

# CERTIFIED COPY

CITY OF ST. CATHARINES

BY-LAW NO. 2011-334

A By-law to regulate matters pertaining to the Building Code.

WHEREAS Section 7 of the *Building Code Act*, Statutes of Ontario 1992, Chapter 23, as amended, authorizes a municipal council to pass by-laws concerning the issuance of permits and related matters;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. CATHARINES ENACTS AS FOLLOWS:

1. SHORT TITLE

This By-law may be cited as "The Building By-law".

2. DEFINITIONS AND INTERPRETATION

(1) In this By-law:

- (a) "Act" means the *Building Code Act, 1992*, as amended;
- (b) "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 demolition of a building or buildings and anyone acting under the authority of such person or corporation;
- (c) "Building Code" means the regulations made under Section 34 of the Act, as amended;
- (d) "Chief Building Official" means the Chief Building Official or his/her designate as defined by the Act;
- (e) "Fire Chief" means the Fire Chief as appointed by The Corporation of the City of St. Catharines or his/her designate;
- (f) "Owner" means the registered owner of the land and could include a lessee, mortgagee in possession of the property or a person in control of the property;
- (g) "Permit" means permission or authorization given in writing by the Chief Building Official to perform work regulated by the Act and Building Code, or to occupy or change the use of a building, or part thereof;
- (h) "Permit Holder" means the person to whom the Permit has been issued or transferred

and who assumes the primary responsibility for complying with the Act and the Building Code;

- (i) "Work" means to do anything in the construction or demolition or change of use or plumbing for a building which is regulated by the Act and the Building Code and "Works" has a similar meaning.

- (2) (a) Any word or term not defined in this by-law that is defined in the Act or the Building Code shall have the meaning ascribed to them in the Act or the Building Code;
- (b) In this by-law, a word expressed in the singular form has a corresponding meaning when used in the plural;
- (c) The Schedules attached hereto are hereby declared to form part of this by-law.

### 3. PERMITS

- (1) The classes of Permits with respect to the construction, demolition, change of use, or plumbing of a building or part thereof shall be as set out in Schedule "A" attached hereto and forming part of this by-law. Permit fees are payable in accordance with the Schedule of Rates and Fees approved by Council from time to time.
- (2) No person shall be issued a Permit under the Building Code Act unless the provisions of this by-law have been complied with.
- (3) No Permit shall be transferred without the prior approval of the Chief Building Official and the payment of the required non-refundable fee as set out in the Schedule of Rates and Fees approved by Council from time to time. Application for transfer of the Permit shall be in accordance with Section 4(6) of this by-law.
- (4) Applications for Sign Permits shall be processed in accordance with the City of St. Catharines Sign by-law, as amended from time to time.

### 4. APPLICATIONS FOR PERMITS

- (1) Every application for a Permit shall:
  - (a) contain the information set out in Section 4(2), 4(3), 4(4), 4(5), 4(6), 4(7), or 4(8) of this by-law, as applicable;
  - (b) be signed by the Owner who shall certify the truth of the contents of the application;
  - (c) be accompanied by the required fee(s) as set out in the Schedule of Rates and Fees approved by Council from time to time; and,

(d) be submitted to the Chief Building Official.

(2) APPLICATION FOR PERMIT TO CONSTRUCT

Where an application is made for a Permit to construct under subsection 8(1) of the Act, the Applicant shall file the following information:

- (a) a completed prescribed application form entitled "Application for a Permit to Construct or Demolish";
- (b) complete plans and specifications, documents and other information as required by Section 5 of this by-law; and,
- (c) a completed form entitled "Commitment to General Reviews by Architect and Engineers" provided by the Chief Building Official, where required by the Chief Building Official.

(3) APPLICATION FOR PERMIT TO DEMOLISH

Where an application is made for a Permit to demolish under subsection 8(1) of the Act, the Applicant shall file the following information:

- (a) a completed prescribed application form entitled "Application for a Permit to Construct or Demolish";
- (b) a site plan accompanied by plans and specifications, documents and other information as required by the Chief Building Official;
- (c) a completed form entitled "Commitment to General Reviews by Architect and Engineers" provided by the Chief Building Official, where required by the Chief Building Official;
- (d) proof satisfactory to the Chief Building Official that arrangements have been made with the proper authorities for the cutting off and capping of all water, sewer, gas, electric and private services; and
- (e) a completed "Demolition Permit Application – Services Declaration Form" and "Utility Clearance Form" as provided by the Chief Building Official.

