

# PROPERTY MAINTENANCE

## Chapter 429 BUILDING CODE - IMPLEMENTATION

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## **Article 1 INTERPRETATION**

### **429.1.1 Act - defined**

"Act" means the *Building Code Act*, 1992, c. 23 including amendments thereto. By-law 37-2006, 27 March, 2006.

### **429.1.2 Building - defined**

"building" means a building as defined in subsection 1 (1) of the Act.

### **429.1.3 Chief Building Official - defined**

"Chief Building Official" means the Chief Building Official appointed by The Corporation of the City of Brantford for the purposes of enforcement of the Act.

### **429.1.4 Construct - defined**

"construct" means construct as defined in subsection 1 (1) of the Act and the term "construction" shall have a similar meaning.

### **429.1.5 Corporation or City - defined**

"Corporation" or "City" means The Corporation of the City of Brantford.

### **429.1.6 Demolish - defined**

"demolish" means demolish as defined in subsection 1 (1) of the Act.

By-law 10-94, 17 January, 1994.

**429.1.6.1 Legislative reference - defined**

Any reference to a statute in this Chapter, includes a reference to all regulations made pursuant to such statute, all amendments made to such statute and regulations in force from time to time and to any statute or regulation which may be passed and which has the effect of supplementing or superseding such statute or regulation. By-law 37-2006, 27 March, 2006.

**429.1.7 Ontario Building Code - defined**

“Ontario Building Code” means the regulations made under section 34 of the Act. By-law 10-94, 17 January, 1994.

**429.1.8 Permit - defined**

“permit” means written permission or written authorization from the Chief Building Official to perform work regulated by this Chapter and the Act to change the use of a building or part thereof, or to occupy a building or part thereof, as regulated by the Act and the Ontario Building Code.

**429.1.9 Word - defined**

Any word or term not defined in this Chapter, shall have the meaning ascribed to it in the Act or the Ontario Building Code. By-law 37-2006, 27 March, 2006.

**Article 2  
APPOINTMENT**

**429.2.1 Chief Building Official**

Andy McMahan is hereby appointed the Chief Building Official for the City of Brantford. By-law 179-95, 11 December, 1995; By-law 178-2001, 3 December, 2001; By-law 117-2012; 17 December, 2012; By-law 165-2020, 22 September, 2020.

**429.2.2 Chief Building Official - acting**

In the absence of the Chief Building Official, Rob Porteous is hereby appointed to assume all duties and responsibilities of the Chief Building Official. By-law 10-94, 17 January, 1994; By-law 194-2003, 15 December, 2003; By-law 117-2012, 17 December, 2012; By-law 79-2013, 26 August, 2013; By-law 165-2020, 22 September, 2020; By-law 41-2021, 23 February, 2021

**429.2.3 Chief Building Official - temporary**

Repealed by By-law 168-2021, 24 August, 2021.

**429.2.4 Inspectors**

The following persons are hereby appointed as Inspectors for the City of Brantford:

1. Tom Campbell
2. Jeff Collens
3. Laura Davies
4. Randy DeGroot
5. Shelly Kunkel
6. Andy McMahon
7. Talha Muhammad
8. Michael Neves
9. Rob Porteous
10. Jessica Ryan
11. Jared Sheffield
12. Marta Schultz
13. David Ljubic
14. Joana Schakel

By-law 174-2008, 8 December, 2008; By-law 117-2012, 17 December, 2012; By-law 79-2013, 26 August, 2013; By-law 116-2016, 30 August, 2016; By-law 66-2017, 25 April, 2017; By-law 53-2018, 24 April 2018; By-law 43-2020, 16 April, 2020; By-law 41-2021, 23 February, 2021; By-law 168-2021, 24 August, 2021.

### **Article 3 APPLICATION**

#### **429.3.1 Application - Chief Building Official - required**

Any person who applies for a building permit, conditional permit, change of use permit, demolition permit, a permit to occupy a partially completed building, a completion certificate or an enquiry response shall submit a completed application in the prescribed form to the Chief Building Official.

