

Hampton Council Report

Planning, Engineering & Development Department



To: Council Session - Open
From: Arthur McCarthy P. Eng., PLED Director
Reviewed by: PLED Department Members
Meeting Date: September 10, 2024
Subject/Topic: Building By-Law Update

Purpose/Objective

The purpose of Council adopting a new Building By-Law is to provide consistency and improved regulating standards for the construction of buildings across the expanded boundaries of Hampton following the Local Government Reform Act (LGRA) in 2023 and the provincial adoption of the Building Code Administration Act (BCAA) in 2021.

Background

Prior to local government reform, construction of buildings was regulated by Building By-Law 214-20 in Ward 2 and Regulation 2021-2 under the BCAA in Wards 1 and 3. In 2021, the provincial authority adopted the BCAA and with this, a timeline was established for municipalities to adopt a new building by-law in line with provincial regulations by January 1, 2023, as shown below under the BCAA Transitional Provisions/amendments. With the LGRA merging the former Town of Hampton with LSD of Hampton and portions of LSD Norton, Upham and Kingston, this process was delayed providing a transitional period between the reform and adoption of new standards. The Town of Hampton Building By-law (2020) and provincial regulations have been applied to the respective jurisdictions but has created a gap in administrating the building service with two similar but different standards.

“BUILDING CODE ADMINISTRATION ACT - TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS

- ***Building by-laws enacted under section 62 of the Community Planning Act***
- ***23(1) A building by-law made under section 62 of the Community Planning Act that does not conform with the requirements set out in this Act or a regulation made under this Act shall remain in effect until December 31, 2022.***
- ***23(2) If, on or after January 1, 2023, a building by-law made under section 62 of the Community Planning Act does not conform with the requirements set out in this Act or a regulation under this Act, the building by-law shall cease to have effect.”***

“An Act Respecting Local Governance Reform, 2022, No.2

21.4(1) Despite subsection 40(3) of the Local Governance Act, the by-laws of a restructured local government shall not apply to the areas that are annexed to it as a result of the restructuring until such time as a by-law is specifically made in that regard by the council or the Minister, as the case may be.”

Strategic Alignment

Staff are proposing Council adopt a new building by-law to provide a consistent approach to regulating building across the municipality, in accordance with provincial legislation and goals for the community identified in the Hampton Municipal Plan.

Building Code Administration Act, 2020 (BCAA)

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Sections 5-12 provides Council with the authority to make a building by-law which is intended to regulate standards for building, locating or relocating, demolishing, altering, structurally altering, repairing, replacing, or any combinations of the work of a building within the municipality. These sections include regulations guiding exemptions from building code, notice, posting on premises, obligations of the constructor, notice of inspection, retention of documents, and request for information.

Municipal Plan By-Law HAM-2023-15

The Municipal Plan is to be implemented through actioning the policies that lie within Hampton's by-laws respecting building (IMP-4). Updating the Building By-law provides an opportunity to align with the recent update of Hampton's Municipal Plan and other municipalities within the region. The Municipal Plan references the Building Code Administration Act under the Balanced Growth, Housing and Implementation sections to guide future development in Hampton. These policies include:

- *"IMP-4 Council shall implement the Plan through Zoning and Subdivision By-laws as well as by-laws respecting building, maintenance and occupancy, signage, unsightliness, and other matters deemed necessary, to achieve the intent of the Plan."*

Summary of Building By-Law

The following are the sections provided in the new Building By-law developed from the previous Building By-law No. 214-20, provincial regulations and local standards. Further details regarding any changes as related to previous by-law and regulation are attached to this memo.

- Title and Purpose
- Definitions and Adoption of Code
- Application, Prohibition & Exemptions
- Appointment, Duties and Power of Building Inspector
- Building, Demolition/Relocation Permits
- Responsibilities of Owner
- Enforcement
- Severability & By-Law Repeal

Recommendation

It is recommended that Council:

1. Proceed with first and second reading of the Building By-law in line with the following motion:
 - That Council adopt the Hampton Building By-law No. HAM-2024-XX as presented.

