

## CONSOLIDATION OF BUILDING CODE ACT

S.Nu. 2012,c.15

s.1,20,23,24, and 31(1)(e),(j) in force September 6, 2013: SI-005-2013

s.2-19,21,22,25-31(1)(a)-(d),(f)-(i),(2),(3) and 39 in force

September 1, 2018: SI-003-2018

*(Current to: September 1, 2018)*

The following provisions have been deleted for the purposes of this consolidation:  
s.32 to 38 (Consequential Amendments).

**Note:** see S.Nu. 2017,c.6,s.28 and S.Nu. 2017,c.7,s.10 for repealing provisions.

### AS AMENDED BY:

S.Nu. 2013,c.20,s.3

s.3 in force May 16, 2013

S.Nu. 2017,c.6,s.1-28

s.1-28 in force March 14, 2017

S.Nu. 2017,c.7,s.10

s.10 in force March 14, 2017

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at [www.nunavutlegislation.ca](http://www.nunavutlegislation.ca) but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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## GLOSSARY OF TERMS USED IN CONSOLIDATIONS

### *Miscellaneous*

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

### *Citation of Acts*

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

## TABLE OF CONTENTS

### DEFINITIONS AND INTERPRETATION

Definitions	1	(1)
Meaning of Government of Nunavut		(2)
Meaning of construction		(3)
Application	2	(1)
Non-application		(2)
Conflict		(3)
Government bound by Act	3	

### BUILDING STANDARDS

#### Codes and Standards

Adoption of National Building Code of Canada and other codes	4	
--	---	--

#### Compliance with Standards

Prohibition	5	
-------------	---	--

#### Permits

Issuance of permits	6	(1)
Application does not comply		(1.1)
Change of information		(2)
Cancellation of permit		(3)
Notice of intent		(4)
Decision		(5)
Deemed meaning of owner		(6)

### ENFORCEMENT

#### Inspections

Powers on inspection	7	(1)
Removal and return of documents		(2)
Report on sample		(3)
Peace officer		(4)

#### Investigations

Entry and search	7.1	(1)
Powers during search		(2)

Included powers		(3)
Information, documents or data	7.2	
Entry of private dwelling	8	(1)
Exigent circumstances		(2)
Warrants		
Warrant	9	(1)
Order for seizure		(2)
Order for seizure during investigation		(2.1)
Warrant and order		(3)
Timing		(4)
Execution		(5)
Identification		(6)
Return of document or thing seized		(7)
Building Official's Orders		
Order to uncover construction work	10	(1)
Notice respecting right to apply to chief building official		(2)
Compliance order	11	(1)
Content of order		(2)
Posting order		(3)
Stop work order		(4)
Posting order		(5)
Prohibition		(6)
Unsafe condition order	12	(1)
Content of order		(2)
Posting order		(3)
Emergency order	13	(1)
Content of order		(2)
Review by chief building official		(3)
No stay		(4)
Service of orders	14	
Effect of order	15	
Responsibility for cost of complying with order	16	
Review and reconsideration of orders		
Review of orders by building officials	16.1	(1)
Reconsideration of orders by chief building official		(2)
Contents of application		(3)
Process		(4)
No stay		(5)
Extrinsic evidence		(6)

Decision	(7)
Copy to applicant	(8)
Notice of right to apply	(9)

## ADVISORY COMMITTEE

### Disputes

Definitions	17	(01)
Application for Advisory Committee ruling		(1)
Making application		(2)
Parties		(2.1)
Hearing		(3)
Panels		(4)
Ruling of a panel		(4.1)
Conflict of interest		(5)
Practices and procedures		(6)
No stay		(7)
Expert advice		(8)
Written decision		(9)
Service of decision		(10)
Ruling	18	

### Appeals

Appeal to Court	19	(1)
Procedure on appeal		(2)
Parties		(3)
Standard of review		(4)
No stay		(5)
Decision of Court		(6)

