

Authority: Item 5, Planning and Economic
Development Committee
Report: 08-011 (PED 08141)
CM: June 25, 2008

Bill No. 161

CITY OF HAMILTON

BY LAW NO. 08-161

A By-law under the Building Code Act, 1992 respecting permits and related matters

WHEREAS Council of the City of Hamilton desires to provide for the issuance of permits and related matters under the Building Code Act, S.O. 1992, c. 23 as amended, to obtain sufficient information from applicants to determine compliance with the Act and applicable laws, for the purpose of providing for the safety and health of the public at large through compliant construction, demolition and other matters under the Act, and to fix fees covering the full costs of services provided;

AND WHEREAS Section 7 of the Building Code Act, 1992, S.O. 1992, Chapter 23, authorizes a municipal council to pass by-laws concerning the issuance of permits and related matters;

NOW, THEREFORE, the Council of The City of Hamilton enacts as follows:

SHORT TITLE

1. This By-Law may be cited as the "Building By-Law";

DEFINITIONS

2. (1) In this By-Law:
 - (a) **"Act"** means the **Building Code Act, 1992, S.O. 1992, Chapter 23** as amended, and includes the **Building Code**.
 - (b) **"Applicant"** means the person who applies for a **permit** or where an individual is signing on behalf of a corporation or partnership means the corporation or partnership.
 - (c) **"Building Code" or "O.B.C."** means the regulations made under Section 34 of the **Act**.
 - (d) **"Chief Building Official"** means the person, or his or her designate, appointed by the City to that office or holding the office pursuant to the **Act**.

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 2 of 26

- (e) **"Complete Permit Application"** means an application satisfying the requirements of Article 1.3.1.3 of Division C of the **Building Code** and the requirements of this By-law.
 - (f) **"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 demolition or other work under a **permit** as if he/she were the registered owner.
 - (g) **"Permit"** means permission or authorization given in writing by the **Chief Building Official** to perform work regulated by the **Act** and **Building Code**, or to occupy a building or part thereof, or to change the use of a building.
 - (h) **"Permit holder"** means the person to whom the **permit** has been issued and who assumes the primary responsibility for complying with the **Act** and the **Building Code**.
 - (i) **"Prescribed value"** means the value established by the **Chief Building Official** for the work for which a **permit** is applied for.
 - (j) **"Registered Code Agency"** means a person or entity that has the qualifications and meets the requirements set out in the **Act** and the **Building Code**.
- (2) Terms not defined in this By-Law shall have the meaning ascribed to them in the **Act**, excepting sections 15.1 through 15.8, or in the **Building Code**.
- (3) Terms bolded throughout this By-Law are defined terms within subsection 2(1) of this By-Law.
- (4) For the purposes of interpretation of this by-law and subject to the **Act**;
- (a) The requirements herein are in addition to the requirements of the **Act** and **Building Code**; and
 - (b) Classes of **permits** with respect to the construction, demolition and change of use of buildings shall be as set out in Schedule "A" to this By-law.

LIST OF SCHEDULES

3. The following schedules are attached to and form a part of this by-law:
- (1) Schedule "A" being the general formula for calculation of fees, minimum fees and Classes of **permits** required for construction, demolition or change of use;

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 3 of 26

- (2) Schedule "B" being for the calculation of refunds of **permit** fees and the deductions from fees based upon work performed under the **permit**; and
- (3) Schedule "C" being the surcharge applicable to fees under this by-law where indicated stages of work have been commenced or changes made prior to issuance of the **permit**, intended in part to cover the additional costs associated with actions made necessary by the commencement or completion of work or change of use without the required **permit** and to encourage the submission of complete applications for **permits**.
- (4) Schedule "D" being the list of plans and documents required to be submitted with **permit** applications.
- (5) Schedule "E" being the form that an **applicant** may use to waive time limits for **permit** processing, subject to the approval of the **Chief Building Official**, where an application is found to be incomplete.
- (6) Schedule "F", being the Code of Conduct for building officials.

PERMITS

4. (1) To obtain any **permit**, a person entitled to make application under the **Act** shall file a **complete permit application** with the **Chief Building Official** in writing and on the prescribed form available at the offices of the **Chief Building Official** or from the Ministry of Municipal Affairs and Housing's Ontario Building Code website (www.obc.mah.gov.on.ca), and shall supply any other information or forms relating to the application as required by the **Act**, the **Building Code**, the **Chief Building Official** and this by-law.

