

The Corporation of the Town of Tecumseh

By-Law Number 2018 - 19

Being a By-law respecting construction, demolition, change of use permits, inspections and related matters.

WHEREAS Section 7 of the Building Code Act, R.S.O. 1992, authorizes a Municipal Council to pass certain By-laws, respecting construction, demolition and change of use Permits, inspections and related matters.

AND WHEREAS Section 7.1 of the Building Code Act, R.S.O. 1992, requires a principal authority to establish and enforce a code of conduct for the Chief Building Official and inspectors.

AND WHEREAS Section 446 of the Municipal Act S.O., 2001, c.25 provides that if a Municipality has authority under this or any other Act or under a By-law under this or any other Act to direct or require a person to do a matter or thing, the Municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense, and the municipality may recover the costs of doing a matter or thing under from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes.

NOW THEREFORE the Council of The Corporation of The Town of Tecumseh enacts as follows:

1.0 DEFINITIONS

1.1 In this By-law;

- (a) "Act" means the Building Code Act, R.S.O. 1992, as amended.
- (b) "Applicant" means the owner of a building or property who applies for a Permit or any individual authorized to apply for a Permit on the Owner's behalf.
- (c) "Building Code" means the regulation made under Section 34 of the Act.
- (d) "By-law" means the Building By-law.
- (e) "Chief Building Official" means the Chief Building Official appointed by Council under Section 3 of the Act.
- (f) "Complete Permit Application" means an application satisfying the requirements of the Building Code and the requirements of this By-law;
- (g) "Corporation" means The Corporation of the Town of Tecumseh.
- (h) "Gross Floor Area" means the total area of all floors above grade measured between the outside surfaces of exterior walls.
- (i) "Owner" means the registered owner of the land and includes a lessee, a mortgagee in possession and the person in charge of the property.
- (j) "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.

- (k) "Permit Holder" means the person to whom the Permit has been issued and whom assumes the primary responsibility for complying with the Act and the Building Code.
- (l) "Construction Value" means the value established by the Chief Building Official for the work for which a Permit is applied for.
- (m) "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.
- (n) "Town" means The Corporation of the Town of Tecumseh

1.2 Terms not defined in this By-law shall have the meaning ascribed to them in the Act or the Building Code.

2.0 GENERAL

2.1 This By-law may be cited variously as the "Building By-law" or the "Tecumseh Building By-law".

2.2 The provisions of this By-law shall apply to all lands within the boundaries of the Town as are now or hereafter legally constituted.

2.3 Nothing in this By-law shall serve to relieve any person from the obligation to comply with any other applicable law.

2.4 Should any, section, subsection, clause or provision of this By-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof, other than the part so declared to be invalid.

2.5 That By-law 2004-30 of The Corporation of the Town of Tecumseh and any by-laws or parts of by-laws inconsistent with this By-law, are hereby repealed.

2.6 This By-law shall come into force and take effect when it is finally passed.

3.0 LIST OF SCHEDULES

3.1 The following schedules are attached to and form a part of this By-law:

- a) Schedule "A" Permit Fee Rates;
- b) Schedule "B" Plans and Documentation; and
- c) Schedule "C" Code of Conduct.

4.0 CLASSES OF PERMITS

4.1 The following permits are prescribed under this By-law:

- (a) Building Permit;
- (b) Demolition Permit;
- (c) Conditional Building Permit;
- (d) Sewage System Permit; and
- (e) Change of Use Permit.

5.0 PERMIT APPLICATIONS

5.1 To apply for any Permit, an Applicant shall:

- a) file a complete Permit application with the Chief Building Official on the prescribed forms available from the Chief Building Official or from the Province of Ontario and supply any other information relating to the application as required by the Act, the Building Code, the Chief Building Official or this By-law;
- b) identify and describe in detail the existing use and the proposed use(s) for which the building is intended;
- c) describe the land on which the work is to be done using a description that will readily identify and locate the site on which the building or demolition will occur;
- d) be accompanied by the plans, documents and other information prescribed in Section 12.0 and Schedule "B" of this By-law;
- e) be accompanied by the applicable permit fees in accordance with Schedule "A" of this By-law;
- f) include copies of any applicable approvals or Permits from Municipal and Provincial authorities or agents, Committee of Adjustment decisions, easements and right of ways; and
- g) where required by the Building Code, be accompanied by a signed acknowledgement from the Applicant, architect and/or professional engineer certifying that an architect, professional engineer, or both have been retained to carry out the general review of the construction of the building.

5.2 The acceptance or processing of an application under this By-law by the Chief Building Official shall not be deemed to prohibit the Chief Building Official from requiring the Applicant to supply further information, plans and documentation or details, as may be necessary to determine compliance with the Act, the Building Code, this By-law and any applicable law.

