

The Corporation of the City of Guelph

By-law Number (2021) - 20597

A by-law of the Corporation of the City of Guelph to amend the City's Building By-Law to provide authority for the Chief Building Official to transfer in-force building permits to subsequent property owners

Whereas the Building Code Act, 1992 authorizes municipal councils to make by-laws which, among other things, require a person specified in the building code to give notice to the Chief Building Official of the readiness for inspection of a building at specified stages of construction, and prescribes the period of time after such notice is given during which an inspection shall be carried out;

And whereas the timely inspection of buildings during their construction is an essential component of ensuring that the safety and quality assurance provisions of the Ontario Building Code, being O. Reg. 322/12, as amended (the "OBC") are followed and any deficiencies are addressed in a timely way;

And whereas responsibility for providing notice of readiness for inspection falls on "prescribed persons", which under OBC are defined as those to whom a permit has been issued;

And whereas section 7(h) of the Building Code Act, 1992, authorizes a municipal council to make bylaws providing for transfer of permits when land changes ownership;

And whereas the City's Building By-Law (2015)-19985 (the "Building By-law") contains provisions authorizing the transfer of in-force building permits on the application of the person to whom a permit has been issued, but does not currently authorize the Chief Building Official ("CBO") to transfer a permit on the CBO's own initiative;

And whereas giving the power and discretion to the CBO to transfer a permit, on notice, to a new owner when land changes ownership is significant to the ability of the CBO to ensure that timely inspections are carried out on buildings under construction;

The Council of The Corporation of the City of Guelph enacts as follows:

1. Section 4.2 of the Building By-law is repealed and replaced as follows:

4.2 Transfer of Permit Applications and Permits

- (a) On Initiative of the Applicant, a Person to Whom a Permit has been Issued, or a New Owner

Where the ownership of land changes after a Permit application has been submitted and fees paid, or where a Permit has been issued, the Applicant for the Permit, the person to whom the Permit was issued or the new owner of the land, as the case may be, may submit a request to the Chief Building Official requesting a transfer of the Permit application and fees or the Permit as identified in Clause 7.(1)(h) of the Act by submitting the following information:

- i) the name and address of the person to whom the Permit application and fees or the Permit are to be transferred;
- ii) the name and address of any contractors that have changed from those listed on the Permit application or the Permit;
- iii) the name and address of Architect(s) and Professional Engineer(s) responsible for the design and field review of the Construction that have changed from those listed on the Permit application or the Permit;

- iv) the name and address of the person who paid the Permit fees; and
- v) where the transfer is being initiated on the initiative of the transferor, proof to the satisfaction of the City Building Official that the transferee has been provided with advance notice of same.

b) On the Initiative of the Chief Building Official

Where the Chief Building Official becomes aware that the ownership of land has changed after a Permit has been issued, and where the voluntary transfer of the Permit in accordance with the provisions of section 4.2(a) has not occurred, the Chief Building Official at their discretion for the orderly administration of their duties, may initiate the transfer of the Permit by:

- i) providing notice to the registered owner(s) of the land by mail;
 - a. to the subject property; and
 - b. if different, to the address listed with the Municipal Property Assessment Corporation and/or any successor thereto for purposes of municipal property tax notices respecting the subject property,

of the intention of the Chief Building Official to transfer the permit into the name of the current registered owner(s);

- ii) requesting in writing, together with the notice that the registered owner(s) of the land described in subparagraph 4.2(b)(i) that the registered owners contact the Building Department within 15 days of service of the notice to provide an update as to:
 - a. the state of completeness of the construction and as to whether any inspections are required in accordance with the City's Building By-Law and the Ontario Building Code;
 - b. the name and address of any contractors that have changed from those listed on the Permit application or the Permit; and
 - c. the name and address of Architect(s) and Professional Engineer(s) responsible for the design and field review of the Construction that have changed from those listed on the Permit application or the Permit;
- iii) providing within the same notice the option to the registered owners of the subject property, to schedule an inspection within 15 days of receipt to confirm that no construction has commenced, and to request on that basis the cancellation of the Permit rather than its transfer;
- iv) unless the Chief Building Official receives a request as described in subparagraph 4.2(b)(iii), together with evidence to the satisfaction of the Chief Building Official establishing that no construction has commenced, then on the expiry of 30 days after mailing the notice prescribed by subsection 4.2(b)(i), the Chief Building Official shall transfer the Permit to the registered owners, who shall thereafter be "prescribed persons" for purposes of section 10.2 of the Building Code Act, and shall mail a copy of the revised permit to each address referred to in subsection 4.2(b)(i) and to any other address for service provided by the registered owners;

Nothing in this subsection 4.2 of the City's Building By-Law shall be construed as relieving prior or current owners from their obligations under the Building Code Act, Ontario Building Code and/or the Building By-Law and/or as estopping the Chief

Building Official from bringing charges and/or initiating proceedings and/or bringing any enforcement actions prescribed by law against any person who caused construction or demolition to take place in a manner contrary to the Building Code Act, Ontario Building Code and/or the Building By-Law.

Passed this Twelfth of April, 2021.

Cam Guthrie, Mayor

Trista Di Lullo, Acting Deputy Clerk