

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY – L A W N U M B E R 2005- 106

A Bylaw respecting the issuance of various Building Permits and the scheduling of inspections

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

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 Town of Amherstburg 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 Chapter 23 s.o. 1992, 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 metres 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 metres or less that contains plumbing, including the plumbing appurtenant thereto,
 - (iii) plumbing not located in a structure, or
 - (iv) 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 Town of Amherstburg under Section 3 of the Act.
- (h) **“Chief Fire Official”** means the Fire Chief of the Corporation as appointed by Council.

- (i) **“Complete Permit Application”** means an application satisfying the requirements of Article 2.4.1.1B of the Building Code and the requirements of this Bylaw.
- (j) **“Corporation”** means The Corporation of the Town of Amherstburg.
- (k) **“Council”** means the Council of the Corporation of the Town of Amherstburg.
- (l) **“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.
- (m) **“Lot”** means a parcel of land, the boundaries of which are on record in the Registry Office for the Registry or Land titles Division of the County of Essex (No. 12).
- (n) **“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.
- (o) **“Parking lot”** means an area which is used or capable of being used to park more than four (4) motor vehicles.
- (p) **“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.
- (q) **“Permit holder”** means the person to who the permit has been issued and who assumes the primary responsibility for comply with the Act and the Building Code.
- (r) **“Person”** means any individual, association, partnership, company, corporation, firm, agent, trustee and the heirs, executors, or other legal representative of any of the foregoing.
- (s) **“Plan check”** means the review of revised drawings or working drawings which are submitted to the Department of Buildings after a permit has been issued.
- (t) **“Registered Code Agency”** means a registered code agency as defined in Subsection 1(1) of the Act.

2. CODE OF CONDUCT FOR BUILDING OFFICIALS

- (1) Each person appointed by the Corporation by appointment bylaw to enforce the Ontario Building Code shall be governed by the Code of Conduct set out in Schedule B to this By-law, with respect to exercising powers and performing duties under the *Building Code Act*.

3. REQUIREMENTS TO OBTAIN A PERMIT

File application on forms prescribed. 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 Building Code website www.obc.mah.gov.on.ca. Application forms prescribed by the Corporation under Clause 7(f) of the Act are set out in Schedule C to this By-law.

Building Permits

Every application for a permit shall be submitted to the Chief Building Official, and contain the following information:

- (1) Where application is made for a construction permit under subsection (8) the Act, the application shall:
 - (a) use the provincial application form, "Application for a Permit Construct or Demolish" and include complete plans and specifications, documents and other information as required by Article 2.4.1.1B of the Building Code as prescribed in Schedule C and of this By-law, and
 - (b) include completed Design and review commitment certificate form as available from the Chief Building Official where applicable

Demolition Permits

Every application for a permit shall be submitted to the Chief Building Official, and contain the following information:

- (1) Where application is made for a demolition permit under subsection 8(1) of the Act, the application shall:
 - (a) use the provincial application form "Application for a Permit to Construct or Demolish"
 - (b) include complete plans and specifications, documents and other information as required by Article 2.4.1.1B and Sentence 2.4.1.1(2) of the Building Code and other prescribed in Schedule C and D of this By-law and;
 - (c) include completed General Design and Review commitment form where applicable, and
 - (d) be accompanied by confirmation that:
 - (i) 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
 - (ii) the owner will comply with the Town's property standards By-law at the completion of demolition.

Conditional Permits

Every application for a permit shall be submitted to the Chief Building Official, and contain the following information:

- (1) Where application is made for a conditional permit under subsection 8(3) of the Act, the application shall:
 - (a) use the provincial application form, "Application for a Permit to Construct or Demolish" and
 - (b) include complete plans and specifications, documents and other information as required by Article 2.4.1.1B of the Building Code and other information as prescribed in Schedule C and D of this By-law and
 - (c) state the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;

- (d) state the necessary approvals which must be obtained in respect of the proposed building and the time in which such approvals will be obtained; and
- (e) state the time in which plans and specifications of the complete building will be filed with the "Chief Building Official".

Change of Use Permit

Every application for a permit shall be submitted to the Chief Building Official, and contain the following information:

- (1) Where application is made for a change of use permit issued under subsection 10(1) of the Act the application shall:
 - (a) use the prescribed form;
 - (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: 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;

Partial Occupancy Permit

Every application for a permit shall be submitted to the Chief Building Official, and contain the following information:

- (1) An application for a Partial Occupancy Permit shall be in writing, signed by the owner or the authorized agent of the owner and:
 - (a) shall include a statement indicating the expected occupancy dates and;
 - (b) the portions of the building to be occupied; and
 - (c) obtain all necessary permits and approvals from other municipal departments or outside agencies having jurisdiction; and

4. 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 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 sentence 2.4.1.1B.(5) 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 Schedule D and C to this By-law.
- (3) Plans, specifications, documents and other information shall be submitted in a permanent medium upon paper or other suitable and durable material and shall contain text that is legible and drawings that are legible, complete, fully dimensioned and to scale.
 - (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, and
 - (c) existing right-of-way, easements and municipal services.
 - (d) location of fire 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.

