

Corporate Report

NO: R258

COUNCIL DATE: December 12,

2003

SPECIAL (REGULAR)

TO: Mayor & Council DATE: December 11,
2003

FROM: City Solicitor & FILE: 3900-20-15244
General Manager
Planning & Development

SUBJECT: New Building By-law

RECOMMENDATION

It is recommended that Council:

1. Authorize the City Clerk to bring forward for the required readings a proposed new Surrey Building By law that is attached as Appendix "A" to this report, which if adopted by Council will apply to building permit applications received on or after August 3, 2004; and
2. Confirm that the existing Surrey Building By law, 1987, No. 9011, as amended ("By law No. 9011") will remain in force and be applicable to all in-stream building permit applications received before August 3, 2004 provided that such applications are complete.

INTENT

The intent of this report is to seek Council authorization to bring forward for the required readings a new Building By law (the "By law") that is designed to limit the City's exposure to liability arising from building construction in the City while streamlining the building plan approval, site visit and Building Code compliance process and maintaining the high quality of buildings constructed in the City of Surrey.

BACKGROUND

Recent Developments in Municipal Liability for Negligent Inspections

The British Columbia court decision on "*leaky condos*" related to the Delta case has demonstrated to municipalities the harsh and arbitrary outcome of the operation of the principle of joint and several liability. Under this principle, an award for damages in building inspection cases can fall disproportionately on local government, despite the local government being found liable for a relatively small percentage of the fault for the loss. Under joint and several liability, where a lawsuit judgment is made in favour of the complainant, the complainant may demand that any one of the defendants (who under the judgment was found liable for some percentage of the claim) pay to the complainant the entire amount of the judgment. That defendant then must take action to collect back from the other liable

defendants their proportionate share of the judgment. In many cases, the other defendants are not solvent and it is difficult, if not impossible, to recover their proportionate share of the judgment. In most circumstances, the complainant sees the municipality as being the most solvent of the defendants and, therefore, the complainant demands that the municipality pay the judgment, leaving the municipality with the onerous task of attempting to collect from the other defendants their proportionate share of the judgment.

Issuance of building permits by local government Building Division staff based on design plans that are faulty or the non detection of construction errors by municipal inspectors are the main sources of municipal liability. The cost of maintaining the level of staff resources that would be necessary to detect substantially all potential errors in the design and construction process on every building would impose an unreasonable financial burden on local governments. The existing process followed by the Building Divisions of local governments involving design review and spot inspections leaves the local government widely exposed to becoming the "*de facto*" insurer for new buildings related to building design and construction deficiencies.

Despite submissions by the City of Surrey and the Union of British Columbia Municipalities to the Province on the need to reform the principle of joint and several liability, there is no indication that the Province intends to make any changes in this regard.

In response to the significant financial exposure to claims brought about due to municipal building staff being involved in the building construction process through design review and spot inspections, a model "Core By law" was prepared by legal counsel for the Municipal Insurance Association apparently in consultation with industry, building professional and municipal stakeholders. The Core By-law formed the basis for the development of a new Building By law for Surrey. The proposed new Surrey Building By-law incorporates many of the policy prescriptions of the Core By law while, as discussed later in this report, carrying forward some key provisions and innovations of the existing Surrey Building By law No. 9011.

The policy departure of the new By law is to delegate the responsibility to professionals for ensuring that building construction is carried out in substantial conformance with the building design for which a building permit is issued and within the provisions of the B.C. Building Code.

The proposed new Building By-law is focussed primarily on maintaining a high quality of building construction in the City of Surrey so as to maintain a positive investment climate in the City while at the same time attempting to effectively manage the City's exposure to risk as a result of its continuing involvement in the building review and approvals processes.

DISCUSSION

Effective Date of By law

It is proposed that the By law take effect on August 3, 2004, so that new policies and procedures can be developed in support of the new By-law to guide owners, builders, contractors, architects, engineers and other building professionals in fulfilling their respective responsibilities under the new By law, the Building Code and other applicable enactments relating to building safety. It is noted that there will likely be a need to refine the new By-law prior to August 3, 2004 as the policies and procedures are developed.

These proposed City policies will also define the role of the City's building staff in the keeping of records, site visits and spot checks, and the making of orders to correct any work done in contravention of the new By law or in an unsafe manner.

It is recommended that Council adopt the new By law before January 1, 2004, the date the *Community Charter* (the "*Charter*") comes into force. This relates to the fact that the *Charter* requires that by laws addressing building standards in British Columbia be approved by the Minister, an action not required under the *Local Government Act*. This approval is to be given by order under a regulation or an agreement with the Province. Previously, a

municipality could "top up" building standards (e.g. fire sprinklers) provided that they were not less than the requirements of the B.C. Building Code and were not in conflict with the B.C. Building Code (e.g. where the code was silent) without provincial approval.

The *Charter* has established five areas of provincial municipal concurrent regulatory authority, one of which is building regulation, in addition to public health, protection of the natural environment, wildlife and prohibition of soil removal or prohibition of soil deposit on the basis of soil quality. To date the Province has not produced any framework to address its conditions for approval of new municipal building by laws.

Given the uncertainty over the process that the Province will follow in determining whether it will grant approval to new building by laws after January 1, 2004 and the City's need to update its by law based on liability concerns, it is recommended that the proposed new Building By law be adopted before January 1, 2004. As stated previously, it is recommended that the new By law come into force on August 3, 2004. The intervening period will allow time to put into place appropriate companion policies and procedures to complement the By law. For practical reasons, applications received on or before August 2, 2004 will be subject to the provisions of the current Building By law, No. 9011.

Certified Professional Program

Since 1991 the City has offered a "Certified Professionals (CP) Program" similar to that of Vancouver's (see the By law, s. 20). Developers and contractors value this program because it allows projects to be fast tracked saving considerable time and financial resources. Under this CP Program, a builder can retain, in lieu of the City's normal building permit and inspection process, a private sector "Certified Professional" to certify the building plans related to the building permit application as compliant with all Codes and other applicable regulations and requirements and to undertake and certify construction inspections confirming that construction of the building is in compliance with the certified plans and all other applicable Codes and regulations. This process is intended to offer builders an option to using City resources and thereby to leave more of the process under their control. Inspections by the Certified Professional can be done after hours and on weekends, which further expedites construction and building completion.

This CP Program essentially privatizes and delegates the building plan checking and inspection process in a package to CPs that have completed special training. The CP Program applies to Building Code Part III Complex Buildings or buildings exceeding 600 square metres in building area or exceeding two storeys in height, and classified as multi family residential or business occupancies, or medium and low hazard industrial occupancies (collectively referenced in this report as "complex buildings"). Under the CP Program an architect or engineer may qualify as a certified professional by applying to the General Manager, Planning & Development, completing prescribed courses and fulfilling certain professional requirements. This CP Program essentially delegates plan checking, building inspections, certification, and life safety approvals to the Certified Professionals.

Both the current and the proposed Building By laws disclaim any warranties and representations made by the City in respect of materials, workmanship and code compliance that could be implied through the issuance of a permit or any site visits by City staff. It describes the reliance of the City on the plan checking, building inspections, field reviews and letters of assurance given by registered professionals.

Registered Professionals and Complex Buildings

Under the proposed Building By-law, all building permit applications related to complex buildings will require the use of registered professionals in the inspection, supervision and Building Code compliance process. While the By-law carries forward the CP Program described in the previous section of this report, in a major departure from By law No. 9011, it introduces for all complex buildings the concept of inspections, field reviews and letters of assurance by registered professionals before building occupancy can be granted. Under the proposed By-law, the inspections and field reviews of and certification of every complex building is delegated by the City to registered professionals retained by the owner of the building. This differs from the CP Program in that the plan checking function will continue to be done by the City. Also, the registered professionals do not have to be certified by the

City. The proposed Building By-law defines who is qualified as a "registered professional".