### **Article 4 PERMITS - CLASSES**

#### **429.4.1 Application - Chief Building Official**

Classes of permits with respect to the construction, demolition and change of use of buildings shall be as set out in Sections 429.4.1 through 429.4.11 inclusive, shall be issued by the Chief Building Official upon receipt of a complete application in the prescribed form which complies with this Chapter and the Act.

#### **429.4.2 Building permit**

A building permit is a permit to construct a building as defined in the Act.

#### **429.4.3 Foundation permit**

A foundation permit is a type of partial construction permit to allow the

construction of only the foundations of a building for which a building permit has been simultaneously applied. A foundation includes the footing, foundation walls and/or piers or caissons or piles for a building.

#### **429.4.4 Partial permit**

Partial permit means a permit issued when, in order to expedite work, approval of a portion of the building or project is desired prior to the issuance of a permit for the complete building or project, application shall be made and fees paid for the complete building or project. Complete plans and specifications covering the portion of the work for which immediate approval is desired shall be filed with the Chief Building Official. Where a permit is issued for part of a building or project this shall not be construed to authorize construction beyond the plans for which approval was given nor that approval will necessarily be granted for the entire building or project.

#### **429.4.5 Conditional permit**

A conditional permit is a permit to construct all or a part of a building issued pursuant to subsection 8 (3) of the Act and subject to the conditions set out in subsections 8 (3) to 8 (7) inclusive of the said Act.

#### **429.4.6 Change of use permit**

A change of use permit is a permit which even though no construction is proposed, authorizes a change in the use of a building or part of a building to a use which would result in an increase in hazard as determined under the Ontario Building Code. (Ontario Building Code, s.2.4.1.2., Part 10).

#### **429.4.7 Demolition permit**

A demolition permit is a permit to demolish a building or any material part thereof as defined in the Act.

#### **429.4.8 Moving permit**

A moving permit is a permit to move a building in whole or in sections on any municipal roadway whether moving into, through or out of the City of Brantford. By-law 10-94, 17 January, 1994.

#### **429.4.9 Permit to occupy partially completed building**

A permit to occupy a partially completed building is a permit to allow a person or persons to occupy a building for which a building permit has been issued, but the building is not yet completed, as permitted in subsection 2.4.3 of the Ontario Building Code. By-law 10-94, 17 January, 1994; By-law 37-2006, 27 March, 2006.

#### **429.4.10 Completion certificate**

A completion certificate is a certificate that, as a result of a final inspection, is issued to indicate the satisfactory completion of a construction project (building, foundation or demolition). Where



applicable, the completion certificate may also permit the occupancy of the building.

#### **429.4.11 Hoarding permit**

A hoarding permit is a permit to erect hoarding on City property or a public street or laneway with respect to a construction and/or demolition project as required by the *Occupational Health and Safety Act*.

#### **429.4.12 Enquiry response**

An enquiry response is a written response to enquiries made regarding the use and development of a property and/or the status of any work orders with respect to the property. By-law 10-94, 17 January, 1994.

### **Article 5 BUILDING PERMIT - NEW BUILDING**

#### **429.5.1 Application - Chief Building Official - requirements**

Any person who applies for a building permit to erect or install a new building, shall submit the items in duplicate or triplicate as required in addition to a completed application in the prescribed form to the Chief Building Official:

- a) a site plan including dimensions, the location of all buildings, easements, right-of-ways, lot grading, elevation of the top of foundation, service connections and all site information pertinent to the application;
- b) construction drawings and specifications that fully describe the project for which an application is being made;
- c) a copy of the heat loss calculations and ventilation design when required be prepared in accordance with the Heating, Refrigerating and Air-Conditioning Institute;
- d) any other information, drawings, specification, document, test or report as the Chief Building Official deems necessary to fully understand the proposed project and to ensure compliance with the Act and all other applicable law.

