



Building Bylaw Handbook

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Building Standards and Licensing Branch

Government of Saskatchewan

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Building Bylaw Handbook
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This handbook has been revised by the Building Standards and Licensing Branch of the Saskatchewan Ministry of Government Relations.

It is intended for information and discussion purposes only.

Contents should not be used for legal purposes nor be relied upon in any specific situation. In case of conflict between this document and *The Uniform Building and Accessibility Standards Act*, and regulations, provisions of the Act and regulations shall apply.

Users should obtain legal advice about their situation from a solicitor.

February, 2014

The legislative framework that addresses the design, construction and renovation of buildings throughout Saskatchewan creates a shared responsibility.

- Building owners are responsible for compliance.
- Municipalities are responsible for administration and enforcement.
- Building Officials provide plan review, inspection, enforcement and other services to municipalities.
- Ministry officials assist building owners, industry, municipalities, and code users with information and advice in the construction and operation of safe, healthy, habitable buildings through compliance with regulations, codes and standards.

This guide is prepared by the Building Standards and Licensing Branch to assist local authorities with the challenge of administering and enforcing provisions of *The Uniform Building and Accessibility Standards Act* (the UBAS Act), regulations and the National Building Code of Canada, amended for use in Saskatchewan.

For a local authority to undertake the work of building control effectively there are a number of components that must be addressed. This guide and appendix provide the background, limitations and framework for local authorities to proceed through adoption of a building bylaw, appointment of a licensed Building Official and execution of their responsibilities to administer and enforce, the UBAS Act, regulations, decisions of the appeal board and the National Building Code of Canada.

Table of Contents

Introduction	1
Preparation of a Building Bylaw	
Contents of a Building Bylaw	4
Municipalities With an Existing Building Bylaw	5
Municipalities Without an Existing Building Bylaw	5
Regional and Provincial Parks	6
Development Control and Zoning Bylaw Considerations.....	6
Sample Building Bylaw	7
Building Permit Fee Schedule	7
Demolition or Removal Permit Fee Schedule.....	9
Procedures for Adoption of a Building Bylaw	
Regulatory Requirements	10
Typical Building Bylaw Adoption Scenario.....	10
Amendment of the Building Bylaw	11
Administration of the Building Bylaw	
Administrator of the Building Bylaw.....	13
Building Permit Applications.....	14
Review and Approval of Building Permit Applications	15
Issuance of Building Permits	15
Enforcement of the Building Bylaw	
Enforcement Personnel	17
Building Official Qualifications.....	18
Powers of the Building Official.....	19
Orders	20
Powers of the Local Authority	21
Tips Specific to Building Bylaw Enforcement.....	22
Appeals	
The Saskatchewan Building and Accessibility Standards Appeal Board.....	24
Application for Appeals.....	24
Procedure for Appeals	25
The Government’s Role	
Building Standards and Licensing Branch	26
Appendix	
Appendix A - Sample Building Bylaw	

The power of local government to adopt a building bylaw is not new. In the past, *The Urban Municipality Act*, *The Rural Municipality Act* and *The Northern Municipalities Act* allowed municipal Councils to set construction standards, issue building permits and empower a bylaw enforcement officer to carry out enforcement of the standards that it had set. The voluntary nature of this provision led to the result that most of the larger urban centres had embraced some type of building construction control but, for the most part, people in Saskatchewan had no assurance that the buildings where they lived, worked or played were safe, healthy and habitable.

In the 1970s the provincial government became aware of the challenges that the existing provisions were causing for local governments that were trying to control building construction. More significantly, the provincial government also became aware of the hazards to public safety that existed in buildings throughout the province. Work was begun on provincial legislation that would address these problems.

The legislation was envisioned to meet several goals:

- to allow the residents in both small and large communities the opportunity to enjoy the use of all buildings without fear for their safety,
- to provide communities with buildings durable enough to remain safe and serviceable for a reasonable time,
- to provide each local government the opportunity to select the methods of administration and enforcement that best suited the demands and the resources of the local government, and
- to offer each local government the power to carry out building control while limiting the extent of liability that the local government would assume.

Since the November 1, 1989 amendments to the UBAS Act, building bylaws cannot be enacted pursuant to any other legislation.

People were employed to advise the legislators about how to develop the legislation to best meet these goals. Legislation from other provinces with provincial standards and requirements in place was examined. Groups of interested, concerned and affected citizens were consulted.

In June 1988, *The Uniform Building and Accessibility Standards Act* (the UBAS Act) and regulations thereunder came into force setting standards for construction, assigning responsibilities to the parties to construction projects, and authorizing local authorities to adopt building bylaws. Since the November 1, 1989, amendments to the UBAS Act, building bylaws cannot be enacted pursuant to any other legislation.

The UBAS Act assigns responsibility to building owners to ensure compliance with the requirements of the UBAS Act and regulations. The assignment of responsibility to the owner verifies the logical position that since the owner has control over the property the owner has an obligation to meet the construction standards that have been set into law.

The assignment of responsibility to local authorities is based on common law practice that expects a local government to have a “duty of care” to the people who reside, work or travel through the geographic area over which the local authority governs.

The UBAS Act assigns responsibility for administration and enforcement of the UBAS Act and regulations to local authorities. Originally, local authorities included only those legislative bodies that govern municipalities. When amendments to the UBAS Act were proclaimed in 1996, “local authority” was expanded to include the legislative bodies governing regional and provincial parks as well. The assignment of responsibility to local authorities is based on common law practice that expects a local government to have a “duty of care” to the people who reside, work or travel through the geographic area over which the local authority governs. In order to effectively set policies and procedures, the local authority must clearly understand its responsibilities. **No matter what it chooses to do, or not to do, the local authority retains the obligation to secure safe buildings for the people who are affected by its decisions.**

The most typical method of building construction control across Canada and the United States includes the use of building bylaws, building permits and Building Officials. The UBAS Act does not demand that local authorities pass a building bylaw, issue building permits or use the services of a Building Official. However, it is likely that a local authority would be seen as negligent if it had construction activity occurring within its jurisdiction and took no steps to monitor and control this activity.