Letters of assurance as to the design, inspection and completion of the building must be signed by the owner and the registered professionals prior to the City issuing final occupancy for any complex building. The City is entitled under the By law to rely solely on the inspections and field reviews undertaken by the registered professionals as assurance that construction conforms to the building plans attached to the building permit and the Building Code. Provision (s. 17) is made for site visits by building officials to ascertain that the registered professionals are in fact undertaking field reviews.

The By law also sets out clearly what is required of owners and their registered professionals and will act to limit the City's liability in relation to the construction of complex buildings while still ensuring the high quality of buildings constructed in the City.

Simple Buildings (Part 9 Buildings)

The By law introduces a new definition for "simple buildings" (s. 10). A detached single family dwelling is a typical simple building being constructed in the City. For building permits related to simple buildings, the City's Building Division staff will continue to be involved in checking the plans. The proposed By-law sets out comprehensive building permit application requirements for simple buildings (s. 10).

In relation to simple buildings, the requirement to have registered professional certification is limited to the foundation design. However, at the discretion of Building Division staff, additional registered professional certifications may be required where the project involves two or more buildings or complex sites. These professional services include details of off site services, and the geotechnical, structural, electrical, mechanical and/or fire suppression aspects of the project.

Exemption Where Value of Construction Under \$2,000

The proposed Building By-law makes provision (see s. 5.3) that Building Division staff may waive the filing of plans in conjunction with a building permit application if the character of the construction is sufficiently described in the application and the value of the new construction does not exceed \$2,000. This same provision is contained in the current Building By-law, but is limited to construction with a value under \$1,000.

Other Building By law Provisions

All other provisions of the current Building By law except as otherwise generally documented in this report are being carried forward in the proposed new By law.

CONCLUSION

This report is recommending the adoption of a new Building By law that focuses primarily on maintaining a high quality of building construction in the City of Surrey so as to maintain a positive investment climate in the City while at the same time bringing an added measure of effectiveness in managing the City's exposure to risk related to its continuing involvement in the building review and approvals processes in comparison to the current Building By law. The new By law is proposed to come into effect on August 3, 2004 so as to allow time for staff to prepare complementary policies and procedures in support of the new By law.

On this basis, it is recommended that Council:

1. Authorize the City Clerk to bring forward for the required readings the proposed new Surrey Building By law that is attached as Appendix "A" to this report that if adopted by Council will apply to building permit applications received on or after August 3, 2004; and

2. Confirm that the existing Surrey Building By law, 1987, No. 9011, as amended ("By law No. 9011") will remain in force and be applicable to all building permit applications received before August 3, 2004 provided that such applications are complete.

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 City Solicitor

MURRAY DINWOODIE
 General Manager
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APPENDIX "A"

CITY OF SURREY

BY-LAW NO. 15244

A by law for the administration of the Building Code

WHEREAS Section 694 (1) of the *Local Government Act* authorizes the City of Surrey, for the health, safety and protection of persons and property to regulate the construction, alteration, repair, or demolition of buildings and structures by by law;

AND WHEREAS the Province of British Columbia has adopted a building code to govern standards in respect of the construction, alteration, repair and demolition of buildings in municipalities and regional districts in the Province;

AND WHEREAS it is deemed necessary to provide for the administration of the building code;

The Council of the City of Surrey, in open meeting assembled, ENACTS AS FOLLOWS:

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1. Title

1. This by law may be cited for all purposes as the Surrey Building By law, 2003, No. 15244.

2. Definitions

2. In this by law:

The following words and terms have the meanings set out in the British Columbia Building Code: *assembly occupancy, building area, building height, business and personal services occupancy, care or detention occupancy, constructor, coordinating registered professional, field review, high hazard industrial occupancy, industrial occupancy, low hazard industrial occupancy, major occupancy, mercantile occupancy, medium hazard industrial occupancy, occupancy, owner, and registered professional.*

"**Adequate Vehicular Access**" means a maintained public road having a minimum width of four decimal two (4.2) metres (14 feet) ditched or storm sewered for adequate drainage, and bearing capacity to support fire department vehicles of nine (9.0) tonnes (18,000 lbs.) single axle loading and from which a boulevard crossing can be approved to serve the **Building** in question. The road shall be **Constructed** over a highway allowance dedicated by plan or deed registered in the Land Title Office. Lanes shall not be considered Adequate Vehicular Access unless a maintained public road serves the property and vehicular access to the said property is specifically permitted only from a lane abutting the property.

"**Architect**" means a person registered or licensed under the *Architects Act* as a member of the Architectural Institute of British Columbia.

"**Authorized Agent**" includes a **Person**, firm or corporation representing the *owner*, by designation or contract in writing satisfactory to the **City**, and includes a hired tradesman or contractor who may be granted **Permits** for work.

"**Building**" means any **Structure** used or intended for supporting or sheltering any use or *occupancy* either of a temporary or permanent nature.

"**Building Code**" means the *British Columbia Building Code* as adopted by the Minister pursuant to section 692 (1) of the *Local Government Act*, as amended or re enacted from time to time.

"**Building Official**" includes the General Manager of Planning and Development or his or her delegate.

"**Building Value**" shall be the completed **Building Value** of all **Construction** or work related to the **Building**, including finishes, roofing, electrical, plumbing, drains, heating, air conditioning, fire extinguishing systems, elevators, and any other equipment and materials, the current monetary worth of all plans and specifications, labour and fees for design, testing, consulting, management, contractor's profit and overhead, sales taxes, goods and services tax, and insurance, current monetary worth of all contributed labour and materials, and a reasonable value for site works and improvements not included in other **Permits**.

"**Certified Professional**" means an **Architect** or **Engineer** registered to practice in British Columbia and accepted by the General Manager, Planning and Development, or his/her designate, and qualified for the purpose of this by law pursuant to Section 20.

"**City**" means the City of Surrey.

"**Complex Building**" means:

- (a) a **Building** used for *major occupancies* classified as:
 - (i) *assembly occupancies*,
 - (ii) *care or detention occupancies*,
 - (iii) *high hazard industrial occupancies*, and

- (b) a Building exceeding 600 square metres in **building area** (regardless of fire walls) or exceeding two storeys in **building height** used or classified as:
 - (i) **Multi Family Residential Building**,
 - (ii) *business and personal services occupancies*,

 - (iii) *mercantile occupancies*,

 - (iv) *medium and low hazard industrial occupancies*.

"**Construct, Constructed, Constructing or Construction**" means erection, repair, alteration, enlargement, addition, demolition, removal, excavation or relocation.

"**Council**" means the City Council of the City of Surrey.

"**Designer**" means the person responsible for designing a Building and the **Designer** must be a *registered professional*.

"**Engineer**" means a person registered or licensed as a Professional **Engineer** pursuant to the provisions of the *Engineers and Geoscientists Act* of British Columbia.

"**Farm Building**" means a building or structure as defined in the *Canadian Farm Building Code*.

"**Multi-Family Residential**" describes a **Building** containing more than two (2) **Residential Occupancies**, where each **Residential Occupancy** does not have more than one stove or other cooking facility.

"**Occupancy Permit**" means the permission or authorization in writing by the **Building Official** to occupy a **Building** or **Structure**.

"**Permit**" means permission or authorization in writing by the **Building Official** to perform **Construction** or work regulated by this by law.

"**Person**" includes a person, proprietor, partnership, society, corporation or strata corporation.

"**Residential Occupancy**" means the *occupancy* or use of a **Building** or part thereof by **Persons** for whom sleeping accommodation is provided, but who are not harboured or detained to receive medical care or treatment or are not involuntarily detained.

