



**City of Kingston**  
**Report to Administrative Policies Committee**  
**Report Number AP-17-033**

---

**To:** Chair and Members of the Administrative Policies Committee  
**From:** Lanie Hurdle, Commissioner, Community Services  
**Resource Staff:** Paige Agnew, Director, Planning, Building & Licensing Services  
**Date of Meeting:** November 9, 2017  
**Subject:** Review of Building By-Law

---

**Executive Summary:**

The current Building By-Law was enacted on May 17, 2005 to respond to the then significant changes to the *Ontario Building Code Act* and the Ontario Building Code. The Act and the Code have been amended a number of times since, including two major revisions in 2006 and 2012, necessitating the review and update of the current by-law to best address new responsibilities, processes and standards. Additionally, updates are required to bring the by-law in line with changes introduced to the method of calculating Building Permit fees as a result of the recent Building Permit fee review, and to establish processes for these classes of permits.

Changes have been proposed to position the by-law and processes in line with the public portal enhancements and implementation for building services scheduled for Q2 of 2018 within the current Development and Services Hub (DASH). This report does not propose changes to the permit fees; however, it does provide for the adoption of processes and classes of permits associated with the new fee methodology and associated permit fees approved by Council on August 8, 2017 (Report Number [AP-17-025](#)).

Staff consulted with stakeholder groups, including Kingston's development and construction industry, and the public as well as other municipalities to determine best practices. Staff is proposing amendments to the by-law; some suggested amendments relate to policy and others are regarded as housekeeping in nature.

The amended by-law reflects the following key improvements:

1. Establish a process for the review of partial occupancy permits and submission requirements for occupancy of an unfinished building.

November 9, 2017

Page 2 of 11

2. Establish a process for the review of alternative solutions to support new and innovative building designs, materials and systems.
3. Establish a process for construction site fencing and signage to reduce negative impact of infill construction on neighbourhood quality of life and limit hazards to the public.
4. Provide for refunds for the cancellation of Building Permit applications and clarification of the method for calculating such refunds.
5. Define processes for classes of permits, clarify permit fee calculations with the square metre rate and establish a method for collecting fees at permit application with adjustments made at the time of permit issuance.
6. Clarify submission requirements to facilitate the submission of complete applications and to reflect current practices.

The recommended by-law amendments aim to be consistent with the Building Division's goal of balancing its regulatory role and responsibilities with its focus on improved customer service, the proposed changes reflect the on-going reviews and development of updates and changes to operating policies and procedures to provide greater consistency and transparency to the development community.

**Recommendation:**

**That** it be recommended to Council that the draft by-law, attached as Exhibit B to Report Number AP-17-033 be presented to Council to amend By-Law Number 2005-99, A By-Law to Provide for the Construction, Demolition, Change of Use and Transfer of Permits and Inspections; and

**That** the proposed amendments to Building By-Law Number 2005-99 be implemented January 1, 2018 to align with the annual Fees and Charges By-Law update in Q4 of 2017.

November 9, 2017

Page 3 of 11

**Authorizing Signatures:**

ORIGINAL SIGNED BY COMMISSIONER

---

**Lanie Hurdle, Commissioner, Community Services**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

---

**Gerard Hunt, Chief Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Desirée Kennedy, Chief Financial Officer & City Treasurer Not required

Denis Leger, Commissioner, Corporate & Emergency Services

Mark Van Buren, Acting Commissioner, Transportation & Infrastructure Services

November 9, 2017

Page 4 of 11

**Options/Discussion:****Background**

Section 7 of the *Ontario Building Code Act* authorizes municipalities to pass by-laws prescribing classes of permits, requiring minimum documentation in support of an application for construction permits and prescribe fees. The Act further assigns to the Chief Building Official, the responsibility to establish operating policies and procedures for the administration and enforcement of the Act and Code. Building by-laws clarify to applicants and permit holders the responsibilities and requirements that when adhered to, facilitate reviews, inspections and thus the enforcement of the Act and Code.

**Discussion**

The current Building By-Law was enacted on May 17, 2005 to respond to the then significant changes to the *Ontario Building Code Act* and the Ontario Building Code. The Act and the Code have been amended a number of times since, including two major revisions in 2006 and 2012 necessitating the review and update of the current by-law to best address new responsibilities, processes and standards. Also, consistent with the Building Division's goal of balancing its regulatory role and responsibilities with its focus on improved customer service, the proposed changes reflect the on-going reviews and development of updates and changes to operating policies and procedures that are then reflected in the Building By-Law.

Most recently, the Planning, Building & Licencing Services Department developed, and City Council approved, the new fee methodology for calculating Building Permit fees and the fees associated with each type of costing category (Report Number [AP-17-025](#)). Updates are required to bring the by-law in line with changes introduced to the method of calculating Building Permit fees as a result of this recent review and to establish processes for these classes of permits.

There is also a need to update the by-law provisions in advance of the public portal enhancements and implementation for Building Services scheduled for Q2 of 2018 within the current Development and Services Hub (DASH). The changes incorporated in the amended by-law will further improve clarity and efficiencies for customers.

A detailed review was undertaken to determine how best to address safety concerns raised by the public on construction sites and a method of shielding debris and other construction materials. The Act enables municipalities to require the person to whom a permit is issued to, to erect and maintain fences to enclose the construction or demolition site and prescribe the height and description of such fences. Many buildings constructed on infill lots are designed to occupy the entire property on which they are situated, resulting in construction adjacent to public ways. Staff recommendations aim to reduce the negative impact of infill construction on neighbourhood quality of life and reduce hazards to the public.

Staff are proposing amendments to the by-law, Exhibit B - Draft By-Law to Amend Building By-Law Number 2005-99, A By-Law to Provide for the Construction, Demolition, Change of Use and Transfer of Permits and Inspections, based on input during the consultation process from

November 9, 2017

Page 5 of 11

stakeholders and the general public and on best practices in other municipalities. Some proposed amendments are related to policy and others are housekeeping in nature.

The following summarizes the changes proposed.

1. Definitions Added and Revised to Provide Additional Clarity:

- a. Add "Building" to define a building as referenced in the *Ontario Building Code Act*;
- b. Add "Construction Site" to define the area applicable for the new section "Construction Site Fencing and Signage";
- c. Add "Fees and Charges By-Law" to replace the reference to the rates and fees by-law currently referenced throughout the existing Building By-Law;
- d. Add "Gross Floor Area" to define criteria for determining the square metre area forming the method of calculating fees for the new fee schedule adopted;
- e. Add "Public Way" to define hazard areas for construction site fencing;
- f. Revise "Sewage system" to correct the reference under the Ontario Building Code; and
- g. Revise "Corporation" to "City" to eliminate confusion with other references to corporation in the by-law.

2. Request for a Conditional Building Permit:

A conditional Building Permit is a discretionary permit authorizing the commencement of construction even though all applicable laws have not been met. The conditional Building Permit agreement sets out the timelines within which the applicant must comply with the remainder of the applicable law requirements for a Building Permit. It also deals with how and if the site must be restored should those requirements not be fulfilled.

The existing by-law does not reflect the current practice of conditional permits forming part of a pending permit application submission but infers this as an independent permit application process. The by-law has been amended to reflect both the current practice of building services when accepting applications for conditional permits as well as to clarify the fee levied in addition to the regular permit fee. The fee associated with this type of application will be implemented January 1, 2018 to offset additional costs associated with processing conditional permit requests and the preparation of agreements itemizing the conditions by which a permit can be issued.

