



# MUNICIPALITY OF **West Elgin**

## **The Corporation Of The Municipality Of West Elgin**

### **By-Law 2020-21**

#### **Being a By-law respecting Construction, Demolition, Change of Use, Conditional Permits, Sewage Systems and Inspections**

**Whereas** Section 7 of the *Building Code Act, 1992, S.O. 1992 c.23* as amended, empowers Council to pass certain by-laws respecting construction, demolition, change of use, conditional permits, sewage systems and inspections;

**Now Therefore** Be It Resolved That the Council of The Corporation of the Municipality of West Elgin enacts as follows

#### **1. Short Title**

1.1 This By-law may be cited as the “Building By-law”

#### **2. Definitions**

2.1 In this By-law,

2.1.1 “**Act**” means the *Building Code Act, 1992*, as amended, including amendments thereto.

2.1.2 “**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.

2.1.3 “**As Constructed Plans**” means as constructed plans as defined in the Building Code.

2.1.4 “**Architect**” means a holder of a license, a certificate of practice, or a temporary license under the Architect’s Act as defined in the Building Code.

- 2.1.5 “**Building**” means a building as defined in Section 1(1) of the Act.
- 2.1.6 “**Building Area**” means the greatest horizontal area of a building within the outside surface of the exterior walls.
- 2.1.7 “**Building Code**” means the Regulations made under Section 34 of the Act.
- 2.1.8 “**Chief Building Official**” means the Chief Building Official appointed by the By-law of the Corporation of the Municipality of West Elgin for the purposes of enforcement of the Act.
- 2.1.9 “**Corporation**” means the Corporation of the Municipality of West Elgin.
- 2.1.10 “**Farm Building**” means a farm building as defined in the Building Code.
- 2.1.11 “**Permit**” means written permission or written authorization from the Chief Building Official to perform work regulated by this By-law and the Act.
- 2.1.12 “**Plumbing**” means plumbing as defined in Section 1(1) of the Act.
- 2.1.13 “**Professional Engineer**” means a person who holds a license or a temporary license under the Professional Engineer’s Act, as defined in the Building Code.
- 2.1.14 “**Sewage System**” means a sewage system as defined in the Building Code.
- 2.1.15 “**Special Inspection**” means an inspection that is requested and carried out not in connection with a permit, at the discretion of the Chief Building Official. This also includes inspections requested on permits that are more than 12 months old that were issued under a previous version of the Ontario Building Code.

Any word or term not defined in this By-Law, that is defined in the Act or Building Code shall have the meaning ascribed to it in the Act or Building Code.

### **3. Classes of Permits**

- 3.1 Classes of permits with respect to the construction, demolition and change of use of buildings and permit fees shall be as set out in Fees & Charges By-law – Building, as amended.

- 3.2. Permits for work other than that referred to in this by-law, such as road cuts, etc., shall be obtained from the appropriate authority having jurisdiction in accordance with the by-laws of the Municipality.

#### **4. Requirements for Applications**

##### **4.1 The Application**

To obtain a permit, the owner or an agent authorized by the owner shall file an application in writing by completing a prescribed form available at the office of the Chief Building Official or from the Building Code website [www.obc.mah.gov.on.ca](http://www.obc.mah.gov.on.ca)

- 4.1.1. Where application is made for a building permit under Subsection 8(1) of the Act, the application shall:
- 4.1.1.1. Use the provincial application for, “Application for a Permit to Construct or Demolish”; and
  - 4.1.1.2. Identify and describe in detail the work and the occupancy to be covered by the permit for which application is made.
  - 4.1.1.3. Describe the land on which the work is to be done, by a description that will readily identify and locate the building lot.
  - 4.1.1.4. Include a minimum of two sets of complete plans and specifications for the work to be covered by the permit and show the occupancy of all parts of the building.
  - 4.1.1.5. State the valuation of the proposed work including materials and labour and be accompanied by the required fee.
  - 4.1.1.6. State the names, addresses and telephone numbers of the owner and of the architect or engineer, where applicable, or other designer or contractor.
  - 4.1.1.7. Be accompanied by a written acknowledgement of the owner that he has retained an architect or professional engineer to carry out the field review of the construction where required by the Building Code and;