5.3 If the Applicant fails to provide such further information as requested, the application may be found to be incomplete.

5.4 Any application may be refused by the Chief Building Official if, in the opinion of the Chief Building Official, the application is not complete.

6.0 DEMOLITION PERMITS

6.1 In addition to the requirements of Section 5.0, every application for a Demolition Permit shall:

- a) where required by the Building Code, be accompanied by structural design characteristics of the building and the method of demolition; and
- b) be accompanied by satisfactory proof that arrangements have been made with the proper authorities for the termination and capping of all water, sewer, gas, electric, telephone or other utilities and services.

7.0 CONDITIONAL BUILDING PERMIT

7.1 In addition to the requirements of Section 5.0, every application for a Conditional Permit, shall:

- a) state the reasons why the Applicant believes that unreasonable delays in construction would occur if a conditional Permit is not granted; and
 - b) state the necessary approvals which must be obtained in respect of the proposed building and the time in which such approvals will be obtained.
- 7.2 The Chief Building Official may, where conditions and requirements imposed under 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.
- 7.3 The Chief Building Official may require the Applicant and/or the Owner to enter into a Conditional Permit Agreement and provide financial security in the amount as determined by the Chief Building Official.
- 7.4 The Chief Building Official is authorized to enter into Conditional Permit agreements and to execute such agreements on behalf of the Town.
- 7.5 The Conditional Permit agreement may be registered on the title of the land to which it applies.

8.0 SEWAGE SYSTEM PERMITS

- 8.1 In addition to the requirements of Section 5.0, every application for a Sewage System Permit shall include a site evaluation unless otherwise specified by the Chief Building Official.
- 8.2 The site evaluation shall include:
- a) the name, address, telephone number and signature of the person who prepared the evaluation;
 - b) a site plan showing the property dimensions, the location of the proposed sewage system, setbacks to lot line, structures, wells, lakes, ponds, reservoirs, rivers, springs, streams, existing right-of-way, easements or municipal/utility corridors;
 - c) site conditions such as the location of any unsuitable, disturbed or compacted areas and areas of potential flooding; and
 - d) soil properties such as soil permeability, the depth of bedrock and the depth of soil saturation.
- 8.3 The Chief Building Official is authorized to enter into Holding Tank Agreements in accordance with the Building Code and to execute such agreements on behalf of the Town.

9.0 CHANGE OF USE PERMITS

- 9.1 In addition to the requirements of Section 5.0, every application for a Change of Use Permit shall:
- a) include, plans and documentation which show 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, floor and roof assemblies identifying required fire resistance ratings and load bearing capacities.

10.0 ALTERNATIVE SOLUTIONS

- 10.1 Where an application for a Permit or for authorization to make a material change to a plan, specification, document or other information on the basis of which a Permit was issued, contains an alternative solution for which approval in accordance the Building Code is required, the application shall include documentation in accordance with the Building Code together with any other information or documentation as required by the Chief Building Official.

11.0 INCOMPLETE OR INACTIVE PERMIT APPLICATION

- 11.1 Where an application for a Permit remains incomplete or inactive for three (3) months after it is made, the Chief Building Official may deem it to be abandoned, and may return the application, plans and documentation to the Applicant by ordinary mail at the address indicated on the application.
- 11.2 Where an application has been deemed abandoned, the Chief Building Official may direct the Applicant to pay any outstanding fees and if the outstanding fees are not paid within a reasonable time, it shall be paid by the Town, and collected in like manner and with the same priority as Municipal Taxes.
- 11.3 Where an application for a permit remains incomplete solely due to the payment of the required permit fee and the work that is the subject of the application has been commenced or completed without benefit of a permit, the Chief Building Official may direct the applicant to pay any outstanding fees and if the outstanding fees are not paid within a reasonable time, it shall be paid by the Town, and collected in like manner and with the same priority as municipal taxes.

12.0 PLANS AND DOCUMENTS

- 12.1 Every Applicant shall furnish:
- a) sufficient plans, documents and other information as may be deemed necessary to enable the Chief Building Official to determine whether the proposed construction, demolition, or change of use conforms to the Act, 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 copy of such a survey shall be filed with the Municipality unless this requirement is waived because the Chief Building Official 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.
- 12.2 Site plans must include:
- a) lot size and dimensions of the property;
 - b) setbacks from existing and proposed buildings to property boundaries and to each other;
 - c) existing and finished ground levels or grades; and
 - d) existing rights of way, easements and municipal services.
- 12.3 Plans submitted shall be legible and shall be drawn to scale upon paper or other suitable and durable material, and without limiting the generality of the foregoing, shall include such drawings as set out in Schedule "B" of this By-law unless otherwise specified by the Chief Building Official.

