




BUILDING STANDARDS ADVISORY

Subject Zoning Bylaw Implications	Approved by 	Advisory Number A-17 Page 1 of 2
	Effective Date April 2004	NBC 1995 References(s) The UBAS Act & Section 9.10

Compliance with *The Uniform Building and Accessibility Standards Act* (the UBAS Act) and regulations is addressed in this advisory. NBC 1995 means the National Building Code of Canada 1995 as adopted by regulations under the UBAS Act. Words in italics, other than Act titles, are defined in the NBC 1995.

Municipal zoning bylaws in Saskatchewan are authorized by *The Planning and Development Act, 1983* (the P&D Act). Building bylaws in Saskatchewan are authorized by *The Uniform Building and Accessibility Standards Act* (the UBAS Act). There are several significant interactions between these Acts and bylaws, and their enforcement.

PERMITS

Zoning bylaws set out the requirements for development permits. Building bylaws set out the requirements for building permits. Some municipalities use a single permit form and approval to cover both permits. Issuance of a single permit signifies approval of both sets of standards (development standards and building and accessibility standards). Section 76(8) of the P&D Act says that a building permit is not valid unless a development permit (where one is required) is issued.

MINIMUM FRONT, REAR AND SIDE YARDS

Setting minimum yard dimensions in zoning bylaws may have unintended consequences with respect to construction requirements set in the National Building Code of Canada (NBC) 1995, as adopted and amended under the UBAS Act. The NBC 1995 does not restrict the distance between a building and the property line, but it does set increasingly stringent construction requirements as the building is placed closer to the property line.

For example, when a side yard for a one-unit dwelling is set at 1.2 m, the NBC 1995 requirements allow what is considered as typical residential construction (i.e., combustible construction and cladding, no fire-resistance rating, some unprotected glazed openings, and roof overhangs). However, when a side yard for a dwelling unit is located at 0.9144 m from the property line, typical residential construction is restricted: the exterior wall will have to have a 45 minute fire-resistance rating and no glazed openings will be allowed. It is likely that builders and owners will be surprised with having to comply with these requirements. Thus, setting a side yard at less than 1.2 m in a residential zone may present additional challenges in completing building code enforcement. This challenge is further increased, if the owner applies in the future to construct a secondary suite in the basement.

A municipal Council's decisions about the contents of their zoning bylaw are not restricted by requirements in the UBAS Act and the NBC 1995. Nonetheless, impact of the NBC 1995 requirements on the required construction may not be obvious to Council. A licensed building official should be consulted to identify any unintended consequences.



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Subject Zoning Bylaw Implications	Approved by <i>Margaret Kuzylek</i>	Advisory Number A-17 Page 2 of 2
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ENFORCEMENT PERSONNEL

The P&D Act authorizes a municipality to appoint a development officer to administer the zoning bylaw. No other criteria or qualifications are set.

The UBAS Act authorizes a municipality to appoint a building official to enforce the Act, regulations and the building bylaw. The building official must hold a valid building official licence issued by the Province, and may not complete enforcement work outside the authority of the class of licence held. The municipality is required to issue a certificate of appointment.

One person may be appointed and perform the duties of both the development officer and the building official, as long as the person holds a valid building official licence.

The UBAS Act does not address whether a member of the council of a municipality may act as that municipality's building official. The single limitation that is imposed by the UBAS Act is that municipalities are only permitted to appoint licensed building officials. So all persons who hold a valid building official licence, even a member of the council, would be eligible for appointment under the UBAS Act. However, The Urban Municipality Act, 1984 and The Rural Municipality Act, 1989 both prohibit the appointment of elected officials as municipal employees. Even if the council member provides enforcement services on a contract basis, the council member and the municipality would run the risk of perceived or real conflict of interest.

APPEALS

As with the bylaws, two separate appeal mechanisms are established by the P&D Act and the UBAS Act.

Every zoning bylaw is required to establish a local Development Appeals Board. Two of its functions are to hear appeals related to development permits and compliance with the development standards set in the zoning bylaw. Decisions of local Development Appeals Boards may be further appealed to the Saskatchewan Municipal Board.

There is no local appeal mechanism required under the UBAS Act. Appeals related to compliance with the building and accessibility standards are heard by the Saskatchewan Building and Accessibility Standards Appeal Board, which is created and supported by the province. Decisions of this Appeal Board may not be appealed, except to a court on a matter of law.

Sometimes a proposed building will not conform to either the zoning bylaw or the building code. In these cases, the applicant should be informed about the non-compliant items for both the zoning bylaw and the building code, and the development permit should be refused. This will give the owner the right to appeal the decision, as prescribed in the P&D Act. This matter should be resolved before any further actions under the UBAS Act are undertaken.