

Inspections By-law

A-30 – Consolidated May 30, 2010

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London
CANADA

**OFFICE CONSOLIDATION
INCLUDING AMENDMENT A-30-10001 (May 3, 2010)**

Bill No. 388
2008

By-law No. A-30

Being a by-law to provide for powers of entry on land for the purpose of carrying out inspections.

WHEREAS section 436 the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended provides that the City has the power to pass by-laws providing that the City may enter on land at any reasonable time for the purpose of carrying out an inspection;

AND WHEREAS section 438 of the *Municipal Act, 2001* provides that the City has the power to pass by-laws providing that the City may undertake inspections pursuant to orders issued under section 438;

AND WHEREAS sections 435 and 437 of the *Municipal Act, 2001* set out certain additional powers and restrictions governing the powers of entry;

NOW THEREFORE the Council of the Corporation of the City of London enacts as follows:

1.0 SHORT TITLE

1.1 This by-law may be cited as the "Inspections By-law".

2.0 DEFINITIONS

2.1 For the purpose of this by-law:

"City" means The Corporation of the City of London;

"*Municipal Act*" means the *Municipal Act, 2001*, S.O. 2001, c. 25, or any predecessor *Municipal Act*;

"Officer" means an employee, officer or agent of the City whose duties include conducting inspections and/or enforcing the City's by-laws, and a police officer with London Police Services;

3.0 APPLICATION

3.1 This by-law applies to all by-laws passed under authority of the *Municipal Act*.

4.0 POWERS OF ENTRY – INSPECTION

4.1 An Officer, and anyone under the Officer's direction, may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether the following are being complied with:

- (a) a by-law passed under the *Municipal Act*;
- (b) a direction or order of the City made under the *Municipal Act* or made under a by-law of the City passed under the *Municipal Act*;
- (c) a condition of a licence issued under a by-law of the City passed under the *Municipal Act*;

(d) an order made under section section 431 of the *Municipal Act*.

4.2 For the purposes of an inspection under this by-law, the Officer may:

- (a) require the production for inspection of documents relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any person concerning a matter related to the inspection; and,
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

4.3 (a) A sample taken under subsection 4.2(d) shall be divided into two parts, and one part shall be delivered to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities.

(b) If a sample is taken under subsection 4.2(d) and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken.

(c) A receipt shall be provided for any document or thing removed during an inspection and the document or thing shall be promptly returned after the copies or extracts are made.

(d) Copies of or extracts from documents and things removed under this section and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the originals.

5.0 INSPECTIONS PURSUANT TO A JUDICIAL ORDER

5.1 An Officer may enter on lands for the purpose of carrying out an inspection pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the *Municipal Act*.

5.2 An Officer may apply for an order under section 438 of the *Municipal Act* in the following circumstances:

- (a) the inspection is reasonably necessary; and
- (b) the inspection is to determine whether the following are being complied with:
 - (i) a by-law of the City passed under the *Municipal Act*;
 - (ii) a direction or order of the City made under the *Municipal Act*, or under a by-law of the City made under the *Municipal Act*;
 - (iii) a condition of a licence issued under a by-law of the City passed under the *Municipal Act*; or
 - (iv) an order made under section 431 of the *Municipal Act*; and
- (c) the Officer has been prevented or is likely to be prevented from doing anything set out in sections 4.1 or 4.2 of this by-law.

5.A INSPECTION FEE

5.A1 An inspection fee, as stated in the Fees and Charges By-law, may be imposed when an Officer conducts an inspection in which there is a failure to remedy a by-law violation by the date of compliance set out in a written notice or Order or when an Officer conducts an inspection where there is a repeat by-law violation.

6.0 CONDITIONS GOVERNING POWERS OF ENTRY

6.0 Unless otherwise provided in the *Municipal Act*, in an order under section 438 of the *Municipal Act*, or in a warrant under section 439 of the *Municipal Act*, the following conditions apply to a power of entry under this by-law:

- (a) the Officer must on request display or produce proper identification;
- (b) the Officer may be accompanied by a person under his or her direction; and
- (c) the City shall restore the land to its original condition in so far as is practicable and shall provide compensation for any damages caused by the entry or by anything done on the land except where the entry is under section 446, or is under Part XI, if under that Part, the treasurer registers a notice of vesting, in the name of the municipality, in respect of the land.

7.0 RESTRICTIONS REGARDING ENTERING DWELLINGS

7.1 Despite any provision of this by-law, a person exercising a power of entry shall not enter or remain in any room or place actually being used as a dwelling unless:

- (a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of an order issued under section 438 of the *Municipal Act*, or a warrant issued under section 439 of the *Municipal Act*;
- (b) an order issued under section 438 of the *Municipal Act* is obtained;
- (c) a warrant issued under section 439 of the *Municipal Act* is obtained; or
- (d) the delay necessary to obtain an order under section 438 of the *Municipal Act*, to obtain a warrant under section 439 of the *Municipal Act* or to obtain the consent of the occupier would result in an immediate danger to the health or safety of any person.

8.0 ENACTMENT

8.1 Effective date

This by-law shall come into force and effect on the day that it is passed.

PASSED in Open Council on November 3, 2008.

Anne Marie DeCicco-Best
Mayor

Kevin Bain
City Clerk

First Reading - November 3, 2008
Second Reading - November 3, 2008
Third Reading – November 3, 2008