

THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2013-088

A by-law to provide for the construction, demolition and change of use or transfer of permits, inspections and related matters and to repeal By-law 2011-135

WHEREAS subsection 7 of the Building Code Act, 1992, authorizes a municipal council to pass by-laws concerning the issuance of permits, the performance of inspections, and related matters;

COUNCIL ENACTS AS FOLLOWS:

1. SHORT TITLE

This by-law may be cited as the "Building By-Law".

2. DEFINITIONS

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 in writing by the owner to apply for a permit on the owner's behalf.
- (c) "Building Code" means the regulation made under the Act.
- (d) "Owner" means the registered owner of the land and includes a lessee, mortgagee in possession and the person in charge of the property.
- (e) "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 prior to its completion.
- (f) "Prescribed value" means, construction costs as published by the Toronto Real Estate Board and revised from time to time.

2) Terms not defined in this by-law shall have the meaning ascribed to them in the Act or the Building Code.

3. CLASSES OF PERMITS

Classes of permits required for construction, demolition, or change of use of buildings, are set forth in the fees and charges as approved as part of the town's annual budget process.

4. PERMIT APPLICATIONS

- 1) To obtain a permit, an applicant shall file an application in writing on prescribed forms, in accordance with Clause 7(f) of the Act, and available from the Chief Building Official or from the official Website of the Ministry of Municipal Affairs and Housing (www.obc.mah.gov.on.ca).
- 2) Every application shall;
 - (a) Identify and describe in detail the work, use and occupancy to be covered by the permit for which the application is made;
 - (b) Describe the land on which the work is to be done, by a description that will readily identify and locate the site on which the building or demolition is to occur;
 - (c) Be accompanied by complete plans and specifications as described in this by-law for the work to be covered by the permit and show the occupancy classification of all parts of the building;
 - (d) State the applicant's estimated valuation of the proposed work, including labour and materials, and be accompanied by the fees calculated in accordance with the fees and charges as approved as part of the town's annual budget process;
 - (e) State the names, addresses and telephone numbers of the owner, applicant, architect, engineer or other designer, and the constructor or person hired to carry out the construction or demolition, as the case may be;
 - (f) When Section 1.2. of Division C of the Building Code applies, be accompanied by a signed acknowledgement of the owner on the prescribed forms that an architect or professional engineer, or both, have been retained to carry out the general review of the construction or demolition of the building;
 - (g) When Section 1.2. of Division C of the Building Code applies, be accompanied by a signed statement of the architect or professional engineer, or both, on the prescribed forms, undertaking to provide general review of the construction or demolition of the building;
 - (h) Include, where applicable, the applicant's registration number where an applicant is a builder as defined in the Ontario New Home Warranties Plan Act; and
 - (i) Be signed by the applicant who shall certify as to the truth of the contents of the application.
 - (j) Be accompanied by the information and documents set out in Article 1.4.1.3. of Division A of the Building Code which enable the Chief Building

Official to determine whether the proposed building, construction or demolition will contravene any applicable law.

- 3) 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 who may be entitled to a partial refund of fees as set out in Schedule 'A' appended to and forming part of this By-law.

4) PARTIAL PERMITS

The Chief Building Official may; in order to expedite work, approve a portion of the building or project as desired prior to the issuance of a permit for the complete building or project. Application shall be made and fees paid for the complete project. Complete plans and specifications covering the portion of the work for which immediate approval is desired, together with such information pertaining to the remainder of the work, as the Chief Building Official may require, shall be filed with the Chief Building Official. 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.

5) DEMOLITION PERMITS

Where application is made for a demolition permit under subsection 8(1) of the Act, the application shall contain the information required by Section 4(2) (a) to (i) herein, and be accompanied by satisfactory proof on the prescribed form, that arrangements have been made with the proper authorities for the cutting off and plugging of all water, sewer, gas, electric, telephone or other utilities and services.

