

City of Kitchener Municipal Code
Province of Ontario, Canada

Serial No.....

Cited: The City of Kitchener Municipal Code Each Section is numbered with the complete chapter, article and section in which a provision of the Municipal Code is found. By-law 88-100 adopting this Code provides that “ ... citation of all the numerical elements of a Section shall constitute identification of the appropriate section of the Municipal Code for all purposes, including judicial or legal proceedings.”

a Canadian Municipal Code TM

Municipal World Inc.
Box 399,
St. Thomas, Ontario N5P 3V3 1988

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City of Kitchener Municipal Code

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CERTIFICATION

Corporation of the City of Kitchener

I, Randy Gosse, Director of Legislated Services and City Clerk of The Corporation of the City of Kitchener, hereby certify that the Chapters contained in The City of Kitchener Municipal Code are a consolidation and continuation of the provisions of the original by-laws of the Municipal Council of The Corporation of the City of Kitchener and that the said by-laws, as codified and re-numbered to chapters, articles and sections constitute the Municipal Code of the City of Kitchener, Province of Ontario, Canada as adopted by By-law Number 88-100 of the Municipal Council enacted this 19th day of December 1988 and amended to December 2009.

Given under my hand and the seal of The Corporation of the City of Kitchener, Province of Ontario, Canada this 31st day of December, 2009 at City Hall, City of Kitchener, Ontario, Canada.

.....
Randy Gosse
Director of Legislated Services and City Clerk

City of Kitchener Municipal Code

Province of Ontario, Canada

Editor M.J. Smither

with the advice and assistance of

R.W. Pritchard
Commissioner of General Services and City Clerk
City of Kitchener

and

J. Wallace
Commissioner of Legal Services and City Solicitor
City of Kitchener

Municipal World Inc.
Box 399, St. Thomas, Ontario N5P 3V3
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ELECTED OFFICIALS OF THE
CORPORATION OF THE CITY OF KITCHENER
CITY HALL, P.O. BOX 1118
200 KING STREET WEST
KITCHENER, ONTARIO N2G 4G7
TELEPHONE 519-741-2300

2006 – 2010

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Carl Zehr

COUNCILLORS

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Troy Speck	General Manager of Corporate Services
Jeff Wilmer	Interim General Manager of Development & Technical Services



PREFACE

January 28, 1854 - City Clerk, William Davidson firmly impressed the new seal upon the parchment, to be followed by the signature of Reeve John Scott and that of the Clerk himself. With authentication of By-law No. 1 of the Municipal Council of the incorporated Village of Berlin (to adopt the very seal impressed upon it) the first corporate act of the predecessor corporation of the City of Kitchener was completed.

December 19, 1988 - One hundred and thirty-four years and more than 10,000 by-laws later, another corporate milestone is established with the passage of By-law 88-100 to adopt The City of Kitchener Municipal Code.

HISTORY

The community forming the Village of Berlin was already old and proud at the time of adoption of By-law No. 1. Its origins can be traced back to 1807, when a group of Pennsylvania Germans arrived by Conestoga wagon. Among these new settlers were Benjamin Eby and his brother-in-law, Joseph Schneider. Together these men were influential in the development of the new community.

Eby settled on Lot #2 of the German Company Tract, an area which included much of Kitchener's downtown section, nearly all of the east ward and King Street east of Ontario Street, north as far as Edna Street and south to Church Street. Benjamin Eby was ordained as a minister of the Mennonite church in 1809, and was responsible for the first church and

school in the community. A plaque honouring his memory can be found at First Mennonite Church in Kitchener.

His brother-in-law, Joseph Schneider, bought Lot #17 of the German Company Tract and built a sawmill on Schneider's Creek (present day Queen Street South) in 1816. His home, Kitchener's oldest Mennonite homestead, has been restored as a museum. Both Schneider and Eby sold parcels of their land holdings to newcomers which encouraged the commercial development of the area.

The new community had several names in its early history. One of the original names was Sand Hills. By the 1820s, the community was known as Ebytown, but the name was changed to Berlin in the 1830s as an influx of German settlers arrived in the settlement.

Berlin in the 1820s had a sawmill, a blacksmith shop and an inn. The arrival of more settlers and the railway encouraged the growth of other industries. In the 1850s there was a chair factory, several pump factories, two breweries, a foundry and a tannery. By the turn of the century, Berlin had attracted a wide range of industries, producing products such as furniture, leather, buttons, shoes, rubber and sausages.