The nature of the UBAS Act is such that much of the administration and enforcement may be undertaken without having a building bylaw in force. **Building permits cannot be required or permit fees collected without a building bylaw in force.** But construction activity can be monitored, owners can be informed of their responsibility under the UBAS Act, a Building Official can be appointed, a Building Official can inspect and issue orders, and the local authority can even attempt to prosecute someone who has contravened the requirements of the UBAS Act and regulations, without a building bylaw in force. However, it is unclear why a local authority would choose this route. A building bylaw can establish a permit system to simplify the monitoring of administration and enforcement activities, and can establish permit fees to allow the local authority to recover the costs of building control to the extent that the local authority desires. The building bylaw may also add some protection against liability.

A building bylaw must be enacted by local authorities that have decided to require and issue building permits.

A building bylaw must be enacted by local authorities that have decided to require and issue building permits. The building bylaw is also a tool by which the local authority may adopt building and accessibility standards that are specific to its needs. The building and accessibility standards adopted by the Province use the *National Building Code of Canada* as the base document. Some amendments have been made to make the national standard more suitable for Saskatchewan. Still, a particular local authority may have a specific need to address additional regulations — for example, flood proofing methods of construction, or methods of construction to control rat infestation of buildings, or methods of construction to accommodate localized soil problems.

If a building bylaw has not been enacted, individuals wishing to construct, erect, place, alter, repair, renovate, demolish, relocate or remove buildings are not required to obtain approval for building and accessibility standards compliance of the project. However, the owner is still required by the UBAS Act to comply with minimum building and accessibility standards and by regulation to notify the local authority of his or her actions. The local authority becomes aware of the work being done, but can have no say about the design or control of the project until the enforcement stage begins.

If a building bylaw is in effect, all proposed work must come before the local authority or its authorized representative in an application for a building permit. The local authority is attempting to fulfill its duty of protecting and providing public safety by controlling all construction that is occurring within its area of jurisdiction.

Users of this Handbook are reminded that the UBAS Act and regulations should be consulted for the specific provisions that apply to each specific situation.

Contents of a Building Bylaw

Section 14 of the UBAS Act authorizes a local authority to make bylaws with respect to the following:

- prohibiting the commencement by any person of construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, use, occupancy or change of occupancy of any building unless that person is authorized by a permit to do so;
- providing for the form and content of permits for the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, use, occupancy or change of occupancy of a building;
- providing for the issuance of permits;
- providing for the circumstances in which a permit may be revoked;
- prescribing the terms and conditions on which a permit may be granted;
- prescribing the fees to be charged for the issuing of a permit; and
- requiring an applicant for a permit to demolish or remove a building to furnish a deposit, prescribing the amount of the deposit and governing recourse to the deposit and any refund of the deposit.

Section 8.1 of the UBAS Act also authorizes local authorities to prescribe building and accessibility standards beyond the provincially adopted building and accessibility standards, where these additional building and accessibility standards are considered necessary for the health, safety or welfare of persons.

Strictly speaking, the local authority may decide to include only the matter of permits in the building bylaw and may more accurately title the building bylaw, the Building Permit Bylaw. The rest of the standards and duties are covered in the UBAS Act and regulations. Most local authorities, however, prefer to include some references to the provisions of the UBAS Act and regulations in the building bylaws — particularly those provisions that deal with enforcement duties, professional design involvement and penalties. It is acceptable to repeat any of the UBAS Act provisions in the building bylaw, providing the excerpt will not be misleading or cause conflict with the intent of the provisions in the UBAS Act.

Similarly, most local authorities will be well served by a reference to the *Administrative Requirements for Use with the National Building Code* in their building bylaw. The Administrative Requirements are intended to be used with the *National Building Code of Canada* where there are no local administrative requirements. Some provisions of the Administrative Requirements are included in the UBAS Act, and the provisions of the UBAS Act take precedence if there is a conflict between the UBAS Act and the Administrative Requirements. The Administrative Requirements address issues such as temporary building permits and partial building permits that may be useful to the local authority, and are not included in the UBAS Act.

Municipalities With an Existing Building Bylaw

When the UBAS Act came into force, it had the effect of invalidating anything in an existing building bylaw that conflicted with the provisions of the UBAS Act and regulations.

Municipalities may still have building bylaws that were enacted pursuant to the applicable municipal Acts. When the UBAS Act came into force, it had the effect of invalidating anything in an existing building bylaw that conflicted with the provisions of the UBAS Act and regulations. A typical example of this was the municipal building bylaw where adoption of the 1980 edition of the *National Building Code of Canada* was voided in favour of the provincial adoption of a newer edition.

Municipalities with building bylaws that predate the UBAS Act still have valid building bylaws, except that these building bylaws likely have parts that are void to the extent that they conflict with the UBAS Act. These municipalities are advised to examine their procedures and practices to ensure that they are not following voided provisions of their building bylaws. Repeal of the existing building bylaw and passage of a new one enacted pursuant to the UBAS Act is recommended.

Any building bylaw enacted after November 1, 1989, must have been enacted pursuant to the UBAS Act to be a legal building bylaw.

Municipalities Without an Existing Building Bylaw

Municipalities that do not have an existing building bylaw should be sure that passage of a new building bylaw will not affect other existing bylaws. Some municipalities have old bylaws that attempt to address all of the development and building control matters, and contain a mixture of provisions that may include some form of building and accessibility standards. These provisions should be eliminated to avoid conflict between bylaws.

Regional and Provincial Parks

Building construction in regional and provincial parks must comply with the provincial building and accessibility standards.

The definition of “local authority” includes the legislative bodies governing regional and provincial parks. Regional and provincial park authorities have all the powers in the UBAS Act that were once limited to only municipalities, including enactment of building bylaws under the UBAS Act to control construction within their jurisdiction.

Application of the UBAS Act in regional and provincial parks reinforces several other significant features of the legislation. Building construction in these jurisdictions clearly must comply with the provincial building and accessibility standards. Building owners, whether the land is owned or leased, are responsible for compliance with these standards.

Provincial parks are under the jurisdiction of the provincial government. Previously, regulations under *The Parks Act* required that a building permit be obtained before building construction occurred, but the regulations did not set standards for construction. Provincial parks enforcement staff now have a yardstick against which to measure applications for building permits. Since the regulations are the provincial equivalent of municipal bylaws, the existing system of building permits in provincial parks remains, but enforcement and penalty features have been added.

Regional parks are under the jurisdiction of a regional park authority that is specifically created for governance of each specific park. A regional park authority is akin to a municipal corporation. *The Regional Parks Act, 1979*, the legislation that authorizes the establishment of regional parks, contains only the most general authority for a regional park authority to make regulations providing for the health, protection, safety and general welfare of persons. There is no clear power to carry out enforcement or set penalties. Inclusion of regional park authorities in the definition of “local authority” gives them the bylaw-making and enforcement powers that were previously unavailable.