6) CHANGE OF USE PERMITS

- (a) Where a person proposes to change the use of a building or part of a building which would result in an increase in hazard as determined under the Building Code, even though no construction is proposed, the person must apply to the Chief Building Official for a change of use permit pursuant to the provisions of subsection 10(1) of the Act.
- (b) Every application for a change of use permit issued under subsection 10(1) of the Act shall be submitted to the Chief Building Official, and shall;
- i. Describe the building in which the occupancy is to be changed, by a description that will readily identify and locate the building,
 - ii. Identify and describe in detail the current and proposed occupancies of the building or part of a building for which the application is made,
 - iii. Include plans and specifications 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 and details of wall, ceiling and roof assemblies identifying required fire resistance ratings and load bearing capacities,

- iv. Be accompanied by the required fee,
- v. State the name, address and telephone number of the owner,
- vi. Be signed by the owner or his or her authorized agent who shall certify the truth of the contents of the application.

7) CONDITIONAL PERMITS

- (a) The Chief Building Official may issue a conditional permit to authorize any stage of construction even though all of the requirements of subsection 8(2) of the Act have not been met. However, the requirements of subsections 8(3) (a), (b), and (c) of the Act must be complied with before such a conditional permit may be issued.
- (b) Where application is made for a conditional permit under subsection 8(3) of the Act, the application shall:
 - i. Contain the information required by Section 4(2)(a) to (j) herein,
 - ii. Contain such other information, plans and specifications concerning the complete project as the Chief Building Office may require,
 - iii. State the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted,
 - iv. State the necessary approvals which must be obtained in respect of the proposed building and the time in which such approvals will be obtained, and
 - v. State the time in which plans and specifications of the complete building will be filed with the Chief Building Official.
- (c) The Chief Building Official is hereby authorized to enter into an agreement on behalf of the Town with respect to Conditional Permits as provided for in Section 8 (3) (c) of the Act.

8) OCCUPANCY PERMITS

The Chief Building Official may issue a permit authorizing occupation of a building or part thereof, prior to its completion as set out in Article 1.3.3.1. of Division C of the Building Code.

5. ALTERNATIVE SOLUTIONS

The person proposing the use of an alternative solution shall provide documentation to the Chief Building Official as required under Subsection 2.1.1. of Division C of the Building Code and such other information or documentation as may be required by the Chief Building Official.

- 1) A description of the proposed material, system or building design for which authorization under Section 9 of the Act is requested,
- 2) Any applicable provisions of the Building Code,

- 3) Evidence that the proposed material, system or building design will provide the level of performance required by the Building Code.
- 4) Such other information or documentation as may be required by the Chief Building Official.

6. SEWAGE SYSTEM PERMITS

For every application for a sewage system permit that is submitted to the Chief Building Official, the application shall:

- 1) Use the provincial application form, "Application for a Permit to Construct or Demolish",
- 2) Include complete plans and specifications, documents and other information as required under Article 1.3.5.5. of Division C of the Building Code and as described in this by-law for the work to be covered by the permit,
- 3) Include a site evaluation which shall include all of the following items, unless otherwise specified by the Chief Building Official:
 - (a) The date the evaluation was done;
 - (b) The name, address, telephone number and signature of the person who prepared the evaluation; and
 - (c) A scaled map of the site showing:
 - i. The legal description, lot size, property dimensions, existing rights of-way, easements or municipal/utility corridors;
 - ii. The location of items listed in Column 1 of Tables 8.2.1.6.A., 8.2.1.6.B. and 8.2.1.6.C. of Division B of the Building Code;
 - iii. The location of the proposed sewage system;
 - iv. The location of any unsuitable, disturbed or compacted areas;
 - v. Proposed access routes for system maintenance;
 - vi. Depth to bedrock;
 - vii. Depth to zones of soil saturation;
 - viii. Soil properties, including soil permeability, and;
 - ix. Soil conditions, including the potential for flooding.

7. REVISIONS TO PERMITS

After the issuance of a permit under the Act, notice of any material change to a plan, specification, document or other information on the basis of which the permit was issued, must be given in writing to the Chief Building Official together with the details of such change which is not to be made without his or her authorization as required under Subsection 8(12) of the Act.

