

CHAPTER 29

FREEPORT BYE-LAWS

**FREEPORT (BUILDING CODE AND SANITARY
CODE) BYE-LAWS**
(SECTION 3)S.I. 61/1967
S.I. 39/1986
S.I. 51/1996*[Commencement 9th November, 1967]*

- 1.** These Bye-laws may be cited as the Freeport (Building Code and Sanitary Code) Bye-laws. Title.
- 2.** In these Bye-laws, unless the context otherwise requires — Interpretation.
- “the Act” means the Freeport Bye-laws Act;
- “the Authority” means the Port Authority;
- “bye-law” means a bye-law made and approved in accordance with the provisions of the Act;
- “the Code” means the combined Building Code and Sanitary Code referred to in bye-law 3 hereof as amended from time to time;
- “prescribed” means prescribed by the Code.
- 3.** In compliance with the requirements of Clause 3(1) and (2) of the Agreement made between the Port Authority and the Governor of the Bahama Islands on the First day of March, A.D., 1966 and now of record in the Registry of Records of The Bahamas in Volume 963 at pages 219 to 268, the Port Authority hereby declares that the combined Building Code and Sanitary Code (a copy of which, authenticated by the Common Seal of the Grand Bahama Port Authority, Limited has been deposited for inspection and safe custody at the office of the Commissioner of the Freeport District of the Grand Bahama Island) is and continues to be applicable to the Port Area. Declaration and identification of the Code.
- 4.** It shall be lawful for the Authority in pursuance of Clause 3(1) of the said Agreement between the Port Authority and the Governor made on the First day of Future amendment of the Code.

March, 1966, to promulgate amendments for the purpose of revising the Code from time to time in the light of technical developments and the changing needs of the community in the Port Area but no such amendment shall come into force unless and until the terms thereof are set out in a bye-law made by the Port Authority under the provisions of section 3 of the Act, with the approval of the Minister for Health and the Minister for Works.

Availability of
the Code to the
public.

5. It shall be the duty of the Authority to cause the Code to be printed (including such amendments as may be promulgated by bye-law from time to time) and to be made available at the Authority's offices in the Port Area for purchase by members of the public at a price which shall be fixed by the Authority from time to time not exceeding twenty-five dollars per copy.

Interpretation of
terms in the
Code.

6. Any reference in the Code to "the Grand Bahama Development Company Limited", "the Development Company", "the Development Agent", "designated agent", "the Agent" or "the Building Director" shall be read and construed in each case as a reference to the "Port Authority".

Obligation to
submit plans.

- 7.** No person shall within the Port Area —
- (a) lay out any new road or new subdivision or publish any development plan for any area; or
 - (b) construct or commence to construct any building or other structure; or
 - (c) construct or commence to construct any drainage or sewage works; or
 - (d) construct or commence to construct any water supply installation; or
 - (e) improve, alter, or add to any development plan, installation, building or structure; or
 - (f) carry out or commence to carry out any other work requiring the approval of the Authority under the Code,

without the prior approval of the Authority granted in pursuance of the provisions of the Code.

Passing or
rejection of
plans.

8. (1) Where in accordance with the provisions of the Code and these Bye-laws the plans for any proposed work are deposited with the Authority, the Authority shall pass the plans unless they are defective or show that the

proposed work would contravene any of the provisions of the Code or any bye-law for the time being in force and if the plans are defective or show that the proposed work would contravene the provisions of the Code or any such bye-law, the Authority shall reject the plans unless they shall determine to relax any such provision or to dispense with compliance therewith.

(2) The Authority shall within forty-five days from the deposit of any plans give notice in writing to the person by whom or on whose behalf they were deposited whether or not the plans are passed. In the case of rejection such notice shall specify the defect on account of which or the provision of the Code or any bye-law for the non-conformity of which the plans have been rejected.

(3) Where any plans are rejected by the Port Authority under the provisions of this bye-law, the applicant may within thirty days of being notified of the Port Authority's decision, lodge an appeal with the Minister for Health and the Minister for Works who, after taking into consideration any written submission of the parties, shall determine the matter.