The Planning and Development Act says that “No building permit is valid unless a subsisting development permit, where such permit is required, has been issued.

Development Control and Zoning Bylaw Considerations

There is no requirement for a local authority to have a zoning bylaw before it can have a building bylaw. However, the progression of municipal interest from planning and developmental concerns to building construction concerns is a natural and common one.

A zoning bylaw allows the Council to be aware of all development being proposed and to effectively manage land use in the municipality. Usually the local authority's approval is required in the form of a development permit, when a zoning bylaw is in place. The only legislated relationship between development and building permits comes from *The Planning and Development Act, 2007*. This Act says that "No building permit is valid unless a subsisting development permit, where such permit is required, has been issued."

Sample Building Bylaw

A sample building bylaw (Appendix A) was created to assist local authorities that had no experience in building control and for local authorities that wanted to update their existing building bylaw.

The sample building bylaw repeats some provisions of the UBAS Act to clarify which actions are represented by this bylaw, and sets the framework for building permits and Building Officials. (As previously stated, the building bylaw may address only permits, and thus may be shorter than the sample building bylaw.)

Local authorities that have chosen to use the sample building bylaw format are faced with three questions before the bylaw can be completed:

- To what extent will enforcement be done — who will do the plan review and inspection work?
- What will be the cost to the local authority and will the permit fees be expected to cover the complete cost to the local authority?
- Are supplemental building and accessibility standards required?

The local authority should obtain legal advice to find out if the bylaw will meet its needs, will conform to the provincial legislation and will not conflict with other bylaws.

Local authorities that have chosen not to use the sample building bylaw format will also be faced with these major decisions, and will need to ensure that their own bylaw format will meet their particular needs.

Whether the sample building bylaw or an individualized version of a building bylaw is adopted, the local authority should obtain legal advice to find out if the bylaw will meet its needs, will conform to the provincial legislation and will not conflict with other bylaws.

Building Permit Fee Schedule

It is suggested that the permit fees be set to recover the local authority's cost to provide this public service, not to create budget revenue or deficit.

The local authority sets the building permit fee schedule based on an evaluation of the costs to the local authority and a decision about whether the permit fees will be expected to cover the complete cost to the local authority. It is suggested that the permit fees be set to recover the local authority's cost to provide this public service, not to create budget revenue or deficit.

Several methods of establishing permit fees are available to the local authority. One or more methods of calculating permit fees may be used in a bylaw, although caution should be used to ensure that all types of buildings are included. Some examples of these methods are:

- rate per square metre of construction for one or more classes of building, i.e., "...\$XX.00 per square metre of floor area for residential buildings...";
- rate per thousand dollars value of construction for one or more classes of building, i.e., "...\$XX.00 per each \$1000.00, or part thereof, of value of construction for assembly buildings...";
- flat rate (fixed fee) for one or more classes of building, i.e., "...\$XX.00 for residential detached garages...";
- cost of plan review plus flat rate for each inspection visit, i.e., "...equal to the cost to the local authority for plan review plus \$XX.00 per each inspection visit...";
- cost of plan review and inspection services, i.e., "equal to the cost to the local authority for plan review plus inspections..."; and
- any suitable variations.

Value of construction is defined as the total cost to the owner for the building construction in its completed form and includes the cost of all building work, materials of construction, building systems, labour and overhead and profit of the contractor and subcontractors.

The most common of these methods used in Saskatchewan is the "charge per thousand dollars value of construction." To determine the value of construction, the local authority may accept the contract value of the work or the owner's statement of the cost of the work, or use an adopted schedule of typical construction costs based on local rates or on an accepted standard. "Value of construction" has been defined as "the total cost to the owner for the building construction in its completed form and includes the cost of all building work, materials of construction, building systems, labour and overhead and profit of the contractor and subcontractors."

Some local authorities choose a fee schedule that allows them to recover the actual cost that they incur for plan review and inspection services, when those services are contracted out to a Building Official. This results in a two-tiered fee schedule where there is one fee if the service is provided by their local Building Official "or" a separate fee if the work is contracted out.

A minimum permit fee ("...but not less than \$XX.00...") is often used to ensure that the administrative costs are met. Sometimes, where the local authority is trying to encourage development and is willing to have some costs covered by other revenues, a maximum permit fee is used.

When the fee schedule differentiates between classes of buildings, care should be taken to ensure that all classes of buildings are mentioned.

When the fee schedule differentiates between classes of buildings, care should be taken to ensure that all classes of buildings are mentioned. This can be done by setting a rate for each class of building (assembly, care, treatment, detention, residential, business and personal services, mercantile, and industrial), or by setting one rate for buildings of particular interest (i.e., one and two unit dwellings) and setting another rate for “all other buildings.”

The method selected for establishing permit fees may have an impact on administrative duties. Typically, permit fees are due at the time of permit application. This ensures that the local authority will be paid for the plan review, inspection and enforcement work that needs to be done, and eliminates billing and collecting the fees after the project is complete.

Permit-related policy or procedure decisions made by the local authority should be clearly stated. A list of the specific matters that can be set out in the building bylaw is included in Section 13 of the UBAS Act. Other policy or procedure decisions should be included in the building bylaw where the local authority makes decisions that it wishes to administer without variation. However, some decisions may be adopted by resolution of the local authority. For example, a policy that stipulates the level of Building Official services to be provided and guides the municipal official to obtain those services by hiring an employee or by contracting for those services could be set out in a resolution. Similarly, a local authority may use a resolution to set guidelines about information that it wants submitted with a permit application or to set out administrative duties it wants completed by the Building Official. Any changes to these policies or procedures should also be recorded in the appropriate bylaw or by resolution.

Demolition or Removal Permit Fee Schedule

The permit fee to demolish or remove a building is usually a relatively low amount. This fee is meant to cover administrative costs associated with issuing the permit and other costs associated with visiting the site. In addition, the local authority can request a deposit from the permit applicant to cover the cost of restoring the site, after the building has been demolished or removed, to a condition that is not dangerous to public safety. If the permit applicant restores the site, then the deposit, or a portion thereof, is refunded. This deposit fee could either be one fixed fee for all types of buildings or different fees for different types of buildings. Local authorities are encouraged to set the deposit fee in their building bylaw to ensure consistent application of requirements.