Building Permits

- (2) The **applicant** for a building **permit** shall provide sufficient information with the application to determine compliance with the **Act**, applicable law and this by-law, including:
 - (a) identifying and describing in detail the work, use and occupancy to be covered by the **permit** for which the application is made;
 - (b) identifying and describing in detail the existing occupancy and uses and the proposed occupancy and use(s) for which the premises are intended;
 - (c) describing the land on which the work is to be done, by a description that will readily identify and locate the site on which the construction or demolition is to occur;
 - (d) plans and specifications as described in this By-Law or as may be additionally necessary to determine the nature or extent of the construction, demolition or change proposed under the **permit** and

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 4 of 26

compliance with the **Act, Building Code**, applicable law and this by-law;

- (e) be accompanied by the required fees as calculated in accordance with this by-law;
- (f) when Section 1.2 of Division C of the **Building Code** applies, be accompanied by a signed acknowledgement of the **owner** on a form prescribed by the **Chief Building Official** that an architect or professional engineer, or both, have been retained to carry out the general review of the construction or demolition of the building;
- (g) when Section 1.2 of Division C of the **Building Code** applies, be accompanied by a signed statement of the architect or professional engineer, or both, on a form prescribed by the **Chief Building Official**, undertaking to provide general review of the construction or demolition of the building; and
- (h) state the following in respect of the work or change being carried out under the **permit**:
 - (i) where the **owner** or **applicant** is paying someone else to carry out the work, and where a price has been agreed in advance of the work, the actual price being paid, along with copies of the supporting receipts or documents, or
 - (ii) where the **applicant** or **owner** is carrying out the work themselves, where there is no agreed price above, or where the **Chief Building Official** is of the opinion that the price supplied by the **applicant** in (i) above is not sufficient to indicate the price being paid is representative of the cost of the work, the **applicant** shall supply an estimate of the total cost of all work regulated by the **permit**, considering the headings of cost as specified in paragraphs 6.(1)(a) through (h) of this by-law, providing actual costs of those items where known, along with copies of supporting receipts or documents.

Demolition Permits

- (3) In addition to the requirements of subsections (1) and (2) above, every demolition **permit** application shall:
 - (a) include, when Section 1.2 of Division C of the **Building Code** applies, details of the structural design characteristics of the building and the method and proposed time schedule of the demolition; and
 - (b) provide written confirmation from the relevant authorities that arrangements have been made with the authorities for the termination and capping of all the water, sewer, gas, electric, telephone or other utilities and services connected to the property.

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 5 of 26

Conditional Permits (Under the Building Code Act)

- (4) In addition to the requirements of subsections (1) and (2) above, every conditional **permit** application made under Subsection 8(3) of the **Act**, in the application, shall:
- (a) contain such other information, executed agreements, plans and specifications concerning the complete project as the **Chief Building Official** may require, including but not limited to information supporting compliance with zoning and interim control by-laws, and the feasibility of returning the site to its original condition, and an agreement for the **applicant** or **owner** to do so on such terms and with security for such work in such amount as determined necessary by the **Chief Building Official**;
 - (b) state the reasons and give supporting documentation as to why the **applicant** believes that unreasonable delays in construction would occur if a conditional **permit** is not granted;
 - (c) state the necessary approvals which must be obtained in respect of the proposed building and the time in which such approvals will be obtained;
 - (d) state the proposed time in which plans and specifications of the complete building will be filed with the **Chief Building Official**; and
 - (e) The **Chief Building Official** may, where conditions and requirements imposed under Subsections 8(3) to 8(5) of the **Act** and this subsection have been fulfilled, issue a conditional **permit** for a building subject to compliance with the **Act**, the **Building Code** and any applicable law, the payment of the fees, and the provision of security and agreements.
 - (f) A **permit holder** in respect of an issued conditional **permit** does not have permission to proceed to construct or demolish or cause or **permit** construction or demolition to proceed beyond the point authorized by the **permit** without obtaining a further **permit** therefore, and the **Chief Building Official** by reason of the issuance of a conditional **permit** or **permits** for a part or parts of the building shall not be under any obligation to grant any further **permit** or **permits**.

Change of Use Permit

- (5) In addition to the applicable requirements of subsections (1) and (2) above, every change of use **permit** application shall:

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 6 of 26

- (a) describe the building and the parts thereof in which the occupancy is to be changed;
- (b) include plans and specifications which show the current and proposed occupancy and use 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, floor and roof assemblies identifying required fire resistance rating and load bearing capacities, and details of the existing sewage system if any;
- (c) where the fee payable under this by-law, in respect of an application for a change of use **permit** issued under Subsection 10(1) of the **Act**, is based on a floor area, the **applicant** shall supply the total floor area of all storeys subject to the change of use; and
- (d) be accompanied by a completed and signed form as supplied by the **Chief Building Official**, and be signed by the **owner** or his authorized agent who shall certify the truth of the contents of the application.

Sewage System Permit

- (6) In addition to the applicable requirements of subsections (1) and (2) above, every sewage system **permit** application shall contain the following information:
 - (a) 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;
 - (iii) a scaled map of the site showing the legal description, lot size, property dimensions, existing rights-of-way, easements, or municipal or other 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 Division B of the **Building Code** where applicable; the location of the proposed sewage system; the location of any unsuitable, disturbed or compacted areas, and the proposed access routes for system maintenance;
 - (iv) depth to bedrock;
 - (v) depth to zones of soil saturation;
 - (vi) soil properties, including soil permeability; and

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 7 of 26

(vii) soil conditions, including the potential for flooding.