Note: all drawings shall be drawn to an approved scale on a clean sheet of paper that is at least 8 ½" x 11" in size.

### **Article 6 FOUNDATION PERMIT - PARTIAL PERMIT**

#### **429.6.1 Application - Chief Building Official - requirements**

Any person who applies for a foundation permit, or a partial permit, or a building permit to extend, materially alter or repair an existing building, shall submit the following items in duplicate or triplicate as required

along with a completed application in the prescribed form to the Chief Building Official:

- a) a site plan as described in Section 429.5.1(a);
- b) construction drawings and specifications as described in Section 429.5.1(b);
- c) ancillary drawings, specifications, documents, tests or reports as described in Section 429.5.1(d).

Note: All drawings shall be drawn to an approved scale on a clean sheet of paper that is at least 8 ½" x 11" in size. By-law 10-94, 17 January 1994; By-law 37-2006, 27 March 2006.

## **Article 7 CONDITIONAL PERMIT**

### **429.7.1                    Application - Chief Building Official - requirements**

Any person who applies for a conditional permit under subsection 8 (3) of the Act shall, in addition to providing a completed application in the prescribed form and the items listed in Section 429.5.1 for a building permit, also submit:

- a) other information, plans and specifications concerning the complete project as the Chief Building Official may require;
- b) a statement giving reasons why the applicant believes that unreasonable delays in construction would occur if a conditional permit is not granted;
- c) a statement listing the necessary approvals which must be obtained with respect to the proposed building and the time in which such approvals will be obtained;
- d) a statement giving the time in which plans and specifications of the complete building will be filed with the Chief Building Official (if applicable);
- e) an agreement with the Corporation as required by clause 8 (3) (c) of the Act.

## **Article 8 CHANGE OF USE PERMIT**

### **429.8.1                    Application - Chief Building Official - requirements**

Every application for a change of use permit issued under subsection 10 (1) of the Act shall be submitted to the Chief Building Official, and shall:

- a) describe the building in which the occupancy is to be changed, by a description that will readily identify and locate the building;
- b) identify and describe in detail the current and proposed

- occupancies of the building or part of a building for which the application is made;
- c) 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 Ontario Building Code, including: floor plans, details of wall, ceiling and roof assemblies identifying required fire resistance ratings and load bearing capacities;
  - d) be accompanied by the required fee;
  - e) state the name, address and telephone number of the owner;
  - f) be signed by the owner or his/her authorized agent who shall certify the truth of the contents of the application.

## **Article 9 HOARDING PERMIT**

### **429.9.1 Application - Chief Building Official - requirements**

Any person who applies for a hoarding permit shall submit the items as set out in this Article in duplicate along with a completed application in the prescribed form to the Chief Building Official:

- a) a site plan indicating the location of all buildings, utility poles, hydrants, curbs, etc., in the vicinity of the proposed hoarding;
- b) details of the construction of the hoarding;
- c) a copy of the contractor's liability insurance naming The Corporation of the City of Brantford as a protected part, in an amount and in a form determined by, and in a form satisfactory to the Clerk.

Note: All drawings shall be drawn to an approved scale on a clean sheet of paper that is at least 8 ½" x 11" in size.

## **Article 10 MOVING PERMIT**

### **429.10.1 Application - Chief Building Official - requirements**

Any person who applies for a moving permit shall submit the following item in duplicate along with a completed application in the prescribed form to the Chief Building Official:

- a) a copy of the mover's liability insurance naming The Corporation of the City of Brantford as a protected part, in an amount and in a form determined by, and in a form satisfactory to, the Clerk. By-law 10-94, 17 January, 1994.