"Simple Building" means a **Building** of two storeys or less in **building height**, having a **building area** not exceeding 600 square metres and used for **major occupancies** classified as:

- (a) **Residential Occupancies**,
- (b) *business and personal services occupancies*,
- (c) *mercantile occupancies*, or
- (d) *medium and low hazard industrial occupancies*.

"Structure" means a **Construction** or portion thereof of any kind, whether fixed to, supported by, or sunk into land or water, but specifically excludes landscaping, fences, paving and retaining structures less than 1.2 meters in height.

3. Purpose of By law

- 3.1 The by law shall be interpreted in accordance with this section despite any other provisions herein.
- 3.2 The headings in this by law have been inserted for reference only and are not intended to interpret, define, limit, alter, or enlarge the meaning of any provision of this by law.
- 3.3 This by law has been enacted for the purpose of regulating construction within the **City** in the interest of the general public. The activities undertaken by or on behalf of the **City** pursuant to this by law are for the sole purpose of promoting the health, safety and the protection of persons. It is not contemplated nor intended, nor does the purpose of this by law extend:
 - 3.3.1 to the protection of **Persons**, *owners*, owner/builders or **constructors** from economic loss;
 - 3.3.2 to the assumption by the **City** or any **Building Official** of any responsibility for ensuring the compliance by any **Person**, *owner*, his or her representatives or any employees, **constructors** or **Designers** retained by him or her, with the **Building Code**, the requirements of this by law or other applicable enactments respecting safety;
 - 3.3.3 to creating an obligation on the **Building Official** to inspect all or any particular part of the **Construction** for which the **Building Permit** is obtained regardless of the circumstances;
 - 3.3.4 to providing any **Person** a warranty of design or workmanship with respect to any **Building** or **Structure** for which a **Permit** or final acceptance for *occupancy* is issued under this by law;
 - 3.3.5 to providing a warranty or assurance that construction undertaken pursuant to **Permits** issued by the **City** is free from latent, or any defects.

4. Permit Conditions

- 4.1 A **Permit** is required whenever **Construction** or work regulated under this by law is to be undertaken.
- 4.2 Neither the issuance of a **Permit** under this by law nor the acceptance or review of plans, drawings or supporting documents, nor any inspections made by or on behalf of the **City** shall in any way relieve the

owner or his or her representatives from full and sole responsibility to perform the **Construction** or work in strict accordance with this by law, the **Building Code** and or other applicable enactments respecting safety.

- 4.3 It shall be the full and sole responsibility of the **owner** (and where the **owner** is acting through a representative, the representative) to carry out the **Construction** or work in respect of which the **Permit** was issued in compliance with the **Building Code**, this by law or other applicable enactments respecting safety.
- 4.4 Neither the issuance of a **Permit** under this by law nor the acceptance or review of plans, drawings or specifications or supporting documents constitute in any way a representation, warranty, assurance or statement that the **Building Code**, this by law or other applicable enactments respecting safety have been complied with.
- 4.5 No **Person** shall rely upon any **Permit** as establishing compliance with this by law or the **Building Code** or assume or conclude that this by law has been administered or enforced according to its terms. The **Person** to whom the **Permit** is issued and his or her representatives are responsible for making such determination.
- 4.6 No **Permit** shall be issued unless the **Building** to be **Constructed** is located on property with **Adequate Vehicular Access**.
- 4.7 When the **Building Official** designates that a given site must have a zero increase in the rate of run off for any development, the **owner** or his agent shall:
- 4.7.1 verify to the **City** the rate of run off on that site prior to any development;
- 4.7.2 show clearly on all plans submitted for a **Permit** how he intends to maintain a zero increase in the rate of run off;
- 4.7.3 where required by the **Building Official**, produce engineering calculations showing that a zero increase in the rate of run off can be attained by developing the site in the manner set out in the application for a **Permit**;
- 4.7.4 where required by the **Building Official**, retain a *registered professional* to design, supervise and carry out *field reviews* of the construction as it relates to necessary on site detention required for the purpose of maintaining a zero increase in the rate of run off;
- 4.7.5 design and **Construct** an on site detention system where required;
- 4.7.6 be responsible for maintaining any drainage system referred to under this subsection for all times.
- 4.8 Except in the case of single family residential zones as defined in the Surrey Zoning By law, 1993, No. 12000, as amended where fill is placed upon a site for any reason, all necessary drainage controls to prevent discharge of storm water to adjacent properties shall be **Constructed** by the **owner**.
- 4.9 All rainwater leaders shall discharge to an approved "splash pad" at grade. No rainwater leaders shall discharge directly into the weeping tile or main storm discharge system, unless approved by the **Building Official**.

5. Scope and Exemptions

- 5.1 This by law applies to the design, **Construction** and *occupancy* of new **Buildings** and **Structures**, and the addition, alteration, re **Construction**, demolition, removal, relocation and *occupancy* of existing **Buildings** and **Structures**.
- 5.2 This by law does not apply to **Buildings** or **Structures** exempted by Part 1 of the **Building Code** except as expressly provided herein.
- 5.3 The **Building Official** may waive the filing of plans if the character of the **Construction** is sufficiently described in the application, provided the **Building Value** of such **Construction** does not exceed two thousand (\$2,000.00) dollars.

- 5.4 No **Person** shall move any **Building** or **Structure** from one parcel of land to another parcel of land without first obtaining a **Permit**.
- 5.5 Every application for a **Permit** to move a **Building** shall designate the site of the **Building** to be moved and the site to which the **Building** is to be moved. Permission to use the public streets shall be obtained from the City's Engineering Department.
- 5.6 Notice of disconnections from **City** water and sewerage systems shall be given to the City's Engineering Department and such disconnections must be done under **City** supervision.
- 5.7 No **Building** that is to be used for a **Residential Occupancy** may be moved into the **City**.
- 5.8 A **Building** may be moved within the **City** provided:
- 5.8.1 the **Building** is not older than the majority of the **Buildings** situated on lots within one hundred and fifty five (155) metres of the lot to which it is proposed to move the **Building**, and
- 5.8.2 the **Building** is compatible with the architectural values of the majority of the **Buildings** situated on lots within one hundred and fifty five (155) metres of the lot to which it is proposed to move the **Building**.
- 5.9 No **Building** may be moved on to a lot unless the lot is within one hundred and fifty five (155) metres of a lot occupied by a **Building** at the date of application to move the **Building** and in no event shall a **Building** be moved on to any lot within a registered plan of subdivision containing more than two (2) lots if no **Buildings** exist on any of the lots within the said subdivision at the date of application to move the **Building**.
- 5.10 The provisions of Sections 5.8 and 5.9 do not apply to the moving of any **Buildings** onto lands which are zoned Agricultural pursuant to the provisions of the Surrey Zoning By law in force at the date of the application to move the **Building**.
- 5.11 **Buildings** that do not conform to the requirements of Section 5.8 may be moved pursuant to the provisions of this section if the *owner*:
- 5.11.1 submits plans showing the changes required in order to make the **Building** compatible with the architectural values of the majority of the **Buildings** situated on lots within one hundred and fifty five (155) metres of the lot to which it is proposed to move the **Building**, and
- 5.11.2 deposits with the **City** a sum of money sufficient to pay the estimated cost of changes required to make the **Building** compatible as hereinbefore provided and to complete any other work required under this section. In the event that the work required to make the **Building** so compatible is not completed within one (1) year from the date of application for permission to move the said **Building**, such deposit shall be forfeited to the **City** and the **Building Official** may give the *owner*, tenant, or occupier thirty (30) days notice to vacate the premises and to move the **Building** from the lot to which it had been moved pursuant to the permission hereinbefore referred to.
- 5.12 No **Building** shall be moved to another site unless it will comply with all by laws of the City; or unless the *owner* of such **Building** has entered into an agreement with the **City** to complete all the work required under this by law and places a deposit with the **City** in the value of the work necessary under this by law. Work required under this by law shall be completed within one (1) calendar year from the date on which the **Permit** was granted.
- 5.13 Notwithstanding Section 5.7 and 5.8, a **Building** that is the subject of a heritage revitalization agreement which contemplates the move of the **Building** may be moved to a location within the **City**, and subsection 5.11.1 of this section does not apply to the move.
- 5.14 Gradients on driveways shall commence at or within the property boundaries. No gradient serving the property shall commence on the **City** right of way.

