

BY-LAW NUMBER 49-2018

A BY-LAW RESPECTING THE ISSUANCE OF VARIOUS PERMITS AND THE SCHEDULING OF INSPECTIONS

Passed the 26th day of March, 2018.

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:

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**PART 1
Definitions of Words and Phrases**

1.1 Non-Defined Terms

- 1.1.1** Definition of words and phrases used in this By-Law that are not included in the list of definitions and are not defined in the Ontario Building Code shall have the meanings that are commonly assigned to them in the context in which they are used, taking into account the specialized use of terms by the various trades and professions to which the terminology applies.

1.2 Defined Terms

- 1.1.2** Each of the words and terms in italics in this By-Law has the following meaning for the purposes of this By-Law:

Act means the Building Code Act, 1992, S.O. 1992, c. 23, as amended.

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.

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 construction or demolition of a building or buildings and anyone acting under the authority of such person or corporation.

Building means,

- a) a structure occupying an area greater than ten (10) square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto,
- b) a structure occupying an area of ten (10) square metres or less that contains plumbing, including the plumbing appurtenant thereto,
- c) plumbing not located in a structure,
- d) a sewage system, or
- e) structures designated in the *Building Code*.

Building Code means the regulations made under Section 34 of the *Act*.

Business Day means any day other than a Holiday as defined in the Legislation Act, 2006, S.O. 2006, Saturday, and all other days when the offices of the *Corporation* are not open for the transaction of business with the public.

Chief Building Official means the person appointed by Council to enforce the *Act* within the City of Windsor under Section 3 of the *Act*.

Chief Fire Official means the Fire Chief of the *Corporation* as appointed by Council.

Construct means to do anything in the erection, installation, extension or material alteration or repair of a *building* and includes the installation of a *building* unit fabricated or moved from elsewhere and "construction" has a corresponding meaning.

Corporation means The Corporation of the City of Windsor.

Council means the Council of The Corporation of the City of Windsor.

Demolish means to do anything in the removal of a *building* or any material part thereof and "demolition" has a corresponding meaning.

Electronic Submission means the filing of an application for *permit* or alternative solution, including all required forms, documents and drawings, submitted through an online application procedure approved by the *Chief Building Official*.

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.

House means a detached house, semi-detached house, row house, duplex, double duplex, triplex, fourplex, or multi-unit dwelling.

Lot means a parcel of land, the boundaries of which are on record in the Windsor (Essex) Land Registry Office No. 12.

Owner means the *person* registered as the owner on title to the land, and includes a *person* who has the right under an agreement or statute to carry out construction, demolition or other work under a *permit* as if he/she were the registered owner.

Parking Lot means an area which is used or capable of being used to park more than four (4) motor vehicles.

Partial Permit means a *permit* issued by the *Chief Building Official* to construct part of a *building*.

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.

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*.

Person means any individual, association, partnership, company, corporation, firm, agent, trustee and the heirs, executors, or other legal representative of any of the foregoing.

Plan Review means the review of drawings which are submitted to the Building Department.

Registered Code Agency means a person that has the qualifications and meets the requirements described in Subsection 15.11(4) of the *Act*.

Revised Submission means additional information filed with the *Chief Building Official* which depicts one or more changes to the proposed or as-constructed design of a *building* or part of a *building* for which a *permit* has already been issued and for which approval by the *Chief Building Official* is required.

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.

PART 2

Code of Conduct for Building Officials

2.1 Appointment of Chief Building Official and Inspectors

2.1.1 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 B of By-law 15-2010 and the City of Windsor's Standards of Employee Department Policy and amendments.

PART 3

Requirements to Obtain a Permit

3.1 Obtaining a Permit

3.1.1 To obtain a *permit*, the *owner* or an agent authorized in writing 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' website www.mah.gov.on.ca. Application forms prescribed by the

Corporation under Clause 7.(1)(f) of the *Act* are set out in Schedule 1 of this By-law.