(4) APPLICATION FOR CONDITIONAL PERMIT

Where an application is made for a conditional Permit under subsection 8(3) of the Act, the Applicant shall file the following information:

- (a) a completed prescribed form entitled "Application for Permit to Construct or Demolish";

- (b) complete plans and specifications, documents and other information as required by Section 5 of this by-law;
- (c) a statement of reasons why the Applicant believes that unreasonable delays in construction would occur if a conditional Permit is not granted;
- (d) a statement 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) the time in which plans and specifications of the complete building will be filed with the Chief Building Official; and
- (f) a completed form entitled "Commitment to General Reviews by Architect and Engineers" provided by the Chief Building Official, where required by the Chief Building Official;

**NOTE:** THE FEE FOR A CONDITIONAL PERMIT IS NON-REFUNDABLE.

(5) APPLICATION FOR CHANGE OF USE PERMIT

Where an application is made for a change of use Permit issued under subsection 10(1) of the Act, the Applicant shall file the following information:

- (a) a completed prescribed form entitled "Application for Permit to Construct or Demolish"; and
- (b) complete plans and specifications showing the current and proposed occupancy of all parts of the building containing sufficient information to establish compliance with the requirements of the Building Code, including:
  - (i) floor plans;
  - (ii) details of wall, ceiling and roof assemblies identifying required fire resistance ratings and load bearing capacities; and
  - (iii) details of the existing sewage system, if any.

(6) APPLICATION FOR TRANSFER OF PERMIT

Where an application is made for a transfer of Permit because of change of ownership of the property, the Applicant shall file the following information:

- (a) a completed prescribed form entitled "Application for Permit to Construct or Demolish";
- (b) the name and address of both the former Owner and new Owner;
- (c) the date that the property was transferred to the new Owner;
- (d) the nature of the Permit being transferred; and
- (e) confirmation of the continuation of, or the particulars of any change in, the

arrangements for general review of the construction in accordance with Division C, Section 1.2, Design and General Review, of the Building Code.

(7) APPLICATION FOR PARTIAL PERMIT

Where an application is made for a partial Permit in order to expedite Work for a portion of a building prior to the issuance of a Permit for the complete building, and the Chief Building Official is in agreement that an application for a partial Permit may be submitted, the Applicant shall file the following information:

- (a) a completed prescribed application form entitled "Application for a Permit to Construct or Demolish;
- (b) complete plans and specifications, documents and other information as required by Section 5 of this by-law;
- (c) a completed form entitled "Commitment to General Reviews by Architect and Engineers" provided by the Chief Building Official, where required by the Chief Building Official; and,
- (d) a completed form entitled "Acknowledgement of Incomplete Application" as provided by the Chief Building Official, where required by the Chief Building Official.

**NOTE:** Issuance of a partial Permit does not authorize construction beyond the plans for which approval is given, nor guarantees that further approval, or a Permit, will necessarily be granted for the remainder of the Work.

(8) RESTRICTED PERMIT

A restricted Permit for a temporary building may be issued by the Chief Building Official authorizing, for a limited time only as specified in the Permit, the erection and existence of a building or part thereof, including but not limited to tents, portables and trailers, where applicable. Where an application is made for a restricted Permit, the Applicant shall file the following information:

- (a) a completed prescribed application form entitled "Application for a Permit to Construct or Demolish";
- (b) complete plans and specifications, documents and other information as required by Section 5 of this by-law; and,
- (c) a completed form entitled "Commitment to General Reviews by Architect and Engineers" provided by the Chief Building Official, where required by the Chief Building Official.

(9) INCOMPLETE APPLICATION

Where an application is found to be incomplete and does not comply with Division C, Sentence 1.3.1.3 (5) of the Building Code, the application may only be accepted for processing if the Owner acknowledges that the application is incomplete and submits a completed form entitled "Acknowledgement of Incomplete Application" as provided by the Chief Building Official.

(10) INACTIVE APPLICATION

Where an application for a Permit remains incomplete or inactive for six (6) months, the application may be deemed by the Chief Building Official to have been abandoned and notice of cancellation shall be given to the Applicant and the Owner.

5. PLANS AND SPECIFICATIONS

(1) SUFFICIENT INFORMATION TO BE SUPPLIED

The Applicant shall submit sufficient plans, specifications, documents, or other information 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 conforms with the Act, the Building Code, and any applicable law.