3. Establish a Process for Partial Occupancy Permit Submissions:

The Ontario Building Code established standards for public health and safety, fire protection, structural sufficiency, accessibility, conservation and environmental integrity with respect to buildings. Within the context of these standards, the Ontario Building Code regulates the occupancy of buildings. The occupancy of a building or part of a building prior to its completion poses a special risk to the general public. To protect the public health and safety, the Ontario Building Code states the following:

November 9, 2017

Page 6 of 11

“...a person may occupy or permit to be occupied any building or part thereof that has not been fully completed at the date of occupation where the Chief Building Official or a person designated by the Chief Building Official has issued a permit authorizing occupation of the building or part thereof prior to its completion....”

Partial occupancy permits have been added to the by-law to provide clarity on requests for partial occupancy permits and to introduce the required form to be used by owners when requesting partial occupancy of an unfinished building where applicable under the Ontario Building Code. The required form is intended to define submission requirements and provide clear parameters of the owner’s responsibilities including expected occupancy dates, the portions of the building to be occupied and to ensure safety measures are in place that restrict access to areas still under construction. The partial occupancy application submission will form part of the occupancy approval process allowing circulation to outside agencies as well as internal departments for comment on parking, encroachments, road closure, etc. to ensure necessary permits and approvals are obtained prior to partial occupancy being granted.

This approach aims to reduce impacts on neighbouring properties and facilitate safety for occupants with measures in place while construction continues on the site.

#### 4. Establish a Process for the Review of Alternative Solutions:

In 2006, the Act was amended to support innovative building designs, materials and systems by assigning to the Chief Building Official the authority to review and approve alternative solutions for specific construction projects for which a Building Permit is being sought, if deemed by the Chief Building Official to meet the same level of safety and performance as the designs, building systems and materials specifically prescribed in the Ontario Building Code.

This added responsibility has required municipalities to explore how best to review such applications and submission requirements and limitations have been added to the by-law. The flexibility of the submission requirements allows for applicants to submit a request for alternative solution approval prior to submitting an application for a permit to construct. This will allow the customer to design the project with the innovative solution incorporated while working through other approvals and reduce delays in permit issuance.

In addition, for complex proposals, the applicant will be required to cover third party evaluation costs where a professional consultant is retained by the City to undertake a review of the proposal and prepare a report for the Chief Building Official. The requirement for a third party evaluation will be determined by the Chief Building Official following preliminary discussions with the applicant. This approach of invoicing additional costs over and above the flat fee will ensure the applicant is covering the additional costs unique to their project as opposed to having the additional costs be offset and subsidized by all other permit applicants.

November 9, 2017

Page 7 of 11

## 5. Establish a Process for the Review of Revisions to an Issued Permit:

The *Ontario Building Code Act* states that “no person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a permit was issued without notifying, filing details with and obtaining the authorization of the Chief Building Official”. Where a permit has been issued, new fees have been introduced for the review of plans, documents and specifications where the permit holder has deviated from the approved drawings. As these changes can affect many other aspects of the project and can become time consuming to review, the Chief Building Official must determine if the revisions constitute a substantial change to the application. Clarification has been provided to outline where the change is determined to be substantial, a resubmission of the application may be necessary and additional costs associated on an hourly basis may be applied.

## 6. Addition of Provisions for Construction Site Fencing:

Fencing requirements have been added to ensure permit holders clearly understand the City’s expectations for fencing construction sites, particularly in the urban infill areas of the City. The requirements are not significant in the sense that the industry must make significant adjustments as public way protection is required under the *Occupational Health and Safety Act*. Clarifying the expectations in the Building By-Law will ensure that the projects are properly secured from the outset of construction and not in reaction to the community alerting the City of the hazardous condition.

The Ontario Ministry of Labour, through the *Occupational Health and Safety Act* Regulations for Construction Projects, states that:

"If work on a project may endanger a person using a public way, a sturdy fence at least 1.8 metres in height shall be constructed between the public way and the project." O. Reg. 213/91, s. 65.

The Act further states that:

"No work shall be carried out on a building or structure located within 4.5 metres of a public way unless a covered way is constructed over the part of the public way that is adjacent to the project." O. Reg. 213/91, s. 64 (1).

These two regulations result in the placement of fencing or hoarding around a site where construction is taking place, and the construction of covered walkways for pedestrians to walk in proximity to the site. The *Occupational Health and Safety Act* provides construction details for a covered way over a walkway; however, it does not provide any details regarding the construction of the fence, other than the 1.8 metre height.

Section (7)(1) (i) and (j) of the *Ontario Building Code Act* authorizes municipalities to require erection of fences to enclose construction and demolition sites while work is taking place and describe the height and description of such fences. During the

November 9, 2017

Page 8 of 11

construction or demolition process, a project site is exposed to a series of activities that generate debris and wreckage of various kinds. A construction fence that is properly installed, positioned and maintained on the site will contain the debris and wreckage within the construction or demolition area and keep all other areas relatively clean and uninhibited. The construction fence will also provide limited security and safety measures for both construction personnel and the public. Entrance and exit points are clearly defined as part of the construction fence provisions providing safe ingress and egress of construction vehicles and equipment.

The proposed amendments to the by-law allow for fencing to be constructed in addition to or as part of the required fencing under the *Occupation Health and Safety Act* and allow for exemptions under certain circumstances for the fence under the by-law where there is minimal hazard to the public. The fencing plan would form part of the Building Permit application approval process allowing circulation to internal departments to comment on construction impacts for infill projects where site plan approval is not required prior to permit issuance.

The adoption of the proposed by-law changes will provide a clear and concise set of regulations that can be enforced uniformly throughout the City. By stipulating the height and specifications of construction fences and the appearance of a site under construction or demolition it will help to keep the City clean and will encourage professional management and organization of the site through the various stages of the project.

#### 7. Building Permit Fee Structure:

Commencing in January 2018, the Building Division will be adopting the new methodology for calculating Building Permit fees. The purpose of the change, approved by City Council on August 8, 2017, was to align revenues to better reflect anticipated operating costs and provide for improved benchmarking with similar sized municipalities. Building Permit fees are to be set to cost recover anticipated costs of servicing Building Permits and enforcement of the Act and Code. The new fee structure for a building or Demolition Permit vary based on the building type, or based on square footage where the construction activity adds floor area.

Changes to the Building By-Law are required to remove the current construction valuation calculation and provide clarification for how the new fee structure and method of calculating Building Permit fees, based on a square metre rate, will be determined for the gross floor area. Additionally, updates are required to define and establish processes for the new classes of permits and to provide for a method of collecting permit fees at the time of application with adjustments made during the review process and the balance of the fees payable at the time of permit issuance.

#### 8. Provisions for Electronic Submissions:

It is anticipated that by Q2 of 2018, the new land management system and electronic plans process will be launched for Building Services. This will allow an applicant to apply



November 9, 2017

Page 9 of 11

for a permit, submit the necessary documentation digitally and pay fees online. In addition, the review and approval of permit drawings will be completely digital, including commenting between internal and external staff and agencies through a live portal, batch stamping of drawings and issuing permits online. With these process improvements, changes to the wording in the Building By-Law are required to define processes and allow for electronic submission of forms.

