

CORPORATION OF THE CITY OF KINGSTON

Ontario

BY-LAW NO. 2005-99

**A BY-LAW TO PROVIDE FOR THE CONSTRUCTION, DEMOLITION, CHANGE OF USE AND
TRANSFER OF PERMITS AND INSPECTIONS**

PASSED: May 17, 2005

As Amended By By-Law No:

(Office Consolidation)

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BY-LAW NO. 2005-99

A BY-LAW TO PROVIDE FOR THE CONSTRUCTION, DEMOLITION, CHANGE OF USE AND
TRANSFER OF PERMITS AND INSPECTIONS

PASSED: May 17, 2005

WHEREAS Section 7 of the *Building Code Act*, 1992 S.O. 1992, Chapter 23 as amended, empowers Council to pass certain by-laws respecting construction, demolition, change of use, transfer of permits, inspections and the setting and refunding of fees;

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

1. DEFINITIONS

In this by-law:

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

"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;

"Architect" means the holder of a license, certificate of practice or a temporary licence issued under the *Architects Act* as defined in the Building Code;

"Building Code" means the regulations made under Section 34 of the Act;

"Chief Building Official" means the Chief Building Official appointed by by-law of the Corporation for the purposes of enforcement of the Act;

"Construct" means construct as defined in Subsection 1(1) of the Act;

"Corporation" means the Corporation of the City of Kingston;

"Demolish" means demolish as defined in Subsection 1(1) of the Act;

"Designer" means an Architect, Engineer or designer qualified to carry out designs under the Act;

"Inspector" means an inspector appointed by by-law of the Corporation for the purposes of enforcement of the Act;

"Owner" means the registered owner of the property and includes a lessee, mortgagee in possession, and the authorized agent in lawful control of the property;

"Permit" means permission or authorization given in writing from the Chief Building Official to perform work, to change the use of a building or part thereof, or to occupy a building or part thereof, as regulated by the Act and Building Code;

"Permit holder" means the owner to whom a permit has been issued or where a permit has been transferred, the new owner to whom the permit has been transferred;

1. "Professional Engineer" or "Engineer" means a person who holds a licence or temporary licence under the *Professional Engineers Act*, as defined in the Building Code;

"Rates and Fees By-Law" means the current, updated Rates and Fees By-Law for the Corporation, at the time of permit issuance;

"Registered Code Agency" means a registered code agency as defined in Subsection 1(1) of the Act;

"Sewage system" means a sewage system as defined in Subsection 1(1) of the Act;

"Work" means construction or demolition of a building or part thereof, as the case may be;

Any word or term not defined in this by-law, that is defined in the Act or Building Code shall have the meaning ascribed to it in the Act or the Building Code.

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2. CLASSES OF PERMITS

2.1 The Classes of Permits set out in Schedule "A" of this By-Law are hereby established.

(By-Law No. 2005-99)

3. PERMITS

3.1 To obtain a permit, the owner or an agent authorized in writing by the owner shall first pay the required fee and shall file an application in writing by completing a prescribed form.

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3.2 Every application for a permit shall be submitted to the Chief Building Official.

(1) Where application is made for a construction permit under Subsection 8(1) of the Act, the applicant 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 as described in this by-law for the work to be covered by the permit.

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(2) Where application is made for a demolition permit under Subsection 8(1) of the Act, the applicant shall:

(a) use the provincial application form, "Application for a Permit to Construct or Demolish"; and

- (2) (b) include complete plans and specifications, documents and other information as required by the Building Code and as described in this by-law for the work to be covered by the permit; and
- (c) include the following:
 - (i) proof satisfactory to the Chief Building Official that arrangements have been made with the proper authorities for the cutting off of all services; and
 - (ii) written confirmation on the Corporations prescribed form that the site will be backfilled and graded with clean fill material to his or her satisfaction and that all private drain connections will be excavated and properly sealed at the property line.

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- (3) Where application is made for a conditional permit under Subsection 8(3) of the Act, the applicant 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 the Building Code and as described in this by-law for the work to be covered by the permit;
 - (c) submit in writing the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;
 - (d) submit a written list of 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) provide the date by which plans and specifications of the complete building will be filed with the Chief Building Official.

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- (4) Where application is made for a change of use permit under Subsection 10(1) of the Act the applicant shall:
 - (a) use the form prescribed by the Province;
 - (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;

- (4) (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; and any other drawings, documentation and other information required by the Chief Building Official to issue a Building Permit.
- (e) state the name, address and telephone number of the owner;
- (f) be signed by the owner or his or her authorized agent who shall certify the truth of the contents of the application.

