

BUILDING RULES 2007

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1 Name

These are the Building Rules 2007.

2 Interpretation

In these Rules —

“building” means the whole or part of any structure used or capable of being used —

- (i) For human habitation;
- (ii) As a place in which work is performed;
- (iv) For storage of commodities articles or things,

and includes every other structure associated with such habitation work or storage, but does not include a structure that is temporary having regard to the purpose for which it shall be used;

“Code” means the Tokelau Building Code prescribed under Rule 4;

“construct” means to carry out work (other than temporary work) that has the purpose or effect of supporting, adding to, altering, or adapting a building and includes work that has the purpose or effect of supplying water or electricity to or within a building;

“inspector” means the inspector appointed under Rule 3;

“permit” means a building permit issued under these Rules.

3 Inspector

An inspector shall be appointed in the Tokelau Public Service for the purpose of administering these Rules.

4 Building Code

- (1) The standards and controls relating to the construction of buildings set out in the Schedule shall be the Tokelau Building Code.

- (2) The Tokelau Building Code shall apply to the construction of every building.

5 Building Committee

- (1)
 - (i) There shall be a Building Committee for each village.
 - (ii) The Building Committee shall consist of the Pulemuku, a carpenter, a plumber and an electrician, the Faipule (as Chairperson), and the inspector.
- (2) No person shall erect or make structural modifications to a building in a village without a permit and the prior approval of the Building Committee.
- (3) The Building Committee may inspect any building and give oral or written directions consistent with these Rules, the Code, the Health Rules 2003 and the Electricity, Gas and Dangerous Goods Rules 2003 in relation to the site, construction, materials, water supply, sanitation facilities and other health requirements of the building.
- (4) Any person who fails to comply with all reasonable directions of the Building Committee commits an offence.
- (5)
 - (i) Where a person fails to comply within a reasonable time with a written direction made under this Rule the inspector may modify or demolish the building in accordance with the direction.
 - (ii) Where the inspector acts under subparagraph (i) the village shall have a claim against the owner of the building for the costs incurred in making the modification or the demolition.

6 Application for permit

- (1) A person who wishes to construct a building shall apply to the Building Committee for a permit in respect of the building.
- (2) Every application under paragraph (1) shall contain all the information that the inspector may reasonably require to ensure that the building complies with the Code and include —
 - (i) A site plan detailing —
 - (I) the location of the building and distance from each boundary measured from the outer extremities of the building;

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- (II) the distance from any existing building within the boundaries of the site measured from the outer extremities of each building;
 - (III) the width of any road or access way adjacent to a boundary;
 - (IV) the location of any water bore and its distance from any waste disposal facility measured from the outer limits of such facility;
 - (V) the point at which electricity and water will be made available to the site and the location of the means by which the building shall be supplied;
- (ii) A design plan with drawing detailing —
 - (I) at least 4 elevations of the building;
 - (II) at least one section of the building;
 - (III) the stud height; and
 - (IV) the ties;
 - (iii) Specifications;
 - (iv) The dates upon which it is intended —
 - (I) that construction will commence;
 - (II) that the placement of foundations, and reinforcing studs will be completed;
 - (III) the walls (without wall linings) and roof will be completed;
 - (IV) fixing of wall linings will commence;
 - (V) that construction will be completed;
 - (v) The place where the construction will take place;
 - (vi) The name and address of the person who will be the owner of the building;
 - (vii) The name and address of the person who will be responsible for the construction of the building, and the name and address of every subcontractor.
- (3) No permit will be granted unless the information required under paragraph (2) is submitted to the inspector and the building complies with the Code.

- (4) In approving the issue of a permit the Building Committee may, subject to these Rules and the Code —
- (i) Require an existing building upon which construction work is to be undertaken, in respect of which work a permit will issue, to comply with the Code to the extent that the work to be undertaken allows;
 - (ii) Impose such reasonable terms and conditions that the inspector deems necessary to ensure that the Code is complied with.
- (5) Every applicant for a permit, or where the applicant is absent or unable to do so, the person responsible for the construction of the building, shall notify the inspector in writing of every deletion from or addition to information contained in an application for a permit.
- (6) Every person commits an offence and upon conviction shall be liable to a fine of 3 penalty units who engages or who causes any other person to be engaged in the construction of a building —
- (i) Other than in accordance with information supplied to the inspector; and
 - (ii) Without the prior written approval of the inspector to the variation of such information.

7 Validity of permit

Every permit entitles the applicant to commence the construction of the building in respect of which it is issued and remains in force until the construction of the building is completed consistent with the Code unless —

- (i) Construction is not commenced within 12 months from the date that the permit was issued, in which case the permit is automatically cancelled; or
- (ii) Construction of the building ceases for a continuous period of 6 months, in which case the permit is automatically cancelled; or
- (iii) The permit is suspended under Rule 9 in which case the permit has no effect during the period for which it is suspended.