- 5.15 When materials and equipment which fall within the scope of this by law and the **Building Code** are replaced or altered in a **Building**, it shall be the full and sole responsibility of the **owner** to ensure that such replacements and alterations shall meet the requirements of this by law and the **Building Code**.
- 5.16 No **Building**, the use of which is not in conformity with Surrey Zoning By law, 1993, No 12000, as amended from time to time, shall be **Constructed**, nor shall a **Permit** be issued under this by law, if said **Building** is damaged or destroyed to the extent of seventy five (75%) percent or more of its value above its foundations, as determined by the authority having jurisdiction. **Construction** will only be permitted, under these circumstances for a conforming use in accordance with the said Zoning By laws.

6. Prohibitions

- 6.1 No **Person** shall commence or continue any **Construction**, alteration, re **Construction**, demolition, removal, relocation, or change the **occupancy** of any **Building** or **Structure**, including excavation or other work related to construction unless a **Building Official** has issued a valid and subsisting **Permit** for the work.
- 6.2 No **Person** shall occupy or use any **Building** or **Structure** unless a valid and subsisting **Occupancy Permit** has been issued by a **Building Official** for the **Building** or **Structure**, or contrary to the terms of any **Permit** issued or any notice given by a **Building Official**.
- 6.3 No **Person** shall knowingly submit false or misleading information to a **Building Official** in relation to any **Permit** application or **Construction** undertaken pursuant to this by law.
- 6.4 No **Person** shall, unless authorized in writing by a **Building Official**, reverse, alter, deface, cover, remove or in any way tamper with any notice, **Permit** or certificate posted upon or affixed to a **Building** or **Structure** pursuant to this by law.
- 6.5 No **Person** shall do any work that is substantially at variance with the accepted design or plans of a **Building**, **Structure** or other works for which a **Permit** has been issued, unless that variance has been accepted in writing by a **Building Official**.
- 6.6 No **Person** shall obstruct the entry of a **Building Official**, or other authorized official of the **City**, on property in the administration of this by law.

7. Building Officials

- 7.1 Each **Building Official** may:
- 7.1.1 administer this by law;
 - 7.1.2 keep records of **Permit** applications, **Permits**, notices and orders issued, site visits and tests made, and shall retain copies of all documents related to the administration of this by law. Copies of such documents may be microfilmed or stored as electronic data;
 - 7.1.3 the duties created under this Part are internal, administrative duties only and create no obligation to any person.
- 7.2 A **Building Official**:
- 7.2.1 may enter any land, **Building**, **Structure**, or premises at any reasonable time for the purpose of ascertaining that the terms of this by law are being observed;
 - 7.2.2 where any residence is occupied, may obtain the consent of the occupant or provide written notice to the occupant twenty four (24) hours in advance of entry; and
 - 7.2.3 shall carry proper credentials confirming his or her status as a **Building Official**.
- 7.3 A **Building Official** may revoke, withhold, or refuse to issue a **Permit** where the results of tests

of materials, devices, **Construction** methods, structure assemblies or foundation conditions do not demonstrate substantial compliance in all material respects with the **Building Code** and other enactments respecting safety.

7.4 A **Building Official** may order the correction of any work that is being or has been done in contravention of this by law.

7.5 A **Building Official** may order correction of unsafe conditions.

7.6 A **Building Official** may order removal of the **Building** or **Structure Constructed** without a valid **Permit**.

8. Applications

8.1 Every **Authorized Agent** shall apply for and obtain:

8.1.1 a **Permit** before **Constructing**, repairing or altering a **Building** or **Structure**;

8.1.2 a **Permit** before moving a **Building** or **Structure**;

8.1.3 a **Permit** before demolishing a **Building** or **Structure**;

8.1.4 a **Permit** before the installation or **Construction** of a fireplace and chimney prior to the **Construction** of a masonry fireplace or the installation of a wood burning appliance or chimney unless the works are encompassed by a valid **Permit**;

8.1.5 a **Permit** before changing the use of any **Building** or **Structure**;

8.1.6 a **Permit** before the installation or **Construction** of spray coating equipment and commercial cooking equipment;

8.1.7 a **Permit** prior to the excavating, moving or removal of any soil; and

8.1.8 an **Occupancy Permit** to occupy a new or existing **Building**, or part thereof, where the use has changed.

8.2 All plans submitted with **Permit** applications shall bear the name, address, and telephone number of the **Designer** of the **Building** or **Structure**.

8.3 Each **Building** or **Structure** to be **Constructed** on a site requires a separate **Permit** and shall be assessed a separate **Permit** fee based on the value of that **Building** or **Structure** as determined in accordance with the **City's** fee schedules.

8.4 A site drainage plan shall be submitted to the **City** when requested by a **Building Official**.

8.5 Prior to the issuance of any **Permit** to erect or demolish any **Structure** on a site that has previously been used for industrial or commercial purposes, the **Building Official** may require the applicant to provide a site profile of the property in accordance with the requirements of the Provincial Government *Waste Management Act* as amended April 1, 1997.

8.6 **Farm Buildings** whether **Simple** or **Complex Buildings** shall comply with the *Canadian Farm Building Code*, as amended.

9. Applications for Complex Buildings

9.1 An application for a **Permit** with respect to a **Complex Building** shall:

- 9.1.1 be made in the **Permit** application form as required by the **Building Official**, signed by the *owner*, **Authorized Agent** or a signing officer if the *owner* is a corporation, the *coordinating registered professional*, and the *registered professional*.
- 9.1.2 be accompanied by the *owner's* acknowledgment of responsibility and undertakings made in the form prescribed by the **Building Official** signed by the *owner*, or a signing officer if the *owner* is a corporation;
- 9.1.3 include a copy of a title search made within thirty (30) days of the date of the application;
- 9.1.4 a survey plan prepared by a British Columbia Land Surveyor showing:
- 9.1.5 a site plan prepared by the *registered professional* showing:
 - 9.1.5.1 the bearing and dimensions of the parcel taken from the survey plan prepared by a British Columbia surveyor;
 - 9.1.5.2 the legal description and civic address of the parcel;
 - 9.1.5.3 the location and dimensions of all statutory rights of way, easements and setback requirements;
 - 9.1.5.4 the location and dimensions of all existing and proposed **Buildings** or **Structures**, utilities and topographical features such as retaining walls on the parcel;
 - 9.1.5.5 setbacks to the natural boundary of any lake, swamp, pond or watercourse where the **City's** land use regulations establish siting requirements related to flooding;
 - 9.1.5.6 the existing and finished ground levels to an established datum at or adjacent to the site and the geodetic elevation of the underside of the floor joist system or top of slab of a **Building** or **Structure** where the **City's** land use regulations establish siting requirements related to minimum floor elevation;
 - 9.1.5.7 the location, dimension and gradient of parking and driveway access;
 - 9.1.5.8 the **Building Official** may waive the requirements for a site plan, in whole or in part, where the **Permit** is sought for the repair or alteration of an existing **Building** or **Structure**;
 - 9.1.5.9 the location and species of all existing trees protected under the Tree Preservation By law; and
 - 9.1.5.10 landscaping plans including showing details and specifications.
- 9.1.6 floor plans showing the dimensions and uses of all areas, the dimensions and height of crawl and roof spaces, roof plans, the location, size and swing of doors, the location, size and opening of windows, floor, wall, and ceiling finishes, plumbing fixtures, structural elements, and stair dimensions;
- 9.1.7 a cross section through the **Building** or **Structure** illustrating foundations, drainage, ceiling heights and **Construction** systems;
- 9.1.8 elevations of all sides of the **Building** or **Structure** showing finish details, roof slopes, windows, doors, finished grade and overall building height calculations;