- 12.4 Upon completion of the construction of a building, the Chief Building Official may require a set of as constructed plans, including a plan of survey showing the location of the building and/or final grade elevations.
- 12.5 Plans and documentation furnished according to this By-law or otherwise required by the Act become the property of the Town and will be disposed of or retained in accordance with relevant legislation and the Town's Retention By-law.

13.0 FEES

- 13.1 The Chief Building Official shall determine the Permit fees as prescribed in accordance with Schedule "A" of this By-law. The Applicant shall pay the Permit fees upon application submission or may pay the minimum application fee as prescribed in accordance with Schedule "A" of this By-law and pay the remaining balance of the permit fees prior to the issuance of the permit.
- 13.2 No permit shall be issued until all the permit fees have been paid in full.
- 13.3 Every Permit application that has been submitted after work has commenced, shall pay an additional late fee and the applicable Permit fees in accordance with Schedule "A" of this By-law.
- 13.4 Notwithstanding 13.1, Permit fees are waived for a twelve (12) month period from the date of adoption of this By-law for any new commercial building, addition to an existing commercial building and for any hotel building.

14.0 REFUNDS

- 14.1 The Chief Building Official shall determine the amount of fees, if any, that may be refunded in the case of the withdrawal of an application, abandonment of an application, refusal to issue a Permit or the revocation of a Permit.
- 14.2 Refunds of Permit fees shall be calculated as follows:
- a) a refund of seventy-five percent (75%) of the Permit fees that have been paid if no administrative functions have been performed;
 - b) a refund of fifty percent (50%) of the Permit fees that have been paid if only administrative functions have been performed and no field inspections have taken place; or
 - c) a refund of fifty percent (50%) of the Permit fees that have been paid less five percent (5%) for each field inspection that has taken place.
- 14.3 Notwithstanding the above, no refund is to be made of an amount less than the minimum Permit fee.

15.0 TRANSFER

- 15.1 Permits may be transferable to a new Owner, provided that the new Owner completes the applicable Permit application and pays the applicable Permit fees in accordance with Schedule "A" of this By-law.

16.0 REVISIONS TO APPLICATIONS AND PERMITS

- 16.1 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.
- 16.2 Notwithstanding 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.
- 16.3 The Chief Building Official shall determine if a revision to an application or Permit may be subject to an additional fee in accordance with Schedule "A" of this By-law.

17.0 NOTIFICATIONS

- 17.1 Notices respecting stages of constructions required by the Building Code shall be given by the Permit Holder to the Chief Building Official at least one (1) business day in advance of the stages of construction specified therein.

18.0 REGISTERED CODE AGENCIES

- 18.1 The Chief Building Official is authorized to enter into service agreements with Registered Code Agencies to perform specified functions from time to time in order to maintain the time periods prescribed in the Building Code.

19.0 LIMITING DISTANCE AGREEMENTS

- 19.1 The Chief Building Official is authorized to enter into Limiting Distance Agreements in accordance with the Building Code and to execute such agreements on behalf of the Town.

20.0 FENCING OF CONSTRUCTION SITES

- 20.1 Where, in the opinion of the Chief Building Official, a construction site presents a particular and unique hazard to the public, the Chief Building Official may require the erection of such fencing as deemed appropriate to the circumstances.
- 20.2 In considering the hazard presented by a construction site, the necessity for fencing, and its construction, the Chief Building Official shall have regard to:
- (a) the proximity of the construction site to occupied dwellings;
 - (b) the proximity of the construction 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 activities and materials;
- (d) the feasibility and effectiveness of the site fencing; and
- (e) the duration of the hazard.

21.0 CODE OF CONDUCT

21.1 The Chief Building Official and inspectors shall be governed by the Code of Conduct in accordance with Schedule “C” of this By-law”, with respect to exercising powers and performing duties under the Act.

READ a first, second and third time and finally passed this 13th day of March, 2018.

