

THE CORPORATION OF THE TOWN OF KINGSVILLE

BY-LAW 29-2019

Being a By-law to Regulate Permits Issued Under the Building Code Act, Set Fees, and Establish a Code of Conduct for the Chief Building Official and Inspectors

WHEREAS section 7 of the *Building Code Act, 1992*, S.O. 1992, c. 23 (the “Act”) authorizes the Council of a municipality to pass by-laws applicable to the matters for which and in the area in which the municipality has jurisdiction for the enforcement of the Act.

AND WHEREAS the authorization set out in section 7 of the Act includes the power to require the payment of fees on applications for and on the issuance of permits, requiring the payment of fees for maintenance inspections, and to set the amounts of such fees, the total amount of which must not exceed the anticipated reasonable costs to administer and enforce the Act.

AND WHEREAS section 391 of the *Municipal Act, 2001*, S.O. c. 25 authorizes a municipality to pass by-laws imposing fees or charges on persons:

- (a) for services or activities provided or done by or on behalf of it;
- (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and
- (c) for the use of its property including property under its control;

and the costs included in a fee or charge may include costs incurred by a municipality related to administration, enforcement and the establishment, acquisition and replacement of capital assets.

AND WHEREAS subsection 398(2) of the *Municipal Act, 2001*, S.O. c. 25 provides that the treasurer of a municipality may add fees and charges imposed by the municipality, including such fees as authorized by the Act, to the tax roll for any property for which all of the owners are responsible for paying the fees and charges and collect them in the same manner as municipal taxes.

AND WHEREAS section 7.1(1) of the Act requires a municipality to establish and enforce a code of conduct for the Chief Building Official and inspectors appointed under the Act.

AND WHEREAS section 8 of the Act provides the authority to a Chief Building Official to revoke a permit in certain circumstances.

NOW THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE TOWN OF KINGSVILLE ENACTS AS FOLLOWS:

Definitions and Interpretation

1. In this By-law:
 - a) “applicant” means a person who applies for a permit and includes any person authorized by an owner to apply for a permit on the owner’s behalf;
 - b) “Code” means the regulations made under section 34 of the Act;
 - c) “Chief Building Official” means the person appointed as such by Council of the Town for the purposes of enforcement of the Act;

- d) “Council” means the Council of the Town;
 - e) “Inspector” means those persons appointed as such by Council of the Town for the purposes of enforcement of the Act;
 - f) “owner” means the registered owner of the property upon which the building is situate which is the subject of a permit or an application for a permit;
 - g) “permit” means a permit issued pursuant to the Act;
 - h) “person” means an individual, firm, corporation, association or partnership;
 - i) “permit holder” means the person to whom a permit has been issued; and
 - j) “Town” means The Corporation of the Town of Kingsville.
2. Any term not defined in this By-law shall have the same meaning ascribed to it in the Act or the Code.

Application for Permit

3. Every application for every permit shall:
- a) contain sufficient information to enable the Chief Building Official to determine whether or not the work will conform with the Act, the Code and any other applicable law;
 - b) include a statement that the application does not contravene any applicable law and include supporting document in connection with the same;
 - c) be appropriately signed by the applicant;
 - d) if the owner is not the applicant, include an authorization to the applicant, in the form approved by the Chief Building Official, appropriately signed by the owner;
 - e) be accompanied by the required fee as set out in Schedule A attached hereto and forming part of this By-law;
 - f) be submitted to the Chief Building Official.

Permits

4. The classes of permits and the additional information and documents required to be filed by the applicant and considered prior to the issuance of the corresponding permit shall be as follows:

CLASS OF PERMIT	INFORMATION AND DOCUMENTS REQUIRED
Construction	<div>(a) the prescribed application form entitled “Application for a Permit to Construct or Demolish”;</div> <div>(b) plans and specifications in accordance with sections 5 to 10 inclusive;</div> <div>(c) a detailed description of the work to be done and the existing and proposed use and occupancy of the building, or part thereof, for which the application for a permit is made;</div>