#### 9. Refunds and Cancellation of Building Permit Fees:

Administrative expiry terms have been added for applications that are in stream to keep the process moving and reduce backlog of applications. The current by-law does not provide for a timeframe to pick up the permit once it is readied for issuance, or provide refund provisions for the cancellation or withdraw of permit applications. Effective January 1, 2018, and with the pending electronic submission process, permit fees will be captured at permit application instead of the current practice of permit issuance. This inclusion will allow for refunds of fees if the applicant chooses to cancel an application prior to permit issuance with the submission of the required written notice.

Clarification has been provided to exclude limiting distance agreements, conditional permit fees and alternative solution approvals from refund provisions to offset the additional level of effort associated with the review of these types of submissions which circumvent the regulatory provisions of the code.

The calculation of the refund will be based on costs incurred by administrative, review and inspection functions and provisions have been added to outline the person receiving the refund, a practice considered more appropriate and reflective of a customer-centric approach, improved service delivery, transparency and accountability.

#### 10. General Improvements to the Building By-Law:

A number of changes have been introduced to the building by-law to ensure clarity and effectiveness, correct syntax and references to appropriate legislation. In addition, submission requirements have been clarified for both complete and incomplete permit applications in support of the efficient allocation of meeting the mandatory turnaround time frames set out in the Building Code.

The submission requirements for site plans are proposed to include the location of fire access routes, as these are now a consideration in the Building Code when determining building height for 5 and 6 storey wood frame buildings.

The current by-law provided for the transfer of issued permits only. The proposed amendment allows for the transfer of permit applications as well and clarifies the permit holder in transfer situations.

Finally, the current by-law does not establish provisions for temporary type buildings or structures. Provisions have been added to allow for the issuance of a permit to construct

November 9, 2017

Page 10 of 11

authorizing a limited time for the erection and existence of a building or part thereof by the Chief Building Official.

**Implementation**

It is recommended that the amended Building By-Law take effect on January 1, 2018 to align with the recently adopted changes to the method of calculating permit fees and the building permit fee schedule reflected in the Fees and Charges By-Law.

**Existing Policy/By-Law:**

By-Law Number 2005-099     A By-Law to Provide for the Construction, Demolition, Change of Use and Transfer of Permits and Inspections

**Notice Provisions:**

Public input was sought through a public open house on September 28, 2017. Attendees included representatives of Kingston's development and construction industry, the Kingston Home Builders' Association, Kingston Construction Association, building owners, developers and the general public. The opportunity for public input on the Building By-Law was also communicated via the City's website, the Director of Planning, Building & Licensing Services' blog, newspaper advertisement and through Facebook and Twitter.

A copy of the current Building By-Law, the proposed Building By-Law and the rationale for the changes proposed was provided during the consultation process to allow the public and stakeholders to identify and comment on the proposed changes. The public was also invited to send written correspondence to the Manager of Building Services; however, none was received.

Staff are recommending the proposed amendments to the Building By-Law (Exhibit B), based on input during the consultation process with stakeholders, the general public and on best practices in other municipalities.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Not applicable

**Contacts:**

Paige Agnew, Director, Planning, Building & Licensing Services 613-546-4291 extension 3252

Lisa Capener-Hunt, Manager, Building Services 613-546-4291 extension 3225

November 9, 2017

Page 11 of 11

**Other City of Kingston Staff Consulted:**

Kim Brown, Manager, Infrastructure and Development

Sarah Gareau, Associate Legal Counsel, Legal Services

Ryan Leary, Senior Planner, Planning Division

Tracy Leblanc, Fire Inspector, Kingston Fire and Rescue

**Exhibits Attached:**

- Exhibit A      Draft Building By-Law Number 2005-99, A By-Law to Provide for the Construction, Demolition, Change of Use and Transfer of Permits and Inspections
  
- Exhibit B      Draft By-Law to Amend Building By-Law Number 2005-99, A By-Law to Provide for the Construction, Demolition, Change of Use and Transfer of Permits and Inspections

## By-Law Number 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

1.1 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 license issued under the *Architects Act* as defined in the Building Code;

**Building** means a “building” as defined in subsection 1(1) of the Act;

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

**Chief Building Official** means the Chief Building Official appointed pursuant to subsection 3(2) of the Act and by by-law of the City for the purposes of enforcement of the Act;

**City** means the Corporation of the City of Kingston;

**Construct** means construct as defined in Subsection 1(1) of the Act, and Construction shall have a corresponding meaning;

**Construction Site** means the part of the parcel of land on which Construction or Demolition related activities are occurring, and includes any area for materials and equipment appurtenant to any Construction or Demolition activities. The Construction Site may occupy the entire parcel of land or a portion of the land parcel;

**Demolish** means Demolish as defined in Subsection 1(1) of the Act, and Demolition shall have a corresponding meaning;

**Designer** means an Architect, Engineer or Designer qualified to carry out design activities under the Act;

**Fees and Charges By-Law** means By-Law Number 2005-10, A By-Law to Establish Fees and Charges to be Collected by the City of Kingston, as it reads at the time of Permit application;

**Gross Floor Area** means the area of the proposed Work measured to the outer face of exterior walls and to the centreline of party walls or demising walls and shall include mechanical penthouses and floors, mezzanines, lofts, habitable attics, interior balconies, openings within floor areas (stairs, elevators, shafts, etc.) with the exception of interconnected floor areas, but not unfinished basements and attached garages for single detached, semi-detached, duplex, and townhouse dwellings. Where there is no floor or walls, the Gross Floor Area shall be the greatest horizontal area of the structure.

**Inspector** means an employee of the City appointed pursuant to subsection 3 (2) of the Act and by by-law of the City for the purposes of enforcement of the Act;

**Owner** means the registered Owner of the property on which the Work will take place 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;

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

**Public Way** means “public way” as defined in Ontario Regulation 213/91, as amended;

**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 Article 1.4.1.2. of Division A of the Building Code;

**Work** means Construction or Demolition or change of use or plumbing for a building which is regulated by the Act and the Building Code;

- 1.2 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.

## **2. Classes of Permits**

- 2.1 The Classes of Permits set out in Schedule “A” of this by-law are hereby established.

## **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, or where applicable, electronically in the case of an online application by completing a prescribed form.
- 3.2 Every application for a Permit shall be submitted to the Chief Building Official.

### **(1) Application for Permit to Construct**

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 1.3.1.3 of Division C of the Building Code and as described in this by-law for the Work to be covered by the Permit.

### **(2) Application for Permit to Demolish**

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
- (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 City's 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.

**(3) Request for Conditional Permit**

Where a request is made for a conditional Permit in association with a pending application for a Permit to Construct under Subsection 8(3) of the Act, the Applicant shall:

- (a) Use the conditional Permit application form authorized by the Chief Building Official;
- (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;
- (e) Provide the date by which plans and specifications of the complete building will be filed with the Chief Building Official; and
- (f) Shall pay the non-refundable conditional Permit fee in addition to any other fees.

**(4) Application for Change of Use Permit**

Where application is made for a change of use Permit under Subsection 10(1) of the Act the Applicant shall:

- (a) Use the Provincial application form, "Application for a Permit to Construct or Demolish";
- (b) Identify and describe in detail the current and proposed occupancies of the building or part of a building for which the application is made; and

- (c) 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.