Gary McNamara, Mayor

Laura Moy, Clerk

Schedule "A" - Permit Fee Rates

No.	Permit Classification Or Description	Rate	Rate Type
1	Residential (Group "C" occupancies as set out in the Ontario Building Code)	\$ 1.05	per gross square foot
2	Industrial (Group "F" occupancies as set out in the Ontario Building Code)	\$ 0.85	per gross square foot
3	Commercial (Group "D & E" occupancies as set out in the Ontario Building Code)	\$ 1.05	per gross square foot
4	Assembly (Group "A" occupancies as set out in the Ontario Building Code)	\$ 1.05	per gross square foot
5	Institutional (Group "B" occupancies as set out in the Ontario Building Code)	\$ 1.05	per gross square foot
6	Alterations or Work Not Specifically Listed (per \$1000 of construction value)	\$ 12.00	per \$1,000 of construction value
7	Residential Garages & Accessory Structures	\$ 0.48	per gross square foot
8	Farm Buildings (as set out in the Ontario Building Code)	\$ 0.25	per gross square foot
9	Tents	\$ 120.00	flat fee
10	Demolitions	\$ 120.00	flat fee
11	Sanitary & Storm Sewers	\$ 120.00	flat fee
12	Plumbing Systems	\$ 120.00	flat fee
13	Heating, Cooling & Ventilation Systems	\$ 120.00	flat fee
14	Sewage Systems (Septics)	\$ 825.00	flat fee
15	All Other Projects Not Listed (per \$1,000 of construction value)	\$ 12.00	per \$1,000 of construction value
16	Permits Revised or Transferred	\$ 120.00	flat fee
17	Re-Inspections (per inspection)	\$ 120.00	flat fee
18	Property Standards Inspections (per inspection)	\$ 120.00	flat fee
19	Change of Use Permits	\$ 120.00	flat fee

No.	Permit Classification Or Description	Rate	Rate Type
20	Minimum Permit Fee	\$ 120.00	flat fee
21	Application Filling Fee	\$ 240.00	flat fee
22	Late Fee (for projects started prior to a permit being issued)	An additional \$500 or the value of the applicable permit fees whichever is lesser	

Notes:

- 1) Where Permit fees are based on square footage, Permit fees shall be the product of the Permit fee rate for the permit classification or project description times the gross floor area of the building to which the permit applies.
- 2) Permit fees for alterations, work not specifically listed or other projects not listed shall be based on the declared Construction Value. The declared Construction Value shall include the value of the project's consulting fees, administrative fees, legal fees, testing costs, equipment and machinery costs, and all labour and material cost. The Chief Building Official may require a detailed evaluation of the project to support the declared Construction Value from a qualified person.
- 3) No additional Permit fees apply for the construction or installation of mechanical systems such as sprinkler, fire alarms and standpipe systems, provided that such systems are part of the building and installed at the same time as the building is being constructed.
- 4) Notwithstanding 13.1 of this By-law, Permit fees are waived for a twelve (12) month period from the date of adoption of this By-law for any new commercial building, addition to an existing commercial building and for any hotel building.

Schedule “B” - Plans and Documentation

Except as noted, every Permit application shall be accompanied by two (2) copies of the following plans and/or documents:

1.0 Plans

- 1.1 Site Plan
- 1.2 Grading Plan
- 1.3 Foundation Plans
- 1.4 Floor Plans
- 1.5 Framing Plans
- 1.6 Roof Plans
- 1.7 Sections and Details
- 1.8 Building Elevations
- 1.9 Electrical Drawings
- 1.10 Heating, Ventilation and Air Conditioning Drawings
- 1.11 Plumbing Drawings
- 1.12 Door and Window Schedules
- 1.13 Fire Separation Plan
- 1.14 Fire Protection Plans

2.0 Documents

- 2.1 Designer's Information
- 2.2 Ontario Building Code Matrix
- 2.3 Energy Efficiency Design Summary
- 2.4 Mechanical Design Ventilation Summary

Notes:

- 1) The Chief Building Official may specify that not all the above plans and/or documents are required to accompany an application for a Permit.
- 2) The Chief Building Official may also require additional documents, copies and plans 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.

Schedule “C” - Code Of Conduct

1.0 Introduction

- 1.1 This Code of Conduct applies to the Chief Building Official and inspectors appointed by the Town under the Act, in the exercise of a power or the performance of a duty under the Act or the Building Code. The purposes of this Code of Conduct are to promote appropriate standards of behavior 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 of the performance of a duty under the Act, or the Building Code by the Chief Building Official and inspectors.

2.0 Standard of Conduct

- 2.1 In addition to any existing Code of Conduct Policy which the Town already has in place for its municipal employees, the Chief Building Official and inspectors of the Town undertake to:
- a) act in the public interest, particularly with regard to the safety of buildings and structures;
 - b) 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;
 - c) exercise powers in accordance with the provisions of the Act, the Building Code and other applicable law that governs the authorization, construction, occupancy and safety of buildings and designated structures;
 - d) apply all relevant building laws, regulations and standards in a consistent and fair manner, independent of any influence by interested parties;
 - e) act honestly, reasonably and professionally in the discharge of their duties; and
 - f) 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.