



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Building Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	August 11, 2015
<b>SUBJECT/REPORT NO:</b>	Conditional Permit Agreements under the <i>Building Code Act, 1992</i> (PED15122) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Jorge M. Caetano (905) 546-2424 Ext. 3931
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That the By-law attached as Appendix "A" to Report PED15122 to amend City of Hamilton By-law 15-058, granting authority to the Chief Building Official to approve and enter into conditional permit agreements as described in clause 8.(3)(c) of the *Building Code Act, 1992* on behalf of the City, be enacted.

**EXECUTIVE SUMMARY**

As part of the City's Open for Business continuing initiatives to improve development approval timelines, staff is proposing to streamline the building permit review and issuance process. Currently, the *Building Code Act, 1992* permits the Chief Building Official to issue conditional building permits to move projects forward where there are unreasonable delays. However, the legislation is structured that where this option is used, a corresponding agreement is required to be entered into with the municipality for every conditional building permit. Bringing the corresponding agreement to Council for approval in each circumstance takes the same time (if not longer) than the time taken to resolve the outstanding matter.

Delegating the approval and signing authority for conditional permit agreements to the Chief Building Official will assist in expediting the building permit process while still ensuring that the City's interests are protected. This agreement would only be available to an applicant/owner under very specific conditions outlined in the *Building Code Act, 1992*.

***Alternatives for Consideration – See Page 3***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: Not applicable.

Staffing: Not applicable.

Legal: Conditional permits and agreements with respect to conditional permits are authorized under the *Building Code Act, 1992*. The delegation of authority to the Chief Building Official to enter into and execute such agreements is authorized under the *Municipal Act, 2001*.

**HISTORICAL BACKGROUND**

Subsections 8.(3) to 8.(9) of the *Building Code Act, 1992* establish a framework whereby the Chief Building Official may issue conditional permits before all applicable law has been complied with. The objective of the conditional permit is to expedite construction that meets zoning and environmental regulations, but has not obtained all other approvals, and where the Chief Building Official is of the opinion that unreasonable delays in the construction would occur if a permit is not issued.

Under the *Building Code Act, 1992* one of the conditions to the issuing of a conditional permit is that the applicant/owner enter into an agreement with the City in which the applicant/owner agrees to:

- (a) assume all risks in commencing the construction;
- (b) obtain all necessary approvals in the time set out in the agreement or, if none, as soon as practicable;
- (c) file plans and specifications of the complete building in the time set out in the agreement;
- (d) at the applicant's own expense, remove the building and restore the site in the manner specified in the agreement if approvals are not obtained or plans filed in the time set out in the agreement; and,
- (e) comply with such other conditions as the Chief Building Official considers necessary, including the provision of security for compliance with clause (d) noted above.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Ontario Building Code and *Building Code Act, 1992*.

## **RELEVANT CONSULTATION**

Legal Services Division has been consulted.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

A standard conditional permit agreement is currently being developed, in consultation with the Legal Services Division, based on the requirements of the *Building Code Act, 1992*. This standard form may be amended in complex situations, as necessary, by the Chief Building Official in consultation with the Legal Services Division, to protect the City's interests.

Allowing the Chief Building Official to enter into conditional permit agreements on behalf of the City would provide the Building Division with the ability to expedite the issuance of a conditional permit where the applicant/owner complies with the conditions set out in subsection 8.(3) of the *Building Code Act, 1992*. It should be noted that the Chief Building Official makes the final decision on whether a conditional permit can be issued.

## **ALTERNATIVES FOR CONSIDERATION**

The alternative would be to come before the Planning Committee and Council to get approval for each conditional permit agreement before a conditional permit could be issued. This would result in a delay of several weeks to the issuance of a conditional permit.

## **ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

### **Strategic Priority #1**

A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

### **Strategic Objective**

1.1 Continue to grow the non-residential tax base.

### **Strategic Priority #2**

Valued & Sustainable Services

*WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.*

### **Strategic Objective**

2.3 Enhance customer service satisfaction.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” – Proposed By-law

JMC:jmc