

# THE MUNICIPALITY OF SOUTHWEST MIDDLESEX

## BY-LAW #2008/048

### Being a by-law to provide for the Construction, Demolition and Change of Use Permits and Inspections

**WHEREAS** Section 7 of the Ontario Building Code Act, S.O., 2006, Schedule 'O' authorizes Council to pass certain By-Laws with respect to construction, demolition and change of use permits and inspections.

**AND WHEREAS** the Council of Southwest Middlesex deems that By-law No. 36/2004, passed under the authorization of the Ontario Building Code Act, S.O. 1992 requires amendment;

**NOW THEREFORE** the Corporation of the Municipality of Southwest Middlesex enacts as follows:

## PART 1 DEFINITIONS

### 1.1 DEFINITIONS

In this By-Law:

"Accessory" means a use that is related to the main use of the property as provided in the Comprehensive Zoning By-Law.

"Act" means The Ontario Building Code Act 2006.

"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 and anyone acting under the authority of such a person or corporation.

"Building Code" means the regulations made under Section 34 of the Act.

"Chief Building Official" means the Chief Building Official of the Municipality, as appointed by by-law and as defined in the Act, or his/her designate.

"Engineer" means a licensed professional engineer who holds a certificate of authorization issued by the Association of Professional Engineers of Ontario or who is employed by a partnership or corporation authorized by the Association to offer professional engineering services to the public.

"Municipality" means the Corporation of the Municipality of Southwest Middlesex.

“Owner” means the registered owner of the property and includes a lessee, mortgagee in possession, and the person in charge of the property.

“Permit” means permission or authorization given in writing from the Chief Building Official to perform work, to change the use of a building or part thereof, or to occupy a building or part thereof, as regulated by the Act and Building Code.

“Permit Holder” means the owner, or agent (as appointed in writing), to whom a permit has been issued or, where a permit has been transferred, the new owner to whom the permit has been transferred.

“Plumbing” shall mean plumbing as defined in Subsection 1-(1) of the Act.

“Urban Area” means those properties within Appin, Glencoe, Melbourne, Middlemiss and Wardsville, the boundaries of which are defined in the current zoning by-law for the Municipality. All other properties within the Municipality are to be considered as rural properties.

“Work” means construction or demolition of a building or part of a building, as the case may be.

- 1.2** Any word or term not defined in this By-Law shall have a meaning ascribed to it in the Act or the Building Code.

## **PART 2 PERMITS**

- 2.1** Classification of permits is set out in Schedule “A” attached to this By-Law.

- 2.2** An application for permit shall be filed in writing on the forms prescribed and available from the Chief Building Official and shall supply any other information relating to the application as required by the Chief Building Official.

- 2.3** Every Permit Application shall:

- (a) Describe in detail the work and occupancy to be covered by the permit for which application is made;
- (b) Describe the lands on which the work is being done, by a description that will readily identify and locate the building site.
- (c) Include complete plans and specifications for the work to be covered by the permit and show the occupancy of all parts of the building.
- (d) State the value of the proposed work including material and labour.
- (e) State the names, addresses, and telephone numbers of the owner, architect, designer, and persons that will carry out the work.
- (f) When Division C, Part 1, Section 1.2 of the Building Code applies, be accompanied by a signed acknowledgment of the owner, that the



- owner has retained an architect or professional engineer or both to carry out field review of the construction or demolition of the building.
- (g) When Division C, Part 1, Section 1.2 of the Building Code applies be accompanied by a signed statement of an architect or professional engineer or both, undertaking to provide general review of the construction or demolition of the building.
  - (h) If in an Urban Area of the Municipality or on a rural property of 0.2 ha (1/2 acre) or less, be accompanied by a proposed lot grading plan prepared by an Engineer, Architect and/or Ontario Land Surveyor that shows the following details:
    - (i) Existing elevations at lot corners;
    - (ii) Existing elevation of the lot corners on the abutting lots as well as the existing elevation of the finished grades around the structures located on these lots;
    - (iii) Proposed elevations at lot corners and proposed grade heights at all sides of the proposed building;
    - (iv) Proposed elevations for underside of footings and top of foundation walls;
    - (v) All drainage swales, embankments, retaining walls and catch basins;
    - (vi) Existing elevation of curb and/or street along the frontage of the proposed building lot;
    - (vii) An existing approved Subdivision Grading Plan will be accepted for the above list requirements.
  - (i) In the case of change of use permits under Division B, Section 10 of the Act, the application shall also:
    - (i) Describe the building in which the occupancy is to be changed, by a description that will readily identify and locate the building;
    - (ii) Identify and describe in detail the current and proposed occupancies of the building or part thereof for which the application is being made.
    - (iii) 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 walls, ceiling and roof assemblies.