5. AUTHORIZATION OF EQUIVALENTS

- (1) Where an application for a permit or for authorization to make a material change to a plan, specification, document or other information on the basis of which a permit was issued, contains a equivalent material, system or building design for which authorization under Section 9 of the Act is requested the application shall submit:
 - (a) a description of the proposed location(s) the equivalent is proposed to be installed;
 - (b) a description of the proposed material, system or building design for which authorization is sought;
 - (c) a description of all applicable provisions of the building code in contravention;
 - (d) supporting documentation demonstrating that the proposed material, system or building design will provide the level of performance required by the building code; and
- (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 described in 7(1)(b) in this Section, and are not transferable to any other building permit.

7. REVISION TO PERMIT

- (1) In the event that a material change is made to the plans, specifications, documents or other information on the basis of which a permit was issued, the owner or authorized agent shall:
 - (a) submit revised plans and specifications as prepared by the designer listed on the building permit application illustrating the changes and any support documentation as may be requested by the Chief Building Official; and
 - (b) remit the additional fee to the Chief Building Official. In the event the area of work is reduced, there shall be no refund.

8. PERMIT REVOCATION ABANDONMENT AND TRANSFERS

- (a) 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.
- (b) Where the application has been abandoned, withdrawn or denied, the 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 "D".
- (c) 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 "D".
- (d) No permit may be transferred unless an application to transfer has been made in a form as prescribed by the Chief Building Official and payment of the fees set out in Schedule "D" has been made and Section 8 of the Act has been applied with.

9. PAYMENT OF FEES

- (1) Upon application for a permit or transfer of a permit and for each plan check, the owner shall:
 - (a) provided proof of payment of any levies, development charges and deposits; and
 - (b) remit the fees set out in Schedule D.

10. FENCING AND BARRICADES

- (1) Every person to whom a permit is issued shall maintain a fence or barricade to enclose the site of the construction or demolition.
- (2) All fences and barricades pertaining to Public Way Protection are to comply with the Occupational Health and Safety Act.
- (3) Work Shutdown
 - (i) 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:
 - (i) a fence or barricade constructed according to the requirements of subsection (2) hereof.

- (4) Barricades and Fences located on Municipal property are to be approved in writing by the Public Works Manager of the Corporation.

11. REGISTERED CODE AGENCIES

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.

12. INSPECTION NOTICES

- (1) The permit holder shall notify the Chief Building Official or a Registered Code Agency where one is appointed, of each stage of construction as listed in Schedule E. 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 2.4.3 of the Building Code are complied with.
- (2) A noticed pursuant to this Part of the By-law is not effective until notice is actually received by the Chief Building Official or the Registered Code Agency.
- (3) Upon receipt of proper notice, the inspector or a Registered Code Agency, if one is appointed, shall undertake a site inspection of the building to which the notices relates in accordance with the time periods stated in Article 2.4. 5. 3 of the Building Code and Section 11 of the Act.
- (4) Scheduling of inspections shall be through the Building Department Clerk. Inspections must be scheduled 24 hours in advance. Scheduling by means of voice mail is not permitted.

13. ACCEPTANCE OF APPLICATION AND INCOMPLETE APPLICATION

- (1) The acceptance or processing of an application under this bylaw by the Chief Building Official or the Town of Amherstburg shall not be deemed to prohibit the Chief Building Official, Plans Examiner, RCA(if appointed) or Inspector from requiring the applicant to supply further or better information, plans, specifications or details as may be necessary to determine compliance.
- (2) Where an application is found to be incomplete or does not comply with sentence 2.4.1.1B.(5) of the Building Code or this Bylaw it shall be returned to the applicant.

VALIDITY

14. SEVERABILITY

- (1) The following listed schedules annexed hereto, and shall form part of this By-law:
 - Schedule "A" Fee Schedule
 - Schedule "B" Code of Conduct for Building Officials
 - Schedule "C" Drawing Requirements
 - Schedule "D" Information Required on Drawings
 - Schedule "E" Prescribed Inspection Notices
 - Schedule "F" Applicable Law Submittal Acknowledgement

- (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 1998-19 and 2002-76 is hereby repealed.

15. **EFFECTIVE DATE**

Read a first, second and third time and finally passed this 12th day of December, 2005.

Mayor

Clerk