed, or until a new member is appointed to replace him or her.

Vacancy

(8) A vacancy in the membership of the Advisory Committee does not impair the capacity of the remaining members to act.

Quorum

(9) Five members of the Advisory Committee constitutes a quorum.

Meetings by electronic means

(10) The members of the Advisory Committee may participate in a meeting by teleconference, videoconference or other electronic means.

Expenses and honorarium

(11) A member shall, in accordance with the regulations, receive

- (a) reimbursement for expenses incurred in the performance of his or her duties while away from his or her place of residence; and
- (b) where a member is not a member of the public service, an honorarium.

Secretarial and administrative services

(12) The Minister shall supply the Advisory Committee with administrative services from members of the public service or by engaging persons not in the public service.

Role of Committee

**24.** The Committee shall

- (a) rule on disputes under section 17;
- (b) make recommendations for amendments to the Code under section 20;
- (c) advise the Minister on building standards and the administration of this Act, either on its own initiative or at the Minister's request; and
- (d) perform any other duty or function assigned to it by the Minister.

## OFFENCES AND PENALTIES

### Obstruction of inspection

**25.** (1) No person shall obstruct or interfere with a building official who is carrying out or attempting to carry out an inspection under section 7.

### Obstruction pursuant to order

(2) No person shall refuse entry to or obstruct or interfere with a building official who is entering or attempting to enter a building to which an order made pursuant to sections 10 to 13 relates.

### Defence

(3) A refusal of consent to enter an occupied part of a private dwelling does not constitute obstructing or interfering with a building official pursuant to subsection (1), unless a warrant has been obtained or the building official has reasonable grounds to believe that exigent circumstance exist.

### General offences

**26.** (1) Every person who does any of the following is guilty of an offence:

- (a) knowingly provides false or misleading information in any application or any statement required pursuant to this Act or the regulations;
- (b) fails to comply with any order or other requirement made pursuant to this Act or the regulations;
- (c) contravenes any provision of this Act or the regulations.

### Penalty

(2) Every person guilty of an offence under subsection (1) is liable on summary conviction to

- (a) in the case of an individual, a fine of not less than \$500 and not more than \$25,000, and to a further fine of not more than \$1000 for each day on which the offence continues, or to imprisonment for a term of not more than one year, or both; and
- (b) in the case of a corporation, a fine of not more than \$100,000, and to a further fine of not more than \$10,000 for each day on which the offence continues.

### Liability of officers, directors and agents

(3) Where a corporation commits an offence under this Act or the regulations, every officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of an offence and liable on summary conviction to a fine of not more than \$50,000 or to imprisonment for a term not exceeding one year or to both, whether or not the corporation has been prosecuted or convicted.

No relief from compliance

(4) A conviction for an offence does not relieve the person convicted from complying with an order made under sections 10 to 13, and the convicting judge shall, in addition to any penalty imposed, order the person to carry out, within a specified period, any act or work necessary to remedy the non-compliance.

GENERAL

Exclusion of liability

**27.** No proceeding may be commenced in any court against the chief building official or a building official, the Advisory Committee or a member of the Advisory Committee for anything done or not done in good faith by them in the exercise of their powers or the carrying out of their duties under this Act or the regulations.

Evidence – document

**28.** (1) A copy or extract of a document related to an inspection and purporting to be certified by a building official is admissible in evidence in any proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original without proof of the appointment, authority or signature of the person purporting to have certified the copy or extract.

Evidence - order

(2) A copy of an order purporting to have been made under this Act and purporting to have been signed by a building official is admissible in evidence in any proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original without proof of the appointment, authority or signature of the person purporting to have signed the order.

Forms

**29.** The Minister may approve any form considered necessary or appropriate for the purposes of this Act and the regulations.

Effect of permit

**30.** A permit issued in accordance with this Act does not authorize any person to construct a building that does not comply with the provisions of any other Act or law.

REGULATIONS

Regulations

**31.** (1) The Commissioner, on the recommendation of the Minister, may make regulations

- (a) exempting any building, class of building or type of construction work from the application of any provision of this Act or the regulations;



- (b) respecting permits, the types and necessity of permits and the circumstances under which a building permit is required in order to obtain other types of permits;
- (c) respecting inspections and inspection notification requirements;
- (d) respecting applications to the Advisory Committee;
- (e) respecting the Advisory Committee's procedures and practices;
- (f) prescribing the duties and powers of the chief building official and building officials;
- (g) prescribing the qualifications of the chief building official and building officials;
- (h) prescribing the services for which fees may be charged and the amount of the fees;
- (i) prescribing the responsibilities and obligations of owners, contractors, subcontractors, architects and engineers with respect to construction; and
- (j) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

General or particular

(2) A regulation under subsection (1) may be general or particular in its application.

