

THE CORPORATION OF THE CITY OF KAWARTHA LAKES **FILE NO.** _____

REPORT

DEV2004-086

Meeting Date: December 7, 2004
Development Service and Public Works

WARD:	All
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Subject: Update on Ontario Building Code amendments and the City Preparedness

Author: Brent Rice, Manager Building and Municipal Law Enforcement

Signature: _____

RECOMMENDATION(S):

THAT Report DEV2004-086, "Update on Ontario Building Code amendments and the City Preparedness", be received for information;

DIRECTOR: _____

OTHER: _____

TREASURER (if applicable)

CHIEF ADMINISTRATIVE OFFICER

BACKGROUND:

Report DEV 2003-101, "Update on Bill 124, An Act to Improve Public Safety and to Increase Efficiency in Building Code Enforcement was provided to the Development and Public Works Committee on September 23, 2003 and is included as Appendix 'A'.

This report is provided as a follow up on the status of the amendments to the Building Code Act, the regulations and the preparedness of the City in compliance with the new requirements.

RATIONALE:

On September 1, 2003 certain provisions of the amended Ontario Building Act came into force. The balance of the amendments comes into effect on July 1, 2005. These amendments will affect the City's Building and Financial departments as well as contractors, designers and the general public.

On July 1, 2005 the following provisions will take effect:

- Mandatory qualifications for building officials;
- Mandatory registration for certain classes of designers and Registered Code Agencies, including mandatory qualifications and professional indemnity insurance;
- The use of common forms;
- Time frames within which decisions must be made on issuing a building permit;
- Stages of construction when a building must be inspected;
- Authority to allow municipalities to appoint Registered Code Agencies (RCAs);
- New rules governing building permit fees to enhance transparency; and
- Code of Conduct

These provisions will have the following effects on the City of Kawartha Lakes Building Division:

Mandatory qualifications for building officials

The Building Division has run a number of Ministry training courses over the last few years. Two refresher courses have been offered this fall with plans to run additional courses in 2005 to assist staff in preparation for the required examinations. The courses which we run in house are also made available to other industry professionals which reducing our training costs and offer the potential for revenue generation. In addition to the courses run in-house, some staff are also taking specialized courses offered by the Ontario Building Officials Association (OBOA).

We have been able to run these courses in house utilizing a staff person who is trained as a course facilitator. As of November 30th, this employee left the City for employment with another municipality. This loss will result in additional costs to the City to hire a facilitator to run the courses. Over time we may be able to train additional staff as a facilitator.

The progress of each staff member in obtaining the qualification categories that they will need is continually being tracked to ensure that the needs of the City will be met. To date 7 staff members have written 11 qualification examinations with a 100% passing rate. The examinations are run by the Ministry with an \$80.00 fee for each examination, \$25.00 to file for advance standing in a category and \$80.00 per person to file your qualifications with the Ministry.

The table included as Appendix A entitled Classes of Registration – Required of City Staff and Current Status lists each staff member, the classes of registration they are required to achieve and their current status in achieving those registrations.

Based on the staff progress to date I do not anticipate any problems with staff being prepared to meet this requirement by July 1, 2005.

Mandatory registration for certain classes of designers and Registered Code Agencies, including mandatory qualifications and professional indemnity insurance

There have been no changes to this amendment and will not effect on the Municipality as it applies to designers and Registered Code Agencies.

The use of a common forms

We do not anticipate any problems or complications for the department as a result of the requirement to use a common building permit application. The developer of the department permit tracking software has been consulted and they have confirmed that the system can be modified to use the new application. Once the Ministry has finalized the new application the information will be forwarded to the developer so the modifications can be made.

The BCA will also prescribe forms for use when issuing orders under the Act. This new requirement will have no effect on the City.

Time frames within which decisions must be made on issuing a building permit

This new regulation provides maximum time frames in which a decision must be made on the issuance of a building permit. The mandatory time period does not begin until all of the following required information is provided;

- that the application be signed by a person described in Clause 2.4.1.1A.(1)(a) or (b),
- that all applicable fields on the application form and required schedules are completed,
- that all attachments indicated as being attached to the application are submitted with the application, and
- that the application be accompanied by the types and quantities of plans and specifications that are prescribed by the applicable by-law, resolution or regulation made under Clause 7 (1) (b) of the Act.

The required time frames correspond to the work objective outlined in the 2004 business plan for the division. Starting in midsummer we have not been able to meet these time

frames for new homes and commercial/industrial permits. Housing permits have taken up to 3 ½ weeks and large commercial/industrial permits are taking 5-6 weeks. If building activity continues at the present rate the department will not be able to comply with the mandatory time periods unless additional staff and/or increased overtime are provided. If the Municipality does not meet the required time frame the applicant has the option of appealing to the Building Code Commission at which time a hearing would take place and the Building Code Commission could order that the permit be issued.