3.2 Construction Permits

3.2.1 Where an application is made for a Construction Permit under Section 8 of the *Act*, the *applicant* shall submit to the *Chief Building Official* all of the following:

- (1) Form A, Application for a *Permit to Construct* or *Demolish*, and other required forms as set out in Schedule 1 of this By-law.
- (2) Complete plans and specifications, documents and other information as required by Sentence 1.3.1.3.(5), Division C of the *Building Code*, Applicable Law, and as prescribed in Schedule 2.1, and Schedule 2.2, of this By-law.
- (3) Payment of the required fees as calculated in accordance with Schedule 3 of this By-law. (~~deleted & substituted – B/L 58-2019, May 06/19~~)

3.3 Demolition Permits

3.3.1 Where an application is made for a Demolition *Permit* under Section 8 of the *Act*, the *applicant* shall submit to the *Chief Building Official* all of the following:

- (1) Form A, Application for a *Permit to Construct* or *Demolish*, and other required forms as set out in Schedule 1 of this By-law.
- (2) Complete plans and specifications, documents and other information as required by Sentence 1.3.1.1.(3) and Sentence 1.3.1.3.(5), Division C of the *Building Code*, Applicable Law, and as prescribed in Schedule 2.1, and Schedule 2.2, of this By-law.
- (3) Confirmation that:
 - 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, and that the work has been completed,
 - b. the *owner* will comply with the City's Property Standards By-law at the completion of demolition,
 - c. no heritage restrictions exist,
 - d. there are no Demolition Control By-law restrictions, and
 - e. a licensed professional pest control company has inspected the property and structures for evidence of rat infestation, and submitted a completed Form A.8.2, Rat Infestation Review Form.
- (4) Payment of the required fees as calculated in accordance with Schedule 3 of this By-law. (~~deleted & substituted – B/L 58-2019, May 06/19~~)

3.4 Conditional Permits

3.4.1 Where an application is made for a Conditional *Permit* under Section 8 of the *Act*, the *applicant* shall submit to the *Chief Building Official* all of the following:

- (1) Form A, Application for a *Permit to Construct* or *Demolish* and other required forms as set out in Schedule 1 of this By-law.
- (2) Complete plans and specifications, documents and other information as required by Sentence 1.3.1.3.(5), Division C of the *Building Code*, Applicable Law, and as prescribed in Schedule 2.1, and Schedule 2.2, of this By-law.
- (3) A written statement regarding:
 - a. the reasons why the *applicant* believes that unreasonable delays in construction would occur if a conditional *permit* is not granted,

- b. the necessary approvals which must be obtained in respect of the proposed *building* and the time in which such approvals will be obtained, and
 - c. the date on which complete plans, specifications and documentation of the *building* will be filed with the *Chief Building Official*.
- (4) A signed Conditional *Permit* Agreement as drafted by the *Corporation*.
 - (5) Payment of the required fees as calculated in accordance with Schedule 3 of this By-law. (~~deleted & substituted – B/L 58-2019, May 06/19~~)

3.5 Change of Use Permits

3.5.1 Where an application is made for a Change of Use *Permit* under Section 8 of the *Act*, the *applicant* shall submit to the Chief Building Official all of the following:

- (1) Form B, Change of Use Application as set out in Schedule 1 of this By-law.
- (2) Complete plans and specifications, documents and other information as required by Sentence 1.3.1.3.(5), Division C of the *Building Code*, Applicable Law, and as prescribed in Schedule 2.1, and Schedule 2.2, of this By-law.
- (3) A written and diagrammatical description to identify:
 - a. the location of the *building*,
 - b. the current occupancy of the *building* or part of a *building* for which the application is made, and
 - c. the proposed occupancy that the current occupancy is to be changed to.
- (4) Payment of the required fees as calculated in accordance with Schedule 3 of this By-law. (~~deleted & substituted – B/L 58-2019, May 06/19~~)

3.6 Sewage System Permits

3.6.1 Where an application is made for a Sewage System *Permit* under Section 8 of the *Act*, the *applicant* shall submit to the *Chief Building Official* all of the following:

- (1) Form A, Application for a *Permit* to *Construct* or *Demolish* and other required forms as set out in Schedule 1 of this By-law.
- (2) Complete plans and specifications, documents and other information as required by Sentence 1.3.1.3.(5), Division C of the *Building Code*, Applicable Law, and as prescribed in Schedule 2.1, and Schedule 2.2, of this By-law.
- (3) A site evaluation which shall include all of the following items, unless otherwise specified by the *Chief Building Official*:
 - a. the date of the evaluation was done,
 - b. the name, address, telephone number and signature of the person who prepared the evaluation, and
 - c. a scaled map of the site showing:
 - i. the legal description, *lot* size, property dimensions, existing rights-of-way, easements or municipal/utility corridors,
 - ii. 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*,
 - iii. the location of the proposed sewage system,
 - iv. the location of any unsuitable, disturbed or compacted areas,
 - v. proposed access routes for system maintenance,
 - vi. depth to bedrock and zones of soil saturation,
 - vii. soil properties, including soil permeability, and
 - viii. soil conditions, including the potential for flooding.

- (4) Payment of the required fees as calculated in accordance with Schedule 3 of this By-law. (deleted & substituted – B/L 58-2019, May 06/19)

3.7 Partial Occupancy Permits

- 3.7.1** Where an application is made for a Partial Occupancy *Permit* under Section 11 of the *Act*, the *applicant* shall submit to the *Chief Building Official* all of the following:
- (1) Form C, Partial Occupancy *Permit* Application as set out in Schedule 1 of this By-law.
 - (2) Complete plans and specifications, documents and other information as required by Sentence 1.3.1.3.(5), Division C of the *Building Code*, Applicable Law, and as prescribed in Schedule 2.1, and Schedule 2.2, of this By-law.
 - (3) A written statement indicating the expected occupancy date(s) and the portion(s) of the *building* to be occupied.
 - (4) Written confirmation that all necessary *permit*(s) and approvals from other municipal departments and/or outside agencies having jurisdiction have been obtained.
 - (5) Payment of the required fees as calculated in accordance with Schedule 3 of this By-law. (deleted & substituted – B/L 58-2019, May 06/19)

PART 4

Submission Requirements

4.1 Plans and Specifications

- 4.1.1** Every *applicant* shall electronically 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.
- 4.1.2** 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 Sentence 1.3.1.3.(5), Division C of the *Building Code* having regard for:
- (1) The scope of the proposed work,
 - (2) The requirements of the *Building Code*, the *Act* and other Applicable Law, and
 - (3) The requirements of this Section and Schedule 2.1, and Schedule 2.2, of this By-law.
- 4.1.3** An *Electronic Submission* is to be made in a Portable Document Format (PDF). Plans, specifications, documents and other information are to be legible when printed to scale. Drawings to be minimum size of 8.5" x 11.0" and shall be complete, fully dimensioned and to scale.
- 4.1.4** Upon completion of the foundation for a *House*, a survey prepared by an Ontario Land Surveyor indicating the location and elevation of the top of the foundation wall shall be submitted, prior to a framing inspection being undertaken.
- 4.1.5** Upon completion of the construction of a *building*, or part of a *building*, 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*, shall be submitted.

4.2 Alternative Solutions

4.2.1 Where an application for a *permit* or for authorization to make a material change to the plan, specification, document or other information on the basis of which a *permit* was issued, contains an alternative solution for which approval in accordance with Part 2, Section 2.1., Division C of the *Building Code* is required, the application shall include documentation in accordance with Part 2, Article 2.1.1.1., Division C of the *Building Code*.

4.2.2 Such information shall be accompanied with Form A.9.1, Alternative Solution Application, and Form A.9.2, Alternative Solution Authorization Form as prescribed by the *Chief Building Official*.