Different classes

(3) A regulation may establish different requirements for different classes of person, premises or activity.

## CONSEQUENTIAL AMENDMENTS

### *Boilers and Pressure Vessels Act*

**32. (1) The *Boilers and Pressure Vessels Act* is amended by this section.**

**(2) The following is added after subsection 12(1):**

Compliance with *Building Code Act*

(1.1) Where an inspector is of that opinion that the installation of a plant would be considered construction under the *Building Code Act*, the inspector may:

- (a) direct the owner to contact the chief building official appointed under the *Building Code Act* to learn whether a permit is required under that Act; and
- (b) refuse to issue a certificate of inspection with respect to that plant until the inspector is satisfied that the owner has complied with the requirements of that Act.

*Cities, Towns and Villages Act*

**33. (1) The *Cities, Towns and Villages Act* is amended by this section.**

**(2) Subsection 105(2) is amended by**

- (a) adding "as described in the definition "Code" in the *Building Code Act*" after "National Building Code of Canada,"; and**
- (b) adding "responsible for the administration of that Act" after "the Minister".**

**(3) The following is added after subsection 105(4):**

(5) Despite anything in this Act, a person aggrieved by the interpretation or enforcement of a by-law adopted under this section may, within 30 days after knowledge or receipt of that interpretation or enforcement, apply to the Nunavut Building Advisory Committee established under the *Building Code Act* for a ruling in accordance with section 17 of that Act, and the Advisory Committee may make a ruling in accordance with subsection 18(2) of that Act, with such modifications as the circumstances may require.

*Electrical Protection Act*

**34. (1) The *Electrical Protection Act* is amended by this section.**

**(2) The following is added after subsection 9(1):**

Compliance with *Building Code Act*

(1.1) Where an inspector is of that opinion that proposed electrical work would be considered construction under the *Building Code Act*, the inspector may:

- (a) require the owner to contact the chief building official appointed under the *Building Code Act* to learn whether a permit is required under that Act; and
- (b) refuse to approve the plans and specifications until the inspector is satisfied that the owner has complied with the requirements of that Act.

*Fire Prevention Act*

**35. (1) The *Fire Prevention Act* is amended by this section.**

**(2) Section 1 is amended by**

- (a) adding the following definitions in alphabetical order:**

"Advisory Committee" means the Nunavut Building Advisory Committee established under the *Building Code Act*; (*comité consultatif*)

"National Fire Code of Canada" means the National Fire Code issued by the National Research Council; (*Code nationale de prévention des incendies du Canada*)

**(b) repealing the definition "code" and substituting the following:**

"code" means the National Fire Code of Canada as adopted in the regulations pursuant to subsection 23(2); (*code*)

**(2.1) Paragraph 3(d) is amended by inserting "where requested by the chief building official," at the beginning of the paragraph.**

**(3) Paragraph 3(d.1) is amended by striking out "the Fire Marshal considers it necessary" and substituting "requested by the chief building official".**

**(4) The heading "REVIEW OF PLANS AND SPECIFICATIONS" preceding section 5.1 and section 5.1 are repealed.**

**(5) The following is added after section 11.1:**

Unsafe condition

**11.1.1.** Where an Assistant Fire Marshal conducting an inspection under section 11 is of the opinion that a structure or premises is in an unsafe condition or poses a danger to the safety of the occupants or the public, the Assistant Fire Marshal shall report the risk to the chief building official appointed under the *Building Code Act*, if the unsafe condition or danger is not related to fire safety.

**(6) Paragraph 12(1)(h) is amended by adding ", where required by the Code," after "install and use".**

**(7) The following is added immediately before section 15:**

Advisory Committee Rulings

Application for Advisory Committee ruling

**14.1.** (1) A person aggrieved by the decision of an Assistant Fire Marshal or the Fire Marshal may, within 30 days after receipt of that decision, apply to the Advisory Committee for a ruling on any of the following grounds:

- (a) an interpretation of the technical requirements of the Code or the sufficiency of compliance with those requirements;
- (b) the making of an order pursuant to subsection 12(1) or (2) or paragraph 12(3)(b).

