

**Improving Universal Design Requirements in the  
*New Brunswick Building Code***

**Prepared by:**

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## A CASE FOR UNIVERSAL DESIGN

### Background

The roles of persons with disabilities in society are ever expanding and need to be recognized. Not only are persons with disabilities consumers of services, they are also providers. People with disabilities participate in all aspects of community life, and in doing so, utilize all types of facilities. The percentage of persons with disabilities of all ages is already high and will increase over the next few decades.

It has become increasingly clear that universal design requirements in the current *Building Code* are insufficient to achieve the full inclusion of persons with disabilities in all aspects of society. Unfortunately, persons with disabilities who are either residents or visitors to New Brunswick have difficulty accessing all of the services and venues open to the general public due to lack of proper planning, consideration and implementation of universal design.

New Brunswick is one of the few provinces that does not expand upon the minimum requirements of the *National Building Code* with increased universal design requirements. Most other provinces have taken a much more proactive approach in making their building codes more responsive to the needs of persons with disabilities. Sadly, New Brunswick is trailing most other provinces in this regard.

### What is Universal Design?

Universal design, which is related to "inclusive design" and "design for all," is an approach to the design of products, services and environments to be usable by as many people as possible regardless of age, ability or situation. It links directly to the political concept of an inclusive society and its importance has been recognized by governments, business and industry.

Universal design is a relatively new paradigm that emerged from "barrier-free" or "accessible design" and "assistive technology." Barrier free design and assistive technology provide a level of accessibility for people with disabilities but they also often result in separate and stigmatizing solutions, such a ramp that is only available at the back entrance or a key operated stair lift. Universal design strives to be a broad-spectrum solution that helps everyone, not just people with disabilities. Moreover, it recognizes the importance of how things look. For example, while built up handles are a way to make utensils more usable for people with gripping limitations, some companies introduced larger, easy to grip and attractive handles as feature of mass produced utensils. They appeal to a wide range of consumers.

As life expectancy rises and modern medicine has increased the survival rate of those with significant injuries, illnesses and disabilities since birth, there is a growing interest in universal design. There are many industries in which universal design is having strong market penetration but there are many others in which it has not yet been adopted to any great extent.

Universal design is a part of everyday living and is all around us. The "undo" command in most software products is a good example. Color-contrast dishware with steep sides that assist those with visual problems as well as those with dexterity problems are another. Additional examples include cabinets with pull-out shelves, kitchen counters at several heights to accommodate different tasks and postures and low-floor buses that kneel and are equipped with ramps rather than lifts.

In this document, the terms "universal design" and "barrier-free design" are used interchangeably.

### **Statistics**

Although buildings which are universally designed will benefit everyone, it is important to point out the significant numbers of people with disabilities living in New Brunswick which can benefit from improved universal design requirements.

According to the most recent 2001 Statistics Canada disability survey, 70,690 New Brunswickers over 15 years of age have a disability related to mobility. This represents approximately 10% of the population. Several thousand more citizens have other types of disabilities related to seeing, hearing, agility and pain which make universal design important to them also.

New Brunswick has the third highest per capita number of persons with disabilities in Canada as well as the highest per capita number of seniors and both of these segments of the population are continuing to grow. Incidence of disability increases with age with up to 40% of New Brunswickers over 65 reporting some type of disability. Of this group, mobility related disabilities are reported by 80% of individuals.

An analysis done by the Royal Bank of Canada stated that "as Baby Boomers age they will spark a 1.4 million increase in the number of working age Canadians with some form of disability by 2010".

**Business model/spending power of persons with disabilities**

Persons with disabilities do not conform to the shut-in stereotype of the past, but possess buying power plus a desire to grow and learn as consumers and citizens.

According to the Royal Bank study, Canadians with disabilities have input on the spending decisions of a combined disposable income of \$25 billion annually, making this a spending group with significant clout. Additionally, spending choices of those accompanying people with disabilities such as friends, family and coworkers are also directly influenced by accessibility. Most people with disabilities and seniors live successfully on their own, eat in restaurants, go to movies, use products and services of all kinds and have an influence on a huge secondary market of friends and family in every walk of life.