- 4.1.1.8. Be signed by the owner or his or her authorized agent who shall certify the truth of the contents of the application.
- 4.1.2. Where application is made for a demolition permit under Subsection 8(1) of the Act, the application shall,
  - 4.1.2.1. Use the provincial application form, “Application for a Permit to Construct or Demolish”;
  - 4.1.2.2. Contain the information required by clauses 4.1.1.2 to 4.1.1.8 and
  - 4.1.2.3. May be required to be accompanied by satisfactory proof that arrangements have been made with the proper authorities for the cutting off and plugging of all water, sewer, electric, telephone or other utilities and services.
  - 4.1.2.4. Be accompanied by evidence that the demolition will be overseen by qualified individuals when such is required by the Building Code.
- 4.1.3 Where application is made for a conditional permit under Subsection 8(3) of the Act, the application shall:
  - 4.1.3.1 Use the provincial application form, “Application for a Permit to Construct or Demolish”;
  - 4.1.3.2 Contain the information required by clauses 4.1.1.2 to 4.1.1.8,
  - 4.1.3.3 Contain such other information, plans and specifications concerning the complete project as the Chief Building Official may require,
  - 4.1.3.4 State the reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted.
  - 4.1.3.5 State the necessary approvals, which must be obtained in respect of the proposed building and the time in which such approvals will be obtained.
  - 4.1.3.6 State the time in which plans and specifications of the complete building will be filed with the Chief Building Official.

4.1.4 Where an application is made for a conditional permit under 8(3) of the Act, the owner shall enter into a written agreement with the municipality prior to the issuance of the permit.

## **4.2 Partial Permit**

- 4.2.1. When, in order to expedite work, approval of a portion of the building is desired prior to the issuance of a permit for the whole project, application shall be made for the complete project and complete plans and specifications covering the portion of work for which immediate approval is desired shall be filed with the Municipality.
- 4.2.2 Should a permit be issued for part of a building, the holder of such permit may proceed without assurances that the permit for the entire building will be granted.
- 4.2.3 After issuance of the permit, application may be made for revision of the permit and such application shall be made in the same manner as for the original permit.
- 4.2.4 Issuance of a partial permit shall not be constructed as authorized to construction beyond the plans for which the partial permit was given.

## **4.3 Change of Use Permits**

- 4.3.1 Every applicant for a change of use permit issued under Subsection 10(1) of the Act shall be submitted to the Chief Building Official and shall,
  - 4.3.1.1 use the form available from the Chief Building Official, Corporations' website and at the office of the Corporation; and
  - 4.3.1.2 Describe the building in which the occupancy is to be changed, by a description that will readily identify and locate the building.
  - 4.3.1.3 Identify and describe in detail the current and proposed occupancies of the building or part of a building for which the application is made,
  - 4.3.1.4 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, details of wall, ceiling and roof assemblies, identifying required fire resistance ratings and load bearing capabilities,

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

#### **4.4. Sewage Systems**

- 4.4.1 Every application for a sewage system permit shall be submitted to the Chief Building Official and contain the following information:
  - 4.4.1.1 The information required by Section 4.1.1,
  - 4.4.1.2 The name address, telephone number and license number of the person installing the sewage system,
  - 4.4.1.3 Where the person named in Section 4.4.1.2 above requires a license under the Act and the Building Code, the number and date of issuance of the license, and the name of the qualified person supervising the work to be done under the sewage system permit,
  - 4.4.1.4 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) name, address, telephone number and signature of the person who prepared the evaluation;
    - c) a scaled map of the site showing,
      - the legal description, lot size, property dimensions, existing rights-of-way, easements of municipal/utility corridors,
      - the location of any existing or proposed buildings
      - the location of the proposed sewage system,
      - the location of any unsuitable, disturbed or compacted areas,
      - proposed access routes for system maintenance.
    - d) depth of bedrock
    - e) depth to zones of soil saturation,
    - f) soil properties, including soil permeability
    - g) soil conditions, including the potential for flooding

#### **4.5 Transfer of Permit**

Where an application is made for the transfer of a permit, the applicant shall;

- 4.5.1. use the form available from the Chief Building Official, Corporation's Website and at the office of the Corporation; and
- 4.5.2. provide the names and addresses of the previous and new land owner; and
- 4.5.3. provide the date that the land ownership too place; and
- 4.5.4. describe the permit that is being transferred.