CLASS OF PERMIT	INFORMATION AND DOCUMENTS REQUIRED
	<p>(d) drawings and commitments as set out in Schedule C attached to and forming part of this By-law; and</p> <p>(e) Energy Efficiency Design Summary, as prescribed by the Code.</p>
Demolition	<p>(a) the prescribed application form entitled “Application for a Permit to Construct or Demolish”;</p> <p>(b) plans and specifications in accordance with sections 5 to 10 inclusive;</p> <p>(c) a detailed description of the work to be done and the existing use and occupancy of the building, or part thereof, for which the application for a permit is made and the proposed use and occupancy of that part of the building, if any, that will remain upon completion of the demolition;</p> <p>(d) commitment to general review by engineer as required by the Code;</p> <p>(e) demolition control agreement, as required;</p> <p>(f) designated substance report and method of demolition report as required; and</p> <p>(g) confirmation that:</p> <p style="padding-left: 40px;">(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</p> <p style="padding-left: 40px;">(ii) that the owner and applicant will comply with the Town’s Property Standards By-law upon the completion of demolition.</p>
Conditional	<p>(a) the prescribed application form entitled “Application for a Permit to Construct or Demolish”;</p> <p>(b) plans and specifications in accordance with sections 5 to 10 inclusive; and</p> <p>(c) a written statement containing the following:</p> <p style="padding-left: 40px;">(i) the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;</p> <p style="padding-left: 40px;">(ii) information regarding the necessary approvals which must be obtained in respect of the proposed building and the</p>

CLASS OF PERMIT	INFORMATION AND DOCUMENTS REQUIRED
	<p>time in which such approvals will be obtained; and</p> <p>(iii) the time in which plans and specifications of the complete building will be filed with the Chief Building Official,</p> <p>all of which shall be incorporated into the agreement required pursuant to section 8(c) of the Act.</p>
Change of Use	<p>(a) the application in the form approved by the Chief Building Official from time to time;</p> <p>(b) plans and specifications in accordance with sections 5 to 10 inclusive, including floor plans, details of walls, ceilings and roof assemblies, identifying required fire resistance ratings and load bearing capacities, and details of the existing sewage system if any;</p> <p>(c) a description of the building in which the occupancy is to be changed, which description shall readily identify and locate the building;</p> <p>(d) a detailed description of the existing and proposed use and occupancy of the building, or part thereof, for which the application for a permit is made; and</p> <p>(e) drawings and commitments as set out in Schedule C.</p>
Sewage System	<p>(a) the prescribed application form entitled “Application for a Permit to Construct or Demolish”;</p> <p>(b) plans and specifications in accordance with sections 5 to 10 inclusive;</p> <p>(c) commitment to general review by architect and engineer where sewage system exceeds 10,00l/d;</p> <p>(d) soils analysis;</p> <p>(e) site plan and cross section detail;</p> <p>(f) a site evaluation which shall include all of the following items, unless otherwise specified by the Chief Building Official:</p> <p>(i) the date the evaluation was done;</p> <p>(ii) the name, address, telephone number and signature of the person who prepared the evaluation;</p>

CLASS OF PERMIT	INFORMATION AND DOCUMENTS REQUIRED
	<p>(iii) a scaled map of the site including the following:</p> <ul style="list-style-type: none">• 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 8.2.1.5.A., 8.2.1.5.B. and 8.2.1.5.C. of the 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• depth to zones of soil saturation• soil properties, including soil permeability; and soil conditions, including the potential for flooding <p>(iv) a report completed by a geo-technical engineer verifying condition of soil</p>
Transfer	<p>(a) the application in the form approved by the Chief Building Official;</p> <p>(b) a written statement from the permit holder authorizing the transfer of the permit to the transferee;</p> <p>(c) proof of ownership of the property by the transferee;</p> <p>(d) confirmation that the work to be done and the existing and proposed use and occupancy of the building or part thereof, for which the application for the transfer of the permit is made, is the same as that identified in the application;</p> <p>(e) the name, address, telephone number and facsimile number of the proposed architect, professional engineer or other designer, and his/her/their respective qualifications, where they are different from those identified in the application;</p> <p>(f) written confirmation from the proposed architect, professional engineer or other designer that he/she/they have been retained to undertake general review of the construction or demolition where required under the Code; and</p> <p>(g) where the proposed transferee is a builder as defined in the <i>Ontario New Home Warranties Plan Act</i>, or any successor thereto, the proposed transferee's registration number.</p>

Plans and Specifications

5. Each application shall, unless otherwise specified by the Chief Building Official, be accompanied by two (2) complete sets of the plans and specifications submitted upon paper or other suitable and durable material or, if approved by the Chief Building Official, in electronic format, and shall contain text that is legible and drawings that are legible, complete, fully dimensioned and to scale.
6. 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.
7. On the completion of the foundation for a detached, semi-detached, triplex, fourplex or townhouse dwelling, but prior to a framing inspection, the Chief Building Official may require a survey prepared by an Ontario Land Surveyor to be submitted, which survey shall indicate the location and elevation of the top of the foundation wall.
8. Upon completion of the construction of a building, or part of a building, the Chief Building Official may require the 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 along with finished grade elevations.
9. In the event of a material change to a plan or specification on the basis of which a permit has been issued, the applicant shall give notice in writing to the Chief Building Official together with the details of such change.
10. Plans and specifications provided in accordance with this By-law shall become the property of the Town and shall be retained by the Town in accordance with the relevant legislation and the Town's Records Retention By-law, as amended from time to time.