- 9.1.9 cross sectional details drawn at an appropriate scale and at sufficient locations to illustrate that the **Building** or **Structure** substantially conforms to the *Building Code*;
 - 9.1.10 copies of approvals required under any enactment relating to health or safety from provisional and federal agencies;
 - 9.1.11 a letter of assurance in the form of Schedule A as referred to in section 2.6 of Part 2 of the *Building Code* signed by the *owner*, or a signing officer of the *owner* if the *owner* is a corporation, and the *registered professional*;
 - 9.1.12 letters of assurance in the form of Schedules B 1 and B 2 as referred to in section 2.6 of Part 2 of the *Building Code*, each signed by the *registered professional* as the **Building Official** or as the *Building Code* may require to prepare the **Design** for and conduct *field reviews* of the **Construction** of the **Building** or **Structure**;
- 9.2 In addition to the requirements of section 9.1, the following may be required by a **Building Official** to be submitted with a **Permit** application for the **Construction** of a **Complex Building** where the complexity of the proposed **Building** or **Structure** or siting circumstances warrant:
- 9.2.1 site servicing drawings, including sufficient detail of off site services to indicate locations at the property line, prepared and sealed by a *registered professional*, in accordance with the **City's** subdivision servicing by law;
 - 9.2.2 a section through the site showing lot grades, **Buildings**, **Structures**, parking areas and driveways; and
 - 9.2.3 any other information required by the **Building Official** to establish substantial compliance with this by law, and other by laws and enactments relating to the **Building** or **Structure** including, but not limited to certification by the *registered professional* that all applicable provisions of the British Columbia Fire Code have been complied with.

10. Applications for Simple Buildings

- 10.1 An application for a **Permit** with respect to a **Simple Building** shall:
- 10.1.1 be made in the application form prescribed by the **Building Official** signed by the *owner*, or a signing officer if the *owner* is a corporation;
 - 10.1.2 be accompanied by the *owner's* acknowledgment of responsibility and undertakings made in the form prescribed by the **Building Official** signed by the *owner*, or a signing officer if the *owner* is a corporation;
 - 10.1.3 include a copy of a title search made within thirty (30) days of the date of the application;
 - 10.1.4 have a survey plan prepared by a British Columbia Land surveyor showing:
 - 10.1.5 have a site plan in metric measurement showing:
 - 10.1.5.1 the bearing and dimensions of the parcel taken from the registered subdivision plan;
 - 10.1.5.2 the legal description and civic address of the parcel;
 - 10.1.5.3 the location and dimensions of all statutory rights of way, easements and setback requirements;
 - 10.1.5.4 the location and dimensions of all existing and proposed **Buildings** or **Structures**, utilities and topographical features such as retaining walls on the parcel;

- 10.1.5.5 the setbacks to the natural boundary of any lake, swamp, pond or watercourse where the **City's** land use regulations establish siting requirements related to flooding;
 - 10.1.5.6 the existing and finished ground levels to an established datum at or adjacent to the site and the geodetic elevation of the underside of the floor joist system or top of slab of a **Building or Structure** where the **City's** land use regulations establish siting requirements related to minimum floor elevation;
 - 10.1.5.7 the location, dimension and gradient of parking and driveway access;
 - 10.1.5.8 the location and species of all existing trees protected under the Tree Preservation By law;
 - 10.1.5.9 landscaping plans including details and specifications; and
 - 10.1.5.10 provided further the **Building Official** may waive the requirements for survey and site plans, in whole or in part, where the **Permit** is sought for the repair or alteration of an existing **Building or Structure**.
- 10.1.6 have floor plans showing the dimensions and uses of all areas, the dimensions and height of crawl and roof spaces, roof plans, the location, size and swing of doors, the location, size and opening of windows, floor, wall, and ceiling finishes, plumbing fixtures; structural elements, and stair dimensions;
 - 10.1.7 show a cross section through the **Building or Structure** illustrating foundations, drainage, ceiling heights and **Construction** systems;
 - 10.1.8 have elevations of all sides of the **Building or Structure** showing finish details, roof slopes, windows, doors, finished grade and overall building height calculations;
 - 10.1.9 show cross sectional details drawn at an appropriate scale and at sufficient locations to illustrate that the **Building or Structure** substantially conforms to the **Building Code**;
 - 10.1.10 have copies of approvals required under any enactment relating to health or safety, including, without limitation, sewage disposal permits, highway access permits and Ministry of Health approval;
 - 10.1.11 have a foundation design prepared by a *registered professional* in accordance with section 4.2 of Part 4 of the **Building Code**, accompanied by letters of assurance in the forms referred to in section 2.6 of Part 2 of the **Building Code**, signed by the *registered professional*;
 - 10.1.12 the requirements of section 10.1.10 may be waived by a **Building Official** in circumstances where the **Building Official** has required an **Engineer's** report pursuant to section 699 (2) of the *Local Government Act* and the **Permit** is issued in accordance with sections 699 (5) and (6) of the *Local Government Act*; and
 - 10.1.13 the requirements of section 10.1.11 may be waived by a **Building Official** if documentation, prepared and sealed by a *registered professional*, is provided assuring that the foundation design substantially complies with section 9.4.4 of Part 9 the **Building Code** and the foundation excavation substantially complies with section 9.12 of Part 9 of the **Building Code**.
- 10.2 In addition to the requirements of section 10.1, the following may be required by a **Building Official** to be submitted with a **Permit** application for the **Construction of a Simple Building** where the project involves two or more **Buildings**, which in the aggregate total more than one thousand (1,000) square meters, or two (2) or more **Buildings** that will contain four (4) or more dwelling units, or otherwise where the complexity of the proposed **Building or Structure** or siting circumstances warrant:
- 10.2.1 site servicing drawings, including sufficient detail of off site services to indicate locations at the property line, prepared and sealed by a *registered professional*, in accordance with the **City's**

subdivision servicing by law;

10.2.2 a section through the site showing grades, **Buildings, Structures**, parking areas and driveways;

10.2.3 a roof plan and roof height calculations;

10.2.4 structural, electrical, mechanical or fire suppression drawings prepared and sealed by a *registered professional*;

10.2.5 letters of assurance in the form of Schedules B 1 and B 2 as referred to in section 2.6 of Part 2 of the *Building Code* signed by the *registered professional*;

10.2.6 any other information required by the **Building Official** or the *Building Code* to establish substantial compliance with this by law, the *Building Code* and other by laws and enactments relating to the **Building** or **Structure**, including but not limited to certification by a *registered professional* that all applicable provisions of the *British Columbia Fire Code* have been complied with.

11. Professional Plan Certification

11.1 The letters of assurance in the form referred to in the *Building Code* and provided pursuant to sections 9.1.11, 9.1.12, 10.1.11, 10.2.5, and 15.1 of this by law are relied upon by the **City** and its **Building Officials** as certification that the design and plans to which the letters of assurance relate comply with the *Building Code* requirements and other applicable enactments relating to safety.