9. (1) If any work to which the provisions of the Code or any bye-law for the time being in force are applicable, contravenes such provision, the Authority (without prejudice to their right to take any other lawful proceedings) may by notice in writing require the owner either to pull down or remove the work or, if he so elects, to effect such alterations therein as may be necessary to make the work comply with the said provisions.

Power to require removal or alteration of work not in conformity with the Code etc.

(2) The person to whom notice has been given under the provisions of paragraph (1) of this bye-law shall comply with such notice within thirty days or such longer period as a magistrate may fix on such person's application. In default of due compliance with such notice the Port Authority may apply to the magistrate for an order authorising the Authority to pull down, remove or alter the work, as the case may be, and thereupon the Authority may do what is necessary to comply with such order and may recover summarily as a civil debt the expenses reasonably incurred in so doing from the person in default.

(3) The powers conferred upon the Authority by paragraph (2) of this bye-law shall not be exercisable after the expiration of twelve months from the date of completion of the work in question.

Failure to permit mandatory inspections, etc.

10. Any person who, having obtained the approval of the Port Authority for the plans of any proposed work, proceeds to carry out such work and —

- (a) fails to give notice to the Authority requiring them to carry out any prescribed mandatory inspection during the progress of the work; or
- (b) commences to execute a further stage of the work before any prescribed mandatory inspection of an earlier stage of the work has taken place and has been passed by the Authority in the prescribed manner; or
- (c) occupies any new building or structure or any newly constructed or altered part of an existing building or structure without having first obtained such certificate of occupancy in relation thereto as is prescribed,

shall be guilty of an offence against these Bye-laws.

Dangerous dilapidated or incomplete buildings or structures.
S.I. 39/1986.

11. (1) Where it appears to the Authority that any building or structure or part of a building or structure within the Port Area —

- (a) is in such a condition or is used to carry such loads as to be dangerous, the Authority may —
 - (i) where the danger arises from the condition of the building or structure, serve a notice on the owner thereof requiring him to execute such work as may be necessary to obviate the danger or, to demolish the building or structure, or any dangerous part thereof, and remove any rubbish resulting from the demolition within a reasonable time to be specified in the notice;
 - (ii) where the danger arises from overloading of the building or structure, serve a notice on the owner restricting the use thereof until all necessary work to obviate the danger has been executed to its satisfaction; or
- (b) is by reason of its ruinous, dilapidated or incomplete condition, seriously detrimental to the amenities of the neighbourhood, the Authority may —

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- (i) serve notice on the owner requiring him to execute such works of repair and/or restoration and/or improvement and/or completion as may be necessary for remedying the cause of complaint within a reasonable time to be specified in the notice; or
 - (ii) serve notice on the owner requiring him to demolish the building or structure or any part thereof and to remove any rubbish or debris resulting from such demolition within a reasonable time to be specified in the notice if in the opinion of the Authority the state and condition of the building or structure is such that the cause of complaint cannot be remedied otherwise than by such demolition.

(2) Any notice under the provisions of paragraph (1) of this bye-law shall be served upon the owner of the building or structure affected thereby in accordance with bye-law 14.

(3) If any person on whom a notice under paragraph (1) of this bye-law is served by the Authority for the execution of works, or the demolition of a building or structure or of any part of a building or structure, and the removal of any rubbish resulting from the demolition fails to comply with the notice within the time specified therein, the Authority may take such steps as may be necessary to remedy the cause of complaint in such manner and within such time as it thinks fit and may recover the expenses reasonably incurred by it in so doing from the person in default, and without prejudice to the right of the Authority to exercise those powers such person shall be guilty of an offence under these Bye-laws.

(4) If the Authority is satisfied that any building or structure or part of a building or structure, is in such a condition, or is used to carry such loads, as to be dangerous and that immediate action should be taken for the protection of any persons whose safety may be imperilled thereby, the Authority may shore up or fence off the building or structure, and may recover as a civil debt the expenses of any action reasonably taken by it under this paragraph from the owner of the building or structure.

Dangerous
dilapidated or
incomplete
retaining walls.
S.I. 51/1996.