Regulatory Requirements

Regulated procedures that must be followed in adoption of a building bylaw come from both the UBAS Act and the Act that establishes the local authority. (Provincial parks come under a provincial ministry. Provincial regulations form their bylaws. Examination of provincial processes for enacting regulations is not included here.)

The Municipalities Act, The Cities Act, The Northern Municipalities Act, 2010 and The Regional Parks Act, 1979 all include provisions that govern readings, voting, passage and amendment of bylaws. These provisions must be followed. Since local authorities are familiar with these requirements, no further detail will be provided here.

Two certified copies of the building bylaw must be submitted to the Minister responsible for the UBAS Act within 30 days of passage.

Section 23.1 of the UBAS Act includes an additional requirement that must be added to the usual procedure. Two certified copies of the building bylaw must be submitted to the Minister responsible for the UBAS Act within 30 days of passage. Since Building Standards and Licensing Branch reviews the building bylaw for the Minister, it is acceptable and simpler to submit the building bylaw directly to the Building Standards and Licensing Branch. The building bylaw will be reviewed and approved and filed, or not approved and declared void, by the Minister within 60 days of submission.

Typical Building Bylaw Adoption Scenario

A typical series of events by a local authority leading to the adoption of a building bylaw would likely be listed as follows. The actions required by provincial legislation are underlined. “Municipal official” refers to the administrator, clerk, secretary or secretary-treasurer of a municipality or park. The person(s) responsible is listed in brackets.

1. Decide to pass a building bylaw. (local authority)
2. Decide to what extent enforcement will be done. (local authority)
3. Investigate the availability of Building Officials. (municipal official)
4. Decide who will do the plan review and inspection work. (local authority)
5. Evaluate the cost to the local authority based on the local authority’s decisions. (municipal official)
6. Set the permit fee schedule based on the municipal official’s evaluation and recommendation about whether the permit fees will be expected to cover or partially cover the cost to the local authority. (local authority)

Draft bylaws may be sent to Building Standards and Licensing Branch for comment prior to enactment.

7. Decide if supplemental building and accessibility standards are required. (local authority)
8. Prepare a draft building bylaw. (municipal official)
9. Give public notice that the local authority intends to pass a new building bylaw. **(Optional)**
10. Send the draft building bylaw to the local authority's solicitor for comment. (municipal official)
11. Send the draft building bylaw to the Building Standards and Licensing Branch for comment. (municipal official)
12. Revise the draft building bylaw based on comments, if appropriate. (municipal official)
13. Present the building bylaw to the local authority for consideration. (municipal official)
14. Give the building bylaw three readings. (local authority)
15. Submit two certified copies of the building bylaw to the Minister responsible for the UBAS Act (Building Standards and Licensing Branch) within 30 days of passage of the building bylaw. (municipal official)
16. The building bylaw is approved and filed, or not approved and declared void, by the Minister within 60 days of submission. (If the building bylaw is not approved, the local authority will be notified of the reasons for rejection. The building bylaw can then be revised as appropriate and presented to the local authority for its reconsideration. Steps 14 through 16 can be repeated until the local authority obtains a legally enforceable building bylaw.)
17. Give public notice that a new building bylaw is in place, and that building permits are required for all construction work within the local authority's jurisdiction. **(Optional)**
18. Appoint a Building Official and issue a certificate of appointment. (local authority)

Amendment of the Building Bylaw

Any amendment to the building bylaw must be submitted for approval to the Building Standards and Licensing Branch in the same manner as the original bylaw.

The building bylaw may be amended, according to the regulatory requirements of the appropriate Act, as the local authority deems necessary.

The most typical reason that a building bylaw will be amended is to adjust the permit fee schedule. If a local authority is new to building control, the original estimate of costs to the local authority will be re-evaluated after a time. The local authority may decide that the permit fee schedule needs to be reset to reflect this re-evaluation. Permit fees should be set to recover the local authority's cost to provide this public service, not to create revenue in the budget.

A building bylaw may also be amended to reflect a local authority's change in procedures with respect to the Building Official, or to reflect a local authority's need for supplemental building and accessibility standards.

Any amendment to the building bylaw must be submitted for approval to the Building Standards and Licensing Branch in the same manner as the original bylaw.

Administration of the building bylaw will be done by different people depending on the local authority.

Administrator of the Building Bylaw

Administration of the building bylaw will be done by different people depending on the local authority. Local authorities that face sufficient building activity to support the hiring of a Building Official on a full time basis will likely assign all administration of the building bylaw to the official. Local authorities that need part time services of a Building Official may split the assignment of administrative duties between office staff or the municipal official and the Building Official. Local authorities that use “fee for service” or contract Building Officials will likely assign all of the administration of the building bylaw to the office staff or the municipal official.

Provisions of the UBAS Act and of the *Administrative Requirements for Use with the National Building Code* form the framework for the administration of the building bylaw. This is a significant, but usually not time intensive, task. The duties of administration of the building bylaw include:

- completion of building permit application forms,
- receipt and cursory review of documents to support permit application,
- circulation of documents and permit application form, if approvals from other persons/agencies are required before issuance of the building permit,
- issuance of building permit including permit form completion and collection of permit fee,
- keeping of records, including files by address or legal description, chronological permit record, storage of plans and supporting documents, filing of inspection reports and correspondence, and statistical reporting,
- handling of requests for information and complaints, and
- monitoring of construction activity in the local authority.

Building Permit Applications

The applicant must include sufficient supporting documentation to provide the local authority and the Building Official with a clear picture of the proposed work.

An application for a building permit may be made by the owner or by the owner's agent (the designer, contractor or builder). The building permit application form must be filled out by the applicant to the best of his or her ability, and signed by the applicant. The administrator of the building bylaw may help the applicant to ensure that all of the necessary information is provided. The applicant must also include sufficient supporting documentation to provide the local authority and the Building Official with a clear indication of the proposed work. Typically, local authorities will require submission of two copies of all documentation so that once the Building Official has completed the plan review process and marked the documents as necessary, one copy may be retained for the local authority's records, as dictated by the *Administrative Requirements for Use with the National Building Code*, and one copy may be returned to the applicant.

For extremely small projects where the owner has not prepared plans to work from, the local authority may wish to give the Building Official the option of waiving the requirement for plan submission. The Building Official should not waive the plan submission unless it is possible to determine the scope and extent of the project through a verbal description.