Additional Information

- (7) The acceptance or processing of an **application** under this by-law by the **Chief Building Official** or the City of Hamilton, shall not be deemed to prohibit the **Chief Building Official** from requiring the **applicant** to supply further or better information, plans and specifications or details, as may be necessary to:
- (a) determine compliance with the **Act, Building Code**, this by-law, applicable law including but not limited to zoning and interim control by-law compliance, and to issue the **permit**; or
 - (b) as may be needed to determine the fees under this by-law.
- (8) Failing the **applicant** supplying such further information requested, the application may be found incomplete or denied.

Incomplete Application

- (9) Where an application is found to be incomplete or does not comply with Sentence 1.3.1.3.(5) of Division C of the **Building Code** or this by-law the **Chief Building Official** may accept the application to commence its processing if the **applicant** acknowledges that the application is incomplete and completes the waiver and acknowledgement form as set out in Schedule "E" of this by-law.

Change to Information Supplied in Application

- (10) An **applicant** or **permit holder** shall give the **Chief Building Official** written notice of any material change intended to be made to any plan, specification, document or other information on which the application was made and **permit** issued, and the **applicant** or **permit holder** shall supply the **Chief Building Official** with details of such changes, and no construction shall be carried out in respect of the change until written authorization is obtained from the **Chief Building Official**.
- (11) Notwithstanding subsection (10) above and the fact that construction or change has been made without authorization, the **applicant** or **permit holder** shall supply written notice to the **Chief Building Official** of any material change to any plan, specification, document or other information on which the application was made and **permit** issued, with details of all changes.
- (12) In respect of a material change and notice given under subsections (10) or (11) above, the **Chief Building Official** will pursuant to this by-law and the **Act**, determine whether a further application, certificate of change or other document must be filed and timelines extended to review, consider or

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 8 of 26

approve the change, and the applicable fees under this by-law arising from the change.

Inactive Permit Application

- (13) Where an application for a **permit** remains incomplete or inactive for six months after it is made, the **Chief Building Official** may refuse to hold or process the application by deeming it to have been abandoned, and shall give written notice to the **applicant** by ordinary mail at the address indicated on the application.

PLANS AND SPECIFICATIONS

5. (1) Every **complete permit application** shall, unless otherwise specified by the **Chief Building Official**, be accompanied by the plans and documents listed on Schedule "D" of this By-law and in accordance with the requirements of this section.
- (2) Every **applicant** shall furnish as part of the application,
- (a) sufficient plans, specifications, documents and other information, including design calculations, to enable the **Chief Building Official** to determine whether the proposed construction, demolition, or change of use conforms to the **Act** and the **Building Code**, and any other applicable law; and
 - (b) a site plan referenced to a current plan of survey certified by a registered Ontario Land Surveyor and a certified copy of such a survey shall be filed with the municipality unless this requirement is waived in writing because the **Chief Building Official** in his or her opinion is able, without having a current plan of survey, to determine whether the proposed work conforms to the **Act**, the **Building Code**, and any other applicable law. Such site plan shall include:
 - (i) the lot size and dimensions of the property;
 - (ii) all setbacks from existing and proposed buildings to property boundaries and to each other;
 - (iii) the proposed lot coverage;
 - (iv) the existing and finished grades and first floor elevations referenced to an established datum at or adjacent to the site in respect of which the application is made; and
 - (v) all existing rights-of-way, easements and municipal services.
- (3) Plans submitted shall be legible and be drawn to scale upon paper or such other suitable and durable material as the **Chief Building Official** may

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 9 of 26

require. Plan size shall not exceed ISO 216 paper size A1 or 24 inch x 36 inch unless otherwise permitted by the **Chief Building Official**.

- (4) The **Chief Building Official** shall determine and specify the number of plans, specifications, documents and other information required to be furnished with an application for **permit** having regard to the requirements of any Act, regulation or By-Law respecting the examination or circulation of the application beyond the numbers specified in this by-law, which the **applicant** shall supply to complete the application.

As Constructed Plans

- (5) The **Chief Building Official** may require from the persons responsible for construction that a set of "as constructed" plans of the whole of, or any part or system of, any building be filed with the **Chief Building Official**, including the requirement for a certified plan of survey showing the location of the building, which the **applicant** or **permit holder** shall supply to the **Chief Building Official** immediately upon completion of the construction of a building.