**(5) Application for Sewage Permit**

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;
    - depth to bedrock;



- depth to zones of soil saturation;
- soil properties, including soil permeability; and
- soil conditions, including the potential for flooding.

**(6) Application for Transfer of Application or Permit**

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 City;
- (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".
- (h) Upon the transfer of the Permit by the Chief Building Official, the new Owner shall be the Permit Holder for the purpose of this By-law, the Act and the Building Code.

**(7) Request for Partial Occupancy Permit**

Where a request is made for a partial occupancy Permit under Section 11 of the Act and the Building Code where applicable, the Applicant shall:

- (a) Use the application for partial occupancy form authorized by the Chief Building Official;
- (b) Include complete plans and specifications, documents and other information as required by Article 1.3.3 of Division C of the Building Code;

- (c) Include a statement indicating the expected occupancy dates, and the portions of the building to be occupied; and
- (d) Obtain all necessary Permits and approvals from other Municipal departments or outside agencies having jurisdiction.

**(8) Request for Alternative Solution Approval**

Where a request is made for approval of an alternative solution under Section 9 of the Act and the Building Code where applicable, the Applicant shall:

- (a) Use the application for an alternative solution form prescribed by the Chief Building Official; and
- (b) Include supporting documentation and test methods demonstrating that the proposed alternative solution will provide the level of safety and performance required by the Building Code.
- (c) Equivalentents which are accepted under this subsection shall be applicable only to the location to which the approval is given and are not transferable to any other Permit to Construct.
- (d) In addition to the minimum non-refundable fee, the Owner or Permit Holder shall pay any additional costs that may be incurred by the City in relation to the evaluation process as determined by the Chief Building Official.

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
- (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
- (3) Where a partial Permit is requested the application is deemed to be incomplete.

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.

- 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.
- 3.6 Where the Chief Building Official determines that an application is incomplete, the Chief Building Official may commence to process the application if the Applicant acknowledges that the application is incomplete and submits the acknowledgement of incomplete application form authorized by the Chief Building Official.
- 3.7 A Permit to Construct a temporary building may be issued by the Chief Building Official authorizing, for a limited time only, the erection and existence of a building or part thereof.
- 3.8 No person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a Permit was issued without notifying, filing details with and obtaining the authorization of the Chief Building Official. Substantial changes may constitute a revised submission and additional fees may be charged as per the Fees and Charges By-law and Schedule "A" of this by-law.
- 3.9 The Chief Building Official may, as the Chief Building Official deems appropriate, provide prescribed forms in an electronic format and may allow for the electronic submission of completed Permit application forms.

#### **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.
- 4.2 Each application shall, unless otherwise specified by the Chief Building Official, be accompanied by two complete sets of all plans and specifications and shall include the nature and extent of the Work and proposed use and occupancy.
- 4.3 Plans shall be drawn to scale on paper, electronic media approved by the City or other durable material and shall be legible.
- 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 certified by a Registered Ontario Land Surveyor 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;
  - (3) Existing rights-of-way, easements, private services and municipal services; and
  - (4) Location of fire access routes.
- 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, by a registered Ontario Land Surveyor, showing the location of the building, at the Owners cost.
- 4.6 Upon completion of the foundation, the Applicant shall submit and have approved, a building location survey prepared by a registered Ontario Land Surveyor, including the top of foundation prior to the commencement of framing or above grade Works where required by the Chief Building Official.
- 4.7 Plans and specifications furnished according to this by-law or otherwise required by the Act become the property of the City and will be disposed of or retained in accordance with relevant legislation and the City's Records By-Law.
- 4.8 The Chief Building Official may require additional information to be provided at any time prior to the completion of the Work.
- 4.9 The issuance of a Permit, the review of the drawings and specifications, or inspections made by the Chief Building Official shall not in any way relieve the Owner of a building from full responsibility for carrying out the Work or having the Work carried out in accordance with the requirements of this By-law and the Building Code, including ensuring that the occupancy of the building, or any part thereof, is in accordance with the terms of this by-law and the Building Code.

## **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.
- 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.

## **6. Fees and Refunds**

- 6.1 The Chief Building Official shall determine the required fees for the Work proposed calculated in accordance with the Fees and Charges By-Law and Schedule "A" of this by-law and no Permit shall be issued until the fees are paid. For classes of Permits not described in the Fees and Charges By-Law or Schedule "A" of this by-law, a reasonable Permit fee shall be applied by the Chief Building Official.
- 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 non-refundable fee in order to compensate the City 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, or be less than the minimum fee.
- 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 Fees and Charges 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 in writing within twelve months of the date of Permit application. Refunds requested after this time will not be considered.
- 6.4 The amount of Permit fees to Construct or Demolish that may be refunded shall be the total fees paid less the cumulative percentage of fees applicable to the administration, review and inspection functions undertaken prior to receipt of the written request to the Chief Building Official as follows:
- (1) Eighty (80) percent if administrative functions only have been performed;
  - (2) Seventy (70) percent if administrative and zoning functions only have been performed;
  - (3) Forty-Five (45) percent if administrative, zoning and plan examination functions have been performed;
  - (4) Thirty-Five (35) percent if the Permit has been issued and no field inspections have been performed subsequent to Permit issuance;
  - (5) Five (5) percent shall be deducted for each field inspection that has been performed after the Permit has been issued;

- (6) No refund shall be made for an amount less than the minimum Permit fee.
  - (7) No refund shall be made for a limiting distance agreement, conditional Permit or authorization of an alternative solution.
- 6.5 Refunds shall be paid to the person named on the fee receipt issued by the City upon payment of the fee, unless the person directs in writing that the fee be refunded to another person.
- 6.6 Where the Chief Building Official determines that a limiting distance agreement is required pursuant to the Act and the Building Code, the Owner shall pay the fee as set out in the Fees and Charges By-Law and Schedule "A" of this by-law prior to execution of the agreement by the Chief Building Official.
- 6.7 Permit fees will be calculated at the time of application based upon the information provided on the application form, and adjustments will be made, as required, during the review process. The balance of fees owing and adjustments as a result of corrected information, shall be paid upon Permit issuance.
- (1) The method of payment for Permit fees may be cheque, credit card or debit card. Cheques returned for non-sufficient funds shall be replaced by a certified cheque in the amount of the Permit fee plus the administrative charges. Replacement fees not provided within the specified time will result in revocation of the Permit.

## **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.

## **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.
- 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.

- 8.3 Where notice is served personally, electronically or by registered mail, the Permit Holder shall be conclusively deemed for all purposes to have been served with the notice on the fifth day after the notice is served.

## **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.
- 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 confirmation by the City or the Registered Code Agency.
- 9.3 Upon receipt of written notice, the Inspector or a Registered Code Agency, if one is appointed, shall undertake a site inspection of the building to which the notice relates in accordance with the time periods stated in the Building Code and Section 11 of the Act.
- 9.4 Where an Inspection has been made, and the Applicant, Owner or contractor is made aware of any Building Code contraventions, and a re-inspection has been requested and carried out by the City 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 Fees and Charges By-Law and Schedule "A" of this by-law.