The person who is assigned to accept building permit applications should be aware of the projects that are not regulated by the UBAS Act, and therefore do not need permits. Farm buildings, including farm residences, are not regulated by the UBAS Act and, therefore, a local authority would not accept an application or issue a permit for a farm building as defined by the UBAS Act. Rural municipalities may, by resolution of Council, choose to expand the application of building and accessibility standards. This must be done in the building bylaw. The bylaw provisions should address the class or types of building described in the resolution (i.e. farm houses, all farm buildings). Other buildings and structures, such as very small residential accessory buildings (10 m² max.) and communication towers and aerials, are not usually required to be constructed under a permit, based on the *Administrative Requirements for Use with the National Building Code*. However, the best measure of the need for a building permit is that if the work (product, result, etc.) is addressed in the *National Building Code of Canada*, a permit is likely required.

Review and Approval of Building Permit Applications

Approval of the building permit should not be given without plan review having been done.

Building permit approval should be based on a review of the submitted application, plans and documents. **Approval of the building permit should not be given without plan review having been done.** The review should be done by a licensed Building Official for the class of building proposed (see page 19 for licence classification and limitations). Notes are generally made on both copies of the submitted plans as the review is being done. If these notes are sufficiently clear and do not require further explanation, a condition of the approval can be written on the permit form stating that compliance with the notes on the drawings is required. If notes on the drawings are insufficient to outline the problem, or if the proposed work cannot be approved, a plan examination report and letter to the owner should be prepared and sent. A copy of this report and letter should also be attached to the plans, and the condition of approval written on the permit form stating that compliance with the requirements of the report and letter is required.

The person examining the plans for conformance to the building bylaw may also be assigned the duty of examining the plans for conformance to the zoning bylaw. This is a logical pairing of tasks, because the documents that are submitted with the application for the building permit will usually show the information required to verify the zoning matters as well. An additional benefit of pairing these duties is the need to meet the only provincial regulatory requirement that ties development permits and building permits. *The Planning and Development Act, 2007* says that “No building permit is valid unless a subsisting development permit, where such permit is required, has been issued.”

Before approval of the building permit, other approvals may be needed. These other approvals could be for zoning, sewer and water connections, plumbing, or site access permits. The plans may be circulated for other approvals before or after the review for building bylaw conformance is completed.

Issuance of Building Permits

Once the building permit application has been approved, the applicant should be notified that the permit is ready for issuance. Permits should not be issued without receipt of full payment.

A numbered building permit, intended to be posted at the site, should be issued as a document. Conditions of the approval should be noted on the permit. One copy of the reviewed and marked plans, and a letter if applicable, should be returned to the applicant with the reminder that this set of plans must be kept available at the site of the project.

The building permit application should be filed by address or legal description. A copy of the building permit should also be retained in the office of the local authority. The address or legal description file allows the local authority to develop a historical record of building activity on the site for reference during assignment of tax assessment values, during review of subsequent building permit applications and environmental assessments. Numbering the permits as they are issued and maintaining this chronological record may help in statistical record keeping, in updating the tax roll and in storage of supporting documents. One copy of all documents submitted in support of the application should be assigned the same number as the permit and stored in the local authority's records, although this storage is not usually included with the general filing due to its volume and size.

Enforcement Personnel

The selection of appropriate enforcement personnel will be the most critical decision that the local authority will make in effecting responsible enforcement of the UBAS Act and regulations. The Building Official will be entrusted with the powers afforded in the building bylaw, the UBAS Act and the regulations to act on behalf of the local authority, in the local authority's best interest and in the service of the public.

There are several ways of engaging the services of a Building Official. The method should be selected by the local authority based on the type and amount of construction activity in its jurisdiction, the cooperation of neighbouring local authorities, and the amount that the local authority may expect permit takers to pay for this service. Some possible methods are:

- Hire a full-time Building Official. This employee may also be assigned other related duties such as zoning bylaw enforcement.
- Hire a part-time Building Official. This employee may be available to the local authority on a regular part time basis such as two days per week or as the need occurs.
- Contract with a private company or individual to provide plan reviews and inspections on a "fee for service" basis as the need occurs.
- Arrange with a nearby local authority to use the services of its Building Official on a "fee for service" basis as the need occurs.
- Coordinate with adjacent local authorities to hire a shared Building Official.

The Building Official must be appointed by each local authority that intends to use his or her services for actions authorized by the UBAS Act.

The selected Building Official should be appointed by resolution and, as required by the UBAS Act, be given a certificate of appointment by the local authority. The Building Official must be appointed by each local authority that intends to use his or her services for actions authorized by the UBAS Act. A Building Official may be appointed for a definite or indefinite time period, or for a specific project or specific types of projects. If the person appointed as the Building Official is enforcing other bylaws, he or she must also be appointed in accordance with the appropriate provincial legislation.

Building Official Qualifications

As codes and standards have developed over the years, the level of technical knowledge required by Building Officials has steadily increased. To assist local authorities with selection and appointment of qualified Building Officials, the province developed a licensing program.

Since The Building and Accessibility Standards Administration Regulations were enacted in 1997, local authorities may appoint only licensed Building Officials.

Since *The Building and Accessibility Standards Administration Regulations* were enacted in 1997, local authorities may appoint only licensed Building Officials. Local authorities retain the choice about whether to appoint a Building Official, but if they decide to make such an appointment, the person they appoint **must** hold a valid Building Official licence. Conditions of each licence govern the type of buildings a licence holder may provide services for, so a local authority must verify that the person it wishes to appoint can provide the required services.

A Building Official has a great impact on the safety of people under the protection of a local authority. Award of a licence is based on a combination of experience and training plus successful completion of a licensing examination. A licensed Building Official would be susceptible to suspension or cancellation of his or her licence if he or she performed work outside the authorized scope of the licence.

Three primary classes of licences authorize holders to provide plan review, inspection and enforcement services on certain types of buildings.

Building Official Class 1 — one and two unit dwellings

Building Official Class 2 — any buildings under the scope of Part 9 of the *National Building Code of Canada*, including all buildings covered by a Class 1 licence

Building Official Class 3 — any buildings under the scope of the entire *National Building Code of Canada*, including all buildings covered by Class 1 and 2 licences.

Two secondary classes of licence, Temporary and Restricted, entitle the holder to take only those actions as stipulated in the licence. These classes are only available under special circumstances, such as to allow for appointment of a person while awaiting a licensing examination sitting, or to allow for a local authority to stipulate as to the suitability of a person to meet its specific needs and take responsibility for the qualifications of that person. Temporary licences expire on the date stipulated on the licence. Restricted licences issued on the basis of recommendation by a local authority have expired and became non-renewable by regulation on January 1, 2002.