Equivalents

- (6) 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 an equivalent material, system or building design not authorized by the **Building Code**, the **Chief Building Official** may allow such use under Section 9 of the **Act** provided a request is submitted in writing to the **Chief Building Official** with the following information:
- (a) a description of the proposed material, system or building design for which authorization under Section 9 of the **Act** is requested;
 - (b) any applicable provisions of the **Building Code**;
 - (c) evidence that the proposed material, system or building design will provide the level of performance required by the **Building Code**; and
 - (d) any other information or documentation as may be required by the **Chief Building Official**.

Plans Property of Municipality

- (7) Plans and specifications furnished according to this By-Law or otherwise required by the **Act** become the property of the municipality and will be disposed of or retained in accordance with relevant legislation.

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 10 of 26

FEES

6. (1) The **Chief Building Official** shall determine the required fees for the application, calculated in accordance with Schedule "A" for the work proposed, and where the fees payable are based on the **prescribed value** of the proposed work in respect of an application, the **prescribed value** of the proposed work shall mean the total cost of all work regulated by the **permit** and shall include the following:
- (a) all design and consultation fees, including architectural and engineering disciplines;
 - (b) all administrative and office costs associated with the co-ordination and supervision of the project;
 - (c) land surveyor's fees associated with the construction of the building;
 - (d) legal fees directly related to the construction of the building, not including legal costs leading up to commencement of the project;
 - (e) the installation costs of site development and services for the building;
 - (f) all test reports, including those for soil, material and equipment associated with the project;
 - (g) all permanently fixed equipment or machinery associated with building services, but does not include non-fixed furnishings; and
 - (h) all interior finishes, millwork, mechanical and electrical fixtures and appurtenances, but does not include the cost of land.

Fees Payable Upon Application

- (2) Except as provided by Subsection 2.(b) of Schedule "A", the **applicant** shall pay the required fees upon application and no **permit** shall be issued until the fees therefore, including those imposed under Schedule "C", have been paid in full.
- (3)

Fees for Conditional Permits

- (3) The conditional **permit** fee in Schedule "A" shall be in addition to other applicable **permit** fees under this by-law and shall not be used as a credit towards such other **permit** fees.

Refunds

- (4) Subject to subsection (5) below, upon written request by the **permit holder**, the **Chief Building Official** shall determine the amount of fees, if any, that may be refunded in accordance with Schedule "B" in the case of:
- (a) withdrawal of an application,
 - (b) abandonment of an application pursuant to Subsection 4(13) of this by-law,
 - (c) refusal to issue a **permit**,
 - (d) **permit** issued in error, or
 - (e) request for revocation of a **permit** pursuant to Subsection 8(10)(e) of the **Act**.
- (5) There shall be no refund of **permit** fees where a **permit** has been revoked under paragraphs 8(10)(a) or (f) of the **Act**.

Work Commenced Prior to Permit Issuance

- (6) Every person applying for a **permit**, when construction, demolition, or a change in the use of the building has commenced prior to the issuance of the required **permit**, shall pay the additional fee required by Schedule "C" as well as the **permit** fee set out in Schedule "A" attached hereto and forming part of this By-Law.

PERMIT REVOCATION, DEFERRAL OF REVOCATION AND TRANSFER

Revocation of Permit

7. (1) Where the **Chief Building Official** considers revoking a **permit** under Subsection 8(10)(b) or (c) of the **Act**, the **Chief Building Official** shall give written notice by regular mail of the intention to revoke to the **permit holder** at their last known 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.

Deferral of Revocation

- (2) 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 7(3) (4) and (5).

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 12 of 26

- (3) 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.
- (4) 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.
- (5) A request for deferral of revocation is subject to an additional 5% refund reduction in accordance with Subsection 1(e) of Schedule "B" when a **permit** is subsequently revoked.

Transfer of Permit

- (6) **Permits** may be transferred by the **Chief Building Official** only upon the new **owner** completing a **permit** application pursuant to the requirements of Section 4, submitting the application and any permission required for use of existing plans, specifications or documents submitted or used for the original **permit** or such new information relied upon in compliance with subsections 4.(10) or 4.(11) and section 5 of this by-law.
- (7) A fee, as calculated by the **Chief Building Official** under Schedule "A", shall be payable upon application for transfer of **permit**, except where there are no changes to the project, the professional services required, or the information supplied on or with the application other than the identity of the **owner** in which case the flat fee provided in Schedule "A" shall apply. Upon approval of the transfer by the **Chief Building Official**, the new **owner** shall thenceforth be the **permit holder** for the purpose of the **Act** and the **Building Code**.

NOTIFICATIONS

8. (1) Notices for inspections respecting stages of construction required by the **Building Code** shall be given by the **permit holder** to the **Chief Building Official** at least two business days in advance of each stage of construction specified in the Code.
- (2) A notice pursuant to this section is not effective until written or oral notice is received by the **Chief Building Official**.

FENCING

9. (1) In addition to the requirements pertaining to Public Way Protection as set out in the Occupational Health and Safety Act, the **permit holder** shall comply, and shall not cause or permit any builder or constructor under the **permit** to fail to comply with the provisions of this Section.