## **10. Construction Site Fencing and Signage**

- 10.1 The Permit Holder shall, prior to the commencement of any Construction or Demolition or placement of any materials or equipment at the Construction Site, erect or cause to be erected and maintain a fence enclosing the Construction Site in accordance with this section for the purpose of protecting the public by preventing unauthorized entry to the Construction Site.
- (1) The Chief Building Official may grant an exemption from any of the requirements in this section if the Chief Building Official is satisfied that conditions at the Construction Site would not present an unreasonable hazard to the public after considering:
- (a) The proximity of the Construction Site to occupied dwellings;

- (b) The proximity of the Construction Site to places frequented by the public, including but not limited to Public Ways, streets, parks, schools, businesses, and workplaces;
  - (c) The effectiveness of any existing fencing at or near the Construction Site;
  - (d) Any security measures or proposed security measures to deter entry to the Construction Site, or entry to the structure where Work is occurring;
  - (e) The gravity of the hazard presented by the Work occurring and the materials used at the Construction Site;
  - (f) The expected duration of the hazard;
  - (g) The feasibility of and likely effectiveness of fencing the Construction Site; and
  - (h) Any other public safety considerations.
- (2) The Chief Building Official may revoke an exemption granted under subsection (1) by giving written notice of the revocation by personal service or registered mail to the Permit Holder where:
- (a) Work on a Construction Site is substantially suspended or abandoned; or
  - (b) Where any of the considerations enumerated in subsection (1) have changed, or where the Permit Holder has not implemented any proposed security measures to deter entry to the Construction Site.

10.2 Every fence shall be erected in accordance with the following:

- (1) Be located between the Construction Site and the Public Way or the open sides of the Construction Site to fully enclose the Construction Site;
- (2) Have an unobstructed fence height above grade when measured from outside the enclosure of at least:
  - (a) 1.8 metres high for the Construction or Demolition of any type of Building that is located 3.0 metres or less from a Public Way, or
  - (b) 1.2 metres high for the Construction or Demolition of a residential Building of no more than 3 storeys that is located more than 3.0 metres from an adjacent Public Way;



- (3) Where Ontario Regulation 213/91 requires that a covered way be Constructed over the part of the Public Way that is adjacent to a Construction Site, the covered way may be constructed in addition to, or as part of, the fencing required by this section, provided that it is constructed in accordance with the requirements of sections 64 and 65 of Ontario Regulation 213/91, as amended.
- (4) Fencing is deemed to comply with this section, if it is constructed in accordance with the following:
  - (a) The fence material shall be not less than:
    - i. 12.5 millimetre thick exterior grade plywood or wafer board or oriented strand board (OSB) fence, that is close-boarded,
    - ii. Poly-Vinyl-Chloride (PVC) plastic mesh safety-fence type supported top and bottom,
    - iii. Galvanized chain link Construction of 38 millimetre mesh,
    - iv. Prefabricated modular fencing of welded metal frame with wire mesh infill, or
    - v. A combination of the above or alternative materials if it can achieve an equivalent performance level
  - (b) The surface facing the exterior side of the enclosed area shall be smooth so as to deter climbing;
  - (c) Openings through and under any part of the fence shall be of a size so as to prevent the passage of a spherical object having a diameter of 100 millimetres; and
  - (d) The fence shall be erected with adequate supports and maintained in a sturdy, upright condition such that the effective height of the protection is not reduced.
- (5) Fencing shall be Constructed and maintained so that access to the Construction Site for firefighting and fire protection equipment is not restricted.
- (6) Every access opening in a fence shall be equipped with a gate that shall be:
  - (a) Constructed of materials equivalent to the performance of the fence;

- (b) Identified clearly as the point of access into or exit from the Construction Site; and
- (c) Securely closed and locked when the Construction Site is unattended.

10.3 Signage shall be installed in accordance with the following:

- (1) Signage shall conform to the City's sign bylaw number 2009-140 for construction site signs and exempt signs.
- (2) Signage shall be provided on the outside of the fencing to indicate the address of the Construction Site for fire department information and provide key emergency contact information.

## **11. Validity**

- 11.1 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.

## **12. Short Title**

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

## **13. Commencement**

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

**Given First and Second Readings** May 3, 2005

**Given Third Reading and Finally Passed** May 17, 2005

---

**John Bolognone**  
City Clerk

---

**Bryan Paterson**  
Mayor

**Schedule “A”**

**Bylaw Number 2005-99**

**A Bylaw to Provide for the Construction, Demolition, Change of Use and Transfer of Permits and Inspections**

**1. Classes of Permits and Fees**

- 1.1 Classes of Permits and Permit fees shall be based on the rates outlined in the current “Fees and Charges By-Law” for the Corporation of the City of Kingston.
- 1.2 Where Permit fees are calculated based on square metres, the fee shall be based on the rate outlined in the current Fees and Charges By-Law multiplied by the Gross Floor Area for each major occupancy.
- 1.3 Classes of Permits correspond with the major occupancy classifications in the Ontario Building Code and as per the following table:

<b>Classes of Permits</b>
<b>Minimum Permit Fee (all Permits)</b>
<b>Group A: Assembly Buildings</b>
Shell Permit
New and Additions
Alterations and Renovations
<b>Group B: Institutional Buildings</b>
Shell Permit
New and Additions
Alterations and Renovations
<b>Group C: Residential Buildings</b>
New and Additions (Single Detached, Semi-Detached and Row House)
New and Additions (Multi-Unit Buildings, Motels, Hotels)
Alterations and Renovations
Secondary Suites (Single Detached, Semi-Detached and Row House)
Swimming Pools
Accessory Structures (Garage/Carport, Shed)
Solar Panels (any area)
<b>Group D: Business and Personal Services Buildings</b>
Shell Permit
New and Additions

<b>Classes of Permits</b>
Alterations and Renovations
<b>Group E: Mercantile Buildings</b>
Shell Permit
New and Additions
Alterations and Renovations
<b>Group F: Industrial and Agricultural Buildings</b>
Shell Permit
New and Additions
Alterations and Renovations
<b>Other Permit Classes:</b>
Decks/Patios (each)
Solar panels (Non-Residential) – per application
Temporary Structures - per application
Demolitions (each)
Wood Burning Appliances (each)
Designated Structures (each)
Signs (per application)
<b>Mechanical and Fire Protection Systems:</b> (independent of Building Permit)
HVAC Permit (Residential and Non-Residential per suite)
New and Alterations to Sprinkler System, Standpipe System or Fire Suppression
Commercial Kitchen Exhaust Systems, Spray Booths, Dust Collectors
New and Alterations to Fire Alarm System
Electromagnetic Locks, Hold Open Devices, Emergency Lighting (per application)
<b>Plumbing Permits:</b> (independent of Building Permit)
New and Alterations (Residential per fixture)
New and Alterations (Non-Residential per fixture)
Backflow Prevention Devices (per application)
Sewer Lateral (each)
Back Water Valve (each)
<b>Administration Fees:</b>
Conditional Permit Fee (10% of the required Permit fee)
Pre Inspection (prior to Permit issuance) or Re-Inspection Fee (per inspection or suite)
Expedited Plan Review (per hour)
Fence and Sign By-law Appeal (each)
Alternative Solution proposal
Preliminary project review and Revisions to an issued Permit (per hour)
Limiting Distance Agreement (each)

<b>Classes of Permits</b>
Change of use Permit (no Construction)
Construction prior to Permit issuance (40% of the required Permit fee)

**2. Interpretation**

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

- (1) In the case of interior finishes, alterations or renovations, area of proposed Work is the actual space receiving the Work, e.g. room, tenant suite etc.
- (2) Where Demolition of partitions or alterations to existing ceilings are part of an alteration or renovation Permit, no additional charge is applicable.
- (3) Corridors, lobbies, washrooms, lounges, etc. are to be included and classified according to the major occupancy for the floor area on which they are located.
- (4) For multiple occupancy floor areas, the Permit fees for each of the applicable Permit classes may be used, except where an occupancy category is less than 10% of the floor area.