(2) TWO SETS OF PLANS AND SPECIFICATIONS

The Applicant shall submit two (2) complete sets of the plans and specifications required by this Section unless otherwise specified by the Chief Building Official.

(3) PLANS TO SCALE

The Applicant shall ensure that plans submitted to the Chief Building Official:

- (a) are drawn to scale upon substantial material or in electronic format approved by the Chief Building Official;
- (b) are legible and durable; and,
- (c) indicate the nature and extent of the Work or proposed occupancy in sufficient detail to establish that the completed Work will conform to the Act, the Building Code and any other applicable law.

(4) PLAN OF SURVEY

The Applicant shall submit a copy of a plan of survey certified by a registered Ontario Land Surveyor to the Chief Building Official when required, in order to demonstrate compliance with the Act, the Building Code, or any other applicable law.

(5) SITE PLAN

The Applicant shall ensure that the site plans submitted to the Chief Building Official demonstrate compliance with the Act, the Building Code, and any other applicable law, and contain the following information:

- (a) lot size, lot dimensions and setbacks from the property lines to any existing and/or proposed buildings;
- (b) existing and finished ground levels or grades to an established datum at or adjacent to the site; and
- (c) existing rights-of-way, easements, municipal services and private services.

(6) A surveyor's certificate, prepared by a registered Ontario Land Surveyor, shall be submitted and approved prior to the commencement of the framing or the above grade Works, and shall show the location of the foundation(s) on the lot for the building(s); and for single detached, semi-detached, duplex, triplex, four-plex, and row houses, elevations shall be given for the top of the foundation(s).

(7) AS CONSTRUCTED PLANS

On completion of the construction of the building(s), if required by the Chief Building Official, the Owner shall submit to the Chief Building Official a set of 'as constructed' plans of the Work, including a plan of survey, by a registered Ontario Land Surveyor, showing the location of the building(s).

(8) PLANS PROPERTY OF THE CITY

Plans and specifications furnished in accordance with the requirements of this by-law, or otherwise required by the Act, become the property of the City and shall be retained and disposed of in accordance with applicable legislation and the City of St. Catharines Records Retention by-law, as amended from time to time.

(9) **DEVIATIONS FROM PLANS AND SPECIFICATIONS**

Deviations from the plans, specifications or other documents filed and in respect of which a Permit or Permits were issued, may be permitted provided that:

- (a) the changes do not contravene the Act, the Building Code or any applicable law;
- (b) the Chief Building Official agrees to the changes (prior to the Work commencing);
- (c) revised plans and specifications, as stipulated by the Chief Building Official, are submitted for approval; and
- (d) payment of the additional non-refundable fee for "Revision to Permit" in accordance with the Schedule of Rates and Fees, approved by Council from time to time, is made.

6. **AUTHORIZATION OF ALTERNATIVE SOLUTIONS**

Where an alternative solution is proposed for authorization under Division C, Section 2.1, the Owner shall file the following information to the Chief Building Official:

- (a) an application on a form provided by the Chief Building Official;
- (b) a description of the proposed material, system or building design for which authorization under Division C, Section 2.1 is requested;
- (c) supporting documentation demonstrating that the proposed material, system or building design will provide the level of performance required by the Building Code; and
- (d) payment of the required fee in accordance with the Schedule of Rates and Fees, approved by Council from time to time.

7. **PERMIT REVOCATION**

(1) **REVOCATION OF PERMIT**

Prior to revoking a Permit under Sections 8(10)(b) and 8(10)(c) of the Act, the Chief Building Official shall give written notice of intention to revoke to the Permit Holder and, if on the expiration of thirty (30) days from the date of such notice, the grounds for revocation continue to exist, the Permit may be revoked without further notice and all submitted plans and other information may be disposed of and the fee shall be forfeited.

(2) **DEFERRAL OF REVOCATION**

- (a) On receipt of a notice of intention to revoke a Permit, a Permit Holder may, prior to expiration of the thirty (30) day period set out in Section 7(1) of this by-law, request



that the Chief Building Official defer the revocation of such Permit.

- (b) A request for deferral of the proposed revocation shall set out the reasons why the Permit should not be revoked and the period of extension required.
- (c) Having considered the circumstances of the request and having determined that there have been no changes to the Act and the Building Code and any other applicable law which would now have prevented the issuance of the original Permit, the Chief Building Official may allow a deferral to a prescribed date, and shall notify the Permit Holder in writing of his/her decision.
- (d) A request for deferral of revocation is subject to a fee in accordance with the Schedule of Rates and Fees approved by Council from time to time.