### Recommended amendments to the Code

Application for Advisory Committee recommendation	20	(1)
Making application		(2)
Procedure		(3)
Rejection by Chair		(4)
Reasons to applicant and other members		(5)
Recommendation		(6)
Return of deposit		(7)

## ADMINISTRATION

## Building officials

Appointment	21	(1)
Restrictions, limitations and conditions		(2)
Building official appointed under municipal by-law		(3)
Document of appointment	22	

## Advisory Committee

Code Advisory Committee established	23	(1)
Composition		(2)
Repealed		(3)
Repealed		(4)
Chair and Vice-chair		(5)
Term		(6)
Continuation in office		(7)
Vacancy		(8)
Quorum		(9)
Meetings by electronic means		(10)
Expenses and honorarium		(11)
Secretarial and administrative services		(12)
Role of Committee	24	

## OFFENCES AND PENALTIES

Obstruction of inspection	25	(1)
Obstruction pursuant to order		(2)
Refusal to consent to entry into private dwelling		(3)
General offences	26	(1)
Penalty		(2)
Liability of officers, directors and agents		(3)
No relief from compliance		(4)

## GENERAL

Exclusion of liability	27	
Evidence – document	28	(1)
Evidence – order		(2)
Forms	29	
Effect of permit	30	

## REGULATIONS

Regulations	31	(1)
-------------	----	-----

Transitional regulations		(1.1)
Same		(1.2)
General or particular		(2)
Different classes		(3)
<i>Statutory Instruments Act</i>	31.1	
Deleted	32	(1)
Deleted		(2)
Deleted	33	(1)
Deleted		(2)
Deleted		(3)
Deleted	34	(1)
Deleted		(2)
Deleted	35	(1)
Deleted		(2)
Deleted		(2.1)
Deleted		(3)
Deleted		(4)
Deleted		(5)
Deleted		(6)
Deleted		(7)
Deleted		(8)
Deleted		(9)
Deleted		(10)
Deleted	36	(1)
Deleted		(2)
Deleted	37	(1)
Deleted		(2)
Deleted		(3)
Deleted		(4)
Deleted	38	

COMMENCEMENT

Coming into force	39	
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## BUILDING CODE ACT

### 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; or under a by-law made under section 105 of the *Cities, Towns and Villages Act* or section 105 of the *Hamlets Act*; (*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 practise professional engineering under the *Engineering and Geoscience Professions Act* (Northwest Territories); (*ingénieur*)

"investigation" means an investigation, including entry, search and seizure, under section 7.1; (*investigation*)

"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.

S.Nu. 2017,c.6,s.2.

#### 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

### Codes and 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 or standard 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 or standard adopted pursuant to paragraph (a) or (b).  
S.Nu. 2017,c.6,s.3,4.

### 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; and
  - (c) the proposed building or the proposed construction complies with this Act, the regulations and the Code.

#### Application does not comply

- (1.1) Where an application has been made under subsection (1) but the proposed building or construction does not comply with this Act, the regulations and the Code, a building official shall issue
- (a) a decision rejecting the application; or
  - (b) a permit under subsection (1) for the portion of the proposed building or construction that complies with this Act, the regulations and the Code and a decision rejecting the rest of the application.

#### 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 12 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".  
S.Nu. 2017,c.6,s.5.

## ENFORCEMENT

### Inspections

#### Powers on inspection

- 7.** (1) Subject to section 8, 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)(e), 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. S.Nu. 2013,c.20,s.3(2); S.Nu. 2017,c.6,s.6.

### Investigations

#### Entry and search

**7.1.** (1) Subject to section 8, if a building official believes, on reasonable grounds, that an offence under this Act has been committed, the building official may enter and search any building or place for the purpose of obtaining evidence in relation to that offence under this Act if

- (a) the occupant or person in charge of the building or place consents;
- (b) the entry or search is authorized by a warrant; or
- (c) with respect to a place that is not a dwelling, the building official has reasonable grounds to believe that distance, urgency, the likelihood of removal or destruction of the evidence and other relevant factors do not reasonably permit the obtaining of a warrant or consent.