With the creation of the Building Official licensing regulations and program, it was necessary to offer local authorities the flexibility to maintain the status quo or to make new appointments under the amended UBAS Act. To ensure that the licensing requirements did not interfere with appointments made by local authorities prior to the coming into force of the licensing regulations, appointed “inspectors” were allowed to continue to serve the same local authority. These “inspectors” were allowed to retain all the powers of a Building Official under a continuing appointment for an indefinite period of time. They were not required to obtain a licence, **unless** the local authority wished to re-appoint them or another local authority wished to appoint them. However, since a licence demonstrates that a licensee has at least a minimum level of building code knowledge for certain types of buildings, many local authorities have asked their previously appointed “inspectors” to obtain a licence and be re-appointed.

Powers of the Building Official

A Building Official appointed under Section 5 of the UBAS Act has the right to take many actions for evaluating compliance with the provisions of the UBAS Act and regulations or the conditions of a permit, including:

- at any reasonable hour, enter a building;
- be accompanied into a building by a person having special or expert knowledge on any matter to which the UBAS Act or regulations relate;
- order the production of a register, certificate, plan or other document relating in any manner to the design, construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, use, occupancy or change of occupancy of a building and may examine and make copies of the document; and
- inspect and take samples of any material, equipment or appliance being used in the design, construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, use, occupancy or change of occupancy of a building.

A Building Official appointed under the UBAS Act may, at any reasonable hour, enter a building to evaluate compliance.

The local authority may apply to a judge of the court for an order restraining a person from preventing or interfering in any manner with the Building Official in the exercise of his or her powers.

Orders

Fortunately, most owners and builders are reasonable and cooperative and will comply with verbal requests for compliance by a Building Official.

Fortunately, most owners and builders are reasonable and cooperative and will comply with verbal requests for compliance by a Building Official. Informally written site instructions may also serve to convey the Building Official's request for compliance. However, when these attempts to gain compliance fail, the Building Official who has been appointed under the UBAS Act may officially and formally communicate with the owner of a building under construction by issuing an order — a notice in writing.

Orders can be used to require that, within the time prescribed in the notice, the owner:

- produce a document relating to work covered by the UBAS Act and regulations,
- comply with general or specific conditions prescribed in the notice,
- take any measures prescribed in the notice,
- follow the methods of work prescribed in the notice,
- use or stop using the materials, equipment, protection devices or appliances described in the notice,
- stop the work, in whole or in part as directed by the notice, until any conditions prescribed in the notice are, in the Building Official's opinion, fulfilled,
- have tests made, furnish a letter written by an architect or engineer certifying that the building meets the requirements of the building and accessibility standards, or furnish other evidence regarding the foundation conditions or any materials, equipment, devices, construction methods or structural assemblies, at the expense of the owner,
- submit plans prepared by a land surveyor, engineer or architect, as is appropriate to the work, regarding the site, the building location and the ground levels,
- verify, after completion of construction, that the requirements of the building and accessibility standards have been met,
- uncover and replace, at the expense of the owner, any work that has been enclosed contrary to a written order of a Building Official,
- take any steps prescribed in the notice that the Building Official considers necessary to eliminate an unsafe condition due to a building's faulty construction, ruinous or dilapidated state, abandonment, open or unguarded condition, or any other reason,
- do any combination of the things described above.

It may be useful to have a generic form for orders prepared for the Building Official's use to ensure that all the necessary information is recorded. Often an order will be used in a legal dispute to document the measures that the local authority used to gain the owner's compliance with the UBAS Act and regulations.

A Building Official's order must be delivered to the owner by one of the methods for service of documents included in Section 13 of *The Uniform Building and Accessibility Standards Regulations*. An owner disputing an order may apply for a hearing before the Saskatchewan Building and Accessibility Standards Appeal Board within 15 days after the order is being served. Unless otherwise ordered by the Appeal Board, an appeal does not operate as a stay of the order of a Building Official.

Powers of the Local Authority

The local authority may do, or cause to be done, any actions considered necessary to eliminate an imminent danger to the safety of occupants of a building or the public.

Several other powers of enforcement are given to the local authority under the UBAS Act. The local authority may do, or cause to be done, any actions considered necessary to eliminate an imminent danger to the safety of occupants of a building or the public. The local authority may do, or cause to be done, any actions necessary to carry out an order that has not, within the time specified in the order, been complied with. The UBAS Act requires that the owner submit a report to the appropriate local authority of the occurrence of a structural failure or a failure of any equipment, device or appliance regulated by the building and accessibility standards. The local authority may initiate prosecution of a person who contravenes the UBAS Act, regulations and/or the building bylaw, who fails to comply with an order, or who obstructs or hinders a Building Official in the performance of his or her duties under the UBAS Act and regulations. The local authority may apply to a judge of the court for an order requiring that a person comply with a Building Official's order or restrain from interfering in any manner with the carrying out of the order.

Tips Specific to Building Bylaw Enforcement

Although the methods of enforcement of a bylaw may be similar, there are different applications and prescriptive requirements of Provincial legislation. For example, enforcement of a Nuisance Bylaw would be different from enforcement of a Building Bylaw as each are supported by different Acts.

Elements for successful enforcement of bylaw:

- Understandable bylaw
(clear, simple, don't try to regulate everything)
- Commitment to enforce the bylaw
(be prepared to go the distance)
- Proper administration of bylaw
(develop and follow procedures, maintain accurate records, coordinated and consistent application throughout the local authority)
- Property enforcement of bylaw
(development procedures, be fair/firm/consistent, conduct proper investigation)
- Knowledgeable lawyer
(one who specializes in these cases)

Elements for successful legal action:

- Valid bylaw
(has jurisdiction, is clear and precise)
- Offense against the bylaw
(depends on bylaw)
- Evidence against the bylaw
(depends on investigation)
- Proper presentation in court
(depends on lawyer, intent clear to court, "paint the picture" to Judge)
- Understanding of court
(depends on presentation and the Judge)

Use bylaws or resolutions, depending on legislated requirements, to:

- Adopt policies and procedures.
(plan reviews, inspections, what steps to take in face of non-compliance)
- Change policies and procedures.
(to go from no inspections to inspections)
- Acknowledge problems and reaffirm policies.
(make a fresh start on old rules)

REMEMBER:

- You can't keep everyone happy.
- Be fair, firm and consistent throughout the local authority.
- Know your purpose.
- Be objective.
- Have procedures in place and follow them.
- Keep accurate and complete records.
- Make every effort to resolve the conflict using effective human relations techniques.
- Have the evidence to enforce.