8 Inspection

- (1) It is a condition of every permit that where the construction of a building involves work to be inspected, then no person engaged in the construction undertake any other work that will have the effect of

preventing the inspector from carrying out a visual inspection of that work, until the inspector has stated in writing that the other work may proceed.

- (2) In respect of work to be inspected, every person responsible for the construction of a building shall –
 - (i) Notify the inspector when such work may be inspected; and
 - (ii) Prohibit any work that will have the effect of preventing the inspection.
- (3) In these Rules, work to be inspected includes –
 - (i) The footings and foundations (including steelwork) prior to the pouring of concrete;
 - (ii) The wall framing prior to the affixing of wall coverings;
 - (iii) The roof framing prior to the affixing of ceilings or roofing.
- (4) The inspector may, at any reasonable time, enter any land on which a building is being constructed and into any premises in respect of which a permit has been issued for the purposes of –
 - (i) Determining whether a permit has been issued; or
 - (ii) Ascertaining whether the provisions of these Rules, the Code and any permit are being complied with;
- (5) For the purposes of paragraph (1), the inspector may interview any person who appears to be engaged in the construction and every person so interviewed shall, if within his knowledge, answer all questions put to him by the inspector.
- (6) Every person who prevents, obstructs or misleads the inspector in the performance of his duties under this Rule, or who fails to answer any question put to him under paragraph (5), commits an offence.

9 Suspension of permit

- (1) The inspector may, suspend a permit where –
 - (i) The Code is not being complied with; or
 - (ii) The provisions of the permit are not being complied with; or
 - (iii) The matters set out in a requisition have not been complied; or
 - (iv) He is prevented by the owner of the building or his agents servants, workmen or employees or the person responsible for the construction of the building from determining whether the provisions of the Code or the permit are being complied with.

- (2) Every permit that is suspended under paragraph (1) remains suspended until –
 - (i) The person responsible for the construction of the building causes such construction to comply with any requisition or the provisions of the Code or permit; or
 - (ii) The inspector is permitted to determine whether the provisions of the Code or the permit are being complied with and such determination has been made.
- (3) Where a permit is suspended, no person shall, while the permit remains suspended, undertake, or cause to be undertaken any further construction of the building to which the permit relates other than construction that is necessary to cause the building to comply with the requisition, the Code or the permit.

10 Demolition order

- (1) Where a person is charged with an offence under these Rules the Commissioner may in addition to imposing any penalty that may be prescribed, but subject to paragraph (2), order that the building or such part of a building as the Commissioner designates be removed, taken down, or demolished under the supervision of the inspector.
- (2) The court shall not order the removal, taking down, or demolition of a building unless –
 - (i) The removal taking down or demolition will facilitate the inspector carrying out an inspection under Rule 8; or
 - (ii) The building to be removed, taken down, or demolished poses a threat to human life; or
 - (iii) The building to be removed, taken down, or demolished poses a threat to human health.

11 Dangerous buildings

- (1) Upon being satisfied that any building is –
 - (i) In such a condition to be dangerous to persons in it or in any adjoining building or on any adjoining land or to passers-by; or

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- (ii) In a dilapidated or ruinous condition and is being used in a disorderly manner so as to be obnoxious to the neighbouring inhabitants or to the public;

the Building Committee may, after not less than 3 month's notice to the owner of the building, order the building to be secured or taken down, or as the case may be, repaired or taken down as the Building Committee thinks fit, within a time to be specified in the order.

- (2) Every order requiring the building to be secured or repaired shall specify the manner in which the building shall be so secured or repaired.
- (3) If the order is not obeyed, the inspector may cause the building to be secured or taken down or repaired in compliance with the order.
- (4) The inspector may recover from the owner the cost of securing or taking down or repairing any building under this section, together with all expenses incurred by the inspector under this Rule.
- (5) Any such notice or order to the owner may, in the absence of the owner, be given by fixing the notice or order on the building.
- (6) If the building is taken down by the inspector, he may destroy or sell the materials, and apply the proceeds to payment of the expenses incurred under this Rule, and shall on demand pay any balance to the owner.

12 Offences

- (1) Every person who contravenes these Rules commits an offence and upon conviction shall be liable to a fine not exceeding 3 penalty units.
- (2) Where a fine is imposed for the breach of these Rules the Commissioner may in addition to imposing such fine order that the person convicted pay a sum not exceeding \$20 for each day that the offence continues after the date on which the conviction is entered.

13 Rules to bind Government

These Rules shall bind the Government.

14 Repeal

[Spent]

SCHEDULE

Building Code
Commentary on the Building Code
Home Building Manual

Exceptions: Such adaptation as necessary to Tokelau circumstances – no adaptation is valid unless it provides a standard of health and security that is as good or better than that in the Code.

[Schedules not reproduced]