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 13 of 26

- (2) Where, in the opinion of the **Chief Building Official**, a construction or demolition site presents a particular hazard to the public, the **Chief Building Official** may require the erection of fencing around the construction or demolition site as set out in this section.
- (3) In considering the hazard presented by a construction or demolition site and the necessity for fencing the **Chief Building Official** shall have regard for:
 - (a) The proximity of the construction or demolition site to occupied dwellings;
 - (b) The proximity of the construction or demolition site to lands accessible to the public, including but not limited to streets, parks, and commercial and institutional activities;
 - (c) The hazards presented by the construction or demolition activities and materials;
 - (d) The feasibility and effectiveness of site fencing; and
 - (e) The duration of the hazard.
- (4) Every fence required under this section shall be a minimum of 1.2 metres and a maximum of 1.8 metres in height, as measured from the highest adjacent grade.
- (5) Every fence required under this Section shall be located on the perimeter of the construction site as determined by the **Chief Building Official** and constructed as follows:
 - (a) if of chain link construction, the chain link shall be securely fastened to at least 38mm diameter metal tube or pipe or the same thickness T-bar posts. Such metal posts shall not be more than 3.04m on centre and embedded into the ground, providing a secure and rigid support,
 - (b) if of wood construction, the exterior face shall be at least 12.7mm thick exterior grade plywood, particle board or equivalent material constructed so as not to provide footholds for climbing. The fencing shall be supported by at least 38mm wide by 89mm thick posts spaced at not greater than 2.43m on centre and embedded into the ground, providing a secure and rigid support,
 - (c) if the fence is of the snow fence or plastic mesh type, the fencing shall be securely fastened to T-bar posts at not greater than 2.43m on centre and embedded into the ground, providing a secure and rigid support,

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 14 of 26

- (d) other materials or methods may be substituted provided that there is an equivalent barrier between properties and an equivalent degree of safety and support provided.
- (6) The fence may be provided with openings sufficient to accommodate construction vehicles, machines and any other equipment providing services to the construction site provided that these openings are closed off when no construction is being carried out on site including daily shut-downs.
- (7) Every fence required under this Section shall be removed no later than 30 days after completion of the construction or demolition work.

REGISTERED CODE AGENCIES

- 10. (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 prescribed in subsection 1.3.1 of Division C of the **Building Code**.
- (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**.

CODE OF CONDUCT

- 11. The **Chief Building Official** and inspectors shall be governed by the Code of Conduct set out in Schedule "F" of this by-law, with respect to exercising powers and performing duties under the **Act**.

SEVERABILITY

- 12. Should a court of competent jurisdiction declare a part or whole of any provision of this by-law to be invalid or of no force and effect, the provision or part is deemed severable from this By-Law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

REPEAL

- 13. City of Hamilton By-law No. 05-206 is hereby repealed.

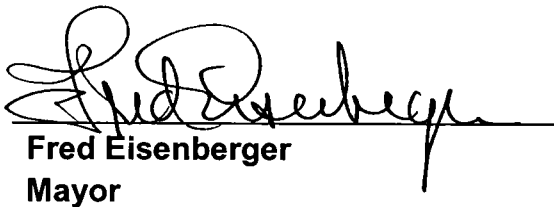
EFFECTIVE DATE

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 15 of 26

14. This by-law comes into force and effect on the date of its enactment.

PASSED AND ENACTED this 25th day of June, A.D. 2008



Fred Eisenberger
Mayor



Kevin C. Christenson
City Clerk

SCHEDULE "A" TO BUILDING BY-LAW NO. 08-161

RESPECTING CLASSES OF PERMITS AND PERMIT FEES

CALCULATION OF PERMIT FEES

1. Permit fees shall be calculated based on the formula given below, unless otherwise specified in this schedule:

$$\text{Permit Fee} = \text{SI} \times \text{A}$$

Where SI = Service Index for the applicable Classification under section 3 below of the work proposed, and A = floor area in m² of work involved.

MINIMUM PERMIT FEES

2. (a) Except where specifically noted otherwise, a minimum fee of \$120.00 shall be charged for all work related to the processing and issuance of permits, unless no plan examination or zoning review is involved in approval of the permit in which case the minimum fee is \$90.00 .
- (b) Where the permit fee is in excess of \$50,000.00 an **applicant** may elect to pay 50% of the full permit fee at the time of building permit application and the balance at the time of permit issuance.
- (c) Permit fees shall be rounded off to the nearest full dollar.