8. PLANS AND SPECIFICATIONS

- 1) Every applicant shall furnish sufficient plans, specifications, documents and other information to enable the Chief Building Official to determine whether the proposed work conforms to the Act, the Building Code, and any other applicable law.
- 2) Plans submitted shall be to scale on paper, or other suitable material and shall be legible. In addition, there shall be a separate plan or set of plans to show each of the following aspects of the proposed construction: structural; architectural; electrical; and mechanical; including heating, ventilation, air conditioning and plumbing.
- 3) (a) Site Plans submitted shall be referenced to a current plan of survey certified by a registered Ontario Land Surveyor and a copy of the survey shall be filed with and retained by 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.
(b) Site Plans shall show:
 - i. lot size and the dimensions of property lines and setbacks to any existing or proposed buildings,
 - ii. existing and finished ground levels or grades, and
 - iii. existing rights-of-ways, easements and municipal services
 - iv. proposed fire access routes and existing fire hydrant locations
- 4) The Chief Building Official shall determine the number of plans, specifications, documents and other information required to be furnished with an application for permit having regard for the requirements of any Act, regulation or by-law respecting the examination or circulation of the application.
- 5) At any time during construction, the building inspector may require that the permit holder provide in a form acceptable to the Chief Building Official certification by an Ontario Land Surveyor that the building location and elevations conform to the reviewed building permit drawings and the approved site grading plans.
- 6) On completion of the construction of a building, the Chief Building Official may require a set of plans of the building, as constructed, including a plan of survey showing its location.

9. FEES

- 1) The applicant shall pay the fees as set out in accordance with the fees and charges as approved as part of the town's annual budget process and Schedule 'A' of this By-law, as applicable, and are due and payable upon submission of an application for a permit.
- 2) Where the fees payable in respect of an application for a construction or demolition permit issued under subsection 8(1) of the Act or a conditional permit under subsection 8(3) of the Act are based on the cost of valuation of the proposed work, the cost of valuation of the proposed work shall mean the total cost of all work regulated by the permit including the cost of all material, labour, equipment, overhead and professional and related services.
- 3) Where the fees payable in respect of an application for a construction or demolition permit issued under subsection 8(1) of the Act or a conditional permit issued under subsection 8(3) of the Act are based on a floor area, floor area shall mean the total floor space of all storeys above grade and/or below grade measured as the horizontal area between the exterior walls of the building.
- 4) In the case of refusal or revocation of a permit or withdrawal or abandonment of an application pursuant to Section 4(3) of this by-law, the Chief Building Official shall determine the amount of fees, if any, that may be refunded, in accordance with Schedule 'A' appended to and forming part of this by-law.
- 5) Where application is made for a conditional permit, the Chief Building Official may require that fees be paid for the complete project.

10. PERMIT REVOCATION, DEFERRAL OF REVOCATION AND TRANSFER

- 1) Revocation of Permit
 - (a) Prior to revoking a permit under subsection 8(10) of the Act, the Chief Building Official may give written notice of intention to revoke to the permit holder at their last known address and, if on the expiration of thirty (30) days from the date of such notice, the ground for revocation continues to exist, subject to Section (10)(2) herein, the permit shall be revoked without further notice and all submitted plans and other information may be disposed of or, at the request of the permit holder, returned as directed.
 - (b) Notification under paragraph (a) above shall be served either personally or by registered mail. Where notification is by registered mail, it shall be deemed to have been served on the third business day after the date of mailing.

2) Deferral of Revocation

- (a) On receipt of a notice of intention to revoke a permit, a permit holder may request in writing within thirty (30) days from the date thereof, the Chief Building Official to defer the revocation of such permit.
- (b) A request for deferral shall set out the reasons why the permit should not be revoked and the date by which the work will be commenced or resumed.
- (c) Having considered the circumstances of the request and having determined that there have been no changes to the Building Code and any other applicable law which would have prevented the issuance of the original permit, the Chief Building Official may allow a deferral to a prescribed date, and shall notify the permit holder.