4.3 Revisions to Permit

4.3.1 Where there is material or system change during construction and/or to the plans, specifications, documents or other information on the basis of which a *permit* was issued, the *owner* or authorized agent is required under Section 8(12) of the *Act* to notify the *Chief Building Official* and shall submit the following:

- (1) Form D, Plan Resubmission Application,
- (2) Revised plans and specifications illustrating the changes, including all supporting documentation as may be requested by the *Chief Building Official*, and
- (3) Payment of the required fees as calculated in accordance with Schedule 3 of this By-law. In the event the area of work is reduced, there shall be no refund. (deleted & substituted – B/L 58-2019, May 06/19)

PART 5

Permit Abandonment, Transfer, Cancellation and Revocation

5.1 Abandonment

5.1.1 An application for a *permit* shall be deemed to have been abandoned six (6) months after the date of filing of the application with the *Chief Building Official* unless a *permit* has been issued.

5.1.2 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 one (1) year of *permit* issuance and proof of land title must be submitted to the *Chief Building Official*.

5.1.3 Where the application has been abandoned, withdrawn, or rejected, one set of drawings and design calculations (if applicable) filed with the application will be marked “Not For Construction” then returned to the *applicant*. Fees will be refunded without interest thereon in accordance with this By-Law.

5.2 Transfer

5.2.1 Upon change of ownership, *permit* applications and *permit(s)* shall be transferred to the new *owner* with the approval of the *Chief Building Official*.

5.2.2 Form H, Transfer of Permit Application shall be submitted along with the required fee as identified in Schedule 3. (deleted & substituted – B/L 58-2019, May 06/19)

5.2.3 Upon the transfer of *permit* by the *Chief Building Official*, the new *owner* shall be the *permit holder* for the purpose of this By-Law, the *Act* and the *Building Code*.

5.3 Cancellation

5.3.1 A *permit holder* of an issued *permit* can submit a request in writing to the *Chief Building Official* to cancel a *permit* where no substantial work has been performed. The *Chief Building Official*, after considering the implication of canceling a *permit* may agree to cancel the *permit* as requested. The *Chief Building Official* may impose conditions for the canceling of a *permit* to ensure the property is in a safe condition. Fees shall be refunded in accordance with this By-Law.

5.4 Revocation

5.4.1 Where the *Chief Building Official* considers revoking a *permit* under Subsection 8(10)(b) or (c) of the *Act*, the *Chief Building Official* may give written notice by email and/or regular mail of the intention to revoke to the *permit holder* at their last known email and/or mailing address and, if on the expiration of thirty (30) days from the date of such notice, the ground for revocation continues to exist, the *permit* may be revoked without further notice and all submitted plans and other information may be disposed of. Fees shall be refunded in accordance with this By-Law.

5.4.2 In reference to Subsection 8(10)(c) of the *Act*, “substantially suspended or discontinued” is to be measured from the date of the last documented site inspection.

5.5 Deferral of Revocation

5.5.1 Within thirty (30) days of receipt of a notice of intention to revoke a *permit*, a *permit holder* may request of the *Chief Building Official* in writing, that the *Chief Building Official* defer the revocation of such *permit*, subject to the following conditions and processes in Subsections 5.5.2 and 5.5.3.

5.5.2 A request for deferral shall set out the reasons why the *permit* should not be revoked and the date by which the work will be commenced, resumed or completed.

5.5.3 Having considered the circumstances of the request and having determined that there have been no changes to the *Act* and the *Building Code* and any other Applicable Law which would have prevented the issuance of the original *permit*, the *Chief Building Official* may allow a deferral to a prescribed date, and shall notify the *permit holder* in the same manner above.

PART 6

Fees and Refunds

6.1 Fees

6.1.1 Upon submission of a *permit* application, the *applicant* shall pay the required deposit fee as set out in Schedule 3 of this By-Law. (~~deleted & substituted – B/L 58-2019, May 06/19~~)

6.1.2 Prior to the issuance of a *permit* or any revision to a *permit*, the *applicant* shall:

- (1) Provide proof of payment of any levies, charges and deposits, and

- (2) Remit the fees set out in Schedule 3 of this By-Law, as amended annually by City Council. (deleted & substituted – B/L 58-2019, May 06/19)

6.2 Refunds

6.2.1 Subject to Subsection 6.2.2, the *Chief Building Official* shall refund 40% of the building *permit* fee upon written request by the *permit holder*.