Enforcing your building bylaw shows commitment and builds credibility.

The Saskatchewan Building and Accessibility Standards Appeal Board

The Appeal Board consists of up to eight persons who are residents of Saskatchewan appointed by the Lieutenant Governor in Council.

The Appeal Board was established under Section 6 of the UBAS Act:

- to hear applications from the owner of a building or proposed building for an order exempting the owner from compliance with all or part of the accessibility standards;
- to hear appeals of a Building Official's orders;
- to advise the Minister responsible for the UBAS Act on matters concerning the administration of the UBAS Act and the regulations; and
- to perform any other duties that the Minister may direct.

Application for Appeals

The application must be made in writing, must state the grounds of the appeal, and must be accompanied by applicable supporting documents.

Application for an appeal hearing can be made by the owner or agent of the owner of a building or a proposed building. Application for an appeal hearing of a Building Official's order must be made within 15 days after the order is being served. The application must be made in writing, must state the location of the subject building and the grounds of the appeal, and must be accompanied by applicable supporting documents such as plans, specifications, orders, letters from the local authority, building permit, etc. An application for exemption from accessibility standards may also be made to the Appeal Board. The application must be made in writing within 30 days of the day the notice, decision or direction is mailed, and must be accompanied by applicable supporting documents.

The application may be submitted to the Chief Building Official (CBO) at the BSL who will process the application and forward it to the Appeal Board.

Procedure for Appeals

The Chair of the Appeal Board will be notified when a request for appeal has been received and the office has verified that the application is complete. The Chair will schedule a public hearing with at least three of the members of the board to consider the subject of the appeal. The applicant and a representative of the local authority, if appropriate, will be invited to state their case and provide witnesses on their behalf at the hearing. The board will hear the appeal and make a decision within 30 days of the appellant providing all necessary information required by the CBO in accordance with Subsection 18(1) of the UBAS Act. The board's decision will be rendered in writing and sent by registered mail to the applicant and all other parties to the hearing.

Building Standards and Licensing Branch

The Building Standards and Licensing Branch (BSL), in the Ministry of Government Relations, develop and maintain provincial standards for building construction. The BSL also serves local authorities who are unfamiliar with building control administration and enforcement by providing advice and interpretations, and by administering the Building Official's licensing program.

BSL staff are available for consultation while preparing the building bylaw and for review of the draft building bylaw before presenting it to the local authority.

Local authorities who pass building bylaws are required by the UBAS Act to submit them to the Minister responsible for the UBAS Act within 30 days of the local authority's approval of the building bylaw. BSL staff receives the building bylaws, review them, and recommend that the bylaws be approved and filed, or not approved and declared void, on behalf of the Minister. BSL staff is available for consultation while preparing the building bylaw and for review of the draft building bylaw before presenting it to the local authority.

BSL staff receives and review applications for Building Official licences. Applicants provide information about their education and experience background, and provide evidence that they have passed the appropriate licensing examination. Municipalities can contact staff for a list of persons who have obtained a Building Official licence, and the level of licence that they have attained.

BSL staff is available to provide advice on administration of the UBAS Act and Regulations. This advice is generally opinions about typical procedures, regulatory requirements and proposed methods for the local authority to adopt. BSL staff is not legal experts and can only provide technical opinions. Local authorities are advised to consult with their legal counsel in situations where legal advice is required.

BSL staff is available to provide technical interpretations of the UBAS Act and regulations. They may be consulted by municipal Building Officials when they require verification of their interpretations of the UBAS Act and regulations and the *National Building Code of Canada*.

BSL staff may be contacted at:

Building Standards and Licensing Branch
Ministry of Government Relations
100 – 1855 Victoria Avenue
Regina, Saskatchewan S4P 3T2
Telephone (306) 787-4113
Fax (306) 798-4172
Email building_standards@gov.sk.ca
Web www.saskatchewan.ca/buildingstandards

BYLAW NO. _____

A BYLAW RESPECTING BUILDINGS

The _____ (municipal council, regional park authority) of the _____ of _____ in the Province of Saskatchewan enacts as follows:

SHORT TITLE

1. This bylaw may be cited as the Building Bylaw.

INTERPRETATION/LEGISLATION

2. (1) "Act" means *The Uniform Building and Accessibility Standards Act* being Chapter U-1.2 of the Statutes of Saskatchewan, 1983-84 and amendments.

(2) "Administrative Requirements" means *The Administrative Requirements for Use with The National Building Code*.

(3) "Authorized representative" means a building official appointed by the local authority pursuant to subsection 5(4) of the Act or the municipal official.

(4) "Local authority" means the _____ of _____.

(5) "Regulations" means regulations made pursuant to the Act.

(6) Definitions contained in the Act and Regulations shall apply in this bylaw.

SCOPE OF THE BYLAW

3. (1) This bylaw applies to matters governed by the Act and the Regulations, including the *National Building Code of Canada*, and the Administrative Requirements.

(2) Notwithstanding subsection (1), references and requirements in the Administrative Requirements respecting matters regulated by the Act and Regulations shall not apply.

(3) Notwithstanding subsection (1), references and requirements in the Administrative Requirements respecting "occupancy permits" shall not apply except as and when required by the local authority or its authorized representative.

GENERAL

4. (1) A permit is required whenever work regulated by the Act and Regulations is to be undertaken.

(2) No owner or owner's agent shall work or authorize work or allow work to proceed on a project for which a permit is required unless a valid permit exists for the work to be done.

- (3) The granting of any permit that is authorized by this bylaw shall not:
- (a) entitle the grantee, his successor or assigns, or anyone on his behalf to erect any building that fails to comply with the requirements of any building restriction agreement, bylaw, act and/or regulation affecting the site described in the permit, or
 - (b) make either the local authority or its authorized representative liable for damages or otherwise by reason of the fact that a building, the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, use or occupancy of which has been authorized by permit, does not comply with the requirements of any building restriction agreement, bylaw, act and/or regulation affecting the site described in the permit.

