

BY – L A W N U M B E R 40-2011

A BY-LAW TO AMEND BY-LAW NUMBER 179-2008, BEING
A BY-LAW RESPECTING THE ISSUANCE OF VARIOUS
PERMITS AND THE SCHEDULING OF INSPECTIONS.

Passed the 28th day of February, 2011.

WHEREAS the Council of The Corporation of the City of Windsor is responsible for the enforcement of the Building Code Act, 1992, within the boundaries of the City of Windsor;

AND WHEREAS Section 7 of the said Building Code Act authorizes the councils of municipalities to pass By-laws respecting the issuance of construction, demolition and change of use permits;

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

1. SHORT TITLE

This By-law may be cited as the “Building By-law”.

2. DEFINITIONS AND WORD USAGE

- (1) (a) **“Act”** means the Building Code Act, S.O. 1992, c. 23 as amended.
- (b) **“Actual value of construction”** means the actual value of the work and materials incorporated into the work thereof and all costs necessarily incidental to the subject matter of construction.
- (c) **“Applicant”** means the owner of a building or property who applies for a permit or any person authorized by the owner to apply for a permit on the owner’s behalf, or any person or corporation empowered by statute to cause the demolition of a building or buildings and anyone acting under the authority of such person or corporation.
- (d) **“Building”** means,
- i a structure occupying an area greater than ten square meters consisting of a wall, roof and floor or any of them or a structure system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto,
 - ii a structure occupying an area of ten square meters or less that contains plumbing, including the plumbing appurtenant thereto,
 - iii plumbing not located in a structure,
 - iv a sewage system, or
 - v structures designated in the Building Code
- (e) **“Building Code”** means the regulations made under Section 34 of the Act.
- (f) **“Business day”** means any day other than a holiday as defined in the Interpretation Act, R.S.O. 1990, Saturday, Boxing Day or day proclaimed by the head of Council to be a civic holiday.
- (g) **“Chief Building Official”** means the person appointed by Council to enforce the Act within the City of Windsor under Section 3 of the Act.
- (h) **“Chief Fire Official”** means the Fire Chief of the Corporation as appointed by Council.
- (i) **“Corporation”** means The Corporation of the City of Windsor.
- (j) **“Council”** means the Council of the Corporation of the City of Windsor.
- (k) **“Estimated value of the work”** means the estimated value of the work and materials to be incorporated into the work thereof and all costs necessarily incidental to the subject matter of construction.
- (l) **“Lot”** means a parcel of land, the boundaries of which are on record in the Windsor (Essex) Land Registry Office No. 12.

- (m) **“Owner”** means the person who appears as the owner of a Lot according to the records of the Land Registry Office or a person named under an accepted agreement of purchase and letter of authorization signed by the owner or a lessee who under the terms of a lease is authorized to maintain, alter, improve or repair the property.
- (n) **“Parking lot”** means an area which is used or capable of being used to park more than four (4) motor vehicles.
- (o) **“Permit”** means a written authorization issued by the Chief Building Official to perform work regulated by the Act and the Building Code or to occupy a building or part thereof.
- (p) **“Permit holder”** means the person to whom the permit has been issued and who assumes the primary responsibility for compliance with the Act and the Building Code.
- (q) **“Person”** means any individual, association, partnership, company, corporation, firm, agent, trustee and the heirs, executors, or other legal representative of any of the foregoing.
- (r) **“Plan check”** means the review of revised drawings or working drawings which are submitted to the Building Department after a permit has been issued.
- (s) **“Public Way”** means a sidewalk, street, highway, square or other open space to which the public has access, as of right or by invitation, express or implied.
- (t) **“Registered Code Agency”** means a person that has the qualifications and meets the requirements described in Subsection 15.11(4) of the Act.

3. CODE OF CONDUCT FOR BUILDING OFFICIALS

Each person listed in Schedule A of By-law 15-2010, “A By-law to appoint a Chief Building Official and Inspectors to enforce the Building Code Act and regulations in Windsor” as amended, shall be governed by the Code of Conduct as set out in Schedule J of this By-law and the City of Windsor’s Standards of Employee Department Policy and amendments.

4. REQUIREMENTS TO OBTAIN A PERMIT

File application on forms prescribed. To obtain a permit, the owner or an agent authorized by the owner shall file an application in writing by completing a prescribed form available from the Chief Building Official or from the Ministry of Municipal Affairs and Housing website www.obc.mah.gov.on.ca. Application forms prescribed by the Corporation under Clause 7.(1)(f) of the Act are set out in Schedule A, Schedule D and Schedule E of this By-law.