11.2 A **Permit** issued for the **Construction** of a **Complex Building**, or for a **Simple Building** for which a **Building Official** requires professional design pursuant to section 10.2.4 and letters of assurance pursuant to section 10.2.5 of this by law shall be in the application form prescribed by the **Building Official**.

11.3 A **Permit** issued pursuant to section 11.2 of this by law shall include a notice to the *owner* that the **Permit** is issued in reliance upon the certification of the *registered professional* that the design and plans submitted in support of the application for the **Permit** comply with the *Building Code* and other applicable enactments relating to safety.

12. Fees and Charges

12.1 In addition to applicable fees and charges required under other by laws, a **Permit** fee, calculated in accordance with the **City's** fee schedules shall be paid in full prior to issuance of any **Permit** under this by law.

12.2 An application made for a **Permit** shall be accompanied by the appropriate plan processing fee as set out in the **City's** fee schedules.

12.2.1 The plan processing fee is non refundable and shall be credited against the **Permit** fee when the permit is issued.

12.2.2 An application shall be cancelled and the plan processing fee forfeited if the **Permit** has not been issued and the **Permit** fee paid within one hundred and eighty (180) days of the date of written notification to the **owner** regarding the deficiencies or if the **Permit** is ready to be issued.

12.2.3 When an application is cancelled, the plans and related documents submitted with the application may be destroyed or returned to the applicant.

12.3 The **owner** may obtain a refund of the **Permit** fees set out in the City's fee schedules when a **Permit** is surrendered and cancelled before any **Construction** begins, provided:

12.3.1 the refund shall not include the plan processing fee paid pursuant to section 12.2 of this by law; and

12.3.2 no refund shall be made where **Construction** has begun.

12.4 Where, due to non compliance with this by law, more than two (2) attendances are necessary when one (1) attendance is normally required, for each attendance after the second attendance, a re attendance charge as set out in the City's fee schedules shall be paid prior to additional inspections being performed.

12.5 For a required **Permit** attendance requested to be done after the hours during which the offices of the **City** are normally open, an attendance charge shall be payable based on the City's cost for the time spent in making such attendance, including travel time, as set out in the **City's** fee schedules.

12.6 An attendance charge, as set out in the **City's** fee schedules shall be payable in advance for a voluntary attendance to establish compliance of or to obtain a report on the status of an existing **Building** or **Structure** for which a **Permit** is sought under this by law.

13. Permits

13.1 When:

13.1.1 a completed application including all required supporting documentation has been submitted;

13.1.2 the proposed work set out in the application substantially conforms with the **Building Code**, this by law and all other applicable by laws and enactments;

13.1.3 the **owner** or his or her representative has paid all applicable fees;

13.1.4 the **owner** or his or her representative has paid all charges and met all requirements imposed by any other enactment or by law;

13.1.5 no enactment, covenant, agreement, or regulation in favour of, or regulation of the **City** authorizes the **Permit** to be withheld;

13.1.6 the **owner** has retained a **registered professional** or geoscientist if required by the **Engineers and Geoscientists Act**;

13.1.7 the **owner** has retained an **Architect** if required by the **Architects Act**;

a **Building Official** shall issue the **Permit** for which the application is made.

13.2 When the application is in respect of a **Building** that includes, or will include, a **Residential Occupancy**, the **Permit** must not be issued unless the **owner** provides evidence pursuant to section 30 (1) of the **Homeowner Protection Act** that the proposed **Building**:

13.2.1 is covered by home warranty insurance,

13.2.2 the **constructor** has a business license issued by the **City**,

13.2.3 the name and address of the **Constructor** is required.

13.3 Section 13.2 of this by law does not apply if the **owner** is not required to be licensed and to obtain home warranty insurance in accordance with sections 20 (1) or 30 (1) of the **Homeowner Protection Act**.

13.4 Every **Permit** is issued upon the condition that the **Permit** shall expire and the rights of the **owner** under the **Permit** shall terminate if **Construction** is not commenced within six (6) months from date of **Permit** issuance or completed within two (2) years.

13.5 A **Building Official** may extend the period of time set out under section 13.4 where **Construction** has not been commenced or where **Construction** has been discontinued due to adverse weather, strikes, material or labour shortages, or similar hardship beyond the **owner's** control. A **Building Official** may issue a **Permit** for excavation prior to the issuance of a **Permit**.

13.6 When a site has been excavated under an excavation **Permit** issued pursuant to section 8.1.7 of this by law and a **Permit** is not subsequently issued or a subsisting **Permit** has expired in

accordance with the requirements of this by law, but without the **Construction** of the **Building** or **Structure** for which the **Permit** was issued having commenced, the **owner** shall fill in the excavation to restore the original gradients of the site within sixty (60) days of being served with an order of the **City** requiring the **owner** to do so.

- 13.7 A **Building Official** may issue a **Permit** for a portion of a **Building** or **Structure** before the design, plans and specifications for the entire **Building** or **Structure** have been accepted, provided sufficient information has been provided to the **City** to demonstrate to the **Building Official** that the portion authorized to be **Constructed** substantially complies with this and other applicable by laws and the **Permit** fee applicable to that portion of the **Building** or **Structure** has been paid. The issuance of the **Permit** notwithstanding, the requirements of this by law apply to the remainder of the **Building** or **Structure** as if the **Permit** for the portion of the **Building** or **Structure** had not been issued.
- 13.8 A **Building Official** may issue a **Permit** for excavation prior to the issuance of a **Permit**.
- 13.9 A **Building Official** may issue a phased **Permit** for a portion of a **Building** or **Structure** before the design, plans and specifications for the entire **Building** or **Structure** have been accepted, provided sufficient information has been provided to the **City** to demonstrate that the portion authorized to be **Constructed** substantially complies with the **Building Code**, this by law and all other applicable by laws and enactments and the **Permit** fee applicable to that portion of the **Building** or **Structure** has been paid. The issuance of the **Permit** notwithstanding, the requirements of this by law apply to the remainder of the **Building** or **Structure** as if the **Permit** for the portion of the **Building** or **Structure** had not been issued.

14. Disclaimer of Warranty or Representation

- 14.1 Neither the issuance of a **Permit** under this by law, the review and acceptance of the design, drawings, plans or specifications, nor attendances or site visits made by a **Building Official**, shall constitute a representation or warranty that the **Building Code** or the by law has been complied with or the **Building** or **Structure** meets any standard of materials or workmanship, and no **Person** shall rely on any of those acts as establishing compliance with the **Building Code** or this by law or any standard of construction.

15. Professional Design and *Field Review*

- 15.1 When a **Building Official** considers that the site conditions, size or complexity of a development or an aspect of a development warrant, the **Building Official** may require a **registered professional** provide design and plan certification and **field review** by means of letters of assurance in the form referred to in section 2.6 of Part 2 of the **Building Code**.
- 15.2 Prior to the issuance of an final **Occupancy Permit** for a **Complex Building**, or **Simple Building** in circumstances where letters of assurance have been required in accordance with sections 9.1.11, 9.1.12, 10.1.11, 10.2.5 or 15.1 of this by law, the **owner** shall provide the **City** with letters of assurance in the form of Schedules C-A or C-B, as is appropriate, referred to in section 2.6 of Part 2 of the **Building Code** and a Certificate of Insurance.

- 15.3 When a **registered professional** provides letters of assurance in accordance with sections 9.1.11, 9.1.12, 10.1.11, 10.2.5, 15.1 or 15.2 of this by law, he or she shall also provide proof of professional liability insurance to the **Building Official** in the form of satisfactory to the **City**.