## **Article 11**

## DEMOLITION PERMIT

### **429.11.1 Application - Chief Building Official - requirements**

Any person who applies for a demolition permit shall submit the following items in duplicate along with a completed application in the prescribed form to the Chief Building Official:

- a) a grading and drainage control plan;
- b) a plan showing the proposed site rehabilitation, which plan shall include detail in relation to at least the following:
  - i. the removal of sidewalks and driveways from the site;
  - ii. the removal of all construction debris and rubble from the site;
  - iii. the removal from the site of all foundation walls to at least two feet below finished grade;
  - iv. backfilling and compaction of the site to finished grade with non-organic material; and
  - v. coverage of the site with topsoil to a minimum depth of four inches with sod or seed.
- c) verification that the Fire Department has been notified of the proposed demolition, in a form acceptable to the Chief Building Official; and
- d) verification that notification has been given to all relevant suppliers of public utilities, in a form acceptable to the Chief Building Official;
- e) include complete plans and specifications, documents and other information as required by article 2.4.1.1B of the Ontario Building Code and as described in this Chapter for the work to be covered by the permit. By-law 144-96, 7 October, 1996; By-law 37-2006, 27 March, 2006.

## **Article 12 APPLICATION - FORM - REQUIREMENTS**

### **429.12.1 Application**

Any person making an application for a permit and/or certificate as described in this Chapter shall file a complete application in a form as prescribed by the Chief Building Official.

### **429.12.2 Form - permit - certificate**

Any permit certificate issued by the Chief Building Official as described in this Chapter shall be on a form as prescribed by the Chief Building Official. Said form shall contain the following information:

- a) municipal address of property of proposed project;
- b) name and address of the owner of the property;
- c) name and address of the contractor/applicant for the project;
- d) Repealed: By-law 37-2006, 27 March, 2006.

- e) description of proposed project;
- f) signature of the Chief Building Official;
- g) date of issuance. By-law 37-2006, 27 March, 2006.

#### **429.12.3 Notice - orders**

Any notices or orders issued by a Building Inspector or the Chief Building Official pursuant to their duties shall be on forms as prescribed by the Chief Building Official.

#### **429.12.4 Application - enquiry response**

Any person making an application for an enquiry response as described in this Chapter shall complete an application in a form prescribed by the Chief Building Official. Said form shall contain the following information:

- a) municipal address of the property;
- b) name and address of the owner of the property;
- c) name and address of person seeking information;
- d) nature of enquiry;
- e) signature of the applicant;
- f) date of application. By-law 10-94, 17 January, 1994.

#### **429.12.5 Form - enquiry - response**

Any enquiry response issued by the Chief Building Official as described in this Chapter shall be on a form as prescribed by the Chief Building Official. Said form shall contain the following information:

- a) municipal address of the property;
- b) response to enquiry as available;
- c) disclaimer in the form as set out in Schedule 'A';
- d) signature of the Chief Building Official;
- e) date of response.

#### **429.12.6 Completion construction - owner responsibility**

Following the completion of a construction project, and prior to the issuance of a completion certificate when required, the owner of the property shall submit to the Chief Building Official:

- a) a set of as-built construction drawings if said construction project differs from the proposed construction drawings submitted with a permit application; and
- b) a legal survey of the property indicating the location of all buildings on the property, prepared by an Ontario Land Surveyor, for all new buildings except accessory buildings. By-law 37-2006, 27 March, 2006.

## **Article 13 EQUIVALENTS**

#### **429.13.1 Application - permit - authorization - material change**

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:

- a) a description of the proposed material, system or building design for which authorization under section 9 of the Act is requested;
- b) any applicable provisions of the Ontario Building Code;
- c) evidence that the proposed material, system or building design will provide the level of performance required by the Ontario Building Code. By-law 10-94, 17 January, 1994.

### **Article 14 REGISTERED CODE AGENCIES**

#### **429.14.1 Registered code agency - hired - Chief Building Official**

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 in order to maintain the time periods for permits prescribed in subsection 2.4.1 of the Building Code.

#### **429.14.2 Functions of registered code agency**

The registered code agency may be appointed to perform one or more of the specified functions described in section 15.15 of the Act.