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- (5) Where application is made for a sewage permit issued under Subsection 8(1) of the Act, the applicant shall make application to the Kingston, Frontenac and Lennox and Addington Health Unit; and
 - (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 the Building Code and as described in this by-law for the work to be covered by the permit;
 - (c) include a site evaluation which shall include all of the following items, unless otherwise specified by the Chief Building Official:
 - (i) the date the evaluation was done;
 - (ii) name, address, telephone number and signature of the person who prepared the evaluation; and
 - (iii) a scaled map of the site showing the following:
 - 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;

- (5) (c) (iii) - depth to bedrock;
 - depth to zones of soil saturation;
 - soil properties, including soil permeability; and
 - soil conditions, including the potential for flooding.

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- (6) Where application is made for a transfer of permit because of a change of ownership of the land, as permitted under Section 7 (h) of the Act, the applicant shall:
 - (a) make such request in writing to the Corporation;
 - (b) provide the names and addresses of the previous and new land owner;
 - (c) provide the date that the land ownership change took place;
 - (d) describe the permit that is being transferred;
 - (e) provide written confirmation from the original permit holder or owner that the permit is to be transferred;
 - (f) provide written confirmation from the Designers that use of their drawings for this permit is acceptable;
 - (g) provide new drawings where the drawings which formed the basis of the original permit issuance were prepared by the original owner and the owner is not a "Designer".

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3.3 When, in order to expedite work, approval of a portion of the building or project is desired prior to the issuance of a permit for the complete building or project,

- (1) application shall be made and all applicable fees paid for the complete project; and

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- (2) complete plans and specifications covering the portion of the work for which immediate approval is desired shall be filed with the Chief Building Official; and

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- (3) where a partial permit is requested the application is deemed to be incomplete.

(By-Law No. 2005-99)

3.4 Where a permit is issued for part of a building or project this shall not be construed to authorize construction beyond the plans for which approval was given nor that approval will necessarily be granted for the entire building or project.

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- 3.5 Where an application for a permit remains incomplete or inactive for six months after it is made the application may be deemed by the Chief Building Official to have been abandoned and notice thereof shall be given to the applicant. If an application is deemed to be abandoned, a new application must be filed for the proposed work.

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4. PLANS AND SPECIFICATIONS

- 4.1 Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed construction, demolition, change of use or transfer of permit will conform with the Act, the Building Code and any other applicable law.

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- 4.2 Each application shall, unless otherwise specified by the Chief Building Official, be accompanied by two complete sets of all plans and specifications.

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- 4.3 Plans shall be drawn to scale on paper, cloth, electronic media approved by the Corporation or other durable material and shall be legible.

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- 4.4 Site plans shall be referenced to an up-to-date survey and, when required to demonstrate compliance with the Act, the Building Code or other applicable law, a copy of the survey shall be submitted to the Chief Building Official. Site plans shall show the following:

- (1) Lot size and the dimensions of property lines and setbacks to any existing or proposed buildings;
- (2) Existing and finished ground levels or grades; and
- (3) Existing rights-of-way, easements and municipal services.

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- 4.5 On completion of the construction of a building, the Chief Building Official may require the owner to provide a set of as constructed plans, including a plan of survey showing the location of the building, at the owners cost.

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- 4.6 Upon completion of the foundation, the applicant shall submit a building location survey when requested by the Chief Building Official.

(By-Law No. 2005-99)

- 4.7 Plans and specifications furnished according to this By-law or otherwise required by the Act become the property of the Corporation and will be disposed of or retained in accordance with relevant legislation.

(By-Law No. 2005-99)

5. REGISTERED CODE AGENCIES

- 5.1 The Chief Building Official is authorized to enter into and sign contracts for service agreements with registered code agencies and appoint them to perform specified functions from time to time in order to maintain the time periods for permits prescribed in the Building Code.

(By-Law No. 2005-99)

- 5.2 The registered code agency may be appointed to perform one or more of the specified functions described in Section 15.15 of the Act.

(By-Law No. 2005-99)

6. FEES AND REFUNDS

- 6.1 The Chief Building Official shall determine the required fees for the work proposed calculated in accordance with the Rates and Fees By-Law and Schedule "A" of this By-law and no permit shall be issued until the fees are paid.

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- 6.2 Any person or Corporation who commences construction, demolition or changes the use of a building prior to issuance of a permit, shall in addition to any other penalty under this Act, Building Code, or in this By-law pay an additional fee in order to compensate the Corporation for the additional work incurred by such early start of work. The additional fee shall be equal to Forty Percent (40%) of the amount calculated as the regular permit fee but in no case shall the additional fee exceed Ten Thousand (\$10,000.00) Dollars.

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- 6.3 In the case of withdrawal of an application, or the abandonment of all or a portion of the work, or refusal of a permit, or the non-commencement of any project, the Chief Building Official shall determine the amount of paid permit fees that may be refunded to the applicant, if any, in accordance with the Rates and Fees By-Law and Schedule "A" of this By-Law. No refund shall be applied where the permit has been revoked, except where the permit was issued in error. Any request for a permit refund must be made by the applicant within twelve months of issuance of the permit. Refunds requested after this time will not be considered.