#### Powers during search

- (2) In carrying out a search under this section, a building official may
- (a) be accompanied by a person who has special or expert knowledge on any matter to which this Act or the regulations relate;
  - (b) conduct any test, make any inquiry and take any sample, measurement, photograph or video recording that the building official considers necessary;
  - (c) use or cause to be used any computer system and examine any data contained in or available on the computer system;
  - (d) on giving a receipt, seize any document, data or thing if

- (i) the seizure is authorized by a warrant, or
- (ii) distance, urgency, the likelihood of the removal or destruction of the document, data or thing as evidence or other relevant factors do not reasonably permit the obtaining of a warrant.

#### Included powers

- (3) The power to seize under paragraph (2)(d) includes the power to
- (a) reproduce or cause to be reproduced any document or data;
  - (b) print or export any document or data for examination or copying; and
  - (c) use or cause to be used any copying equipment at the building or place to make copies of the document or data.
- S.Nu. 2017,c.6,s.7.

#### Information, documents or data

**7.2.** The powers under sections 7 and 7.1 may not be used with respect to information, documents or data except to the extent that doing so is

- (a) necessary for the purposes of an inspection or investigation; or
- (b) authorized by a warrant.

S.Nu. 2017,c.6,s.7.

#### Entry of private dwelling

**8.** (1) Despite paragraph 7(1)(a) or (b) or subsection 7.1(1), a building official shall not enter the occupied part of a private dwelling except:

- (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 an imminent and serious danger to persons or property or in the removal, loss or destruction of evidence. S.Nu. 2013,c.20,s.3(3); S.Nu. 2017,c.6,s.8.

### 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 the building or place or has been refused entry into the building or place; and

- (b) there are reasonable grounds to believe that entry to the building or place is necessary to further an inspection, investigation, order 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 7(1)(d); and
- (b) there are reasonable grounds to believe that the production of the document or thing is necessary to further an inspection under this Act.

#### Order for seizure during investigation

(2.1) 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 there are reasonable grounds to believe that the seizure of the document or thing is necessary to further an investigation or proceeding under this Act.

(3) An order under subsection (2) or (2.1) 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) or (2.1) 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 inspection, investigation or proceeding under this Act. S.Nu. 2013,c.20,s.3(4); S.Nu. 2017,c.6,s.9.

### 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 to chief building official

(2) In making an order made under subsection (1), the building official shall provide notice of the right to apply to the chief building official for a review or reconsideration under section 16.1. S.Nu. 2017,c.6,s.10.

#### 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 chief building official for a review or reconsideration under section 16.1.

#### 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, shall 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 ensure that a copy of the stop work order is posted at the site of the construction, and no person, except a building official or a person authorized in writing by the building official, shall 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. S.Nu. 2017,c.6,s.11.

#### 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 chief building official for a review or reconsideration under section 16.1.

#### 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, shall remove the copy. S.Nu. 2017,c.6,s.12.

#### 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.

#### Review by chief building official

(3) An emergency order may be reviewed or reconsidered by the chief building official in accordance with section 16.1.

#### No stay

(4) Despite subsection 17(7) or any order made under that subsection, an application for a ruling of the Advisory Committee under sections 17 and 18 respecting an emergency order or a decision respecting an emergency order does not operate as a stay of the emergency order or the decision. S.Nu 2017,c.6,s.13.

#### 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 building official.

S.Nu. 2017,c.6,s.14.

#### 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.

### Review and reconsideration of orders

#### Review of orders by building officials

**16.1.** (1) A person who is subject to a decision or order made under this Act by a building official other than the chief building official may apply to have the decision or order reviewed by the chief building official by filing a written application within seven days after the day on which the decision or order is served on the person.

### Reconsideration of orders by chief building official

(2) A person who is subject to a decision or order made under this Act by the chief building official, other than one confirmed or varied under this section, may apply to the chief building official for reconsideration of the decision or order by filing a written application for reconsideration within seven days after the day on which the decision or order is served on the person.