### **Article 15 FEES**

#### **429.15.1 Fees and charges**

The City shall charge such fees for permits as fixed by by-law from time to time.

#### **429.15.2 Other permits - downtown core**

Where the project is located within the area shown on Schedule 'B', the fees as set out in By-law 1-2006, Schedule 10 as amended, are applicable.

#### **429.15.3 Valuation - determination - verification**

The Chief Building Official shall verify the applicant's valuation or determine a prescribed construction value and the applicant shall pay the fee or balance of the fee based on such prescribed value before a

permit is issued.

**429.15.4 Valuation - disagreement - procedure - time limitation**

Where there is a disagreement with the prescribed construction value established by the Chief Building Official, the permit holder shall, not later than three months following the issuance of the occupancy permit or of the certificate of substantial completion of the construction, lodge with the Chief Building Official a letter authorizing release, by the institution which financed the project, of a copy of the final mortgage monitoring report prepared for the construction, or in the alternative, Section 429.15.5 shall apply.

**429.15.5 Valuation - disagreement - statements - submitted**

The permit holder shall lodge with the Chief Building Official audited financial statements prepared by a chartered accountant or a certified general accountant fully setting out the cost components of the construction, including names of suppliers and installers, along with the amount paid to each.

**429.15.6 Valuation - less than projected - refund**

Where, upon examination by the Chief Building Official of the mortgage monitoring report or the audited financial statements, the Chief Building Official establishes a valuation of the construction less than the valuation on which a permit fee was paid, the Chief Building Official shall make a refund, if any, without interest.

**429.15.7 Building permit - returned - refund - limitation**

Where a building permit has not been acted upon and the holder of the permit returns it for cancellation prior to the commencement of the project, before such permit has expired or been revoked, the holder of the permit shall be entitled to a refund not to exceed one-half of the permit fee paid, provided however, that no refund shall be made which shall result in the retention by the City, of a sum less than the minimum permit fee.

**429.15.8 Application - cancelled - refund - limitation**

Where the applicant for a building permit cancels the application prior to the issuance of the permit, the City may retain an amount of not less than one quarter of the permit fee payable as is appropriate in the opinion of the Chief Building Official, having regard for the stage to which the application has been processed, and the balance of the fees actually paid will be refunded to the applicant, when requested in the form of a written request, provided that no refund will be made which shall result in the retention by the City of a sum less than the minimum permit fee.

**429.15.9 Application - inactive - abandoned - refund**

Where an application for a permit remains incomplete or inactive for six months from the date the application was made, the application may be deemed by the Chief Building Official to have been abandoned and the application may be cancelled, with part of the fees refunded in accordance with Section 429.15.10.

**429.15.10                    Application - inactive - continuation - written request**

If the applicant wishes to continue with the application prior to cancellation, it shall be in the form of a written request.

**429.15.11                    Continuation - permitted - conditions**

The Chief Building Official may allow the application to remain and attach any conditions thereto.

**429.15.12                    NSF cheques (non-sufficient funds)**

When an NSF cheque has been provided as payment for any fees prescribed in this Chapter, payment must be resubmitted in the form of cash, certified cheque, bank draft or other form of payment acceptable to the Chief Building Official. Failure to provide the appropriate payment within 30 days of application will result in the application being cancelled and all documents being destroyed without further notice.

**429.15.13                    Plan - re-examination - fee**

Where an applicant substantially revises a proposed building design or changes the "model" of a house after plans examination of a previous submission has already been undertaken, such that the revision or changes constitute a re-examination of the plans, then an additional 50 per cent fee will apply to the permit fee for costs incurred by the City. By-law 37-2006, 27 March, 2006.

**Article 16  
PERMIT - REVOCATION**

**429.16.1                    Non-commencement - discontinuation - time limitation**

Where a permit is issued and the construction or demolition has not commenced or is substantially suspended or discontinued for a period of time as described in the Act, the permit may be revoked.