In a July 2001 article in *Construction Canada*, architect Pamela Cluff observed that seniors and people with disabilities – two increasingly overlapping groups – taken together, "will represent between 20 to 25 per cent of the recreation, retail, entertainment, workplace and housing marketplaces in the next 10 years and beyond."

It is in the owner's interest to provide full access to buildings and services through preferred, not minimum, dimensions to eliminate insufficient accessibility provisions. Universally designed buildings provide greater opportunities for building owners. They increase the number of potential clients, employees and customers who can live, shop or work in the facilities.

**Requirements for Accessibility in the *Human Rights Act***

The New Brunswick *Human Rights Act* stipulates a right to accessible workplaces, public transit, schools, libraries, restaurants, shops, hotels, theatres *etc.* and places an obligation on businesses and government to make their facilities accessible. Failure to provide equal access to a facility, including a workplace is a violation of the *Act* and can form the basis of a human rights complaint.

The Human Rights Act applies to both new and existing buildings. It supersedes all other laws in New Brunswick, so meeting *Building Code* requirements is not enough if the result still discriminates. Even when building code barrier-free requirements were met, judgments have been made against building owners for not providing sufficient access for persons with disabilities.

***Accessibility for Ontarians with Disabilities Act (2005)***

It is worth referencing the *Accessibility for Ontarians with Disabilities Act (2005)* whose purpose is to benefit all Ontarians by:

developing, implementing and enforcing accessibility standards in order to achieve accessibility for Ontarians with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises on or before January 1, 2025;

This type of long-term approach is gaining increased popularity. Both private and public building owners are given enough lead time to budget for the necessary modifications and stakeholders know that progress is being made. The Premier's Council is not recommending this type of approach at this time, but it is monitoring progress in Ontario to determine whether such a law would be appropriate in New Brunswick.

**RECOMMENDATIONS****New Brunswick Building Code Act**

The proposed *New Brunswick Building Code Act* is an opportunity for the New Brunswick government to increase adherence and acceptance of the barrier-free design section of the *Building Code* in a uniform manner across the province.

Many good ideas have been generated through the process of developing a *New Brunswick Building Code Act*. Objectives such as increased accountability; increased safety and quality of construction; having qualified inspectors; a more consistent regulatory environment; protecting the public, etc. are all objectives shared by the Premier's Council on the Status of Disabled Persons and other disability stakeholders.

It is hoped that the *Building Code Act* will address the inconsistent enforcement of code requirements across the province. Some municipalities place a high priority on accessibility while others still allow buildings which do not even meet the minimum requirements to be built.

The Premier's Council on the Status of Disabled Persons is supportive of having one *Building Code* for the entire province serving as a minimum standard. Of course municipalities and/or district planning commissions should be encouraged to go beyond the minimum barrier-free design standards for the reasons presented

in the previous sections of this document. Having one uniform standard with qualified inspectors would improve the consistency of building code enforcement across the province.

The notion of a "Chief Inspector" with a building code appeal process has merit. This could be an effective tool in ensuring that all buildings meet the code requirements. This "Chief Inspector" position must be able to accept and act on complaints received by the general public. They must also have the power to apply punitive measures to builders who fail to comply with building code requirements. The Premier's Council would also recommend giving local inspectors the power to apply punitive measures to builders who fail to meet code requirements. Failure to fully comply with building code requirements in a timely manner should result in mandatory orders to correct deficiencies along with potential financial penalties.

The concept of *major renovations* should be properly defined in the *New Brunswick Building Code Act*. It is already stated that *major renovations* need to follow code requirements, but it is unclear exactly what is meant by a *major renovation*. This is a serious flaw in the current system allowing some builders to skirt existing building code requirements because there is no easy way to define a major renovation. Builders may claim to be doing *minor renovations* when in fact they should be considered as a *major renovation* subject to building code requirements.

### **Incentives for Improving Access to Existing Buildings**

New Brunswick has some of the oldest buildings in the country. It is only recently that barrier-free design requirements became mandatory as part of the *Building Code*. This means that many buildings in the province are not accessible, and currently have no legal obligation to become accessible regardless of what is required in the *Building Code* or how well it is enforced. The government must provide financial incentives to building owners to encourage improved accessibility to existing facilities and buildings.