Construction Permits

Every person who applies for a Construction Permit shall submit to the Chief Building Official the following information:

- (1) Where application is made for a Construction Permit under Section 8 of the Act, the applicant shall:
 - (a) use the application form, “Application for a Permit to Construct or Demolish” as set out in Schedule A of this By-law;
 - (b) include complete plans and specifications, documents and other information as required by Clause 1.3.1.3.(5) (e), Division C of the Building Code and prescribed in Schedules B, Part A and Part B, of this By-law;
 - (c) include completed forms as set out in Schedules C where applicable;
 - (d) pay the required fees as calculated in accordance with Schedule H of the Bylaw.

Demolition Permits

Every person who applies for a Demolition Permit shall submit to the Chief Building Official the following information:

- (1) Where application is made for a Demolition Permit under Section 8 of the Act, the applicant shall:
 - (a) use the application form “Application for a Permit to Construct or Demolish” as set out in Schedule A of this By-law;
 - (b) include complete plans and specifications, documents and other information as required by Clause 1.3.1.3.(5)(e) and Sentence 1.3.1.1. (3), Division C of the Building Code and other prescribed in Schedules B, Part A and Part B, of this By-law;

- (c) include completed form as set out in Schedules C where applicable,
- (d) be accompanied by confirmation that:
 - i a arrangements have been made with the proper authorities for the safe and complete disconnection of all existing water, sewer, gas electric, telephone and other utilities;
 - ii the owner will comply with the City's Property Standards By-law at the completion of demolition;
 - iii there are no heritage concerns.
- (e) pay the required fees as calculated in accordance with Schedule H of the Bylaw.

Conditional Permits

Every person who applies for a Conditional Permit shall submit to the Chief Building Official the following information:

- (1) Where application is made for a Conditional Permit under Section 8 of the Act, the applicant shall:
 - (a) use the application form, "Application for a Permit to Construct or Demolish" as set out in Schedule A of this By-law;
 - (b) include complete plans and specifications, documents and other information as required by Clause 1.3.1.3.(5)(e), Division C of the Building Code and other information as prescribed in Schedules B, Part A and Part B, of this By-law;
 - (c) include completed form as set out in Schedules C where applicable;
 - (d) state the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;
 - (e) state the necessary approvals which must be obtained in respect of the proposed building and the time in which such approvals will be obtained;
 - (f) state the time in which complete plans, specifications and documentation of the building will be filed with the Chief Building Official;
 - (g) sign a Conditional Permit Agreement with the Corporation;
 - (h) pay the required fees as calculated in accordance with Schedule H of the By-law.

Change of Use Permit

Every person who applies for a Change of Use Permit shall submit to the Chief Building Official the following information:

- (1) Where application is made for a Change of Use Permit under Section 10 of the Act the applicant shall:
 - (a) use the prescribed form of Schedule D of this By-law;
 - (b) describe the building in which the occupancy is to be changed, by a description that will readily identify and locate the building;
 - (c) identify and describe in detail the current and proposed occupancies of the building or part of a building for which the application is made;
 - (d) include complete plans and specifications showing the current and proposed occupancy of all parts of the building, and which contain sufficient information to establish compliance with the requirements of the Building Code, including: site plan, floor plans, details of wall, ceiling and roof assemblies identifying required fire resistance ratings and load bearing capacities, details of the existing sewage system, if any;
 - (e) pay the required fees as calculated in accordance with Schedule I of the By-law

Sewage Permits

Every person who applies for a Sewage Permit shall submit to the Chief Building Official the following information:

- (1) Where application is made for a Sewage Permit under Section 8 of the Act, the applicant shall:
 - (a) use the application form, "Application for a Permit to Construct or Demolish" as set out in Schedule A of this By-law;

- (b) include complete plans and specifications, documents and other information as required under Clause 1.3.1.3.(5)(e), Division C of the Building Code and as described in this By-law for the work to be covered by the permit;
- (c) include completed forms as set out in Schedules C where applicable;
- (d) include a site evaluation which shall include all of the following items, unless otherwise specified by the Chief Building Official
 - i the date of the evaluation was done
 - ii the name, address, telephone number and signature of the person who prepared the evaluation; and
 - iii a scaled map of the site showing:
 - the legal description, lot size, property dimensions, existing rights-of-way, easements or municipal/utility corridors;
 - the location of items listed in Column 1 of Tables 8.2.1.6. A; 8.2.1.6. B and 8.2.1.6. C of the Building Code;
 - the location of the proposed sewage system;
 - the location of any unsuitable, disturbed or compacted areas;
 - proposed access routes for system maintenance;
 - depth to bedrock and zones of soil saturation;
 - soil properties, including soil permeability; and
 - soil conditions, including the potential for flooding.
- (e) pay the required fees as calculated in accordance with Schedule H to the By-law.

