



## DEVELOPMENT SERVICES DEPARTMENT

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July 12, 2018

To Development and Building Customers

### **RE: Conditional Permit**

Dear Valued Customer,

The Chief Building Official (CBO) may issue a conditional permit for any stage of construction pursuant to the Building Code Act Subsection 8 (3) and Building Code, Division C, Article 1.3.1.5.

The decision to issue a Conditional Permit is a discretionary decision that is not appealable. The CBO will review each and every Conditional Permit request based on its own merit and the supporting documentation.

If you anticipate the need for a Conditional Permit, submit a written pre-consultation to the CBO stating your interest and rationale, listing the outstanding approvals and the anticipated approval timing. Also, confirm that you are in agreement to these items:

- (a) compliance with by-laws passed under sections 34 and 38 of the *Planning Act* and with such other applicable law as may be set out in the building code has been achieved in respect of the proposed building or construction;
- (b) the chief building official is of the opinion that unreasonable delays in the construction would occur if a conditional permit is not granted; and
- (c) the applicant and such other person as the chief building official determines agree in writing with the municipality to:
  - (i) assume all risk in commencing the construction,
  - (ii) obtain all necessary approvals in the time set out in the agreement or, if none, as soon as practicable,
  - (iii) file plans and specifications of the complete building in the time set out in the agreement,
  - (iv) 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
  - (v) comply with such other conditions as the chief building official considers necessary, including the provision of security for compliance with subclause (iv).

The CBO will review each pre-consultation and respond promptly. Based on the results of the pre-consultation, applicants may be instructed to follow additional requirements and processes outlined in Part A & B.

**Part A Conditional Permit Submission Requirements (Building-5<sup>th</sup> Floor):**

1. File a Conditional Permit Application,
2. Submit two copies of plans and specifications for the proposed Conditional Permit that are prescribed by by-law, resolution or regulation of the municipality to which this application is made,
3. Submit a cost estimate to remove building and restore site for the CBO to approve,
4. Submit a schedule listing the construction and balance of construction schedules i.e. start and completion of footing and foundations, application date and issuance for balance of construction permit.

**Part B Conditional Permit Issuance Requirements: (Legal-4<sup>th</sup> Floor & Planning-6<sup>th</sup> Floor)**

1. Conditional Permit Agreement document prepared by City Legal staff and registered on title and applicant to cover the cost (approx. \$2K),
2. Provide a Letter of Credit to remove the building and restore the site if approvals are not obtained per the agreement. The Letter of Credit amount is min. \$50,000 or the cost estimate amount, whichever is greater,
3. Section 41 Development Agreement must be signed and returned to Legal staff. The conditions of site plan approval must be satisfied before the issuance of the balance of construction building permit. Planning and Engineering staff will be consulted on Conditional Permit requests. Site plan requirements must be completed to a sufficient level.
4. Fire truck access route(s) to the building and the location of operational hydrants for firefighting purposes is to the satisfaction of the CBO,
5. The Conditional Permit is ready for issuance including fees paid (Building),

**NOTE:**

**The issuance of a conditional permit will only apply to the matter it specifically allows, and does not negate the requirement of obtaining a building permit which is required before occupancy can be granted. Occupancy of the building is only permitted under a Building Permit.**

**A Conditional permit will be issued after the above items are completed to the satisfaction of the City of Kitchener.**

**A Conditional Permit once issued will require construction to start within six (6) months of the permit issuance date or otherwise will be cancelled.**

We look forward to working with you to make your development project a success. If you have any questions, please contact the Building and Planning staff on your project or alternatively one of us.

Sincerely,



Janine Oosterveld, MCIP, RPP  
Manager of Site Development  
Planning Division

CC: Justin Readman



Mike Seiling CET, CBCO  
Director of Building  
Building Division