#### **4.6 Revisions to Permit**

Where there is material or system change during construction and/or to the plans, specifications, documents or other information on the basis of which a permit was issued, the owner or authorized agent is required under Section 8(12) of the Act to notify the Chief Building Official and shall submit the following:

- 4.6.1. Revised plans and specifications illustrating the changes, including all supporting documentation as may be requested by the Chief Building Official, and
- 4.6.2. Payment of the required fees as calculated in accordance with the Fees & Charges By-law. In the event the area of work is reduced, there shall be no refund.

#### **4.7 Revocation**

Pursuant to subsection 8(10) of the Act, the Chief Building Official may revoke a permit if after six months after its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the Chief Building Official, been seriously commenced. The Chief Building Official may also revoke a permit due to additional reasons as stipulated in subsection 8(10) of the Act.

##### Notice of Revocation

Prior to revoking a permit under subsection 8(10) of the Act, the Chief Building Official may serve a notice by personal service or registered mail at the last known address to the permit holder, and, following a 30 day period from the date of service, the Chief Building Official may revoke the permit if grounds to revoke still exist, without any further notice.

##### Deferral of Revocation

A permit holder may within 30 days from the date of service of a notice under this Part request in writing that the Chief Building Official defer the revocation. Stating reasons why the permit should not be revoked. The Chief Building Official having regard to then current provisions of the Act, Ontario Building Code or any other applicable law may confirm the revocation or allow the permit to continue in effect and attach any conditions thereto. Such permission shall be given in writing.

#### **4.8 Abandoned Permit Application**

Where an application for a permit remains inactive or incomplete for six months after it is made, the application may be deemed by the Chief Building Official to have been abandoned without any further notice to the applicant.

#### **4.9 Occupancy Permit**

Where the requirements of the Building Code with respect to occupancy have been met, an occupancy permit shall be issued by the Chief Building Official or a person designated by the Chief Building Official for all dwelling units applied for after December 31, 2011.

4.9.1. No person shall occupy, or permit the occupancy of a dwelling or parts thereof until an occupancy permit, authorizing the occupancy of the said dwelling, has been issued.

#### **4.10 Equivalents**

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 equivalent material, system or building design for which authorization under Section 9 of the Act is requested, the following information shall be provided:

- (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)

#### **4.11. Plans and Specifications**

Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed construction, demolition or change of use will conform to the Act, the Building Code and any other applicable law.



- 4.11.1 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 shall not to be made without the written authorization of the Chief Building Official
- 4.11.2 Each application shall, unless otherwise specified by the Chief Building Official, be accompanied by two complete sets of plans and specifications required under this by-law.
- 4.11.3 Plans shall be drawn to scale on paper, cloth or other durable material, shall be legible and without limiting the generality of the foregoing, shall include such working drawings as set out in Schedule "B" to this by-law, unless otherwise specified by the Chief Building Official.
- 4.11.4 Site plans and Grading Plans shall be accurately drawn to scale, and if required by the Chief Building Official to demonstrate compliance with the Act, the Building Code or other applicable law, a copy of a survey prepared by an Ontario Land Surveyor shall be submitted. Site Plans and Grading Plans shall show:
  - 4.11.4.1 Lot Size and the dimensions of the property lines and setbacks to any existing or proposed buildings,
  - 4.11.4.2 Existing and finished ground levels or grades,
  - 4.11.4.3 Existing rights-of-way, easements and municipal services.
  - 4.11.4.4 Overhead electrical conductors, watercourses and railways,

#### **4.12. Site Plan Certification**

- 4.12.1 Verification by an Ontario Land Surveyor of by-law compliance may be required before proceeding past foundation stage, if required by the Chief Building Official
- 4.12.2 The Chief Building Official may request that a professional engineer or Ontario Land Surveyor, at completion of construction, certify that the final Building and ground elevations are in general conformity with the approved plan.

### **5. Payment of Fees**

- 5.1 Fees for a required permit shall be as set out in Fees & Charges By-law – Building, as amended and are due and payable upon submission of an application for a permit.