Berlin, with a population of 672 people, became the county seat of the new County of Waterloo in 1852. Incorporation as a Village followed in January 1854. The arrival of the Grand River Railway in 1856 was an important event. By 1870, when the Village became a Town, its population had swelled to 2,636. On June 10, 1912, "Busy Berlin" became a City, with over 15,000 citizens. The name Berlin remained until 1916 when it was changed to Kitchener as a result of anti-German feelings during World War I.

Kitchener in the 1980s has a diversified economy. Rubber products, meat packers, biscuits and cookies, and furniture companies have survived for almost 100 years. Industries, such as automotive products and metal fabricating factories grew in the 1960s and 1970s. In recent years there has been a remarkable surge in high technology and aerospace industries taking advantage of the highly skilled and educated labour force supported by two local universities and a community college.

The City of Kitchener now has a population of over 150,000. It is home for people of many different ethnic origins. A modern urban community, Kitchener still retains, many aspects of its rural, Germanic origins.

LEGISLATIVE AUTHORITY

In 1976, by Statutes of Ontario, c. 69 s. 2, the Legislative Assembly of the Province of Ontario enacted authority for the creation and adoption of a Municipal Code. This authority, now contained in R.S.O. 1980, c. 302 s. 105 provides as follows:

Where the council of any municipality passes a comprehensive general by-law dealing with all or any of such matters within its jurisdiction as the council considers desirable to include therein (which by-law may be know as “The [name of municipality] Municipal Code”) and such by-law consolidates and includes therein the provisions of any by-law previously passed by the council,

- (a) the provisions in the comprehensive general by-law shall be deemed to have come into force on the day the original by-law came into force; and**
- (b) any condition precedent or subsequent or the approval of any authority external to the council required by law before the original by-law came into force shall, where such condition was satisfied or approval obtained in respect of the original by-law, be deemed to have been satisfied or obtained in respect of the corresponding provision in the comprehensive general by-law in all respects as though the condition had been satisfied or the approval obtained in respect of that provision in the comprehensive general by-law.**

This legislation provides the authority for the adoption of The City of Kitchener Municipal Code. It also eliminates the need for reapproval of sections of the Municipal Code that were previously approved by an authority external to the council, such as a federal ministry or other federal authority, or a ministry of the provincial government or other provincial authority, such as the Ontario Municipal Board.

CANADIAN MUNICIPAL CODE™

The City of Kitchener Municipal Code is the first Code of a Canadian municipality prepared by a Canadian company. At the invitation of the City Council of the City of Kitchener, and in co-operation with the senior staff of the municipality, Municipal World Inc., publishers of *Municipal World* magazine, have developed this Code in conformity with Canadian municipal and statutory practice. This document embodies those principles together with long established codification practices and the latest technological innovations. All components of this Municipal Code are 100% CANADIAN.

The City of Kitchener Municipal Code is a compilation of the most active by-laws of the municipality, systematically arranged into chapters, articles, sections, subsections, clauses, table of contents and index. In consultation with the legal department of the City, the by-laws have been edited and revised, where necessary, to harmonize contents and to generally clarify and provide a comprehensive body of law designed to fully regulate subjects to which they relate.

DIVISION OF THE CODE

The Code has been designed to maximize user convenience. In addition to the allocation of Parts for contents, appendices and index, the primary structure has been based upon two principles, namely the identification of:

- the political/administrative organization of the municipality; and the
- functional allocation of by-laws.

The first four tabs identify the contents and the principal elements in the administration, namely:

Contents
Council
Board & Committee
Staff

Subsequent tabs in alphabetical order, allocate the principal administrative and regulatory by-laws by function namely:

Administration
Facility
Financial
General

Licence
Property Maintenance
Protection
Street

Utilities & Services
(Reserved)
Appendix
Index

This structure, with its emphasis on the principal political/ administrative elements and functions, cuts across departmental lines. This makes the Code more responsive to the needs of the end users, particularly those who are not members of the municipal staff. Judges, lawyers or members of the general public, will be able to identify subjects by function. Alterations in departmental structure will not affect the Code.

CHAPTER STRUCTURE

Chapters have been allocated in blocks of 50 or 100 within each Part (i.e. tab section). The number of chapters used in each Part have been influenced by:

- the initial allocation of by-laws included within the Code; and
- the anticipated future requirements for insertion of new legislation.

Chapters have been reserved throughout the structure to provide for the future insertion, alphabetically, of subsequent enactments. In the Table of Contents these chapters are titled (Reserved). In the body of the Code, the reserved space is provided by breaks in the page-numbering sequence between chapters.