(By-Law No. 2005-99)

7. OFFENCE AND PENALTY PROVISIONS

- 7.1 Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided in Section 36 of the *Building Code Act*, 1992, S.O. 1992, c.23, as amended.

(By-Law No. 2005-99)

8. REVOCATION OF PERMITS

- 8.1 Prior to revoking a permit under Subsection 8(10) of the Act, the Chief Building Official shall serve a notice by personal service or registered mail at the last known address to the permit holder, and following a thirty (30) day period from the date of service the Chief Building Official may revoke the permit if grounds to revoke still exist, without any further notice.

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- 8.2 A permit holder may within thirty (30) days from the date of service of a notice under this Part, request in writing that the Chief Building Official defer the revocation by stating reasons why the permit should not be revoked. The Chief Building Official, having regard to any changes to the Act, Building Code or other applicable law, may allow the deferral, in writing.

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- 8.3 A request for deferral shall be accompanied by the non-refundable fee therefore set out in Schedule "A" of this By-law.

(By-Law No. 2005-99)

9. NOTICE REQUIREMENTS FOR INSPECTIONS

- 9.1 The permit holder shall notify the Chief Building Official or a Registered Code Agency, where one is appointed, of each stage of construction for which a mandatory notice is required under the Building Code. 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 the Building Code are complied with.

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- 9.2 A notice 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 and the permit holder receives a confirmation number issued by the Corporation or the Registered Code Agency.

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9.3 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 the Building Code and Section 11 of the Act.

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10. VALIDITY

10.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

(By-Law No. 2005-99)

11. SHORT TITLE

11.1 This by-law may be referred to as the Building By-law.

(By-Law No. 2005-99)

12. COMMENCEMENT

12.1 This by-law shall come into force and effect on the date of its passing.

(By-Law No. 2005-99)

BY-LAW 2005-99**A BY-LAW TO PROVIDE FOR THE CONSTRUCTION, DEMOLITION, CHANGE OF USE AND TRANSFER OF PERMITS AND INSPECTIONS****1. CLASSES OF PERMITS AND FEES**

Classes of Permits and Permit fees shall be based on the rates outlined in the current "Rates and Fees By-Law" for the Corporation of the City of Kingston.

In addition to these listed fees, the following fees shall apply;

- (a) Where a drawing review has been completed by the Corporation and a review letter issued, and the applicant changes the "model" of a house, as per Section 2 (c) of this schedule, an additional Fifty-Five (55) percent fee will apply to the permit fee for costs incurred by the Corporation;
- (b) The fee for Applications for requests for Acceptable Solutions and Compliance Alternatives or Equivalents to Division B of the Building Code as amended shall be based on an hourly rate (including payroll benefits) for the Building Officials, Supervisor, Deputy CBO, and/or Chief Building Official involved in the application review, based on the costs incurred by the Corporation to review and research the proposed "Equivalent";
- (c) Where an Inspection has been made, and the applicant, owner or contractor is made aware of any Building Code contraventions, and a reinspection has been requested and carried out by the Corporation and it is determined that the contraventions have not been remedied, the cost of carrying out any further inspections shall be charged to the applicant, owner or contractor at the rate outlined in the Rates and Fees Bylaw.

(By-Law No. 2005-99)

2. REFUNDS

Pursuant to Section 6 of this By-law, the fees that may be refunded shall be a percentage of the fees payable under this By-law, calculated by the Chief Building Official as follows:

- (a) Eighty (80) percent if administrative functions only have been performed;
- (b) Seventy (70) percent if administrative and zoning functions only have been performed;
- (c) Forty-Five (45) percent if administrative, zoning and plan examination functions have been performed;
- (d) Thirty-Five (35) percent if the permit has been issued and no field inspections have been performed subsequent to permit issuance;
- (e) Five (5) percent shall additionally be deducted for each field inspection that has been performed after the permit has been issued;
- (f) No refund shall be made for an amount less than \$35.00.

(By-Law No. 2005-99)

3. MISCELLANEOUS CHARGES

For classes of permits not described in the Rates and Fees By-Law or this Schedule, a reasonable permit fee shall be applied by the Chief Building Official.

(By-Law No. 2005-99)

4. INTERPRETATION

The following explanatory notes are to be observed in the calculation of permit fees:

- (a) Where cost of construction is used to calculate permit fees (example \$12.00 per \$1,000 of construction value) the current industry average may be applied to the construction value to determine the cost of a permit;
- (b) Where there is a conflict between the applicant and the Corporation in regards to the value of construction at the time of permit issuance, the Corporation may request audited documentation to confirm construction costs. In cases where the value of construction is not agreed upon by both parties, the current industry average shall be used and upon completion of the project, the applicant shall submit the audited cost of all items pertaining to the construction to determine if any refund is applicable.

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