### Contents of application

- (3) The application for review or reconsideration must set out
- (a) the reasons for the application;
  - (b) a summary of any facts relevant to the application;
  - (c) whether the decision or order should be revoked or what changes should be made to it; and
  - (d) the contact information of the applicant.

### Process

(4) The chief building official shall consider the application, including any oral or written evidence submitted by the applicant or available to the chief building official to support or repudiate any allegation contained in the application.

### No stay

(5) Unless otherwise ordered by the chief building official, an application for review or reconsideration does not operate as a stay of the decision or order being reviewed or reconsidered.

### Extrinsic evidence

(6) If the chief building official intends to rely on evidence other than that submitted by the applicant in considering an application, the chief building official shall provide that evidence to the applicant and allow the applicant to respond with further evidence.

### Decision

(7) The chief building official shall, within 10 days after receiving the application for reconsideration, make a decision whether to confirm, vary or rescind the decision or order.

### Copy to applicant

(8) The chief building official shall provide the applicant, and any other affected party, with a written copy of the decision made under subsection (7), with reasons, as soon as practicable.

### Notice of right to apply

(9) In providing a decision under subsection (8), the chief building official shall provide notice of the right to apply to the Advisory Committee for a ruling under section 17.  
S.Nu. 2017,c.6,s.15.

## ADVISORY COMMITTEE

## Disputes

## Definitions

17. (01) In this section and sections 18 to 20,

“decision”, other than in reference to a decision of the Advisory Committee, means

- (a) a decision made under section 16.1; or
- (b) a decision made under another Act, where an Act provides that the decision may be appealed to the Advisory Committee. (*décision*)

“official” means

- (a) the chief building official; or
- (b) a public officer appointed under another Act, where an Act provides that the decisions of that public officer may be appealed to the Advisory Committee. (*fonctionnaire*)

## Application for Advisory Committee ruling

(1) A person aggrieved by the decision of an official may, within 30 days after receipt of that decision, apply to the Advisory Committee for a ruling on any of the following grounds:

- (a) in the case of a decision of the chief building official,
  - (i) the denial or cancellation of a permit;
  - (ii) an interpretation of the technical requirements of the Code or the sufficiency of compliance with those requirements;
  - (iii) the making of an order pursuant to sections 10 to 13;
- (b) in the case of a decision of another official, the grounds specified in the Act providing for the right of appeal to the Advisory Committee.

## 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 official.

## Parties

(2.1) The person making the application and the official are the parties in a proceeding before the Advisory Committee.

## 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.

### Ruling of a panel

- (4.1) A ruling of a panel is a ruling of the Advisory Committee.

### Conflict of interest

- (5) A person shall not participate in a hearing as a member of the Advisory Committee or a panel, or as an expert, if
- (a) he or she is the official whose decision is the subject of the application, or the subordinate or representative of that official; or
  - (b) he or she has or has had an interest in the decision that is the subject of the application.

### 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 Chair, an application for a ruling does not operate as a stay of the decision of the 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. S.Nu. 2017,c.6,s.16.

### Ruling

**18.** Following the hearing of an application under section 17, the Advisory Committee shall

- (a) where the Advisory Committee considers the decision of the official to be reasonable, confirm the decision of the official; or

- (b) where the Advisory Committee considers the decision of the official to be unreasonable, substitute its own decision for the decision of the official, after giving due consideration to arguments put forth by the applicant.  
S.Nu. 2017,c.6,s.17.

## Appeals

### Appeal to Court

**19.** (1) A ruling of the Advisory Committee may be appealed 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 ruling on the person filing the notice; and
- (b) section 89 of the *Judicature Act* does not apply.

### Parties

(3) The persons who were parties to the proceeding before the Advisory Committee, and any other persons the Court may specify, are parties to an appeal.

### Standard of review

(4) The standard of review on an appeal is reasonableness, except on questions of jurisdiction where the standard of review is correctness.

### No stay

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

### Decision of Court

(6) The Court may, subject to subsection (4), confirm, reverse or vary the ruling of the Advisory Committee, and may make any other order that the Court considers appropriate. S.Nu. 2017,c.6,s.17.

