

# Building Standards Advisory

Promoting construction of safe, healthy, habitable buildings

## Farm Buildings and the National Building Code

### Question

“How does the National Building Code apply to *farm buildings* in Saskatchewan?”

### Answer

*Farm buildings* are exempted from application of the National Building Code (NBC) in Saskatchewan by provision of *The Uniform Building and Accessibility Standards Act* (the UBAS Act).

### Background

The UBAS Act establishes the framework under which Saskatchewan can develop, adopt and implement building standards.

The definition of farm building in clause 2(1)(c) of the UBAS Act states:

“**Farm building**” means a *building* associated with a farming operation and includes a residence consisting of not more than two dwelling units, but does not include *buildings* associated with commercial operations, multiple-occupancy residences, or assembly buildings.

The UBAS Act provides the following in Section 7.

Subsection 7(1) states:

Subject to subsections (2) and (3), the owner of each building in Saskatchewan shall ensure that the building is designed, constructed, erected, placed, altered, repaired, renovated, demolished, relocated, removed, used or occupied in accordance with the building standards.

Clause 7(2)(c) states:

- (2) The building standards do not apply to:
  - (c) a farm building;

Subsection 7(3) states:

- (3) Notwithstanding clause (2)(c) but subject to sections 23.1 and 24.2:
  - (a) if a rural municipality passes a bylaw declaring that the building standards apply to buildings in all or a part of the rural municipality, the building standards apply to the buildings described in the bylaw; and
  - (b) if a city, town, village or resort village passes a bylaw declaring that the building standards apply to farm buildings in the municipality, the building standards apply to the farm buildings described in the bylaw.

Compliance with *The Uniform Building and Accessibility Standards Act*, regulations and the National Building Code of Canada 2010 is addressed in this advisory. Words in italics, other than Act titles, are defined in the NBC 2010.

A growing number of municipalities have questioned the application of the NBC to farm buildings. Some municipalities considered the exemption to only apply to small farm buildings owned and operated by families and that large farm buildings owned by corporate interests were commercial operations to which the NBC applied.

In 2015, one rural municipality and their appointed building official ordered the owner of a large farm building to modify the construction so that it complied with the *high hazard industrial* occupancy classification in the NBC.

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The owner disagreed with that approach and appealed to the Saskatchewan Building and Accessibility Standards Appeal Board.

Following the initial appeal to the Appeal Board who agreed with the municipality and their building official, it was appealed to the court. The court quashed the decision and sent it back to the Appeal Board for a new hearing by a different panel of members. The subsequent decision of the Appeal Board found that the definition of “farm building” did not differentiate farm buildings by size, ownership model, or scale of production.

## Regulatory Change

In order to provide clarity to the agricultural sector, Municipalities, and building officials, *The Uniform Building and Accessibility Standards Regulations* (the UBAS Regulations) were amended in June 2016 with the addition of section 3.1. The purpose of this addition is to clarify application of the term “commercial operations” found in the definition of farm building.

Subsection 3.1, in force on September 1, 2016 states: **3.1** “For the purpose of clause 2(1)(i) of the Act and in these regulations, a building is associated with commercial operations and is not a farm building if the building is classified for assessment purposes in one of the following classes established in the regulations pursuant to *The Cities Act*, *The Municipalities Act* or *The Northern Municipalities Act*, 2010:

- (a) Commercial and Industrial;
- (b) Elevators;
- (c) Railway Rights of Way and Pipelines”.

In general application, a building on a farm that is used for primary production of agriculture products, in an unprocessed state, is a farm building and exempt from application of the NBC. A *building* on a farm that is purpose built to earn off-farm income, i.e. carpentry shop, metal fabricating, automotive repair, etc. will be

subject to the requirements of the NBC. This approach is consistent with provisions for the classification of property found in municipal legislation.

## Municipal Authority

Municipalities and others should note that subsection 7(3) of the UBAS Act provides the authority to municipalities to make decisions on the application of standards to farm buildings.

Prior to July 1, 2012, a rural municipality could, by resolution, request an amendment to *The Building and Accessibility Standards Administration Regulations* (the BASA Regulations) and apply building standards to those *buildings* described in the resolution. Between 1990 and 2012 approximately 20 rural municipalities applied for a regulatory change so that they could apply building standards to farm houses.

After July 1, 2012, all municipalities were provided the opportunity to exercise their discretion in the application of the standards to farm buildings. Subsection 7(3) of the UBAS Act requires that a municipality that chooses to apply standards to farm buildings adopt a suitable standard, detail it in their building bylaw and submit the bylaw for ministerial approval in accordance with section 23.1 of the UBAS Act.

Rural municipalities that had implemented application of building standards to farm houses or other *buildings* by amendment to the BASA Regulation continue to maintain the effect of that provision until the municipality chooses to update their building bylaw.

Where no conflict is found between the building bylaw and provisions of the UBAS Act, regulations and the NBC, the bylaw will be approved.

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This advisory is published by the Saskatchewan Ministry of Government Relation for purposes of providing information to users on the topic contained herein. In case of conflict between *The Uniform Building and Accessibility Standards Act* (the UBAS Act) and regulations, the National Building Code of Canada 2010 (NBC 2010) and this advisory, provision of the UBAS Act and , regulations and the NBC 2010 shall apply.