6.2.2 There shall be no refund of *permit* fees where:

- (1) Work has commenced and is abandoned thereafter.
- (2) More than six (6) months has elapsed from the date of *permit* issuance.
- (3) A *permit* has been revoked, except where:
 - a. no work has commenced and the *applicant* requests cancellation no more than six (6) months after the *permit* has been issued, or
 - b. the *permit* has been issued in error.
- (4) The total calculated refund amount is less than \$100.00.

6.2.3 All Service Fees and Permit Deposits are non-refundable.

PART 7 Hoarding

7.1 General Requirements

7.1.1 Every *person* to whom a construction or demolition *permit* is issued shall maintain a fence to enclose the site of the construction or demolition.

7.2 Covered Way Exceptions

7.2.1 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 7.3 hereof, has been provided to protect the public, except where:

- (1) The work is done within a solid enclosure,
- (2) The *building* is at a distance of greater than 4.5 metres from a *public way* used by pedestrians, or
- (3) Site conditions warrant a distance greater than provided in Clause (2) hereof.

7.3 Covered Way Construction

7.3.1 A covered way shall:

- (1) Have an unobstructed height of not less than 2.4 metres,
- (2) Have an unobstructed width of not less than 1.1 metres or, if it is over a sidewalk that is less than 1.1 metres wide, have a width equal to the width of the sidewalk,
- (3) 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 metre,
- (4) Shall have a weather-tight roof,
- (5) Shall have the side adjacent to the project covered with a partition that has a smooth surface on the *public way* side,
- (6) Shall have a railing one metre high from ground level on the street side, and
- (7) Shall have adequate lighting within the *public way*.

7.4 Fencing, Boarding or Barricades

7.4.1 When construction or demolition activities constitute a hazard to the public and are located within a distance of 4.5 metres from a *public way*, a strongly constructed fence, boarding or barricade not less than 1.8 metres high shall be erected between the site and the *public way* and any open sides of the construction/demolition site.

7.4.2 Barricades shall have a reasonably smooth surface facing the *public way* and shall be without openings except those required for access.

7.4.3 Access openings through barricades shall be equipped with gates which shall be:

- (1) Kept closed and locked when the site is unattended, and
- (2) Maintained in place until completion of the construction or demolition activity, or when the construction progresses to a point where the same level of security can be achieved by securing the *building*.

7.5 Work Shutdown

7.5.1 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 7.4 hereof.

PART 8 Registered Code Agencies

8.1 General Requirements

8.1.1 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*.

8.2.2 Registered Code Agencies shall be used only during work overloads and for specialized projects.

PART 9 Inspection Notices

9.1 General Requirements

9.1.1 The *permit holder* shall notify the *Chief Building Official* of each stage of construction as listed in Schedule 4. 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.

9.1.2 A notice pursuant to this Part of this By-law is not effective until notice is actually received by the *Chief Building Official*.

9.1.3 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*.

PART 10 Validity

10.1 Severability

10.1.1 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.

PART 11 List of Schedules

11.1 Schedules

11.1.1 The following schedules, attached hereto, shall form part of this By-law:

- Schedule 1 List of Applicable Forms Required for Permit
- Schedule 2.1 Documents and Drawings Required for Permit Application
- Schedule 2.2 Information Required on Drawings
- Schedule 3 Fees (~~deleted & substituted – B/L 58-2019, May 06/19~~)
- Schedule 4 Inspection Notices

PART 12 Repeal

12.1 Repealed By-law

12.1.1 By-Law Number 179-2008 being “A By-law Respecting the Issuance of Various Permits and the Scheduling of Inspections” is hereby repealed.

12.2 Applications Under By-law 179-2008

12.2.1 Despite the repeal of By-law 179-2008, any applications submitted prior to the passing of this by-law, will continue to be processed under By-law 179-2008.

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

DREW DILKENS, MAYOR

CITY CLERK

First Reading - March 26, 2018
Second Reading - March 26, 2018
Third Reading - March 26, 2018