BUILDING PERMITS

5. (1) Every application for a permit to construct, erect, place, alter, repair, renovate or reconstruct a building shall be in a form as required by the local authority, and shall be accompanied by two sets of the plans and specifications of the proposed building, except that when authorized by the local authority or its authorized representative plans and/or specifications need not be submitted.
- (2) If the work described in an application for building permit, to the best of the knowledge of the local authority or its authorized representative, complies with the requirements of this bylaw, the local authority, upon receipt of the prescribed fee, shall issue a permit in a form required by the local authority and return one set of submitted plans to the applicant.
- (3) The local authority may, at its discretion, have plan review, inspection and other services for the purpose of enforcement of the Act and Regulations provided by building officials designated by the minister to assist the local authority pursuant to subsection 4(4) of the Act.
- (4) The local authority may, at its discretion, have plan review, inspection and other services provided by a person, firm or corporation employed under contract to the local authority.
- (5) The permit fee for construction, erection, placement, alteration, repair, renovation or reconstruction of a building shall be based on the following fee schedule.
- [insert Building Permit Fee Schedule]*
- (6) The local authority may estimate the value of construction for the work described in an application for building permit, for the purpose of evaluating a permit fee, based on established construction costs, owner's statement of costs or constructor's contract values, or similar methods selected by the local authority.
- (7) Approval in writing from the local authority or its authorized representative is required for any deviation, omission or revision to work for which a permit has been issued under this section.
- (8) All permits issued under this section expire
- (a) six months from date of issue if work is not commenced within that period, or
 - (b) if work is suspended for a period of six months, or
 - (c) if work is suspended for a period of longer than six months by prior written agreement of the local authority or its authorized representative.
- (9) The local authority may, at its discretion, rebate a portion of a permit fee where work is reduced in scope or discontinued, or where other exceptional circumstances occur.

DEMOLITION OR REMOVAL PERMITS

6. (1) (a) The fee for a permit to demolish or remove a building shall be \$ _____.
- (b) (i) In addition, the applicant shall deposit with the local authority the following sum to cover the cost of restoring the site after the building has been demolished or removed to such condition that it is, in the opinion of the local authority or its authorized representative, not dangerous to public safety.

[insert Demolition or Removal Deposit Schedule]

(ii) If the applicant who demolishes or removes the building restores the site to a condition satisfactory to the local authority or its authorized representative, the sum deposited, or portion thereof, shall be refunded.

(2) Every application for a permit to demolish or remove a building shall be in a form required by the local authority.

(3) Where a building is to be demolished and the local authority or its authorized representative is satisfied that there are no debts or taxes in arrears or taxes outstanding with respect to the building or land on which the building is situated, the local authority, upon receipt of the fee and deposit prescribed, shall issue a permit for the demolition in a form required by the local authority.

(4) Where a building is to be removed from the local authority, and the local authority or its authorized representative is satisfied that there are no debts or taxes in arrears or taxes outstanding with respect to the building or land on which the building is situated, the local authority, upon receipt of the fee and deposit prescribed, shall issue a permit for the removal in a form required by the local authority.

(5) (a) Where a building is to be removed from its site and set upon another site in the local authority, and the local authority or its authorized representative is satisfied that there are no debts or taxes in arrears or taxes outstanding with respect to the building or land on which the building is situated, and the building when placed on its new site and completed, to the best of the knowledge of the local authority or its authorized representative, will conform with the requirements of this bylaw, the local authority, upon receipt of the fee and deposit prescribed, shall issue a permit for the removal in a form required by the local authority.

(b) In addition, the local authority, upon receipt of the fee prescribed in Section 5(5), shall issue a permit for the placement of the building in a form required by the local authority.

(6) All permits issued under this section expire six months from the date of issue except that a permit may be renewed for six months upon written application to the local authority.

ENFORCEMENT OF BYLAW

7. (1) If any building or part thereof or addition thereto is constructed, erected, placed, altered, repaired, renovated or reconstructed in contravention of any provision of this bylaw, the local authority or its authorized representative may take any measures as permitted by Part V of the Act for the purpose of ensuring compliance with this bylaw including, but not limited to:
- (a) entering a building,
 - (b) ordering production of documents, tests, certificates, etc. relating to a building,
 - (c) taking material samples,
 - (d) issuing notices to owners that order actions within a prescribed time,
 - (e) eliminating unsafe conditions,
 - (f) completing actions, upon an owner's non-compliance with an order, and adding the expenses incurred to the tax payable on the property, and
 - (g) obtaining restraining orders.

(2) If any building, or part thereof, is in an unsafe condition due to its faulty construction, dilapidated state, abandonment, open or unguarded condition or any other reason, the local authority or its authorized representative may take any measures allowed by subsection (1).

(3) The owner of a building for which a permit has been issued or for which actions are being taken in compliance with an order shall give notice in writing to the local authority as required in Section 17.2 of the Act including, but not limited to:

- (a) on start, progress and completion of construction,
- (b) of change in ownership prior to completion of construction, and
- (c) of intended partial occupancy prior to completion of construction.

SUPPLEMENTAL BUILDING STANDARDS

8. Void.

SPECIAL CONDITIONS

9. (1) Notwithstanding the requirements of the Regulations, an architect or professional engineer registered in the province of Saskatchewan shall be engaged by the owner for assessment of design and inspection of construction or certification of a building or part of a building where required by the local authority or its authorized representative.

(2) An up-to-date plan or survey of the site described in a permit or permit application prepared by a registered land surveyor shall be submitted by the owner where required by the local authority or its authorized representative.

(3) It shall be the responsibility of the owner to ensure that change in property lines and/or change in ground elevations will not bring the building or an adjacent building into contravention of this bylaw.

(4) It shall be the responsibility of the owner to arrange for all permits, inspections and certificates required by other applicable bylaws, acts and regulations.

PENALTY

10. (1) Any person who contravenes any of the provisions of this bylaw shall be liable to the penalties provided in Section 22 of the Act.

(2) Conviction of a person or corporation for breach of any provision of this bylaw shall not relieve him from compliance therewith.

[REPEAL EXISTING BYLAW, IF NECESSARY]

Enacted pursuant to Section 14 of
CHAIRPERSON

*The Uniform Building and Accessibility
Standards Act*

Certified a true copy of bylaw number _____
adopted by resolution on the _____
day of _____, 20 _____

MAYOR/REEVE/PARK AUTHORITY

MUNICIPAL OFFICIAL
(Administrator/Clerk/Secretary-Treasurer)

(SEAL)

MUNICIPAL OFFICIAL
(Administrator/Clerk/Secretary-Treasurer)