CLASSES OF PERMITS AND FEES

3. Permit fees shall be calculated using the following table:

TABLE 1 – CLASSES OF PERMITS AND FEES

Group A (Assembly Occupancies)	Service Index (SI) \$/m² unless otherwise indicated
All Recreation Facilities, Elementary Schools, Daycare Facilities, Libraries, Places of Worship, Restaurants, Theatres, Arenas, Gymnasiums, Indoor Pools, Secondary Schools and all other Group A Buildings	\$14.92
Portable Classrooms/Classroom Unit	\$245.00 (flat fee)
Shell Only	\$11.04
Finishing only	\$2.57
Non-Residential – Outdoor Patio	\$120.00 (flat fee)

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 17 of 26

Outdoor Public Swimming Pools	\$1,225.00 (flat fee)
Group B (Institutional Occupancies)	Service Index (SI) \$/m ² unless otherwise indicated
Institutional, Hospitals, Medical Care Facilities, Nursing Homes, and other Group B Buildings	\$14.70
Group C (Residential Occupancies)	Service Index (SI) \$/m ² unless otherwise indicated
Single Family Dwelling, semi, duplex, row house, townhouse	\$10.52
Apartment buildings	\$10.32
Hotels, Motels	\$12.35
Group D (Business and Personal Services)	Service Index (SI) \$/m ² unless otherwise indicated
Office Buildings (up to 10 storeys) (Shell only)	\$9.13
Office Buildings (up to 10 storeys) (Finishing only)	\$2.93
Office Buildings (up to 10 storeys) (Finished)	\$12.07
Office Buildings (more than 10 storeys) (Shell only)	\$11.04
Office Buildings (more than 10 storeys) (Finishing only)	\$3.10
Office Buildings (more than 10 storeys) (Finished)	\$14.14
Group E (Mercantile)	Service Index (SI) \$/m ² unless otherwise indicated
Retail (Shell only)	\$7.57
Retail (Finishing only)	\$2.57
Retail (Finished)	\$10.15
Group F (Industrial)	Service Index (SI) \$/m ² unless otherwise indicated
Industrial (up to 4,650 m ²)	\$7.61
Industrial (greater than 4,650 m ²)	\$5.28
Parking Garages	\$4.49
Gas Stations	\$8.18

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Other Classifications (not previously listed)	Service Index (SI) \$/m ² unless otherwise indicated
Accessory structures, garage, storage shed, basement, cold cellar, silo, unenclosed canopies, air supported structures	\$3.55
Farm Buildings	\$1.84
Greenhouses	\$1.10
Tents	\$1.23 (Maximum \$245.00)
Tents erected on City owned property for a Civic Function	\$0.00
Residential greenhouses, deck, balcony, open porch, exterior stair, ramp, open carport	\$2.93
Temporary buildings, alterations/partitioning/renovations to existing finished areas (where no building systems are being installed or altered), relocation/moving permits	\$2.23
Barrier free access in existing single and two family dwellings	\$0.00
Demolition, other than residential (complete or partial building)	\$0.28 (\$90.00 minimum)
Demolition residential unit(s) only (complete or partial building)	\$0.28 (\$245.00 minimum)
Communication Tower	\$245.00 (flat fee)
Underground and above ground storage tanks (except for fire fighting water reservoirs)	\$245.00 (flat fee)
Electromagnetic Locks	\$90.00 each (maximum \$368.00)
Conditional Permit Fees (in addition to the regular permit fee) To construct a building, or part thereof, pursuant to the "Conditional Permit" provisions of the Building Code Act.	Flat Fee
Residential under Part 9 of Division B of the Building Code	\$245.00
Residential/Commercial/Industrial/institutional under Part 3 of Division B of the Building Code (up to 1200 m ²)	\$612.00
Residential/Commercial/Industrial/institutional under Part 3 of Division B of the Building Code (greater than 1200 m ²)	\$1,838
Change of Use	Flat Fee
Change of use Permit with no construction	\$185.00

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Sewage Systems	Flat Fee
To construct a sewage system pursuant to the provisions of the Act	\$612.00
To construct a Class 5 sewage systems or to repair a sewage system pursuant to the provisions of the Act	\$307.00
Occupancy of an Unfinished Building	Flat Fee
Occupancy inspection prior to completion as per Subsection 1.3.3 of Division c of the Ontario Building Code	\$120.00 (per unit)
Transfer of Permit	Flat Fee
Where ownership changes on a property and there are no other changes to the project or the professional services required.	\$90.00
Additional Permit Fee	Flat Fee
Where an applicant for a permit makes a material change to a plan, specification, document, or other information, following application for a permit , the Chief Building Official may increase the required permit fee or fees by applying the rates in this Schedule to the full extent of the changes and may require payment of such increased fee or fees prior to the approval of such changes or the issuance or amendment of such permit with a minimum fee as specified:	\$120.00 (minimum)
Special/Extra Inspection(s)	Flat Fee
Where an inspection request is premature and the inspector must re-attend the site to complete the necessary inspection, upon notice to the owner an additional fee of:	\$120.00 (per inspection)

4. Where no new floor area is created, or where materials, systems or equipment regulated by the Code render it impossible to determine the **permit** fee on the basis of the classifications noted in this Schedule, the **permit** fee payable shall be 1% of the **prescribed value** as determined by the **Chief Building Official** under section 6 of this by-law, subject to a minimum fee as per Section 2 of this Schedule.
5. Where construction, demolition, or a change in the use of the building has commenced prior to the issuance of the required **permit**, the prescribed fees in Schedule "A" of this By-law shall be subject to a surcharge as prescribed by Schedule "C". The total fees under this Schedule and Schedule "C" shall be paid prior to the issuance of the **permit**.