**By-Law Number 2017-XX**

**A By-Law to Amend By-Law Number 2005-99 “A By-Law to Provide for the Construction, Demolition, Change of Use and Transfer of Permits and Inspections”**

**Passed: [Meeting Date]**

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

By-Law Number 2005-99 of the Corporation of the City of Kingston entitled “A By-Law to Provide for the Construction, Demolition, Change of Use and Transfer of Permits and Inspections”, is hereby amended as follows:

1.1 **Add** subsection 1.1 as follows:

1.1 In this by-law:

1.2 **Delete** the Definition for Architect and replace it with the following:

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

1.3 **Add** the Definition for Building as follows:

**Building** means a “building” as defined in subsection 1(1) of the Act;

1.4 **Delete** the Definition for Chief Building Official and replace it with the following:

**Chief Building Official** means the Chief Building Official appointed pursuant to subsection 3(2) of the Act and by by-law of the City for the purposes of enforcement of the Act;

1.5 **Delete** the Definition for Corporation and replace it with the following:

**City** means the Corporation of the City of Kingston;

1.6 **Delete** the Definition for Construct and replace it with the following:

**Construct** means Construct as defined in Subsection 1(1) of the Act, and Construction shall have a corresponding meaning;

1.7 **Add** the Definition for Construction Site as follows:

**Construction Site** means the part of the parcel of land on which Construction or Demolition related activities are occurring, and includes any area for materials and equipment appurtenant to any Construction or Demolition activities. The Construction Site may occupy the entire parcel of land or a portion of the land parcel;

- 1.8 **Delete** the Definition for Demolish and replace it with the following:

**Demolish** means Demolish as defined in Subsection 1(1) of the Act, and Demolition shall have a corresponding meaning;

- 1.9 **Delete** the Definition for Designer and replace with the following:

**Designer** means an Architect, Engineer or Designer qualified to carry out design activities under the Act;

- 1.10 **Add** definitions for Fees and Charges By-Law and Gross Floor Area as follows:

**Fees and Charges By-Law** means By-Law Number 2005-10, A By-Law to Establish Fees and Charges to be Collected by the City of Kingston, as it reads at the time of Permit application;

**Gross Floor Area** means the area of the proposed Work measured to the outer face of exterior walls and to the centreline of party walls or demising walls and shall include mechanical penthouses and floors, mezzanines, lofts, habitable attics, interior balconies, openings within floor areas (stairs, elevators, shafts, etc.) with the exception of interconnected floor areas, but not unfinished basements and attached garages for single detached, semi- detached, duplex, and townhouse dwellings. Where there is no floor or walls, the Gross Floor Area shall be the greatest horizontal area of the structure.

- 1.11 **Delete** the Definition for Inspector and replace it with the following:

**Inspector** means an employee of the City appointed pursuant to subsection 3(2) of the Act and by by-law of the City for the purposes of enforcement of the Act;

- 1.12 **Delete** the Definition for Owner and replace it with the following:

**Owner** means the registered Owner of the property on which the Work will take place and includes a lessee, mortgagee in possession, and the authorized agent in lawful control of the property;

- 1.13 **Delete** the Definition for Professional Engineer and replace it with the following:

**Professional Engineer** or “**Engineer**” means a person who holds a license or temporary license under the *Professional Engineers Act*, as defined in the Building Code;

- 1.14 **Add** the Definition for Public Way as follows:

**Public Way** means “public way” as defined in Ontario Regulation 213/91, as amended;

- 1.15 **Delete** the Definition for Rates and Fees By-Law.
- 1.16 **Delete** the Definition for Sewage System and replace it with the following:  
**Sewage System** means a Sewage System as defined in Article 1.4.1.2. of Division A of the Building Code;
- 1.17 **Delete** the Definition for “Work” and replace it with the following:  
**Work** means Construction or Demolition or change of use or plumbing for a Building which is regulated by the Act and the Building Code;
- 1.18 **Add** subsection 1.2 as follows:  
1.2 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.
- 1.19 Where definitions are referenced throughout the by-law, capitalize the first letter.
- 1.20 **Remove** quotation marks “ ” from all definitions.
- 1.21 **Delete** subsection 3.1 and replace it with the following:  
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, or where applicable, electronically in the case of an online application by completing a prescribed form.
- 1.22 **Delete** subsection 3.2 (1) and replace it with the following:  
(1) **Application for Permit to Construct**  
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 1.3.1.3 of Division C of the Building Code and as described in this by-law for the Work to be covered by the Permit.
- 1.23 Add heading to subsection 3.2 (2) as follows:  
(2) **Application for Permit to Demolish**



1.24 **Delete** subsection 3.2 (2) (c) (ii) and replace it with the following:

- (ii) written confirmation on the City's 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.

1.25 **Delete** subsection 3.2 (3) and replace it with the following:

**(3) Request for Conditional Permit**

Where a request is made for a conditional Permit in association with a pending application for a Permit to Construct under Subsection 8(3) of the Act, the Applicant shall:

- (a) use the conditional Permit application form authorized by the Chief Building Official;
- (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;
- (e) provide the date by which plans and specifications of the complete Building will be filed with the Chief Building Official; and
- (f) shall pay the non-refundable conditional Permit fee in addition to any other fees.

1.26 **Delete** subsection 3.2 (4) and replace it with the following:

**(4) Application for Change of Use Permit**

Where application is made for a change of use Permit under Subsection 10(1) of the Act the Applicant shall:

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

- (b) identify and describe in detail the current and proposed occupancies of the building or part of a building for which the application is made; and
- (c) 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.

1.27 **Add** heading to subsection 3.2 (5) as follows:

(5) **Application for Sewage Permit**

1.28 Add heading to subsection 3.2 (6) as follows:

(6) **Application for Transfer of Application or Permit**

1.29 **Delete** subsection 3.2 (6) (a) and replace it with the following:

- (a) make such request in writing to the City;

1.30 **Add** subsection 3.2 (6) (h) as follows:

- (h) upon the transfer of the Permit by the Chief Building Official, the new Owner shall be the Permit Holder for the purpose of this by-law, the Act and the Building Code.

1.31 **Add** subsection 3.2 (7) and (8) as follows:

(7) **Request for Partial Occupancy Permit**

Where a request is made for a partial occupancy Permit under Section 11 of the Act and the Building Code where applicable, the Applicant shall:

- (a) use the application for partial occupancy form authorized by the Chief Building Official;
- (b) include complete plans and specifications, documents and other information as required by Article 1.3.3 of Division C of the Building Code;
- (c) include a statement indicating the expected occupancy dates, and the portions of the Building to be occupied; and

- (d) obtain all necessary Permits and approvals from other Municipal departments or outside agencies having jurisdiction.