#### 8. OCCUPANCY

- (1) Prior to occupancy being granted, the design professional(s) identified on the form entitled "Commitment to General Reviews by Architect and Engineers" included in the Permit application shall submit written final reports to the Chief Building Official that the Works have been completed in accordance with the Building Code.
- (2) Prior to occupancy of any residential unit, an occupancy certificate shall be obtained from the Chief Building Official.
- (3) Prior to occupancy, where required by the Chief Building Official, the Applicant shall submit to the Chief Building Official an 'as constructed' site plan and grading plan prepared by an Ontario Land Surveyor to confirm that the Works are in conformance with the approved plans in respect of grading, elevations and setbacks.
- (4) Prior to the issuance of an occupancy certificate, all additional fees charged in accordance with Section 12 of this by-law must be paid in full to the City.

#### 9. REQUIRED NOTIFICATIONS

- (1) The Permit Holder shall notify the Chief Building Official of each stage of construction for which a notice is required under Division C, Subsection 1.3.5 of the Building Code.
- (2) The Permit Holder shall give notice of completion in accordance with Section 11 of the Act or, where occupancy is required prior to completion the Permit Holder shall give notice of inspection to ensure compliance with the requirements of Section 11 of the Act and Division C, Subsection 1.3.3 of the Building Code.

10. FIRE CHIEF ENFORCEMENT

The Fire Chief shall be responsible for the review of plans and specifications, and the field inspections, of the systems detailed in Schedule "B" attached hereto and forming part of this by-law, to ensure compliance with the Building Code, on behalf of the Chief Building Official.

11. NOTICE

- (a) Any notice required to be given in writing by the Chief Building Official by the provisions of this by-law shall be deemed to be sufficiently given if it is: served personally; or, sent by registered mail to the address provided in the permit application.
- (b) Notice served by registered mail shall be deemed to have been served on the second day following the day on which it was mailed.

12. FEES

- (1) The Chief Building Official shall determine the required Permit fee(s) for the Work proposed, in accordance with the Schedule of Rates and Fees approved by Council from time to time, to be paid by the Owner/Applicant upon submission of an application for Permit.
- (2) No Permit shall be issued until all applicable fees, as determined by the Chief Building Official, have been paid in full.
- (3) Permit Fees are based on gross floor area. The gross floor area shall include all floors above grade measured from the outer face of exterior walls or where there is no floor or walls, the gross floor area shall be the greatest horizontal area of the structure. Mezzanines, lofts and habitable attics are included as gross floor area. There are no deductions from gross floor area for openings such as stairs, elevators, shafts, etc. The basement or crawl space in a building is not considered gross floor area. The gross floor area of a dwelling does not include the garage.
- (4) In unusual circumstances, the Chief Building Official may determine to calculate the fees based on the estimated value of the Works, which shall include the cost of labour, materials, plumbing, heating, air conditioning equipment and elevators etc., and where applicable, contractors overhead and profit, architects and other professional fees. The estimated value does not include Harmonized Sales Tax (HST), the cost of land, hazardous material removal and financing costs.
- (5) Where the Works include plumbing and/or HVAC Work, the building Permit fee includes plumbing and/or HVAC review and inspections and no separate plumbing and/or HVAC Permit

is required.

13. ADDITIONAL FEES

- (1) Any person who commences construction, demolition or changes the use of a building, or part thereof, prior to the issuance of a Permit to construct, demolish or change the use of a building, or part thereof, shall, in addition to any other penalty imposed under the Act or Building Code, pay a non-refundable administrative fee equal to 25 %, 50% or 100% (based on the stage of construction as shown in the table below) of the amount calculated as the regular Permit fee, in addition to the regular Permit fee, but in no case shall the administrative fee exceed Five Thousand Dollars (\$5,000) nor shall it be less than One Hundred Dollars (\$100). These fees are collected to offset additional investigative and administrative costs associated with commencing Work without a Permit. Payment of these fees does not relieve any person or corporation from complying with the Act, the Building Code or any applicable law.

