

THE CORPORATION OF THE CITY OF KAWARTHA LAKES APPENDIX " B "

to

REPORT

REPORT BLDG 2019-001

DEV2005-178

FILE NO. _____

Meeting Date: November 22, 2005
Meeting Time: 12:30 P.M.
Meeting Place: Council Chambers
Development and Public Works

WARD: All

Subject: Amended Building By-law

Author: Brent Rice

Signature: _____

RECOMMENDATION(S):

THAT Report DEV2005-178, "Amended Building By-law", be received and;

THAT a by-law to replace the City of Kawartha Lakes By-law 2002-71 and By-law 2004-74 in the general format of Appendix 'A' to this report be referred to Council for approval;

DIRECTOR: _____

OTHER: _____

TREASURER (if applicable) _____

CHIEF ADMINISTRATIVE OFFICER _____

BACKGROUND:

In March of 2000, the Minister of Municipal Affairs and Housing created the Building Regulatory Reform Advisory Group (BRRAG). The mandate of BRRAG was to prepare a report outlining longstanding concerns with the way in which new construction is reviewed, approved and inspected in Ontario and make recommendations to address these concerns. The terms of reference for BRAGG were that it examine the issues with the objective of:

- Improving public safety;
- Streamlining delivery of building-related inspections and review services;
- Improving the construction liability; and
- Streamlining code administration, appeal and dispute resolution mechanisms.

On July 31, 2000 BRRAG submitted their report complete with recommendations to the Minister.

As a result of BRRAG's report, Bill 124 'An Act to improve public safety and to increase efficiency in building code enforcement was introduced and received first reading on November 1, 2001. On July 25, 2003 the *Building Code Statute Law Amendment Act, 2002* (Bill 124) was proclaimed and Ontario Regulation 305/03 was filed to implement the Province's building regulatory reforms.

Certain provisions of the *Building Code Statute Law Amendment Act, 2002* came into force on September 1, 2003 and July 1, 2005 with the other provisions coming into force on January 1, 2006.

On July 1, 2005 the following provisions took effect:

- The use of a common building permit application form;
- Stages of construction when a building must be inspected;
- Authority to allow municipalities to appoint Registered Code Agencies (RCAs), or to allow certain building permit applicants to appoint their own RCA;
- New rules governing building permit fees to enhance transparency; and

On January 1, 2006 the following provisions will take effect;

- Mandatory qualifications for building officials;
- Mandatory registration for certain classes of designers and RCAs, including mandatory qualifications and professional indemnity insurance;
- Time frames within which decisions must be made on issuing a building permit;
- An expedited route to the Ontario Municipal Board in the case of site plan disputes.
- The commencement of the first reporting period for the annual building permit fee report to be prepared by municipalities.

RATIONALE:

The City of Kawartha Lakes Building By-law must be updated to reflect these amendments to the Building Code Act. There have been no changes made to the fee schedule of this by-law since this particular update is around the new legislation.

A number of amendments have been made to the building by-law which are outlined below and have been highlighted in the draft by-law. The draft by-law has been reviewed by the City's solicitor and his comments have also been incorporated in the by-law.

Article 1.00, section 1.01

A number of new definitions have been added to assist in clarifying and to align the by-law with the new legislation. Due to the amendments which have added Registered Code Agencies and created new requirements for the preparation of permit documents, these new definitions are required to keep the by-law up to date.

Article 1.00, section 1.02

Sentences B and E have been added at the request of the solicitor. Sentence B specifies that word not defined in this by-law that is defined in the Building Code Act or the Building Code shall have the same meaning. Sentence E makes the schedules which are attached to this By-law an integral part of the by-law and are then enforceable as such.

Article 7.00:

Registered Code Agencies has been added.

The amendments to the Building Code Act include a provision that now allows the Municipality to pass a by-law authorizing the enforcement of portions of the code by registered code agencies, (RCA). A RCA is defined under the Code as "*a person or entity that has the qualifications and meets the requirements described in subsection 15.11 (4)*". Council may now choose to allow for a RCA to be appointed by an applicant to perform functions relating to the enforcement of the Building Code for their individual building application and permit. If authorized, a RCA would be able to have the following role in any construction within the Municipality;

- (a) to exercise powers and perform duties under this Act and the building code in connection with reviewing plans, issuing certificates, inspecting construction and performing other functions in accordance with this Act and the building code; and
- (b) to carry out the duties of a registered code agency under this Act and the building code in respect of only those matters for which the registered code agency is qualified under this Act and the building code.

This new section addresses this service option and will allow the Chief Building Official and/or the City to enter in a service agreement with a Registered Code Agency to perform specific functions. The inclusion of this Article in the by-law is to allow the use of RCA's when deemed necessary. There is currently no plan to utilize RCA's and, of course, current collective agreements need to be respected. This does, however, allow the flexibility should the need arise.

Article 8.00, section 8.04 has been added.

The amendments to the Building Code Act include a list of mandatory inspections which must be completed by the Municipality. This list of mandatory inspections does not include inspections of masonry fireplaces and chimneys, factory-built fireplaces and allied chimneys or stoves, ranges, space heaters and add-on furnaces using solid fuels and allied chimneys. However the amendments do provide the Municipality with the authority to pass a by-law requiring additional notification for certain prescribed stages of construction listed in Article 2.4.5.2 of the Building Code Act.