Stages of construction when a building must be inspected

This provision now requires that an inspection be completed by a qualified inspector or registered code agency within two days after receiving notification. The time period for completing the inspection begins on the day following the day on which the notice is given and does not include Saturdays, holidays and all other days when the offices of the principal authority, (the Municipality) is not open for business to the public. The list of required notifications has been increased to include additional stages of construction not currently listed.

The Division is currently conducting inspections at all of the construction stages pertaining to the amended notification requirements with the exception of the HVAC system in houses. There will be a slight increase in workload to complete this additional inspection.

We currently require 24 hours notice for inspections; however, most inspections are carried out the same day as requested. With the increased work load and mandatory notification times discussed above the majority of the inspections will be delayed, however we do not anticipate a problem with compliance with the amended time frames.

Authority to allow municipalities to appoint Registered Code Agencies (RCAs), or to allow certain building permit applicants to appoint their own RCA

This amendment to the Building Code has been further amended. The amendment removes the provisions originally set to take effect on July 1, 2005 that would allow builders to appoint private inspection agencies referred to as registered code agencies, (RCA). The amendment is a result of concerns raised by the Association of Municipalities of Ontario, Building Officials and others and is intended to protect the public safety by removing the potential for conflicts of interest in building plan review and construction inspections.

As a result of this current amendment this provision will have no effect on the Municipality.

New rules governing building permit fees to enhance transparency

This provision is intended to ensure that permit fees are collected only to offset the cost of administering the Act. To this end the City will be required to submit a report to the Ministry yearly.

The Finance Department and the Building Division are working to develop a methodology for determining all costs related to the enforcement of the Act. Initial

investigation indicates that our fee for direct and indirect costs exceeds the revenue currently collected. A follow up report will be provided on this item.

The Finance department has confirmed that preparing the required yearly report will not be an issue for them.

Code of Conduct

The amended BCA requires that the Municipality establish and enforce a code of conduct for the Chief Building Official and Inspectors. The purpose of the code of conduct is:

1. To promote appropriate standards of behavior and enforcement actions by the chief building official and inspectors in the exercise of a power or the performance of a duty under this Act or the building code.
2. To prevent practices which may constitute an abuse of power, including unethical or illegal practices, by the chief building official and inspectors in the exercise of a power or the performance of a duty under this Act or the building code.
3. To promote appropriate standards of honesty and integrity in the exercise of a power or the performance of a duty under this Act or the building code by the chief building official and inspectors.

A follow up report will be provided with a code of conduct included for adoption by council.

Additional Items

In addition to these amendments the City's building by-law will have to be reviewed and modified to reflect the changes to the BCA.

The amendments to the Building Code and the Building Code Act go beyond affecting just the municipality. Anyone involved in the building industry will be affected to varying degrees. To ensure that the local building industry and the public are aware of the impact the changes will have on them the Building department has been working with the local chapter of the Ontario Building Officials Association to host information sessions.

To facilitate compliance with the qualifications for inspectors and designs the Building Department is host an examination day at the OPS Community Centre on January 10, 2005. The department is also working with the Manager of Code Interpretation and Development with the Ministry of Municipal Affairs to co-ordinate a public information session at the OPS community centre. The date is yet to be finalized. We will be advertising the event in the local papers and posting information posters at all of the Service Centres.

OTHER ALTERNATIVES CONSIDERED:

This report is being provided for information. There are no alternatives to complying with the amendments to the Building Code Act.

FINANCIAL CONSIDERATIONS:

There will be an increase in costs associated with the requirements of the implementation of Bill 124 and the continued operation of the department. These costs are attributed to the mandatory qualifications for building officials and will have a financial impact on the operating budget for the Department. In addition to these fees there will be additional costs associated with training, modification of the existing software. These cost as well as any difference between revenue and cost could be recovered through increased building permit fees.

RELATIONSHIP OF RECOMMENDATIONS TO 2002-2012 VISION:

Maintaining a well trained and professional building department to assist the public and ensure that all building within the City is in compliance with the Ontario Building Code is key in maintaining the community's values on Good Government and Community Focus.

CONSULTATIONS:

Richard Danziger Director of Development Services,
Rudy Huisman, Director of Finance

ATTACHMENTS:

Appendix "A" – Classes of Registration – Required of City Staff and Current Status
Appendix "B" – Report DEV2003-101

Phone: 705-324-3962 Ext. 212	Director: Richard Danziger
E-Mail: brice@city.kawarthalakes.on.ca	Dept. File: C10