**(8) Request for Alternative Solution Approval**

Where a request is made for approval of an alternative solution under Section 9 of the Act and the Building Code where applicable, the Applicant shall:

- (a) Use the application for an alternative solution form prescribed by the Chief Building Official; and
- (b) Include supporting documentation and test methods demonstrating that the proposed alternative solution will provide the level of safety and performance required by the Building Code.
- (c) Equivalents which are accepted under this subsection shall be applicable only to the location to which the approval is given and are not transferable to any other Permit to Construct.
- (d) In addition to the minimum non-refundable fee, the Owner or Permit Holder shall pay any additional costs that may be incurred by the City in relation to the evaluation process as determined by the Chief Building Official.

1.32 **Add** subsections 3.6, 3.7, 3.8 and 3.9 as follows:

- 3.6 Where the Chief Building Official determines that an application is incomplete, the Chief Building Official may commence to process the application if the Applicant acknowledges that the application is incomplete and submits the acknowledgement of incomplete application form authorized by the Chief Building Official.
- 3.7 A Permit to Construct a temporary Building may be issued by the Chief Building Official authorizing, for a limited time only, the erection and existence of a Building or part thereof.
- 3.8 No person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a Permit was issued without notifying, filing details with and obtaining the authorization of the Chief Building Official. Substantial changes may constitute a revised submission and additional fees may be charged as per the Fees and Charges By-Law and Schedule "A" of this by-law.
- 3.9 The Chief Building Official may, as the Chief Building Official deems appropriate, provide prescribed forms in an electronic format and may allow for the electronic submission of completed Permit application forms.

- 1.33 **Delete** subsections 4.2, 4.3, 4.4, 4.5, 4.6 and 4.7 and replace with the following:
- 4.2 Each application shall, unless otherwise specified by the Chief Building Official, be accompanied by two complete sets of all plans and specifications and shall include the nature and extent of the Work and proposed use and occupancy.
  - 4.3 Plans shall be drawn to scale on paper, electronic media approved by the City or other durable material and shall be legible.
  - 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 certified by a Registered Ontario Land Surveyor 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;
    - (3) Existing rights-of-way, easements, private services and municipal services; and
    - (4) Location of fire access routes.
  - 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, by a registered Ontario Land Surveyor, showing the location of the Building, at the Owners cost.
  - 4.6 Upon completion of the foundation, the Applicant shall submit and have approved, a Building location survey prepared by a registered Ontario Land Surveyor, including the top of foundation prior to the commencement of framing or above grade Works where required by the Chief Building Official.
  - 4.7 Plans and specifications furnished according to this by-law or otherwise required by the Act become the property of the City and will be disposed of or retained in accordance with relevant legislation and the City's Records By-Law.
- 1.34 **Add** subsection 4.8 and 4.9 as follows:
- 4.8 The Chief Building Official may require additional information to be provided at any time prior to the completion of the Work.

- 4.9 The issuance of a Permit, the review of the drawings and specifications, or inspections made by the Chief Building Official shall not in any way relieve the Owner of a Building from full responsibility for carrying out the Work or having the Work carried out in accordance with the requirements of this by-law and the Building Code, including ensuring that the occupancy of the Building, or any part thereof, is in accordance with the terms of this by-law and the Building Code.
- 1.35 **Delete** subsections 6.1, 6.2 and 6.3 and replace with the following:
- 6.1 The Chief Building Official shall determine the required fees for the Work proposed calculated in accordance with the Fees and Charges By-Law and Schedule “A” of this by-law and no Permit shall be issued until the fees are paid. For classes of Permits not described in the Fees and Charges By-Law or Schedule “A” of this by-law, a reasonable Permit fee shall be applied by the Chief Building Official.
- 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 non-refundable fee in order to compensate the City 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, or be less than the minimum fee.
- 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 Fees and Charges 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 in writing within twelve months of the date of Permit application. Refunds requested after this time will not be considered.
- 1.36 **Add** subsections 6.4, 6.5, 6.6 and 6.7 as follows:
- 6.4 The amount of Permit fees to Construct or Demolish that may be refunded shall be the total fees paid less the cumulative percentage of fees applicable to the administration, review and inspection functions undertaken prior to receipt of the written request to the Chief Building Official as follows:
- (1) Eighty (80) percent if administrative functions only have been performed;

- (2) Seventy (70) percent if administrative and zoning functions only have been performed;
- (3) Forty-Five (45) percent if administrative, zoning and plan examination functions have been performed;
- (4) Thirty-Five (35) percent if the Permit has been issued and no field inspections have been performed subsequent to Permit issuance;
- (5) Five (5) percent shall be deducted for each field inspection that has been performed after the Permit has been issued;
- (6) No refund shall be made for an amount less than the minimum Permit fee.
- (7) No refund shall be made for a limiting distance agreement, conditional Permit or authorization of an alternative solution.

6.5 Refunds shall be paid to the person named on the fee receipt issued by the City upon payment of the fee, unless the person directs in writing that the fee be refunded to another person.

6.6 Where the Chief Building Official determines that a limiting distance agreement is required pursuant to the Act and the Building Code, the Owner shall pay the fee as set out in the Fees and Charges By-Law and Schedule "A" of this by-law prior to execution of the agreement by the Chief Building Official.

6.7 Permit Fees will be calculated at the time of application based upon the information provided on the application form and adjustments will be made, as required, during the review process. The balance of fees owing and adjustments as a result of corrected information, shall be paid upon Permit issuance.

- (1) The method of payment for Permit fees may be cheque, credit card or debit card. Cheques returned for non-sufficient funds shall be replaced by a certified cheque in the amount of the Permit fee plus the administrative charges. Replacement fees not provided within the specified time will result in revocation of the Permit.

1.37 **Delete** subsection 8.3 and replace it with the following:

8.3 Where notice is served personally, electronically or by registered mail, the Permit Holder shall be conclusively deemed for all purposes to have been served with the notice on the fifth day after the notice is served.

1.38 **Delete** subsection 9.2 and 9.3 and replace with the following:

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 confirmation by the City or the Registered Code Agency.

9.3 Upon receipt of written notice, the Inspector or a Registered Code Agency, if one is appointed, shall undertake a site inspection of the Building to which the notice relates in accordance with the time periods stated in the Building Code and Section 11 of the Act.

1.39 **Add** subsection 9.4 as follows:

9.4 Where an Inspection has been made, and the Applicant, Owner or contractor is made aware of any Building Code contraventions, and a re-inspection has been requested and carried out by the City 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 Fees and Charges By-Law and Schedule "A" of this by-law.

1.40 **Add** section 10. Construction Site Fencing and Signage as follows:

## **10. Construction Site Fencing and Signage**

10.1 The Permit Holder shall, prior to the commencement of any Construction or Demolition or placement of any materials or equipment at the Construction Site, erect or cause to be erected and maintain a fence enclosing the Construction Site in accordance with this section for the purpose of protecting the public by preventing unauthorized entry to the Construction Site.