**2.4** A permit is required to be issued prior to the commencement of demolition of any building. On completion of demolition, the site will be restored to the satisfaction of the Building Official. A security deposit as described in Schedule "C" attached hereto may be required if the provisions of Schedule "C" have not been completed to the satisfaction of the Building Official within sixty (60) days of the building demolition, the security deposit will be retained by the Municipality and applied to the cost of completing those provisions. Any costs over and above the amount of the deposit will be added to the annual taxes in accordance with the provisions of the Municipal Act.

**2.5** Where six months has elapsed after the date of issuing a building permit, the building permit shall be deemed to be abandoned unless the Chief Building

Official is satisfied that the applicant is proceeding in good faith and in a continuous manner to complete the application.

### **PART 3 PLANS AND SPECIFICATIONS**

- 3.1** Sufficient information shall be submitted with each application for a permit to enable the Chief Building Official to determine whether or not the proposed work will conform to the Act, the Building Code and any other applicable law.
- 3.2** 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.
- 3.3** Plans shall be drawn to scale on paper, cloth or other durable materials and shall be legible.
- 3.4** Site plans shall be submitted with reference to a current survey plan certified by a registered Ontario Land Surveyor and a copy of survey shall be filed with and retained by the Municipality unless this requirement is waived in a circumstance where the Chief Building Official is able to determine the proposed work conforms to the Act, the Building Code and any other applicable law, without having said survey.
- 3.5** Plans and specifications furnished according to this By-Law or otherwise required by the Act, becomes the property of the Municipality and will be disposed or retained in accordance with relevant legislation.

### **PART 4 FEES AND REFUNDS**

- 4.1** The Chief Building Official shall determine the required fees for the proposed work which shall be calculated in accordance with the current Fees and Service Charges By-law of the Municipality and the applicant shall pay such fees prior to the issuance of the permit.
- 4.2** Any person or Corporation who commences construction or demolition 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 (\$2,000.00).
- 4.3** Refunds of permit fees shall be made in accordance with the provisions of Schedule "B" attached hereto where an application has been withdrawn, or there has been an abandonment of all or a portion of the work, or refusal of a permit, or the non-commencement of any project.



- 4.4 Where anything required to be done in accordance with this by-law is not done, the Chief Building Official may, upon such notice as he deems suitable, do such thing at the expense of the person required to do it and, in so doing, may charge an administration fee of 15% of such expense with a minimum fee of \$80.00; and both the expense and the fee may be recovered by action or in like manner as municipal taxes.

## **PART 5 REVOCATION OF PERMITS**

- 5.1 Prior to revoking a permit under Section 8-(10) of the Act, the Chief Building Official will serve a notice in writing to the permit holder and after thirty (30) days, if grounds shall exist, the Chief Building Official may revoke the permit without further notice.
- 5.2 A permit holder, may within thirty (30) days of receiving notice of revocation from the Chief Building Official, may request the Chief Building Official to defer the revocation by stating reasons why the permit should not be revoked. The Chief Building Official having regard to any changes to the Act, the Building Code, or other applicable law, may allow deferral in writing.

## **PART 6 NOTICE REQUIREMENT FOR INSPECTIONS**

- 6.1 The permit holder shall notify the Chief Building Official at least twenty-four (24) hours prior to each stage of construction for which notice is required under the Building Code.
- 6.2 A notice pursuant to this part of the By-Law is not effective until written or verbal notice is actually received by the Chief Building Official.

## **PART 7 VALIDITY**

- 7.1 In the event that any provisions of this By-Law is declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions of the By-Law.

**PART 8**  
**UNDERTAKING TO ENSURE REPAIR**

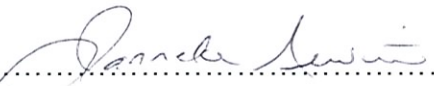
- 8.1 The owner of any lands on which a building and/or demolition permit has been issued shall take all necessary steps to prevent building material, waste or soil from being spilled or tracked onto the public streets by vehicles going to or coming from the lands during the course of the erection or demolition and shall be responsible to the Municipality for the cost of removing such building material, waste or soil and the cost of repairing any damaged curbing, sidewalks, or paved or grassed boulevards. The permit holder may be required to provide an undertaking to the Municipality in the form of Schedule 'D' to this by-law.