ARTICLES

Articles have been used, within each chapter, to separate the legislation into clear, identifiable subdivisions. This has many advantages which include:

- easier identification of the main subdivisions;
- original by-law subsections are moved up to the section level, permitting their identification with a heading; and
- original by-law clause references are moved up to the subsection level, providing easier identification and citation.

SECTIONS

Each Section has been numbered with the complete chapter, article, and section citation. By-law number 88-100 adopting this Code provides that “ ... citation of all the numerical elements of a Section shall constitute identification of the appropriate section of the Municipal Code for all purposes, including judicial and legal proceedings.”

Where necessary, sections of the original by-law have been rearranged in conformity with other Chapters. In certain instances, for greater clarity, Schedules attached to the original by-laws have been incorporated into the body of the codified by-law.

PAGE NUMBERING

To facilitate the insertion of new legislation, and the amendment of existing Chapters, the page numbering of each Chapter has been developed as a separate unit. The page number commences with the number of the Chapter followed by the appropriate numeral. For example page 9 of chapter 578 is numbered as 578.9. Page 11 of Chapter 578 is numbered as 578.11.

If a new page is added during supplementation, it will be expressed as 578.11-1.

This numbering system permits complete flexibility and provides instant recognition of the correct location within the Code and within the Chapter.

HEADER

The header (first line on each page) contains the following information:

- the opening Chapter page repeats the description of the appropriate Tab i.e. LICENCE; and
- subsequent pages commence with the number of the first Section on that page, followed by the Chapter title, (abbreviated where necessary) followed by the number of the last Section on the page.

578.1.1 PLUMBING/PLUMBERS 578.1.6

The name of the municipality is excluded from the header. The Code will be primarily used by members of the municipal staff, the legal fraternity, or the general public of that municipality. As they will be using only one Code, there is no necessity to remind them that the Code belongs to that particular municipality. The header is important space, best used for identification of the Code content.

APPENDIX

The Part (tab) allocated to Appendix has been reserved for the Code Adoption By-law 88-100 and Schedule for the Concordance of By-laws and Chapters. This latter table provides a chronological listing of the by-laws included in the Code indicating both the by-law number, subject and the Chapter or Chapters where the by-law, or parts thereof, have been encoded.

Notwithstanding that such by-laws have been included in The City of Kitchener Municipal Code in their entirety all original by-laws are continued as lawful enactments of the City of Kitchener. Copies of all original by-laws are available for inspection in the Office of the Commissioner of General Services and City Clerk.

INDEX

The Index has been prepared to provide quick, easy access to the contents of The City of Kitchener Municipal Code. It has been designed to facilitate use by persons both with and without formal legal training. Each Part and Chapter and Chapter and Article has been indexed.

The Index will be periodically supplemented and updated to reflect changes in the Code content.

SUPPLEMENTATION

The structure of the Code contemplates the:

- addition/deletion of Chapters, Articles and Sections;
- amendments to all of the above; and
- addition/deletion of pages.

Supplements will be issued from time to time, to reflect the adoption of new and revised legislation.

REGISTER OF DISTRIBUTION

All copies of The City of Kitchener Municipal Code have been serially numbered. The Department of General Services and City Clerk will maintain a register of distribution of the Code. Immediately upon the publication of each supplement, copies of the supplement will be distributed to registered Code users.

ACKNOWLEDGEMENTS

The City of Kitchener Municipal Code is the result of the extraordinary efforts of many dedicated public and private sector individuals. Particular acknowledgement and appreciation is due to Robert W. Pritchard, Commissioner of General Services and City Clerk and James Wallace, Commissioner of Legal Services and City Solicitor together with their staff. Appreciation is also extended to Mrs. Mary Tully, Executive Assistant and Mrs. Nasreine Canaran, Managing Editor, Municipal World for their significant contributions.

FREEDOM OF INFORMATION

This first Canadian Municipal Code represents a positive response to the public need for greater freedom of information concerning the affairs of this dynamic, rapidly evolving municipality. May this Code serve to enhance the image of the municipality, to stress the legislative role of the municipal council, and to increase awareness of the high level of competence of the administration.

The City of Kitchener Municipal Code is above all a tribute to both the past and present legislators of this municipality. It embodies the sentiment so well expressed by Edmund Burke when he stated that it is the true end of legislation

“... to follow, not to force the public inclination, to give a direction, a form, a technical dress, and a specific sanction, to the general sense of the community...”

December 1, 1988

Michael J. Smither

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