(1) The Chief Building Official may grant an exemption from any of the requirements in this section if the Chief Building Official is satisfied that conditions at the Construction Site would not present an unreasonable hazard to the public after considering:

- (a) The proximity of the Construction Site to occupied dwellings;
- (b) The proximity of the Construction Site to places frequented by the public, including but not limited to Public Ways, streets, parks, schools, businesses, and workplaces;
- (c) The effectiveness of any existing fencing at or near the Construction Site;

- (d) Any security measures or proposed security measures to deter entry to the Construction Site, or entry to the structure where Work is occurring;
  - (e) The gravity of the hazard presented by the Work occurring and the materials used at the Construction Site;
  - (f) The expected duration of the hazard;
  - (g) The feasibility of and likely effectiveness of fencing the Construction Site; and
  - (h) Any other public safety considerations.
- (2) The Chief Building Official may revoke an exemption granted under subsection (1) by giving written notice of the revocation by personal service or registered mail to the Permit Holder where:
- (a) Work on a Construction Site is substantially suspended or abandoned; or
  - (b) Where any of the considerations enumerated in subsection (1) have changed, or where the Permit Holder has not implemented any proposed security measures to deter entry to the Construction Site.

10.2 Every fence shall be erected in accordance with the following:

- (1) Be located between the Construction Site and the Public Way or the open sides of the Construction Site to fully enclose the Construction Site;
- (2) Have an unobstructed fence height above grade when measured from outside the enclosure of at least:
  - (a) 1.8 metres high for the Construction or Demolition of any type of Building that is located 3.0 metres or less from a Public Way, or
  - (b) 1.2 metres high for the Construction or Demolition of a residential Building of no more than 3 storeys that is located more than 3.0 metres from an adjacent Public Way;
- (3) Where Ontario Regulation 213/91 requires that a covered way be Constructed over the part of the Public Way that is adjacent to a Construction Site, the covered way may be constructed in addition to, or as part of, the fencing required by this section,



provided that it is constructed in accordance with the requirements of sections 64 and 65 of Ontario Regulation 213/91, as amended.

- (4) Fencing is deemed to comply with this section, if it is constructed in accordance with the following:
  - (a) The fence material shall be not less than:
    - i. 12.5 millimetres thick exterior grade plywood or wafer board or oriented strand board (OSB) fence, that is close-boarded,
    - ii. Poly-Vinyl-Chloride (PVC) plastic mesh safety-fence type supported top and bottom,
    - iii. Galvanized chain link Construction of 38 millimetre mesh,
    - iv. Prefabricated modular fencing of welded metal frame with wire mesh infill, or
    - v. A combination of the above materials if it can achieve an equivalent performance level.
  - (b) The surface facing the exterior side of the enclosed area shall be smooth so as to deter climbing;
  - (c) Openings through and under any part of the fence shall be of a size so as to prevent the passage of a spherical object having a diameter of 100 millimetres, and
  - (d) The fence shall be erected with adequate supports and maintained in a sturdy, upright condition such that the effective height of the protection is not reduced.
- (5) Fencing shall be Constructed and maintained so that access to the Construction Site for firefighting and fire protection equipment is not restricted.
- (6) Every access opening in a fence shall be equipped with a gate that shall be:
  - (a) Constructed of materials equivalent to the performance of the fence,
  - (b) Identified clearly as the point of access into or exit from the Construction Site, and

- (c) Securely closed and locked when the Construction Site is unattended.

10.3 Signage shall be installed in accordance with the following:

- (1) Signage shall conform to the City’s Sign By-Law Number 2009-140 for construction site signs and exempt signs.
- (2) Signage shall be provided on the outside of the fencing to indicate the address of the Construction Site for fire department information and provide key emergency contact information.

1.41 **Renumber** Section 10. Validity to Section 11. Validity

1.42 **Renumber** Section 11. Short Title to Section 12. Short Title

1.43 **Renumber** Section 12. Commencement to Section 13. Commencement

1.44 **Delete** subsection 1. from Schedule “A” and replace it with the following:

**1. Classes of Permits and Fees**

- 1.1 Classes of Permits and Permit fees shall be based on the rates outlined in the current “Fees and Charges By-Law” for the Corporation of the City of Kingston.
- 1.2 Where Permit fees are calculated based on square metres, the fee shall be based on the rate outlined in the current Fees and Charges By-Law multiplied by the Gross Floor Area for each major occupancy.
- 1.3 Classes of Permits correspond with the major occupancy classifications in the Ontario Building Code and as per the following table:

<b>Classes of Permits</b>
<b>Minimum Permit Fee (all Permits)</b>
<b>Group A: Assembly Buildings</b>
Shell Permit
New and Additions
Alterations and Renovations
<b>Group B: Institutional Buildings</b>
Shell Permit
New and Additions
Alterations and Renovations
<b>Group C: Residential Buildings</b>
New and Additions (Single Detached, Semi-Detached and Row House)

New and Additions (Multi-Unit Buildings, Motels, Hotels)
Alterations and Renovations
Secondary Suites (Single Detached, Semi-Detached and Row House)
Swimming Pools
Accessory Structures (Garage/Carport, Shed)
Solar Panels (any area)
<b>Group D: Business and Personal Services Buildings</b>
Shell Permit
New and Additions
Alterations and Renovations
<b>Group E: Mercantile Buildings</b>
Shell Permit
New and Additions
Alterations and Renovations
<b>Group F: Industrial and Agricultural Buildings</b>
Shell Permit
New and Additions
Alterations and Renovations
<b>Other Permit Classes:</b>
Decks/Patios (each)
Solar panels (Non-Residential) – per application
Temporary Structures - per application
Demolitions (each)
Wood Burning Appliances (each)
Designated Structures (each)
Signs (per application)
<b>Mechanical and Fire Protection Systems:</b> (independent of Building Permit)
HVAC Permit (Residential and Non-Residential per suite)
New and Alterations to Sprinkler System, Standpipe System or Fire Suppression
Commercial Kitchen Exhaust Systems, Spray Booths, Dust Collectors
New and Alterations to Fire Alarm System
Electromagnetic Locks, Hold Open Devices, Emergency Lighting (per application)
<b>Plumbing Permits:</b> (independent of Building Permit)
New and Alterations (Residential per fixture)
New and Alterations (Non-Residential per fixture)
Backflow Prevention Devices (per application)
Sewer Lateral (each)
Back Water Valve (each)
<b>Administration Fees:</b>
Conditional Permit Fee (10% of the required Permit fee)

Pre Inspection (prior to Permit issuance) or Re-Inspection Fee (per inspection or suite)
Expedited Plan Review (per hour)
Fence and Sign By-law Appeal (each)
Alternative Solution proposal
Preliminary project review and Revisions to an issued Permit (per hour)
Limiting Distance Agreement (each)
Change of use Permit (no Construction)
Construction prior to Permit issuance (40% of the required Permit fee)

1.45 **Delete** subsection 2, 3 and 4 from Schedule “A” and replace with the following:

**2. Interpretation**

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

- (1) In the case of interior finishes, alterations or renovations, area of proposed Work is the actual space receiving the Work, e.g. room, tenant suite etc.
- (2) Where Demolition of partitions or alterations to existing ceilings are part of an alteration or renovation Permit, no additional charge is applicable.
- (3) Corridors, lobbies, washrooms, lounges, etc. are to be included and classified according to the major occupancy for the floor area on which they are located.
- (4) For multiple occupancy floor areas, the Permit fees for each of the applicable Permit classes may be used, except where an occupancy category is less than 10% of the floor area.

2. This by-law shall come into force and take effect upon the date of its passing.

**Given First and Second Readings [Meeting Date]**

**Given Third Reading and Passed [Meeting Date]**

---

**John Bolognone**  
**City Clerk**

---

**Bryan Paterson**  
**Mayor**