Partial Occupancy Permit

Every person who applies for a Partial Occupancy Permit shall submit to the Chief Building Official the following information:

- (1) Where application is made for a Partial Occupancy Permit under Section 11 of the Act, the applicant shall:
 - (a) use the prescribed form of Schedule E of this by-law;
 - (b) include complete plans and specifications, documents and other information as required by Article 1.3.3.1 or 1.3.3.2, Division C of the Building Code;
 - (c) include a statement indicating the expected occupancy dates, and the portions of the building to be occupied;
 - (d) obtain all necessary permits and approvals from other municipal departments or outside agencies having jurisdiction; and
 - (e) pay the required fees as calculated in accordance with Schedule H of the By-law.

5. REQUIREMENTS FOR PLANS AND SPECIFICATIONS

- (1) Every applicant shall submit sufficient plans, specifications, documents and other information to enable the Chief Building Official to determine whether the proposed building, construction, demolition, partial occupancy or change of use will contravene the Act, the Building Code or any other applicable law.
- (2) The Chief Building Official shall determine the plans, specifications, documents and other information required to be submitted with an application in order to deem it complete according to Clause 1.3.1.3. (5) (e) Division C of the Building Code having regard for:
 - (a) the scope of the proposed work;
 - (b) the requirements of the Building Code, the Act and other applicable law; and
 - (c) the requirements of this Section and Schedules B, Part A and B, to this By-law.
- (3) Plans, specifications, documents and other information containing legible text in ink shall be submitted upon a permanent medium: paper or other suitable and durable material. Drawings of a minimum size of 8.5" x 14.0" shall be complete, fully dimensioned, to scale and legible.

- (4) Site plans shall be referenced to a current plan of survey and a copy of the survey shall accompany the Site Plan Submission except where the Chief Building Official waives the requirement to do so. Site plans shall show:
 - (a) lot size and dimensions of property lines and setbacks to any existing or proposed building(s);
 - (b) existing and finished ground levels or grades;
 - (c) existing right-of-way, easements and municipal services;
 - (d) location of fire access routes.
- (5) On the completion of the foundation for a detached, semi-detached, triplex, fourplex or townhouse dwelling, the Chief Building Official may require submission of a survey prepared by an Ontario Land Surveyor indicating the location and elevation of the top of the foundation wall, prior to a framing inspection being undertaken.
- (6) On the completion of the construction of a building, or part of a building, the Chief Building Official may require submission of a set of plans of the building or part of a building, as constructed, together with a plan of survey prepared and certified by an Ontario Land Surveyor showing the location of the building.

6. AUTHORIZATION OF EQUIVALENTS (ALTERNATIVE SOLUTIONS)

- (1) Where an application for a permit contains materials, systems or building designs for which authorization under Section 9 of the Act is required the applicant shall submit:
 - (a) supporting documentation demonstrating that the proposed materials, systems or building designs will provide the required level of performance according to Article 1.2.1.1. Division A of the Building Code;
 - (b) supporting documentation and test methods providing information according to Section 2.1., Division C of the Building Code.
- (2) The Chief Building Official or Registered Code Agency may accept or reject any proposed equivalents or may impose conditions or limitation on their use.
- (3) Equivalents which are accepted under this Section shall be applicable only to the location to which the approval is given and are not transferable to any other construction permit.

7. REVISION TO PERMIT

Every person who makes revision(s) shall notify the Chief Building Official and shall submit the following information:

- (1) Where under Subsection 8 (12) of the Act, notification is given for a material change to the plans, specifications, documents or other information on the basis of which a permit was issued, the owner or authorized agent shall:
 - (a) use the prescribed form of Schedule F of this By-law;
 - (b) submit revised plans and specifications illustrating the changes and any support documentation as may be requested by the Chief Building Official;
 - (c) remit the additional fee to the Chief Building Official where applicable. In the event the area of work is reduced, there shall be no refund.