6. **INTERPRETATION**

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 20 of 26

In addition to referring to the **Act** and the **Building Code**, in determining the fees under this by-law, the **Chief Building Official** may have regard to the following explanatory notes as may be needed in the calculation of **permit** fees:

- (a) Floor area of the proposed work is to be measured to the outer face of exterior walls and to the centre line of party walls or demising walls (but excluding residential garages);
- (b) In the case of interior alterations or renovations, area of proposed work is the actual space receiving the work (e.g. tenant space);
- (c) Mechanical penthouses and floors, mezzanines, lofts, habitable attics and interior balconies are to be included in all floor area calculations;
- (d) Except for interconnected floor spaces, no deduction is made for openings within the floor area (e.g. stairs, elevators, escalators, shafts, ducts, and similar openings);
- (e) Unfinished basements for single family dwellings, semis, duplexes and townhouses, are not included in the floor area;
- (f) Attached garages and fireplaces are included in the permit fee for individual dwelling units;
- (g) Where interior alterations and renovations require relocation of sprinkler heads or fire alarm components, no additional charge is applicable;
- (h) Corridors, lobbies, washrooms, lounges, and similar areas are to be included and classified according to the major classification for the floor area on which they are located;
- (i) The occupancy categories in the Schedule correspond with the major occupancy classifications in the Building Code. For mixed occupancy floor areas, the Service Index for each of the applicable occupancy categories shall be used and the floor area associated with the major occupancy;
- (j) For Rack Storage use apply the square footage charge for industrial for the building;
- (k) A temporary building is considered to be a building that will be erected for not more than one year;
- (l) Where a change of use permit is subject to a fee based on floor area, "floor area" shall mean the total floor space of all storeys subject to the change of use; and
- (m) For the purposes of Schedule "C", "construction" is defined as the placing of concrete or other physical installation of construction materials, systems or equipment.

SCHEDULE "B" TO BUILDING BY-LAW 08-161

REFUND OF PERMIT FEES

1. The **Permit** Fees that may be refunded under section 6 of this by-law, are to be a percentage of the permit fees payable under this By-law subject to section 2 of this Schedule, as follows:
 - (a) 80 percent if, in the opinion of the **Chief Building Official**, administrative functions only have been performed;
 - (b) 70 percent if, in the opinion of the **Chief Building Official**, administrative and zoning functions only have been performed;
 - (c) 45 percent if, in the opinion of the **Chief Building Official**, administrative, zoning and plan examination functions only have been performed; and
 - (d) 35 percent if the **permit** has been issued and no field inspections have been performed subsequent to **permit** issuance; plus
 - (e) An additional 5 percent of the original **permit** fee shall be deducted for each field inspection that has been performed after the **permit** has been issued, or for each deferral of revocation request made under section 7 of this By-law.

2. Notwithstanding Section 1 hereof, no refund is to be made of an amount less than \$90.00.

SCHEDULE "C" TO BUILDING BY-LAW NO. 08-161

**Percentage Increase In Applicable Permit Fees for Work Commenced or Carried
out Without Permit**

<u>Work Commenced Prior to Permit Issuance</u>	<u>Applicable Increase in Permit Fee</u>
(a) Footings/Foundations or any other work requiring the issuance of a permit	25%
(b) Structural Framing	50%
(c) Building Completed	100%
(d) Demolition or Partial Demolition	100%

**SCHEDULE "D" TO BUILDING BY-LAW NO. 08-161
Plans and Documents Required for Permit Applications**

1. Except as noted in Section 2 of this Schedule, every permit application shall be accompanied by two copies of the following plans and documents:

(1) **Residential** - Detached and Semi-detached houses

1. Site Plan
2. Grading Plan
3. Floor Plans
4. Building Elevations
5. Cross Sections
6. Roof and floor truss drawings sealed by a Professional Engineer
7. Heat loss calculations and duct layout
8. Mechanical Ventilation Design Summary

(2) **All Other Uses**

1. Ontario Building Code matrix
2. Site Plan
3. Grading Plan
4. Floor plans
5. Foundation plans
6. Roof plans
7. Reflected ceiling plans
8. Building Elevations
9. Cross Sections and assemblies
10. Structural Plans
11. Mechanical Plans
12. Plumbing Plans
13. Electrical Plans
14. Fire Protection Safety Plans
15. Door and Window Schedules

Exceptions

2. (1) The **Chief Building Official** may waive the requirement for multiple copies and any required information specified in this schedule due to limited scope of work, applicable law or **Building Code** requirements; and
- (2) The **Chief Building Official** may also require additional documents, copies and drawings in addition to any required information specified in this schedule due to the scope of work, in order to ensure compliance with applicable law, the **Act**, the **Building Code** and this by-law.