- 5.2 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 value of all work regulated by the permit, including the cost of all material, labour, equipment, overhead and professional and related services, provided that where application is made for a conditional permit, fees shall be paid for the complete project.
- 5.3 The Chief Building Official may place a valuation on the cost of the proposed work for the purposes of establishing the permit fee, and where disputed the applicant shall pay the required fee under protest and, within six (6) months of completion of the project, shall submit an audited statement of the actual costs and where the audited value is determined to be less than the valuation, the Chief Building Official shall issue a refund.
- 5.4 Any person or corporation who commences construction or changes the use of a building before a building permit has been issued, shall pay an additional fee equal to 100% of the amount calculated as regular permit fee, but in no case shall the additional fee exceed Two Thousand Dollars (\$2000.00) for Residential permits or Five Thousand Dollars (\$5000.00) for Agricultural, Industrial, Commercial or Institutional permits.

## 6. Refunds

- 6.1 In the case of withdrawal of an application or the abandonment of all or a portion of the work or the non-commencement of any project, the Chief Building Official shall determine the amount of paid permit fees that may be refunded to the applicant, if any, in accordance with Schedule "A" attached to and forming part of this by-law. Application for refund must be made within 6 months of the date of permit application in order to be eligible for a refund of any permit fee.

## 7. NOTICE OF REQUIREMENTS FOR INSPECTIONS

- 1.1 The owner or an authorized agent shall notify the Chief Building Official at least two (2) business days prior to each stage of construction for which notice in advance is required.
- 1.2 Inspections shall be called for in accordance with Div. C. 1.3.5.1 of the Building Code.
- 1.3 With respect to "additional notices" under Div C. 1.3.5.2 of the Building Code, the owner or authorized agent shall notify the Chief Building Official at least **24 hours** up to a maximum of **48 hours** prior to each stage of construction for which notice in advance is required under the Building Code

1.4 Notice may be given in one of the following ways;

1.4.1 Phone message at (519) 857-9605 or the municipal office at (519) 785-0560.

## **8. Forms**

2.1 Forms, other than those prescribed by legislation, shall be determined by the Chief Building Official.

## **9. As Constructed Plans**

3.1 The Chief Building Official may require that a set of plans of a building or any class of building as constructed be filed with the Chief Building Official on completion of construction under such conditions as may be prescribed in the Building Code.

## **10. Penalty**

Any person who contravenes any provision of this by-law is guilty of an offence and shall upon conviction be liable to a fine provided in Section 36 of the Act and any other applicable legislation.

## **11. Repeal of By-Law**

11.1 By-law 2005-87 and all amendments are hereby repealed.

## **12. Code of Conduct**

The code of conduct and associated policies as required under section 7.1 of the Act are set out in By-law 2005-42.

Read a first, second and third time and finally passed this 27<sup>th</sup> day of February, 2020

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Duncan McPhail  
Mayor

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Jana Nethercott  
Clerk

Schedule "A" of By-Law 2020-21

**Refunds**

<u>Status of Permit Application</u>	<u>Percentage of Fee Eligible for Refund</u>
1. Application withdrawn in writing, no processing of review of plans submitted	90% maximum
2. Application withdrawn in writing plans reviewed and prior to permit issuance	60% maximum
3. Application withdrawn in writing or revoked, prior to construction, after the permit has been issued	50% maximum
4. Application withdrawn in writing or revoked, six (6) months or more after permit has been issue	0%

**Note:**

- 1. No refunds after any building inspections are carried out.**
- 2. No refund shall result in the retention by the Municipality of West Elgin of an amount less than \$50.00.**

Schedule "B" of By-Law 2020-21

**List of Plans or Working Drawings**

To Accompany Applications for Permits

1. The Site Plan
2. Grading Plan
3. Floor Plans
4. Foundation Plans
5. Framing Plans
6. Roof Plans
7. Reflected Ceiling Plans
8. Sections & Details
9. Building Elevations
10. Electrical Drawings
11. Heating, Ventilation, Air Conditioning Drawings with Heat Gain Loss Calculations
12. Plumbing Drawings
13. Sewage System Design and Plans
14. Fire Alarm Plans

**Note: The Chief Building Official may specify that not all the above mentioned plans are required to accompany an application for permit.**