8. PERMIT REVOCATION, ABANDONMENT AND REASSIGNMENT

- (1) An application for a permit shall be deemed to have been abandoned twelve (12) months after the date of filing of the application with the Chief Building Official unless a permit has been issued (CR1429/2002).
- (2) Where the application has been abandoned, withdrawn or denied, one set of drawings, plans and design calculations (if applicable) filed with the application will be returned and the fees will be refunded without interest thereon in accordance with Schedule G.
- (3) When a permit has been revoked by the Chief Building Official in accordance with the Act, or the owner and/or applicant has requested a cancellation of the permit, fees shall be refunded in accordance with Schedule G.

- (4) When a permit has been issued and subsequently abandoned by the original applicant, the said permit can be assigned to the successor in title and can therefore claim to continue building under the said permit. A written request made within a year after permit's issuance and proof of land title must be submitted to the Chief Building Official.

9. PAYMENT OF FEES

- (1) Upon application for a permit and for each plan check, the owner shall:
 - (a) provide proof of payment of any levies, charges and deposits;
 - (b) remit the fees set out in Schedule H as amended annually by City Council.

10. FENCING AND BARRICADES

- (1) Every person to whom a construction or demolition permit is issued shall maintain a fence to enclose the site of the construction or demolition.

- (2) Covered Way Exceptions

- (a) Where the construction may constitute a hazard to the public, work shall not commence on the construction, alteration or repair of a building until a covered way, as described in subsection (3) hereof, has been provided to protect the public, except where:
 - i the work is done within a solid enclosure;
 - ii the building is at a distance of greater than 4.5 meters from a public way used by pedestrians; or
 - iii site conditions warrant a distance greater than provided in clause (ii) hereof.

- (3) Covered Way Construction

- (a) A covered way shall:
 - i have an unobstructed height of not less than 2.4 meters;
 - ii have an unobstructed width of not less than 1.1 meters or, if it is over a sidewalk that is less than 1.1 meters wide, have a width equal to the width of the sidewalk;
 - iii shall be capable of supporting any load likely to be applied to it and capable of supporting a load of at least 2.4 kilonewtons per square meter;
 - iv shall have a weather-tight roof;
 - v shall have the side adjacent to the project covered with a partition that has a smooth surface on the public way side;
 - vi shall have a railing one meter high from ground level on the street side; and
 - vii shall have adequate lighting within the public way.

- (4) Fencing, Boarding or Barricades

- (a) When a construction or demolition activity may constitute a hazard to the public and is located 4.5 meters or more from a public way, a strongly constructed fence, boarding or barricade not less than 1.8 meters high shall be erected between the site and the public way or open sides of a construction site.
- (b) Barricades shall have a reasonably smooth surface facing the public way and shall be without openings except those required for access.
- (c) Access openings through barricades shall be equipped with gates which shall be:
 - i kept closed and locked when the site is unattended; and
 - ii maintained in place until completion of the construction or demolition activity.

- (5) Work Shutdown

When work on a construction site is suspended or ceases so that it will not be occupied during normal working hours, the hazardous part of the construction site shall be protected by a fence or barricade constructed according to the requirements of subsection 4 hereof.

11. REGISTERED CODE AGENCIES

- (1) Council may authorize the Chief Building Official to enter into service agreements with Registered Code Agencies and appoint them to perform one or more of the specified functions described in Section 15.15 of the Act.
- (2) Registered Code Agencies shall be used only during work overloads and for specialized projects.

12. INSPECTION NOTICES

- (1) The permit holder shall notify the Chief Building Official of each stage of construction as listed in Schedule I. In addition, the permit holder shall provide the notice of completion as prescribed by Section 11 of the Act, or where occupancy is required prior to completion, notice of inspection to ensure that the requirements of Section 11 of the Act and Subsection 1.3.3., Division C of the Building Code are complied with.
- (2) A notice pursuant to this Part of the By-law is not effective until notice is actually received by the Chief Building Official.
- (3) Upon receipt of proper notice, the inspector shall undertake a site inspection of the building to which the notices relate in accordance with the time periods stated in Article 1.3.5.3., Division C of the Building Code and Section 11 of the Act.

VALIDITY

13. SEVERABILITY

- (1) Schedules A to J, inclusive, annexed hereto, shall form part of this By-law.
- (2) Should any section, subsection, clause or provision of this By-Law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-Law as a whole or any part thereof, other than the part so declared to be invalid.
- (3) By-Law 11884 and By-Law 9896 are hereby repealed.

EDDIE FRANCIS, MAYOR

CLERK