NON-REFUNDABLE ADMINISTRATION FEE TABLE

% of Additional charge	stage of construction
25	Footings and foundation completed
50	Framing completed
100	Substantially complete

- (2) Additional re-inspection Fees may be imposed by the City in accordance with the Schedule of Rates and Fees approved by Council from time to time, where:
- (a) the Permit Holder has provided notice of an inspection but the construction was not ready for inspection or was not substantially complete when the inspector attended the site;
  - (b) the Permit Holder fails to cancel a scheduled inspection at least one business day in advance prior to 4:30p.m.;
  - (c) more than fifteen (15) inspections were required per dwelling unit to enable the issuance of the final occupancy Permit; or,
  - (d) where a scheduled inspection is identified as "not ready" by reason of the fact that the inspector attended the site and determined that the approved plans were not available on site as required by the Building Code.

These fees will be invoiced to the Owner/Permit Holder at the time of occupancy and must be paid in full before an occupancy certificate will be issued.

14. PLANS RE-EXAMINATION

Where an Owner/Permit Holder substantially revises a proposed building design after the examination of the plans and specifications has been completed, a re-examination fee as set out in the Schedule of Rates and Fees approved by Council from time to time shall be paid by the Owner/Permit Holder prior to the review of the revised plans and specifications.

15. REFUNDING OF PERMIT FEES

- (1) Upon written request of the Owner or Permit Holder, as applicable, the Chief Building Official shall determine the amount of refund of the Permit fee in respect to a Permit to construct or demolish, if any, that may be returned to the Owner or Permit Holder where,
  - (a) an Owner withdraws an application for a Permit;
  - (b) an application is deemed to have been abandoned in accordance with Section 4(10) of this by-law; or
  - (c) the Chief Building Official cannot issue a Permit for which an application has been made.
- (2) There shall be no refund of Permit fees where a Permit has been revoked.
- (3) The fees that may be refunded shall be a percentage of the Permit fees paid, as follows:
  - (a) 80% if administrative functions only have been performed;
  - (b) 70 % if administrative and zoning review functions only have been performed;
  - (c) 45% if administrative functions, zoning review, and plans examination function have been performed;
  - (d) 0 % if Permit has been issued.
- (4) Notwithstanding Section 14(3) of this by-law, no refund shall be made where the refund is calculated to be less than the minimum Permit fee.
- (5) No Permit fees shall be refunded after twelve (12) months from the date of filing the application for a Permit.
- (6) The fee for a conditional Permit is not refundable.
- (7) Permit fees are to be refunded to current Owner/Permit Holder.

16. CONSTRUCTION FENCING

- (1) Where, in the opinion of the Chief Building Official, a construction or demolition site presents a safety concern or hazard to the public, the Chief Building Official may require the erection of temporary fencing around the construction or demolition site as set out in this section.

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

- (5) The fence may be provided with openings sufficient to accommodate construction vehicles, machines and any other equipment providing services to the construction site provided that these openings are securely closed off when no construction is being carried out on site including daily shut-downs.
- (6) Every fence required under this section shall be maintained so as to entirely surround the site and maintain a secure barrier for the entire duration of construction/demolition Work or until such time as the Chief Building Official is satisfied that the safety concern/hazard no longer exists. Every fence required under this section shall be removed no later than thirty (30) days after completion of the construction or demolition Work.
- (7) Failure to install and maintain temporary fencing in accordance with the requirements of this by-law is an offence and will be subject to penalties as prescribed by Section 36 of the Act.

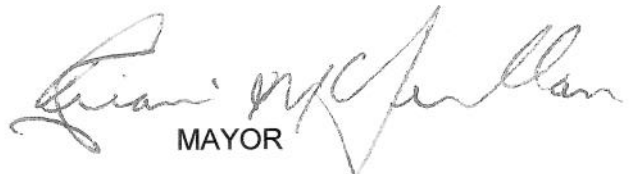
17. SEVERABILITY

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.

- 18. This by-law shall supercede By-law No. 2005-319, and any amendments thereto, and shall come into force and take effect immediately upon passage hereof.

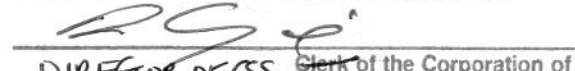
Read a first time this **28th** day of **NOVEMBER** 2011.  
 Read a second time this **28th** day of **NOVEMBER** 2011.  
 Read a third time and passed this **28th** day of **NOVEMBER** 2011.

  
 CLERK

  
 MAYOR

CERTIFIED under the Hand of the Clerk and the Seal of the CORPORATION OF THE CITY OF ST. CATHARINES to be a TRUE COPY of By-law 2011-334 of the Corporation of the City of St. Catharines

DATED the **29th** day of **NOVEMBER** 2011

  
 DIRECTOR OF CSS Clerk of the Corporation of the City of St. Catharines