**429.16.2                    Construction - continuation - written request**

If the holder of the permit wishes to continue with the construction or demolition, a written request shall be submitted to the Chief Building Official.

**429.16.3                    Continuation - permitted - conditions**

Upon receipt of the request, the Chief Building Official may allow the permit to continue in effect and attach any conditions thereto.



**429.16.4 Notice - reply within thirty days - options**

Prior to revoking a permit in accordance with the Act, the Chief Building Official may give written notice of intention to revoke to the permit holder at his/her last known address and if, on the expiration of thirty days from the date of such notice, the ground for revocation continues to exist, the permit shall be revoked without further notice and all submitted plans and other information may be disposed of or, at the request of the permit holder, returned as directed.

**Article 17  
PERMIT - TRANSFER**

**429.17.1 Application - required - new owner - conditions**

Permits are transferable only upon the completion of a permit application form along with the prescribed fee, by the new owner or his/her agent in accordance with Section 429.4.1, Article 5 and Article 13, and subject to approval by the Chief Building Official who may attach any conditions thereto. By-law 10-94, 17 January, 1994; By-law 37-2006, 27 March, 2006.

**429.17.2 Fees - permit - transfer**

The fee to transfer the ownership of a permit is \$75. By-law 37-2006, 27 March, 2006.

**Article 18  
NOTIFICATION**

**429.18.1 Notice of material change to plan**

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, must be given in writing to the Chief Building Official together with the details of such change which is not to be made without his/her written authorization. By-law 10-94, 17 January, 1994.

**429.18.2 Inspection - conditional - partial - foundation - permit**

As required by subsection 2.4.5 of the Ontario Building Code, O.Reg. 403/97 as amended, every person to whom a building, conditional, partial or foundation permit has been issued shall notify the Chief Building Official for each stage of construction as prescribed therein, and shall allow at least two working days for an inspection to be carried out thereafter. By-law 10-94, 17 January, 1994; By-law 37-2006, 27 March, 2006.

**429.18.3 Inspection - demolition - moving - hoarding - permit**

Every person to whom a demolition, moving or hoarding permit has

been issued shall notify the Chief Building Official at least two working days in advance of the commencement of said demolition, moving or erection of hoarding.

**429.18.4 Completion - occupancy - newly erected building**

As required by section 11 of the Act, appropriate notice shall be given to the Chief Building Official prior to the completion or occupancy of any building or portion thereof that is newly erected or installed.

**Article 19  
ENFORCEMENT**

**429.19.1 Fine - for contravention**

Any person found to be in contravention of any provision of this Chapter, is guilty of an offence and upon conviction is liable to a fine as prescribed in section 36 of the Act.

**Article 20  
REPEAL - ENACTMENT**

**429.20.1 By-law - previous**

By-laws 132-86 and 4-90 of The Corporation of the City of Brantford are hereby repealed (as previously contained in Chapter 429 of the City of Brantford Municipal Code).

**429.20.2 Effective date**

This Chapter shall come into full force and effect on the day of passing of the enabling by-law. By-law 10-94, 17 January, 1994; By-law 37-2006, 27 March, 2006; By-law 116-2016, 30 August, 2016; By-law 66-2017, 25 April, 2017; By-law 53-2018, April 24, 2018.

**SCHEDULE**

**Schedule 'A' – Disclaimer**

Fees charged for responses to enquiries are to reimburse the municipality for staff time in searching municipal records only and the municipality wishes to put you on notice that, while the City attempts to maintain accurate records, the municipality does not warrant the accuracy of its records nor does it warrant or guarantee in any way the accuracy of this response to your enquiries. You must satisfy yourself as to the matters raised in your letter of enquiry. No inspection of the property has been made in order to answer your enquiry. By-law 37-2006, 27 March, 2006; Schedule 'A'.

**Schedule 'B' - Map - Boundary - Building Permit - Fees**

Schedule 'B' to this Chapter, being a map of the boundary of building permits and fees, may be viewed upon request in the office of the Clerk during normal office hours.