**By-law under the Building Code Act, 1992
respecting permits and related matters**

SCHEDULE "E" TO BUILDING BY-LAW NO. 08-161

**WAIVER AND ACKNOWLEDGEMENT BY APPLICANT OF AN INCOMPLETE
APPLICATION**

Pursuant to Sentence 1.3.1.3.(5) of Division C the Ontario Building Code

PART A

A pre-screening of the application to _____
(Description of Work)

at _____ reveals that the application is incomplete
(Location of Work)

in that the following information is missing:

Therefore the application is not entitled to the processing time periods prescribed in column 3 of Table 1.3.1.3 of Division C of the Ontario Building Code. The City of Hamilton will, however, accept the incomplete application for processing if the Acknowledgement below is completed by the applicant.

PART B

I _____ acknowledge that my application as
(Print Name of Applicant)

described in Part A above does not meet the requirements of 1.3.1.3.(5) of Division C of the Ontario Building Code and therefore is not entitled to the time periods prescribed in Column 3 of Table 1.3.1.3 of Division C of the Ontario Building Code.

Notwithstanding the above, I wish to have the application accepted for processing and understand that the time periods prescribed in Column 3 of Table 1.3.1.3 of Division C of the Ontario Building Code will not apply to this application and that a permit cannot be issued until all the information is submitted and reviewed for compliance.

SWORN (or Affirmed) BEFORE ME, at the City of Hamilton, this _____ day of _____, 20____.

(A Commissioner, etc.)

(Signature of Applicant)

Personal information contained on this form is collected under the authority of the City of Hamilton Building By-law, and any amendments thereto, and will be used to ensure compliance with the Building Code Act. Questions about this collection should be directed to: Director of Building and Licensing, 71 Main Street West, Hamilton, Ontario, L8P 4Y5, 905-546-2720.

SCHEDULE "F" TO BUILDING BY-LAW NO. 08-161

CODE OF CONDUCT FOR BUILDING OFFICIALS

Introduction

This Code of Conduct applies to the Chief Building Official and inspectors appointed by the City under the Building Code Act in the exercise of a power or the performance of a duty under the Ontario Building Code Act or the Ontario Building Code. The purposes of this Code of Conduct are to promote appropriate standards of behaviour and enforcement actions by the Chief Building official and inspectors, to prevent practices, which may constitute an abuse of power, including unethical or illegal practices, and to promote appropriate standards of honesty and integrity in the exercise of a power or the performance of a duty under the Ontario Building Code Act or the Ontario Building Code by the Chief Building Official and inspectors.

Standard of Conduct

In addition to any existing Code of Conduct Policy which the City of Hamilton already has in place for its municipal employees, the Chief Building Official and inspectors of the City of Hamilton undertake to:

- (1) Act in the public interest, particularly with regard to the safety of buildings and structures.
- (2) Conduct themselves with a high degree of personal integrity and ethics, and in particular they should not place themselves, or permit themselves to be placed, in a position which would constitute, or on an objective basis give a reasonable apprehension, of a conflict of interest or breach of trust.
- (3) Exercise powers in accordance with the provisions of the Ontario Building Code Act, the Ontario Building Code and other applicable law that governs the authorization, construction, occupancy and safety of buildings and designated structures.
- (4) Apply all relevant building laws, regulations and standards in a consistent and fair manner, independent of any influence by interested parties.
- (5) Act honestly, reasonably and professionally in the discharge of their duties.
- (6) Not divulge any confidential or sensitive information or material, that they become privy to in the performance of their duties, except in accordance with laws governing freedom of information and protection of privacy.

Breaches of the Code of Conduct

Compliance with this Code of Conduct shall constitute a condition of employment as a Chief Building Official or inspector for the City of Hamilton appointed under the Building Code Act. Any appointed Chief Official or inspector who fails to act in accordance with the provisions of this code may be subject to disciplinary action appropriate to the seriousness of the breach. All allegations concerning a breach of this code shall be made in writing.

**By-law under the Building Code Act, 1992
respecting permits and related matters**

Page 26 of 26

Any person who has reason to believe that this Code of Conduct has been breached may bring the matter to the attention of the Chief Building Official. Where the allegation concerns the actions of the Chief Building Official, the matter may be brought to the attention of the General Manager in charge of Planning and Economic Development to whom the Chief Building Official reports.

Disciplinary actions arising from violations of this Code of Conduct are the responsibility of the Municipal employer and will be based on the severity and frequency of the violation in accordance with relevant employment or collective agreements, employment standards and privacy requirements.