

BY - L A W N U M B E R 5711

A BY-LAW TO AUTHORIZE ENTRY UPON ADJOINING LAND FOR THE PURPOSE OF MAKING REPAIRS, ALTERATIONS OR IMPROVEMENTS

Passed the 24th day of May, 1977.

WHEREAS by-laws may be passed by Councils of local municipalities pursuant to Section 354 (1) paragraph 58 of The Municipal Act, R.S.O. 1970, Chapter 284, for permitting an owner or occupant of any building, fence or other structure, or the agent or employee of such owner or occupant, to enter upon any adjoining land for the purpose of making repairs, alterations or improvements to such building, fence or other structure, but only to the extent necessary to effect such repairs, alterations or improvements, and every such by-law shall provide that the adjoining land shall be left in the same condition as it was prior to such entry;

AND WHEREAS it is deemed expedient to pass such by-law;

THEREFORE the Council of The Corporation of the City of Windsor enacts as follows:

1. In this by-law:

- (a) "Applicant" shall mean the owner or occupant of the building, fence or other structure to be repaired, altered or improved, or agent or employee of such owner or occupant;
- (b) "Building Commissioner" shall mean the Building Commissioner of the Corporation;
- (c) "Corporation" shall mean The Corporation of the City of Windsor;
- (d) "Permit" shall mean the written authorization given by the Corporation to enter upon adjoining land.

2. This by-law shall be administered by the Building Commissioner

3. Applications for permits issued under this by-law shall be made by the applicant on Form "A" annexed hereto and forming part of this by-law, and shall be addressed to the Building Commissioner, and shall be accompanied by the following.

- (a) a permit fee of \$ 75.00 for one and two family units and \$125.00 for all other uses. (Substituted by B/L 10400, Aug.27/90 and B/L 10916, Feb. 10/92)
- (b) a sworn declaration on Form "B" annexed hereto and forming part of this by-law that the owner or occupant of the building, fence or other structure to be repaired, altered or improved has been refused entry upon adjoining land to make repairs, alterations or improvements, and that the said owner or occupant intends in good faith to make repairs, alterations or improvements such building, fence or other structure and that it is not reasonably practicable to make such repairs, alterations or improvements without entry upon adjoining land;
- (c) deposit with the Building Commissioner a certified Land Surveyor's survey of the land upon which the building, fence or other structure to be repaired, altered or improved is situate where deemed necessary by the Building Commissioner.

4. A permit issued under this by-law shall be valid for a period not exceeding two (2) months from the date of issue thereof; provided however, that the Building Commissioner may renew the permit for a further period not exceeding two (2) months on the payment of a Ten Dollar (\$10.00) renewal fee.

5. Permits issued under this by-law are not transferable.

6. No permit shall be issued until the Building Commissioner or his Building Inspector has made an inspection of the building, fence or other structure to be repaired, altered or improved, and of the land to be entered, and has satisfied himself that the entry upon such land is necessary for the purpose of making such repairs, alterations or improvements.

7. Permits issued under this by-law shall specify the adjoining land to be entered and the area of entry, and also the time within which the work is to be completed, and shall permit entry only to the extent necessary for the applicant to make repairs, alterations or improvements to such building fence or other structure.

8. (a) A copy of the permit issued under this by-law shall be served by the applicant upon the owner and occupant of the adjoining land to be entered, not later than three (3) days next preceding the date of entry. The said permit shall be sufficiently served upon the owner or occupant if left for him with an adult person appearing to be in charge of the premises, or in case no such adult person can be found at such address, then the permit shall be sufficiently served if forwarded by prepaid registered mail to the party to be served at the said premises. Provided, however, that where the owner and occupant are not one and the same person, and the owner cannot be located, then service upon the occupant alone shall be sufficient for the purposes of this by-law where the applicant furnishes the Building Commissioner with proof that he has made a reasonable attempt to serve the owner without success.

(b) Notwithstanding the provisions of subsection (a) of this section, if the applicant has not been able to effect services in accordance with the said provisions of subsection (a) of this section, the applicant may effect such services upon the owner and occupant by forwarding the permit by prepaid registered mail, and the applicant shall furnish proof satisfactory to the Building Commissioner that he has made such services by prepaid registered mail.

9. Every applicant who enters upon adjoining land in pursuance of this by-law shall leave the adjoining land in the same condition it was in prior to such entry.

10. In case of non-conformance of any of the provisions of this by-law by the applicant, the Building Commissioner may revoke and call in any permit issued hereunder.

11. Every person who contravenes any of the provisions of this by-law (Chapter) is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not more than Five Thousand Dollars (\$5,000), exclusive of costs and every such fine is recoverable under the Provincial Offences Act. (Substituted by B/L 10277, May 22/90)

12. That By-law Number 2040 passed the 2nd day of November, 1959 be and the same is hereby repealed.

13. This by-law shall come into force and take effect on the day of the final passing thereof.

(signed)
Acting Mayor

(S E A L)

(signed) J.B. ADAMAC
Clerk

First Reading May 24, 1977
Second Reading May 24, 1977
Third Reading May 24, 1977

BY LAW NUMBER 5711

AMENDED BY:

B/L 10400	August 27, 1990
B/L 10277	May 20, 1990
B/L 10916	February 10, 1992

OFFICE CONSOLIDATION

This copy is prepared for purposes of convenience only and for accurate reference recourse should be had to the original copy of the by-law and amending by-laws.