16. Responsibilities of the Owner

- 16.1 It is the full and sole responsibility of the **owner** (and if the **owner** is acting through a representative, the representative and the **owner**) to carry out the **Construction** and work in respect of which the **Permit** was issued in compliance with the **Building Code**, this by law and all other applicable codes, standards and enactments respecting safety.
- 16.2 Every **owner** shall:
- 16.2.1 obtain where applicable from the **Building Official** permits relating to the **Construction**, demolition, excavation, building repair of **Buildings**, change in classification of **occupancy**, swimming pools, signs, canopies, awnings, marquees, street occupancy, **Buildings** to be moved, and all other **Permits** required in connection with the proposed **Construction** or work prior to the commencement thereof;
 - 16.2.2 permit the **Building Official** to enter any **Building** or premises at any reasonable time for the purpose of administering or enforcing this by law;
 - 16.2.3 give at least forty eight (48) hours notice to the **Building Official** of the intention to start work on the Construction site;
 - 16.2.4 obtain from the **Building Official** written permission to restart **Construction** which has been suspended on any **Building**;
- 16.3 Every **owner** to whom a **Permit** is issued shall be responsible for the cost of repair of any damage to municipal works that occurs in the course of the work authorized by the **Permit**, and;
- 16.3.1 where **Construction** exceeds \$20,000.00 in value prior to receiving such **Permit** the **owner** may be required to deposit with the **City** the sum of \$2,500.00 per **Permit** for a single family or duplex **Construction** and \$2,500.00 per **Permit** for a multi-family and non residential **Construction**, to a maximum of \$5,000.00 as security against damage incurred to **City** property or services so caused by the **owner** or his agent during the period of **Construction**. Such security may be in the form of a certified cheque or letter of credit. This security does not relieve the responsible party for damage in excess of the amount withheld. Should the work cost be in excess of the amount held, the **owner** is responsible for the additional costs incurred. Unless otherwise agreed, the **owner** at the time of making his damage deposit agrees that the road allowance in front or adjacent to the **owner's** building site is free from building debris/dirt, damage or major defect and that any

subsequent damage during the building period is his responsibility.

16.3.2 Any damage so caused by the **owner** or his agent shall be repaired to the satisfaction of the General Manager, Engineering. Failure by the **owner** or his agent to carry out all work deemed necessary shall entail withhold occupancy and/or forfeiture of such amounts of the bond monies as is necessary to complete such work by other forces.

16.3.3 At completion and final approval of the **Building**, all security monies or portion thereof not used for necessary repairs, shall be refunded to the **owner**.

16.4 Every **owner** to whom a **Permit** is issued shall, during **Construction**:

16.4.1 post and maintain the **Permit** in a conspicuous place on the property in respect of which the **Permit** was issued;

16.4.2 keep a copy of the accepted designs, plans and specifications on the property;

16.4.3 post the civic address on the property in a location visible from any adjoining streets; and

17. Inspections by Registered Professionals

17.1 When a **registered professional** provides letters of assurance in accordance with sections 9.1.11, 9.1.12, 10.1.11, 10.2.5, 15.1 or 15.2 of this by law, the **City** will rely solely on **field reviews** undertaken by the **registered professional** and the **coordinating registered professional** and the letters of assurance submitted pursuant to section 15.2 of this by law as assurance that the **Construction** substantially conforms to the design and that the **Construction** substantially complies with the **Building Code**, this by law and other applicable enactments respecting safety.

17.2 Notwithstanding section 17.1 of this by law, a **Building Official** may attend the site from time to time during the course of **Construction** to ascertain that the **field review** are taking place and to monitor the **field reviews** undertaken by the **registered professional and coordinating registered professional**.

17.3 The **owner** or his or her representative shall give at least forty eight (48) hours notice to the **City** when requesting a site visit and shall receive the **Building Official's** acceptance of the following aspects of the work prior to concealing it:

17.3.1 foundation forms and their location;

17.3.2 installation of perimeter drain tiles and damp proofing, prior to backfilling;

17.3.3 the preparation of ground, including ground cover, when required, prior to the placing of a concrete slab;

17.3.4 rough in of factory built chimneys and fireplaces and solid fuel burning appliances;

17.3.5 the framing and sheathing, including any fire stopping, wiring, gas venting, and plumbing prior to insulation or other interior or exterior finishes which would conceal such an application;

17.3.6 insulation and vapour barrier;

17.3.7 when the **Building** or **Structure** is substantially complete and ready for **occupancy**, but before **occupancy** takes place of the whole or part of the **Building** or **Structure**.

17.4 No aspect of the work referred in section 17.3 of this by law shall be concealed until a **Building Official** has accepted it in writing.

17.5 The requirements of section 17.3 of this by law do not apply to any aspect of the work that is the subject of a **registered professional's** and a **coordinating registered professional's** letter of assurance provided in accordance with sections 9.1.11, 9.1.12, 10.1.11, 10.2.5, 15.1 or 15.2 of this by law.

18. Final Acceptance for Occupancy:

18.1 No **Person** shall occupy a **Building** or **Structure** or part of a **Building** or **Structure** until an **Occupancy Permit** has been issued in the form satisfactory to the **Building Official**.

18.2 Final acceptance for **occupancy** shall not be issued unless:

18.2.1 all letters of assurance have been submitted when required in accordance with sections 9.1.11, 9.1.12, 10.1.11, 10.2.5, 15.1 and 15.2 of this by law.

18.2.2 a fire safety plan in conformance with section 2.8 of the **British Columbia Fire Code** has been prepared for all Compel Buildings.

18.3 A **Building Official** may issue an **Occupancy Permit** for part of a **Building** or **Structure** when

the part of the **Building** or **Structure** is self contained, provided with essential services and the requirements set out in section 18.2 of this by law have been met with respect to it.

18.4 The **Building Official** may authorize provisional *occupancy* of a **Building**, or part of a **Building**, before to the development is completed provided:

18.4.1 the occupancy of the **Building**, or part of the **Building**, would not jeopardize life, property or the health of the inhabitants;

18.4.2 the exterior cladding of the **Building** is complete, and;

18.4.3 the holder of the **Permit** or the *owner* deposits a cash security equivalent to the cost of the unfinished work with the **City** and guarantees the said work will be completed within the time specified in the agreement covering the provisional approval.

19. Retaining Structures

19.1 A *registered professional* shall undertake the design and conduct *field reviews* of the **Construction** of a retaining structure greater than 1.2 metres in height. Sealed copies of the design plan and *field review* reports prepared by the *registered professional* for all retaining structures greater than 1.2 metres in height shall be submitted to a **Building Official** prior to acceptance of the works.

20. Certified Professionals

20.1 An **Architect** or **Engineer** may qualify as a **Certified Professional** by applying to the General Manager, Planning and Development, or his designate, for certification on completion of the following:

20.1.1 attending a course or courses recognized by the General Manager, Planning and Development, or his/her designate, concerning this by law and other laws applicable to the design, **Construction**, and inspection of **Buildings** and **Structures**;

20.1.2 exhibiting by examination or otherwise as directed by the General Manager, Planning and Development, or his designate, a level of competency in respect of the matters referred to in Section 20.1.1;

20.1.3 providing evidence satisfactory to the General Manager, Planning and Development, or his designate, that the professional is covered by professional liability insurance.

20.2 The General Manager, Planning and Development, or his designate, may disqualify a **Certified**

Professional if the Certified Professional:

20.2.1 is no longer registered or licensed as required by his professional association;

20.2.2 fails, when required by the General Manager, Planning and Development, or his designate, to demonstrate the level of competency required for qualification;

20.2.3 submits to the **Building Official** a document which is in any material way inaccurate or misleading;

20.2.4 fails to disclose to the **Building Official** any deviation, changes or violations of the requirements of design, **Construction** or inspection in respect of a **Building** or **Structure** to which he is connected as a **Certified Professional**; or

20.2.5 fails to perform any duties or obligations required by this by law.