## Recommended amendments

### Application for Advisory Committee recommendation

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

- (a) the Code; or

- (b) a code, standard, guideline or procedure adopted under an Act that authorizes the Advisory Committee to receive applications and make recommendations with respect to that code, standard, guideline or procedure.

#### Making application

(2) The applicant shall

- (a) file a written notice of the requested amendment with the Chair; and
- (b) unless the applicant is the Minister or an official, 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 (4.1) and (6) 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 other place 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.

#### Recommendation

(6) Where the Advisory Committee is satisfied it is reasonable in the circumstances, it may recommend amending the Code or a document referred to in paragraph (1)(b)

- (a) as requested; or
- (b) as agreed by the Advisory Committee and the person making the request.

#### Return of deposit

(7) The deposit placed with the Chair shall be returned to the applicant if the Advisory Committee recommends amending the Code or a document referred to in paragraph (1)(b) as requested, otherwise the deposit shall be forfeited.

S.Nu. 2017,c.6,s.18,19.

## 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.

## Building official appointed under municipal by-law

(3) A building official appointed under a by-law made under section 105 of the *Cities, Towns and Villages Act* or section 105 of the *Hamlets Act* shall perform the duties and may exercise the powers of a building official only within the municipality where he or she is appointed. S.Nu. 2017,c.6,s.20.

## 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.

## Composition

(2) The Advisory Committee is composed of the following members appointed by the Minister:

- (a) a representative of the Department responsible for the administration of this Act;
- (b) other prescribed members.

(3) **Repealed, S.Nu. 2017,c.6,s.21.**

(4) **Repealed, S.Nu. 2017,c.6,s.21.**

## 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. S.Nu. 2017,c.6,s.21.

#### 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 or another Act.

S.Nu. 2017,c.6,s.22.

## 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 or an investigation under section 7.1.



**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.

**Refusal to consent to entry into private dwelling**

(3) A refusal to consent to entry into the occupied part of a private dwelling does not constitute refusing entry, obstructing or interfering under this section, unless the refusal is made in a manner that prevents or hinders an entry where

- (a) the entry is authorized by a warrant; or
  - (b) the building official has reasonable grounds to believe exigent circumstances, as defined in subsection 8(2), exist.
- S.Nu. 2017,c.6,s.23.

**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; or
  - (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 omitted in good faith by them in the exercise of their powers or the carrying out of their duties under this Act or the regulations. S.Nu. 2017,c.6,s.25.

### 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;
- (d.1) respecting the composition of 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.

#### Transitional regulations

(1.1) The Commissioner, on the recommendation of the Minister, may make transitional regulations respecting any existing buildings, constructions, permits or other matters to which this Act applies that were governed by

- (a) section 5.1, paragraphs 23(1)(a) and (a.01) or subsections 23(2) to (4) of the *Fire Prevention Act* prior to their repeal by this Act; or
- (b) a by-law made under section 105 of the *Hamlets Act* or section 105 of the *Cities, Towns and Villages Act* prior to their repeal by *An Act to Amend certain Acts respecting Codes and Standards*.

#### Same

(1.2) Without restricting the generality of subsection (1.1), regulations made under that subsection may, with respect to a matter referred to in that subsection,

- (a) provide for exemptions from the application of any provision of this Act and the regulations;
- (b) provide for the continuation of any provision of the repealed enactments, or regulations or by-laws made under them, as if they had not been repealed;
- (c) provide for anything authorized under this Act or the repealed enactments, as if they had not been repealed.

#### General or particular

(2) A regulation under subsection (1) or (1.1) 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. S.Nu. 2017,c.6,s.26.

*Statutory Instruments Act*

**31.1** The *Statutory Instruments Act* does not apply to an order made or a form approved under this Act. S.Nu. 2017,c.6,s.27.

**Note**

**The following provisions have been deleted for the purposes of this consolidation:  
s.32 to 38 (Consequential Amendments)**

See S.Nu. 2017,c.6,s.28 and S.Nu. 2017,c.7,s.10 for repealing provisions.

**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.**