12. (1) Where it appears to the Authority that any seawall, bulkhead, groin or other retaining wall along an ocean front, bay, creek, canal, lake or waterway within the Port Area —

- (a) is by reason of its cracked, broken, damaged or eroded condition a danger to the public or to the land appurtenant thereto or to any adjoining or neighboring land; or
- (b) is by reason of its unsightly, ruinous, dilapidated or incomplete condition; seriously detrimental to the amenities of the neighborhood,

the Authority may serve notice on the owner of the seawall, bulkhead, groin or other retaining wall requiring that owner to execute such works of repair, restoration, improvement, or completion as may be necessary for remedying the cause of complaint within such reasonable time as may be specified in the notice.

(2) The provisions of paragraphs (2), (3) and (4) of bye-law 11 shall, with the necessary changes, apply in respect of any seawall, bulkhead, groin or other retaining wall in like manner as they apply in respect of any building or structure referred to in those paragraphs.

Special
emergency
powers.
S.I. 39/1986.

13. (1) If, at any time, it appears to the Authority that any building or structure, or part of a building or structure, is, due to the occurrence of flood, fire, hurricane or any other disaster (whether caused by God or man), in such a condition as to be dangerous to persons or property in its vicinity, and is beyond repair, and that such danger cannot be effectively obviated by the exercise by it of any of the powers conferred upon the Authority by Bye-law 11, it may cause the building or structure or part of the building or structure to be demolished and may recover as a civil debt the expenses incurred in so doing:

Provided that before so demolishing any building, all articles or things within the building or its curtilage, which, in the opinion of the person charged by the Authority with such demolition, appear to be of value and to be capable of being removed without endangering the safety of any person, shall be removed and stored by the Authority until claimed by the owner, or for a period of twelve months, whichever may be the less:

and provided further that any measure taken in furtherance of the execution of the powers conferred upon the Authority by this Bye-law shall be such as to cause as little damage as is reasonably practicable in the circumstances.

(2) Any expenses incurred by the Authority in the exercise of its powers under this Bye-law may be recoverable from the owner of the building or structure as a civil debt:

Provided that where any articles or things removed from any building or its curtilage in accordance with this bye-law have remained unclaimed by the owner for a period exceeding twelve months, the same may be sold and the proceeds of sale applied to the discharge of any such expenses not paid by the owner and any balance remaining thereafter shall be held in escrow by the Authority for the benefit of the owner.

14. Any notice, order or other document which is required or authorised by or under these Bye-laws or the Building Code to be given to or served upon any person may be given or served —

Service of notices
etc.
S.I. 39/1986.

- (a) by delivering it to that person; or
- (b) by leaving it or sending it in a prepaid registered letter addressed to him at his usual or last known residence;
- (c) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office or by sending it in a prepaid registered letter addressed to him at that office;
- (d) in the case of any notice, order or other document which is to be given or served on the owner of any premises, if it is impossible or is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to “the owner” of the premises (naming them) to which it relates and delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises”.

Offences.

15. Any person who contravenes or fails to comply with any of the provisions of these Bye-laws shall be guilty of an offence against the Act and shall be liable on summary conviction to a fine not exceeding one hundred and forty Bahamian dollars (B\$140.00) or imprisonment for a period not exceeding three months.

Proof of Code.

16. The production of a printed copy of the Code upon which is indorsed a certificate purporting to be signed and dated by the Secretary of the Grand Bahama Port Authority, Limited stating —

- (a) that the Code was made by the Port Authority in pursuance of Clause 3(1) and (2) of the Agreement with the Government dated the first day of March, 1966, and that amendments made subsequent to the coming into operation of these Bye-laws were made with the approval of the Minister of Health and the Minister of Works;
- (b) that the said copy is a true copy of the Code with all subsequent amendments in force on the day specified; and
- (c) that copies of such Code as amended were available for purchase by members of the public in the Port Area at a price not exceeding twenty-five dollars,

shall be *prima facie* evidence of the facts stated in such certificate without proof of the handwriting or official position of the person purporting to sign such certificate in pursuance of this bye-law.