20.3 The General Manager, Planning and Development, or his designate, may establish the form of such certificates that he may require as satisfactory evidence of compliance and conformity to the **Building Code** and the **City** by laws.

20.4 The **Building Official** may accept any application for a **Permit** under the **Certified Professional** program provided that:

20.4.1 the **Building** is regulated by Part 3 of the **Building Code**; and

20.4.2 the application is accompanied by a confirmation of commitment by the **owner**, duly executed, and a certification of **Building Code** compliance of the design.

20.5 The **Building Official** may also require:

20.5.1 a design checklist;

20.5.2 a project directory;

20.5.3 such other documentation he deems necessary.

- 20.6 A **Certified Professional** shall, in respect of the project for which he made application for a **Permit** under the **Certified Professional** program:
- 20.6.1 approve in advance of **Permit** issuance any tenant improvement work **Constructed** prior to **occupancy** of the **Building**;
- 20.6.2 review for adequacy and acceptability any report concerning testing, inspection and **field reviews**; and maintain a detailed record of such reports; and make same available to the **Building Official** if he requires;
- 20.6.3 advise the **Building Official** in writing if any matter of design, **Construction** or inspection does not meet lawful requirements;
- 20.6.4 at least once every thirty (30) days from issuance of a **Permit** under the **Certified Professional** program, submit a written progress report to the **Building Official**;
- 20.6.5 provide, if requested, to the **Building Official** within sixty (60) days after **occupancy** of the project has been approved, a set of record drawings sealed by a British Columbia licensed member of each professional discipline involved along with a written letter of assurance of the **Certified Professional** that no significant changes in the project's design or **Construction** occurred other than those that had been approved by the **Building Official**.
- 20.7 The **Building Official** may stop work and revoke a **Permit** under the **Certified Professional** program in the following circumstances:
- 20.7.1 if a **Certified Professional** is no longer retained by the **owner** for that project;
- 20.7.2 if a **Certified Professional** fails to perform any of his duties or obligations under Section 20.8 herein;
- 20.7.3 if a document required by this by law is not delivered within the time required;
- 20.7.4 if any of the conditions in Section 20.3 of this by law occur.

21. Penalties and Enforcement

- 21.1 Every **Person** who contravenes any provision of this by law commits an offense punishable on summary conviction and shall be liable to a fine of not more than ten thousand (\$10,000.00) dollars or to imprisonment for not more than six (6) months.

- 21.2 Every **Person** who fails to comply with any order or notice issued by a **Building Official**, or who allows a violation of this by law to continue, contravenes this by law.
- 21.3 A **Building Official** may order the cessation of any work that is proceeding in contravention of the **Building Code** or this by law by posting a stop work notice.
- 21.4 The **owner** of property on which a stop work notice has been posted, and every other **Person**, shall cease all **Construction** work immediately and shall not do any work until all applicable provisions of this by law have been substantially complied with and the stop work notice has been rescinded in writing by a **Building Official**.
- 21.5 Where a **Person** occupies a **Building** or **Structure** or part of a **Building** or **Structure** in contravention of section 6.2 of this by law a **Building Official** may post a Do Not Occupy notice on the affected part of the **Building** or **Structure**.
- 21.6 The **owner** of property on which a Do Not Occupy notice has been posted, and every **Person**, shall cease **occupancy** of the **Building** or **Structure** immediately and shall refrain from further **occupancy** until all applicable provisions of the **Building Code** and this by law have been substantially complied with and the Do Not Occupy notice has been rescinded in writing by a **Building Official**.
- 21.7 Every **Person** who commences work requiring a **Permit** without first obtaining such a permit shall, if a Stop Work notice is issued and remains outstanding for thirty (30) days, pay an additional charge equal to one hundred (100%) percent of the **Permit** fee prior to obtaining the required **Permit**.

22. Severability

- 22.1 The provisions of this by law are severable and the invalidity of any part of this by law shall not affect the validity of the remainder of this by law.

23. Commencement and Transitional Provisions

- 23.1 This by law will come into force on August 3, 2004.
- 23.2 If a **Permit** has been applied for prior to August 3, 2004, then the provisions of Surrey Building By law, 1987, No. 9011, as amended, will apply to the **Construction** that is the subject of the **Permit**, provided that the **Construction** is started within six (6) months from the date of issuance of the **Permit**. If the **Construction** is not started within six (6) months from the date of issuance of the **Permit**, then the **Permit** will become void and the provisions of this by law will apply to any subsequent **Permit** application.

24. Repealed By laws

24.1 The following by laws are hereby repealed:

- 24.1.1 "Surrey Building By law, 1987, No. 9011"
- 24.1.2 "Surrey Building By law, 1987, Amendment By law, 1988, No. 9432"
- 24.1.3 "Surrey Building By-law, 1987, Amendment By law, 1988, No. 9455"
- 24.1.4 "Surrey Building By law, 1987, Amendment By law, 1989, No. 9959"
- 24.1.5 "Surrey Building By law, 1987, Amendment By law, 1990, No. 10366"
- 24.1.6 "Surrey Building By law, 1987, Amendment By law, 1990, No. 10620"
- 24.1.7 "Surrey Building By law, 1987, Amendment By law, 1991, No. 10798"
- 24.1.8 "Surrey Building By law, 1987, Amendment By law, 1991, No. 10901"
- 24.1.9 "Surrey Building By law, 1987, Amendment By law, 1991, No. 11021"
- 24.1.10 "Surrey Building By law, 1987, Amendment By law, 1992, No. 11168"
- 24.1.11 "Surrey Building By law, 1987, Amendment By law, 1992, No. 11176"
- 24.1.12 "Surrey Building By law, 1987, Amendment By law, 1992, No. 11209"
- 24.1.13 "Surrey Building By law, 1987, Amendment By law, 1993, No. 11613"
- 24.1.14 "Surrey Building By law, 1987, Amendment By law, 1994, No. 12268"
- 24.1.15 "Surrey Building By law, 1987, Amendment By law, 1994, No. 12383"
- 24.1.16 "Surrey Building By law, 1987, Amendment By law, 1996, No. 12827"
- 24.1.17 "Surrey Building By law, 1987, Amendment By law, 1997, No. 13083"
- 24.1.18 "Surrey Building By law, 1987, Amendment By law, 1997, No. 13219"
- 24.1.19 "Surrey Building By law, 1987, Amendment By law, 1998, No. 13593"
- 24.1.20 "Surrey Building By law, 1987, Amendment By law, 2000, No. 14090"
- 24.1.21 "Surrey Building By law, 1987, Amendment By law, 2000, No. 14187"
- 24.1.22 "Surrey Building By law, 1987, Amendment By law, 2001, No. 14222"
- 24.1.23 "Surrey Building By law, 1987, Amendment By law, 2001, No. 14344"
- 24.1.24 "Surrey Building By law, 1987, Amendment By law, 2001, No. 14531"
- 24.1.25 "Surrey Building By law, 1987, Amendment By law, 2001, No. 14575"
- 24.1.26 "Surrey Building By law, 1987, Amendment By law, 2002, No. 14636"
- 24.1.27 "Surrey Building By law, 1987, Amendment By law, 2002, No. 14786"

24.1.28 "Surrey Building By law, 1987, Amendment By law, 2003, No. 14928"

24.1.29 "Surrey Building By law, 1987, Amendment By law, 2003, No. 15020"

24.2 Despite the repeal of the by laws set out in Section 24.1, if this by law provides for the continued application of the by laws, the by laws are deemed to be continued for this purpose.

PASSED THREE READINGS on the _____ day of _____, 2003.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk and sealed with the Corporate Seal on the _____ day of _____, 2003.

_____MAYOR

_____CLERK