This new Section of the by-law will require that notice be provided to the Chief Building Official at the following times;

Commencement of Construction of:

- Masonry fireplaces and masonry chimneys,

- Factory-built fireplaces and allied chimneys,
- Stoves, ranges, space heaters and add-on furnaces using solid fuels and allied chimneys.

Following the required notification the City's inspectors will conduct inspections on these stages of construction. Although the Municipality is not required to include these stages of construction in the by-law, the additional cost of performing these inspections will be minimal. By performing these inspections, the Municipality is protecting the public and possibly reducing the loss by fire or worse personal injury or death. By performing these inspections there may also be a reduction in fire protection costs. The inclusion of these inspections will not increase the cost of a building permit.

It is recommended that the amended building by-law attached as Appendix 'A' to this report be referred to Council for approval.

OTHER ALTERNATIVES CONSIDERED:

There are no alternatives to complying with the amendments to the Building Code Act. Council could choose not to require notification and not to perform inspections on masonry fireplaces and chimneys, factory-built fireplaces and allied chimneys or stoves, ranges, space heaters and add-on furnaces using solid fuels and allied chimneys, however for public safety this is not recommended.

FINANCIAL CONSIDERATIONS:

There are no financial considerations associated with this report. However, the new regulations have placed financial pressures on municipalities in terms of addressing qualification and training needs of building inspectors and there may potentially be implications in terms of meeting certain timelines associated with building permit applications.

RELATIONSHIP OF RECOMMENDATIONS TO 2002-2012 VISION:

This report and the recommendations are in keeping with community values on Good Government and Community Focus.

CONSULTATIONS:

Drew Gunsolus, City Solicitor

ATTACHMENTS:

Appendix 'A' – Proposed Building By-law

Phone: (705) 324-9411 Ext. 200	Director: Richard Danziger
E-Mail: brice@city.kawarthalakes.on.ca	Dept. File: T16

in which notice is being given.

Article 9.00: Enforcement and Penalties

- 9.01 **Offences:** Any person who contravenes any provision of this By-law is guilty of an offence and, upon conviction, is liable to the provisions and penalties prescribed in the Act.
- 9.02 **Collection:** In addition to any penalties imposed through prosecution of an offence pursuant to this By-law, the City is entitled to use all legal means at its disposal to collect the fees applicable pursuant to this By-law. Any and all collection methods lawfully applicable may be relied upon, including placement of unpaid fees on the tax collector's roll for the property in question.

Article 10.00: Repeal of Prior Historic By-Laws; Effective Date

- 10.01 **Repeal:** The following by-laws of the municipalities which made up historic Victoria County are repealed:

2004-074	City of Kawartha Lakes
2002-071	City of Kawartha Lakes

- 10.02 **Effective Date:** This By-law shall come into force on the date it is finally passed.

By-law read a first, second and third time, and finally passed, this th day of , 2005.

Mayor

Clerk

Schedules:

"A" – Permit and Administrative Fees

"B" – Code of Conduct for Building Officials

- (e) in circumstances where the application has been deemed to have been abandoned in accordance with Section 4.13 of this By-law, and the Applicant has not contacted the City for a period of longer than twelve (12) months.

Article 7.00: Registered Code Agencies

7.01 Registered Code Agencies: 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. OR Where the Corporation enters into an agreement with a Registered Code Agency, the Chief Building Official is authorized to appoint Registered Code Agencies to perform specified functions in respect of the construction of a building or a class of buildings from time to time in order to maintain the time periods for permits prescribed in subsection 2.4.1 of the Building Code.

7.02 Function of Registered Code Agency: The registered code agency may be appointed by the Chief Building Official to perform one or more of the specified functions described in section 15.15 of the Act.

Article 8.00: Notices to the Chief Building Official

8.01 Notices Under 2.4.5: The Permit Holder shall notify the Chief Building Official or Registered Code Agency where one is appointed, of each stage of construction for which a mandatory notice is required under the Building Code. In addition, the permit holder shall provide the notice of completion as prescribed by Section 11 of the Act, or where occupancy is required prior to completion, notice of inspection to ensure that the requirements of Section 11 of the Act and the building Code are complied with.

8.02 Effective When Received by Chief Building Official: A notice pursuant to this Part of the by-law is not effective until notice is actually received by the Chief Building Official or the Registered Code Agency.

8.03 Time Periods - Inspections: Upon receipt of proper notice, the inspector or registered code agency, if one is appointed, shall undertake a site inspection of the building to which the notice relates in accordance with the time periods stated in the Building Code and Section 11 of the Act.

8.04 Additional Notices Under 2.4.5.2: The permit holder shall also give notice of the following stages of construction in addition to the notices prescribed by the Ontario Building Code:

(a) Commencement of Construction of:

i. Masonry fireplaces and masonry chimneys,

ii. Factory-built fireplaces and allied chimneys,

iii. Stoves, ranges, space heaters and add-on furnaces using solid fuels and allied chimneys.

8.05 Time Periods – Inspections Regarding Additional Notices Under 2.4.5.2: A notice required to be given by a permit to the Chief Building Official or Registered Code Agency pursuant to subsection 2.4.5. of the Building Code shall be given to the Chief Building Official or Registered Code Agency at least two days in advance of the construction stage