Alternative Solutions

11. Where an applicant proposes using an alternative solution, the applicant shall provide, in addition to the prescribed documentation, a description of the proposed location(s) where the alternative solution is proposed to be used.
12. The Chief Building Official may accept or reject any alternative solution and may impose conditions or limitation on its use.
13. Alternative solutions which are accepted by the Chief Building Official shall be applicable only to the location proposed by the applicant and are not transferable to any other location.

Revoking Permits

14. Prior to revoking a permit, the Chief Building Official shall give written notice of his or her intention to revoke the permit to the permit holder at the permit holder's address shown on the application or to such other address as the permit holder may provide to the Town for that purpose.
15. Notice under subsection 14 of this By-law shall be given either personally or by registered mail and where notice is by registered mail, it shall be deemed to have been given on the fifth day after the day of mailing.
16. A permit holder may request in writing that the Chief Building Official defer the revocation. Such request shall:

- a) be received by the Chief Building Official within 30 days from the date of service of the notice given under subsection 14;
 - b) contain reasons why the permit should not be revoked; and
 - c) include the required fee as set out in Schedule A.
17. The Chief Building Official may, upon consideration of the request, defer the revocation of the permit and, in any event, shall provide notice in writing to the permit holder of his or her decision.
18. If no request for deferral is received by the Chief Building Official, the Chief Building Official may revoke the permit without further notice and dispose of all submitted plans, specifications, documents and other information which has been received in support of the application for a permit in accordance with the Records Retention By-law.

Fees

19. Fees shall be charged and paid as set out in Schedule A attached hereto and forming part of this By-law.
20. The calculation of fees shall be subject to the following:
- a) building classifications and the square footage of buildings shall be determined by the Chief Building Official in accordance with the Code;
 - b) for a construction, demolition or conditional permit based on the value of the proposed work, the value of the proposed work shall mean the total cost of all work regulated by the permit including the cost of all material, labour, equipment, overhead and professional and related services as determined by the Chief Building Official;
 - c) for a construction, demolition permit or conditional permit based on floor area, floor area shall mean the total floor space of all storeys above grade (or below grade for an underground home) measured as the horizontal area within the outside surface of the exterior walls of the building;
 - d) for a change of use permit based on a floor area, floor area shall mean the total floor space of all storeys subject to the change of use; and
 - e) for a conditional permit, fees shall be paid based on the complete project.

Refund of Fees

21. In the event that applicant disputes the value of the proposed work as determined by the Chief Building Official pursuant to subsection 20(b), the applicant shall:
- a) pay the fee;
 - b) submit, together with the payment of the fee, a written notice of protest; and
 - c) within six (6) months of completion of the work, submit an audited statement of the actual costs of the work.

22. Where the actual costs of the work as indicated on the audited statement submitted pursuant to subsection 21(c) are less than the value of the proposed work as determined by the Chief Building Official, the Chief Building shall issue a refund for the difference between the fee paid and the fee calculated based upon the audited costs of the work.
23. Further, the Chief Building Official shall refund a fee paid in the following amounts and in the following circumstances:
 - a) 80% in the event the application has been filed, but is withdrawn, in writing, prior to the permit being issued.
 - b) 75% in the event the application has been filed, the permit issued and/or picked up, and no inspection has been requested within 6 months of the permit being issued. The refund amount shall not be less than \$250.00 for Part 9 properties and \$500.00 for Part 3 properties.

Additional Notice Requirements for Inspections

24. When determined necessary by the Chief Building Official, the permit holder shall provide notice to the Chief Building Official of the following stages of construction:
 - a) commencement of construction;
 - b) substantial completion of site grading;
 - c) the completion and availability of drawings of the building as constructed; and/or
 - d) completion of a building for which an occupancy permit is required under Article 1.3.3.4 of the Code.
25. For greater clarity, except as authorized by the Code, prior to the occupancy or use of a building or part of a building or prior to permitting the occupancy or use of a building or part of a building, notice of the date of completion of the building or part must be given to the Chief Building Official.

Code of Conduct

26. The Code of Conduct as set out in Schedule B attached hereto and forming part of this By-law is hereby established.
27. The Chief Building Official and Inspectors shall be governed by the Code of Conduct.

General

28. The requirements as set out in this By-law are in addition to the requirements of the Act and the Code.
29. 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.
30. By-law 18-2018 is hereby repealed effective March 31, 2019

31. This by-law shall come into force on April 1, 2019.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
11th DAY OF MARCH, 2019.**

MAYOR, Nelson Santos

CLERK, Jennifer Astrologo