3) Transfer of Permit

Permits are transferable only upon the new owner completing a permit application form in accordance with the requirements of Section 4 of this by-law and paying the required fee.

11. NOTIFICATIONS

- 1) The person to whom a permit has been issued under Section 8 of the Act shall give to the Chief Building Official notice of the readiness for inspection in accordance with prescribed notices described in Article 1.3.5.1. of Division C of the Ontario Building Code. These mandatory notification stages and inspections are listed in Schedule “B” of this by-law.
- 2) After a mandatory inspection notice has been given under Article 1.3.5.1 of Division C of the Building Code, an inspector shall undertake a site inspection not later than two (2) business days after the notice is given.
- 3) In the case of site inspections of sewage systems, Sentence 1.3.5.3. (2) of Division C requires the municipality to undertake an inspection not later than five (5) business days.
- 4) With respect to “additional notices” under Article 1.3.5.2. of Division C of the Building Code, the owner or an authorized agent shall notify the Chief Building Official or an inspector at least two (2) business days prior to each stage of construction for which notice in advance is required under the Building Code.
- 5) A notice pursuant to this section is not effective until written or oral notice is actually received by the Chief Building Official.

12. PRESCRIBING FORMS

- 1) The applicant shall submit the provincially mandated forms and such additional forms as may be prescribed by the municipality under Clause 7 (f) of the Act.
- 2) The power to prescribe additional forms under Section 7 (1) (f) of the Act is hereby delegated to the Chief Building Official pursuant to Section 23.1(1) and (4) of the Municipal Act, 2001. Any forms prescribed under this subsection shall be approved in writing by the Chief Building Official and shall be applicable to applications received after such endorsement.

13. REGISTERED CODE AGENCIES

- 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 subsection 1.3.1. of Division C of the Building Code.
- 2) The registered code agency may be appointed to perform one or more of the specified functions described in section 15.15 of the Act.

14. VALIDITY

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.

15. SCHEDULES

Attached herein and forming part of this by-law are Schedule 'A' and Schedule 'B'.

- (a) Schedule 'A' - Administrative Fees and Refunds
- (b) Schedule 'B' - Prescribed Notices and Inspections

16. REPEAL

By-law 2011-135 is hereby repealed.

17. EFFECTIVE DATE

This By-Law comes into full force and effect on January 1, 2014.

PASSED this 18th day of November, 2013

Rob Burton

MAYOR

Cathie L. Best

CLERK

SCHEDULE "A" TO BY-LAW 2013-088

Administrative Fees and Refunds

1) **BUILDING WITHOUT A PERMIT**

Where work or construction, demolition or a change of use of a building is commenced prior to the issuance of a building permit, demolition permit or a change of use permit, the municipality shall be compensated for additional administrative and investigative costs because of the unlawful commencement over and above any fees otherwise owing in connection with the permit fee prescribed in the fees and charges as approved as part of the town's annual budget process, as follows:

50% of the required permit fee based on the entire work to be performed and exclusive of any part into which the application for permit may be subdivided, but in no case shall the increase in permit fee authorized by this section be greater than \$5000.00.

2) **MINIMUM PERMIT FEE**

The minimum fee for any permit (other than those described in 'Flat Rates' and 'Stand-alone Plumbing and Drains' in the rates and fees as approved as part of the town's annual budget process) is \$200.00. Any building permit not otherwise listed will be assessed at 1% of the project's construction value. Construction values submitted shall be to the satisfaction of the Chief Building Official.

3) **REFUND OF FEES**

Pursuant to subsection 4(3) of this by-law, the fees that may be refunded shall be a percentage of the fees payable under this by-law and the fees and charges as approved as part of the town's annual budget process, calculated as follows in regard to functions undertaken by the municipality:

- (i) 85% if administrative functions only have been performed;
- (ii) 75% if administrative and only one application review function has been performed;
- (iii) 50% if administrative and more than one application review function has been performed;
- (iv) 45% if the permit has been issued and only one field inspection has been performed;

- (v) 5% shall additionally be deducted from the refund for each site inspection/visit that has been performed;
- (vi) If the calculated refund is less than \$50.00 no refund shall be made for the fees paid.
- (vii) The refund shall be returned to the person named on the fee receipt unless such person advises the Chief Building Official, in writing and prior to the release of the refund, of a name change, in which case the refund shall be returned to the person then authorized to receive it.
- (viii) There will be no refund of fees paid on any application or permit after four years of its application date or issuance date respectively.
- (ix) There will be no refund of fees paid on any application for an alternative solution.