Making application

(2) The applicant shall

- (a) file a written notice of the dispute with the Chair; and
- (b) cause notice of the application to be served on the Fire Marshal.

Hearing

(3) The hearing shall be conducted in accordance with section 17 of the *Building Code Act*, with such modifications as the circumstances may require.

Ruling re: interpretation of the Code

**14.2** (1) On the request for a ruling respecting the interpretation of the requirements of the Code, the Advisory Committee may make a ruling

- (a) confirming the Assistant Fire Marshal or Fire Marshal's interpretation where the Advisory Committee is satisfied that that interpretation is reasonable in the circumstances;
- (b) confirming the applicant's interpretation where the Advisory Committee is satisfied that that interpretation is reasonable in the circumstances; or
- (c) setting out the interpretation the Advisory Committee considers appropriate in the circumstances.

Ruling re: Fire Marshal's order

(2) On the request for a ruling respecting a order made pursuant to subsection 12(1) or paragraph 12(3)(b), the Advisory Committee may make a ruling:

- (a) confirming the order where the Advisory Committee is satisfied that compliance with the order would result in compliance with the Code; or
- (b) revoking or varying all or any part of the order where the Advisory Committee is satisfied that:
  - (i) compliance with the order would not result in compliance with the Code; or
  - (ii) a proposal submitted by the owner will result in conditions that are equal to or better than those that are required or intended by the Code.

Ruling re: closure order

(3) On the request for a ruling respecting a closure order made pursuant to subsection 12(2), the Advisory Committee shall make a ruling:

- (a) confirming the order where the Advisory Committee is satisfied that an unsafe condition exists and that the steps set out in the order are necessary to eliminate the unsafe condition;
- (b) revoking the order where the Advisory Committee is satisfied that:
  - (i) an unsafe condition does not exist; or
  - (ii) the steps set out in the order are not necessary to eliminate the unsafe condition; or
- (c) varying the order where the Advisory Committee considers it appropriate in the circumstances.

**(8) Subsection 15(1) is amended by striking out "an order made by the Fire Marshal under subsection 12(1) or (2) or paragraph 12(3)(b)" and substituting " a ruling made by the Advisory Committee under section 14.2".**

**(9) Paragraphs 23(1)(a) and (a.01) are repealed.**

**(10) Subsections 23(2) to (4) are repealed and the following substituted:**

Adoption of National Fire Code of Canada

(2) The Commissioner in Executive Council may make regulations:

- (a) adopting by reference, in whole or in part, and with such modifications as may be considered necessary or advisable, a prescribed edition of the National Fire Code of Canada; and
- (b) amending, repealing or replacing any provision of a code adopted pursuant to paragraph (a).

*Gas Protection Act*

**36. (1) The *Gas Protection Act* is amended by this section.**

**(2) The following is added after section 5:**

*Building Code Act*

**5.1.** Before applying for a permit under this Act, a person shall contact the chief building official appointed under the *Building Code Act* to learn whether a permit is required under that Act and, where it is required, shall not take any further action until that permit is obtained.

*Hamlets Act*

**37. (1) The *Hamlets Act* is amended by this section.**

**(2) Subsection 105(2) is amended by**

- (a) **adding** "as described in the definition "Code" in the *Building Code Act*" **after** "National Building Code of Canada,"; **and**
- (b) **adding** "responsible for the administration of that Act" **after** "the Minister".

**(3) The following is added after subsection 105(3):**

(4) Despite anything in this Act, a person aggrieved by the interpretation or enforcement of a by-law adopted under this section may, within 30 days after knowledge or receipt of that interpretation or enforcement, apply to the Nunavut Building Advisory Committee established under the *Building Code Act* for a ruling in accordance with section 17 of that Act, and the Advisory Committee may make a ruling in accordance

with subsection 18(2) of that Act, with such modifications as the circumstances may require.

**(4) Section 107 is repealed.**

**38. Deleted, 3<sup>rd</sup> Legislative Assembly, June 5, 2012.**

#### **COMMENCEMENT**

**Coming into force**

**39. This Act or any portion of this Act comes into force on a day or days to be fixed by order of the Commissioner.**