In the 2007 Federal Budget, the government of Canada announced a \$45 million "Enabling Accessibility Fund" to be spent over the next three years in partnership with the provinces and community groups. This program will primarily target non-profit community facilities but it is an important first start. Financial support for the private sector to improve existing buildings is still lacking, although there are some tax incentives.

**An Enhanced Section 3.8 Barrier-Free Design**

The Premier's Council on the Status of Disabled Persons in consultation with a stakeholder committee has identified Schedule "C", Section 3.8 Barrier-Free Design of the *Nova Scotia Building Code Regulations* as a model code for New Brunswick to follow. The *Nova Scotia Building Code* incorporates many additions to Section 3.8 of the *National Building Code* aimed at improving universal design. The Nova Scotia Schedule "C" is attached with additional recommendations from the stakeholder committee.

The Nova Scotia Code was chosen as a potential model for New Brunswick to follow not only because of its enhanced Section 3.8, but also because of the geographic, demographic and economic similarities between the two provinces. Like New Brunswick, Nova Scotia has a very high percentage of citizens with disabilities; an aging population; a similar ratio of urban / rural population; and similar sized economies with comparable industries. Nova Scotia has demonstrated that another jurisdiction very similar to New Brunswick in many ways can successfully implement an enhanced Section 3.8 of the *National Building Code*.

Improved universal design requirements will not add any red tape to the building process. Builders can still follow the proposed streamlined building permit and inspection processes. In fact, if the Nova Scotia Section 3.8 is adopted in N.B., the standardization will simplify the building process as builders, architects, tradespersons, etc. will no longer have to follow different codes in each province.

Although the Nova Scotia Code is already more comprehensive in terms of universal design than the *New Brunswick Building Code*, the Stakeholder Committee is suggesting specific areas where the Nova Scotia Code could be improved for implementation in New Brunswick. Changes to the Nova Scotia code are indicated by red text in the attached document.

**An Enhanced Section 3.2 Building Fire Safety**

Currently, sentence (4) of Section 3.2.4.17 of the *National Building Code* states that buildings, or portions of building primarily used by persons with hearing impairments should have visual signal devices installed.

Visual alarms are essential safety features for individuals who are deaf, deafened or hard of hearing such that they would not hear an audible alarm.

It is recommended that visual signals be installed in all buildings, as persons with hearing impairments are not limited as to which building they can enter. At a

minimum, visual alarms should be provided in each of the following areas: restrooms and other general usage areas such as meeting rooms, hallways, lobbies and any other areas of common use.

### **Universal Design Advisory Committee**

The stakeholder committee is also recommending the creation of a permanent Universal Design Advisory Committee with a similar structure to the proposed Permanent Building and Fire Safety Advisory Committee. In general terms, this proposed committee would advise the Department on the development of accessibility standards; provide advice on sector-specific and general public education programs to support the effective implementation of universal design standards; provide a means for ongoing public input into barrier-free requirements, etc.

Members of the Universal Design Advisory Committee should include a cross-section of leaders from the disability community, government and the private sector, with the majority of members being people with disabilities. The Terms of Reference for the Alberta Barrier-Free Council are attached for reference purposes.

### **CONCLUSION**

The number of persons with disabilities and seniors is increasing yet improvements to the *Building Code* have not kept pace to reflect this changing demographic. For years, persons with disabilities in New Brunswick have patiently waited for expected improvements in the *Building Code* only to be disappointed at the slow pace of change. Stakeholder groups, including the Premier's Council, have tried to raise public awareness concerning accessibility issues, but the message has not been acted upon.

Many other provinces have come to the realization that minimum standards in the *National Building Code* are not sufficient to meet the needs of their citizens with disabilities. They have willingly chosen to adopt higher standards to ensure that citizens with disabilities have the same reasonable access to facilities as those who are able-bodied. It is time for the provincial government to act to ensure that New Brunswickers also enjoy equal access.

**Members of the Universal Design Stakeholder Committee**

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