4) GENERAL NOTES:

The schedule is based on area in m² (metres squared). Costs and the method of measuring the area of the building are those adopted by the Canadian Institute of Quantity Surveyors and can be summarized as follows:

1. Except as permitted in sentences 4 and 5 each floor, including basement, is to be measured to the outer face of the external walls. (Basements identified in Categories 'Retail Stores', 'Parking Garages' and 'Places of Worship' in the fees and charges as approved as part of the town's annual budget process, should be calculated separately).
2. No deductions are to be made for openings within the floor area, i.e. stairs elevators, ducts, etc.
3. The area of all mezzanine floors, except mezzanines in industrial/warehouse buildings not used for offices, is to be added and included in the overall area of the project.
4. In residential dwellings, the area of basements to be finished is to be included in the area calculated but the areas of unfinished basements are to be excluded.
5. Horizontal projections of sloping and stepping floors may be used in lieu of actual floor area.
6. The administration fee shall include all the work usually included in the main contract, i.e. all the architectural, structural, mechanical and electrical work

contained within the building and all site services, soft landscaping, paving and all sidewalks within the property line.

7. The permit fee applicable to tents may be waived for charitable events.
8. The fee for a revision to a building permit application shall not exceed the original building permit application fee.

SCHEDULE "B" TO BY-LAW 2013-088

Required Notices and Inspections

(As Prescribed in Article 1.3.5.1. of Division C of the *Ontario Building Code*):

- (a) readiness to *construct* footings,
- (b) substantial completion of footings and *foundations* prior to commencement of backfilling,
- (c) substantial completion of structural framing and ductwork and piping for heating and *air-conditioning* systems, if the *building* is within the scope of Part 9 of Division B,
- (d) substantial completion of structural framing and roughing-in of heating, ventilation, *air-conditioning* and air-contaminant extraction equipment, if the *building* is not a *building* to which Clause (c) applies,
- (e) substantial completion of insulation and *vapour barriers*,
- (e.1) substantial completion of *air barrier systems*,
- (f) substantial completion of all required *fire separations* and *closures* and all fire protection systems including standpipe, sprinkler, fire alarm and emergency lighting systems,
- (g) substantial completion of fire access routes,
- (h) readiness for inspection and testing of,
 - (i) *building sewers* and *building drains*,
 - (ii) water service pipes,
 - (iii) fire service mains,
 - (iv) drainage systems and venting systems,
 - (v) the water distribution system, and
 - (vi) *plumbing* fixtures and *plumbing* appliances,
- (i) readiness for inspection of suction and gravity outlets, covers and suction piping serving outlets of an *outdoor pool* described in Clause 1.3.1.1.(1)(j) of Division A, a *public pool* or a *public spa*,
- (j) substantial completion of the circulation / *recirculation system* of an *outdoor pool* described in Clause 1.3.1.1.(1)(j) of Division A, a *public pool* or *public spa* and substantial completion of the pool before it is first filled with water,
- (k) readiness to *construct* the *sewage system*,
- (l) substantial completion of the installation of the *sewage system* before the commencement of backfilling,

- (m) substantial completion of installation of *plumbing* not located in a structure, before the commencement of backfilling,
- (n) completion of *construction* and installation of components required to permit the issue of an occupancy permit under Sentence 1.3.3.1.(2) or to permit occupancy under Sentence 1.3.3.2.(1), if the *building* or part of the *building* to be occupied is not fully completed, and
- (o) completion of *construction* and installation of components required to permit the issue of an occupancy permit under Sentence 1.3.3.4.(5).