**PART 9**  
**NAME**


- 9.1 This By-law shall be known as the "Building By-law" for the Municipality.
- 9.2 By-Law No. 36/2004 is hereby repealed.


Read a first and second time this 25<sup>th</sup> day of June, 2008.

  
.....  
Mayor

  
.....  
Clerk

Read a third time and finally adopted this 25<sup>th</sup> day of June, 2008.

  
.....  
Mayor

  
.....  
Clerk

**BY-LAW #2008/048**

**SCHEDULE "A"**

**Building Permit Classifications**

Residential New Home
Residential Addition / Alteration
Residential Deck / Porches
Residential Accessory Building
Class 4 Septic Systems
Swimming Pool / Fence
Wood Burning Appliance
Building Demolition
Institutional Building
Industrial Buildings
Commercial Building
Agricultural Building
Livestock Building
Designated Structures
Other Permits Not Noted

**SCHEDULE 'B'**

**REFUNDS**

Pursuant to Section 4.3 of this By-Law, fees may be refunded based on the following calculations:

- (a) 90% if administration functions only have been performed (receive application and process payment).
- (b) 75% if permit has been issued and no inspections have been done.
- (c) \$40.00 shall be deducted from 75% of the permit fee for each field inspection performed after the permit has been issued.



## BY-LAW #2008/048

### SCHEDULE "C"

The following provisions shall apply when a demolition permit is issued:

1. As per Division C, Part 1, Section 1.2.2.3(1) –“Demolition of a Building”, the applicant for a permit respecting the demolition of a building shall retain a professional engineer to undertake the general review of the project during demolition where:
  - a) the building exceeds 3 storeys in building height or 600 m<sup>2</sup> (6460 ft<sup>2</sup>) in building area;
  - b) the building structure includes pre-tensioned or post-tensioned members;
  - c) it is proposed that the demolition will extend below the level of the footings of any adjacent building and occur within the angle of repose of the soil, drawn from the bottom of such footings, or
  - d) explosives or a laser are to be used during the course of demolition.
2. The applicant for a demolition permit may be required to provide security as follows:
  - (i) \$2,000 for single and/or semi-detached dwellings;
  - (ii) \$1.00 for every square foot of ground floor area, with a minimum of \$2,000 and a maximum of \$10,000 for townhouses, apartments, commercial, institutional and industrial type buildings.
  - (iii) The security may be in the form of cash, certified cheque or letter of credit. All financial instruments, other than cash, must be in a form that is satisfactory to the Municipality of Southwest Middlesex.
3. The purpose of the security is to ensure that the site shall be restored to the satisfaction of the CBO, included but not limited to the following requirements.
  - (i) properly seals all private drain connections, utility service connections and,
  - (ii) properly backfills the foundation excavation and grades and seeds or sods the site to the satisfaction of the Chief Building Official.
  - (iii) Properly dispose of all waste material in accordance with the landfill regulations of the Municipality of Southwest Middlesex.
  - (iv) Any damage to municipal property, as referred to in the 'Undertaking Regarding Damage to Municipal Property' in Schedule 'D' to this by-law, shall be restored as required by the Chief Building Official.

**NOTE:** The contractor is responsible for confirming compliance with all items required under Section 3 above.

4. When all items in #3 above have been completed to the satisfaction of the Chief Building Official, the security will be released to the person who submitted same. If the items in #3 above have not been completed within a reasonable length of time, the Municipality shall proceed to do so and the security deposit shall be applied to the cost of same.

SCHEDULE "D"

## Undertaking Regarding Damage to Municipal Property

To: The Corporation of the Municipality of Southwest Middlesex

Re: \_\_\_\_\_  
Municipal Address

\_\_\_\_\_  
Permit Application Number

In consideration of the issuance of a Permit for the above noted property to

\_\_\_\_\_  
(proposed work)

I, \_\_\_\_\_ hereby undertake to repair and replace, to  
(Owner Name)  
the satisfaction of the Municipality, all damage to Municipal property including,  
but without limited to, curbs, sidewalks and boulevards sustained directly or  
indirectly as a result of works undertaken by the Owner under the Permit.

I further agree to indemnify and save harmless the Corporation of the  
Municipality of Southwest Middlesex from and against any and all claims, cost  
damage or injury to any persons or property arising in any way out of the  
performance of this Undertaking.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Owner)