Alternative

Council may consider delaying the first and second reading for further review, request for additional information from staff or continuing of the adoption process in the future.

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Summary of Changes – Sections of Building By-law

Definition	Addition of Accessory Building/structure, Act, Area, Department Director, Hampton, Manufactured Building, Public Assembly, Overnight Accommodation, Qualified Professional, Temporary Building, Temporary Garage. Removed Public Right of Way and Storm Water Conveyance System. The proposed change is intended to provide further clarity throughout the document including in text references and aligning with provincial regulation (2021-2-established under the BCAA).
Adoption and Application	Same as previous by-law.
Prohibition	Reflect previous by-law with the additions: <ul style="list-style-type: none"> - Item 11 for demolition as provided in BCAA and - item 12 for change in use/occupancy/classification, similar to neighboring jurisdictions.
Exemptions (NEW SECTION)	The new section is intended to provide further clarity to residents and building inspector on work that would be excluded from the application of the by-law. Additions include: <ul style="list-style-type: none"> - buildings and accessory buildings based on area, in keeping with the provincial regulation, and accessory structures such as decks, patio, fences, rooftop/ground solar, temporary building/structure, and maintenance type work. <p>These items are minimal (if any) risk to the public and historically included no inspections. Further, all development now requires a development permit under the zoning by-law, and as part of the application process, staff would review and confirm any an exemption under the Building By-law. In addition, staff will be proposing a fee adjustment to offset administration costs for the development permit review that includes a Building By-law exemption, similar to neighboring jurisdiction(s).</p>
Appoint and Duties/Powers	Same as previous by-law – Building Inspector
Building Permits	Similar to previous by-law. Additions include: <ul style="list-style-type: none"> - 23e) include a copy of the development permit information as part of the building permit application. - 23f) include a copy of provincial/federal approvals required by legislation, in keeping with the Development and Building Permit Prerequisites Regulation (2020-20) – 911 civic address, Watercourse and Wetland Alteration permit, On Site Sewage Disposal (OSSD) permit, wellfield/watershed designation area and Access permit. - 24a) include an item for refunds excluding the base amount. - 25c)i. introduction of policy for Manufactured Buildings
Demolition or Relocation Permits	Similar to previous by-law. Change includes: <ul style="list-style-type: none"> - Removing section related requiring declaration for debts as this may be considered not in keeping with section 5 Building By-law under the BCAA.
Responsibility of Owner	Similar to previous By-law. Changes include: <ul style="list-style-type: none"> - 31d) Update naming to inspection stages <ul style="list-style-type: none"> o Inspections removed, in-keeping with neighboring jurisdictions and regulations, are: <ul style="list-style-type: none"> ▪ Footings and Foundation Walls ▪ Pre-Pour Floor ▪ Pre-Cladding o Inspection added with the increase of duplex, townhouses, multi-units and commercial projects: <ul style="list-style-type: none"> ▪ Fire Safety and Protection - 31. e) & f) Reference to exclusion for certain inspection for accessory buildings, structure and manufactured home, similar to neighboring jurisdictions and regulation -
Enforcement	Similar to previous by-law. Change includes: <ul style="list-style-type: none"> - Expand the voluntary compliance tool “Land Gazette” to include cases to which a permit has not been obtained. - Addition of enforced compliance tool “register a notice”, used in the by-law enforcement policy and procedures, resulting in a Notice to Comply registered against to landowners’ title prior to Council’s decision of pursue any legal actions. - Update reference section for Orders to match language used in the BCAA.
Severability and By-law Repeal	Same as previous by-law and Hampton By-law drafting practices – Updated legislation reference

Special Provision Section Removed – Access Control Policy requirements & proposed building below crown to be incorporated into Development Permit review as the design aspect such as building elevation and driveway access are associated with Zoning.